

FIRST REGULAR SESSION

HOUSE BILL NO. 770

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES.

1294H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 104.140, 104.420, and 104.1030, RSMo, and to enact in lieu thereof three new sections relating to retirement.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 104.140, 104.420, and 104.1030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 104.140, 104.420, and 104.1030, to read as follows:

104.140. 1. (1) If a member who has five or more years of creditable service dies before retirement, the member's surviving spouse, to whom the member was married on the date of the member's death, if any, shall receive the reduced survivorship benefits provided in option 1 of subsection 3 of section 104.090 calculated as if the member were of normal retirement age and had retired as of the date of the member's death and had elected option 1.

(2) If there is no eligible surviving spouse, or when a spouse's annuity has ceased to be payable, the member's eligible surviving children under twenty-one years of age shall receive monthly, in equal shares, an amount equal to eighty percent of the member's accrued annuity calculated as if the member were of normal retirement age and retired as of the date of death. Benefits otherwise payable to a child under eighteen years of age shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal conservator of such child, until such child attains age eighteen, and thereafter