

2018 Regular Session

SENATE BILL NO. 12

BY SENATOR PEACOCK

MUNICIPAL POL EMPS RET. Provides for survivor benefits. (6/30/18)

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AN ACT

To amend and reenact R.S. 11:2213(22), 2220(B)(2), 2241.8, and 2242.8 and to enact R.S. 11:2213(23) and (24), relative to the Municipal Police Employees' Retirement System; to provide for definitions; to provide for survivor benefit qualifications; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:2213(22), 2220(B)(2), 2241.8, and 2242.8 are hereby amended and reenacted and R.S. 11:2213(23) and (24) are hereby enacted to read as follows:

§2213. Definitions

The following words and phrases, as used in this Chapter, unless a different meaning is plainly required by context, shall have the following meanings:

* * *

(22) "Student" shall mean a person who satisfies both of the following:

(a) The person is enrolled in a high school, vocational-technical school, or a college or university, that is duly accredited or approved by the appropriate educational agency of the state in which it is located.

1 **(b) The person is enrolled in a sufficient number of courses and classes**
2 **in such institution to be classified as a full-time regular student under the**
3 **criteria used by the institution in which he is enrolled. The educational**
4 **institution shall provide written notification to the system that the person is in**
5 **full-time status.**

6 **(23) "Survivor's benefit" shall mean any benefit paid to a survivor of a**
7 **member under R.S. 11:2220(B).**

8 **(24)(a) "Surviving child" shall mean an unmarried person under the age**
9 **of eighteen years or an unmarried student under the age of twenty-three years,**
10 **if the person or student is one of the following:**

11 **(i) The issue of a marriage of a member of this system.**

12 **(ii) The legally adopted child of a member of this system.**

13 **(iii) A child born outside of marriage of a female member of this system.**

14 **(iv) The child of a male member of this system, if a court of competent**
15 **jurisdiction has, pursuant to the provisions of the Civil Code, rendered a**
16 **judgment of filiation declaring the paternity of such member for the child.**

17 **(b) "Surviving child" shall also mean a person, regardless of age, who**
18 **meets one of the criteria in Items (a)(i) through (a)(iv) of this Paragraph who**
19 **has a total physical disability or intellectual disability, as certified by the**
20 **medical board, if the person had the disability at the time of death of the**
21 **member or acquired the disability prior to the attainment of age eighteen and**
22 **is dependent upon the surviving spouse or other legal guardian for subsistence.**

23 * * *

24 §2220. Benefits; contribution limit

25 * * *

26 B. Benefits shall be payable to any survivor of an active contributing member
27 who dies before retirement or a disability retiree who dies after retirement as
28 specified in the following:

29 * * *

1 (2)(a) If an active contributing member or a disability retiree dies and leaves,
2 in addition to a surviving spouse, one or more **surviving** children ~~under eighteen~~
3 ~~years of age~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits
4 equal to ten percent of the deceased member's average compensation, or two hundred
5 dollars per month, whichever is greater. However, benefits payable on account of
6 each **surviving** child, when added to the benefits payable to the surviving spouse,
7 shall not exceed an aggregate of one hundred percent of the deceased member's
8 average compensation. ~~Benefits for a surviving child shall cease upon the child's~~
9 ~~attainment of age eighteen years or upon marriage, whichever occurs first, except~~
10 ~~that benefits shall continue:~~

11 (i) ~~For a surviving child to age twenty-three provided the child is a full-time,~~
12 ~~unmarried student at a recognized institution of higher education, high school, or~~
13 ~~vocational-technical school, and~~

14 (ii) ~~For a surviving child with a total physical disability or intellectual~~
15 ~~disability if such child had a total physical disability or intellectual disability at the~~
16 ~~time of death of the member or acquired such disability prior to the attainment of age~~
17 ~~eighteen and is dependent upon the surviving spouse or other legal guardian for~~
18 ~~subsistence.~~

19 (b) If an active contributing member or a disability retiree dies and does not
20 leave a surviving spouse but leaves one or more **surviving** children ~~under the age of~~
21 ~~eighteen~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits
22 equal to thirty percent of the deceased member's average compensation. Benefits
23 paid on account of each **surviving** child shall not exceed an aggregate of sixty
24 percent of the average compensation. In the event the deceased member is survived
25 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than
26 forty percent of the deceased member's average compensation. ~~Benefits shall~~
27 ~~continue after the minor child attains age eighteen as provided in R.S.~~
28 ~~11:2220(B)(2)(a)(i) and R.S. 11:2220(B)(2)(a)(ii).~~

29 (c) If at the time of a member's death the member is not married to the natural

1 parent of any child or children who are entitled to receive a payment pursuant to this
 2 Subsection and if a trust has been created by the deceased member for the benefit of
 3 such child or children, the payment shall be made to any person designated as a
 4 trustee by the member on a certified copy of a trust document submitted to the
 5 system by the member.

6 **(d) Qualifying survivor's benefits are payable upon application therefor**
 7 **and become effective as of the day following the death of the member.**

8 * * *

9 §2241.8. Survivor benefits

10 Benefits shall be payable to any survivor of an active contributing member
 11 who dies before retirement or a disability retiree who dies after retirement as
 12 specified in the following:

13 (1)(a) If an active contributing member or a disability retiree either of whom
 14 has at least ten years of creditable service in the system dies and leaves a surviving
 15 spouse, the surviving spouse shall receive a benefit calculated according to the
 16 regular retirement formula, disregarding age, but not less than thirty-three percent
 17 nor more than fifty-five percent of the member's average final compensation. If the
 18 surviving spouse remarries, such benefit shall cease unless remarriage occurs after
 19 age sixty years; the benefit shall resume after a subsequent termination of the new
 20 marriage and upon approval of the board of trustees.

21 (b) If the board of trustees determines that an active contributing member is
 22 killed as a result of injuries sustained in the line of duty, the cessation of benefits
 23 upon remarriage set forth in this Paragraph shall not apply. The surviving spouse
 24 shall receive a benefit equal to one hundred percent of the member's average final
 25 compensation less any survivor benefits payable to a **surviving** child or children as
 26 provided in this Section. The sum of survivor benefits paid to **surviving** children and
 27 a surviving spouse shall not exceed one hundred percent of the member's average
 28 final compensation. No funds derived from the assessments against insurers pursuant
 29 to R.S. 22:1476 shall be used to pay any increased costs or increase in liability of the

1 system resulting from the payment of benefits to a surviving spouse pursuant to this
2 Subparagraph.

3 (2)(a) If an active contributing member or a disability retiree either of whom
4 has at least ten years of creditable service in the system dies and leaves, in addition
5 to a surviving spouse, one or more **surviving** children ~~under eighteen years of age,~~
6 each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits equal to ten
7 percent of the deceased member's average final compensation, or two hundred
8 dollars per month, whichever is greater. However, benefits payable on account of
9 each **surviving** child, when added to the benefits payable to the surviving spouse,
10 shall not exceed an aggregate of one hundred percent of the deceased member's
11 average final compensation. ~~Benefits for a surviving child shall cease upon the~~
12 ~~child's attainment of age eighteen years or upon marriage, whichever occurs first,~~
13 ~~except that benefits shall continue:~~

14 (i) ~~For a surviving child to age twenty-three if the child is a full-time,~~
15 ~~unmarried student at a recognized institution of higher education, high school, or~~
16 ~~vocational-technical school, and~~

17 (ii) ~~For a surviving child with a total physical disability or mental disability~~
18 ~~if such child had a total physical disability or mental disability at the time of death~~
19 ~~of the member or acquired such disability prior to the attainment of age eighteen and~~
20 ~~is dependent upon the surviving spouse or other legal guardian for subsistence.~~

21 (b) If an active contributing member or a disability retiree either of whom has
22 at least ten years of creditable service in the system dies and does not leave a
23 surviving spouse but leaves one or more **surviving** children ~~under the age of~~
24 ~~eighteen,~~ each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits
25 equal to twenty-five percent of the deceased member's average final compensation.
26 Benefits paid on account of each **surviving** child shall not exceed an aggregate of
27 fifty percent of the average final compensation. If the deceased member is survived
28 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than
29 thirty percent of the deceased member's average final compensation. ~~Benefits shall~~

1 ~~continue after the minor child attains age eighteen as provided in Subparagraph (a)~~
2 ~~of this Paragraph.~~

3 (c) If at the time of a member's death the member is not married to the natural
4 parent of any **surviving** child or children who are entitled to receive a payment
5 pursuant to this Section and if a trust has been created by the deceased member for
6 the benefit of such **surviving** child or children, the payment shall be made to any
7 person designated as a trustee by the member on a certified copy of a trust document
8 submitted to the system by the member.

9 (3) If a member who is eligible for retirement dies before retiring, the
10 surviving spouse shall automatically be paid benefits as though the member had
11 retired on the date of his death and elected Option 2, naming the surviving spouse as
12 beneficiary, or shall be paid benefits as provided in this Section whichever is greater.

13 (4) Any member who has twelve or more years of service credit established
14 in the retirement system and who terminates covered employment and leaves his
15 accumulated contributions in the retirement system in order to receive a retirement
16 benefit upon reaching the applicable age shall be covered by the survivor benefit
17 provisions found in this Section.

18 * * *

19 §2242.8. Survivor benefits

20 Benefits shall be payable to any survivor of an active contributing member
21 who dies before retirement or a disability retiree who dies after retirement as
22 specified in the following:

23 (1)(a) If an active contributing member or a disability retiree either of whom
24 has at least ten years of creditable service in the system dies and leaves a surviving
25 spouse, the surviving spouse shall receive a benefit calculated according to the
26 regular retirement formula, disregarding age, but not less than twenty-five percent
27 nor more than fifty percent of the member's average final compensation. If the
28 surviving spouse remarries, such benefit shall cease unless remarriage occurs after
29 age sixty years; the benefit shall resume after a subsequent termination of the new

1 marriage and upon approval of the board of trustees.

2 (b) If the board of trustees determines that an active contributing member is
3 killed as a result of injuries sustained in the line of duty, the cessation of benefits
4 upon remarriage set forth in this Paragraph shall not apply. The surviving spouse
5 shall receive a benefit equal to one hundred percent of the member's average final
6 compensation less any survivor benefits payable to a **surviving** child or children as
7 provided in this Section. The sum of survivor benefits paid to **surviving** children and
8 a surviving spouse shall not exceed one hundred percent of the member's average
9 final compensation. No funds derived from the assessments against insurers pursuant
10 to R.S. 22:1476 shall be used to pay any increased costs or increase in liability of the
11 system resulting from the payment of benefits to a surviving spouse pursuant to this
12 Subparagraph.

13 (2)(a) If an active contributing member or a disability retiree either of whom
14 has at least ten years of creditable service in the system dies and leaves, in addition
15 to a surviving spouse, one or more **surviving** children ~~under eighteen years of age,~~
16 each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits equal to ten
17 percent of the deceased member's average final compensation, or two hundred
18 dollars per month, whichever is greater. However, benefits payable on account of
19 each **surviving** child, when added to the benefits payable to the surviving spouse,
20 shall not exceed an aggregate of one hundred percent of the deceased member's
21 average final compensation. ~~Benefits for a surviving child shall cease upon the~~
22 ~~child's attainment of age eighteen years or upon marriage, whichever occurs first,~~
23 ~~except that benefits shall continue:~~

24 (i) ~~For a surviving child to age twenty-three if the child is a full-time,~~
25 ~~unmarried student at a recognized institution of higher education, high school, or~~
26 ~~vocational-technical school, and~~

27 (ii) ~~For a surviving child with a total physical disability or mental disability~~
28 ~~if such child had a total physical disability or mental disability at the time of death~~
29 ~~of the member or acquired such disability prior to the attainment of age eighteen and~~

1 ~~is dependent upon the surviving spouse or other legal guardian for subsistence.~~

2 (b) If an active contributing member or a disability retiree either of whom has
3 at least ten years of creditable service in the system dies and does not leave a
4 surviving spouse but leaves one or more **surviving** children ~~under the age of~~
5 ~~eighteen~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits
6 equal to twenty percent of the deceased member's average final compensation.
7 Benefits paid on account of each **surviving** child shall not exceed an aggregate of
8 fifty percent of the average final compensation. If the deceased member is survived
9 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than
10 twenty-five percent of the deceased member's average final compensation. ~~Benefits~~
11 ~~shall continue after the minor child attains age eighteen as provided in Subparagraph~~
12 ~~(a) of this Paragraph.~~

13 (c) If at the time of a member's death the member is not married to the natural
14 parent of any **surviving** child or children who are entitled to receive a payment
15 pursuant to this Section and if a trust has been created by the deceased member for
16 the benefit of such **surviving** child or children, the payment shall be made to any
17 person designated as a trustee by the member on a certified copy of a trust document
18 submitted to the system by the member.

19 (3) If a member who is eligible for retirement dies before retiring, the
20 surviving spouse shall automatically be paid benefits as though the member had
21 retired on the date of his death and elected Option 2, naming the surviving spouse as
22 beneficiary, or shall be paid benefits as provided in this Section, whichever is
23 greater.

24 (4) Any member who has twelve or more years of service credit established
25 in the retirement system and who terminates covered employment and leaves his
26 accumulated contributions in the retirement system in order to receive a retirement
27 benefit upon reaching the applicable age shall be covered by the survivor benefit
28 provisions found in this Section.

29 * * *

1 Section 2. This Act shall become effective on June 30, 2018; if vetoed by the
2 governor and subsequently approved by the legislature, this Act shall become effective on
3 June 30, 2018, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

DIGEST

SB 12 Original

2018 Regular Session

Peacock

Present law, relative to the Municipal Police Employees' Retirement System (MPERS), provides for definitions.

Proposed law retains present law.

Proposed law defines "student" to mean a person who satisfies the following criteria:

- (1) Is enrolled in an accredited high school, vocational-technical school, or a college or university.
- (2) Is classified as full-time.

Proposed law defines the "surviving child" of a member to mean a child of the member by birth, adoption, or filiation who is also one of the following:

- (1) An unmarried person under age 18.
- (2) An unmarried student under age 23.
- (3) A person with a mental disability or total physical disability who is dependent on a legal guardian for subsistence.

Present law provides the qualifications for payment of survivor benefits accrued by an active contributing member who dies before retirement.

Proposed law specifies that any payment of a survivor benefit to a child shall be in accordance with the definitions provided in proposed law.

Proposed law specifies that qualifying survivor's benefits are payable upon application therefor and become effective the day following the death of the member.

Effective June 30, 2018.

(Amends R.S. 11:2213(22), 2220(B)(2), 2241.8, and 2242.8; adds R.S. 11:2213(23) and (24))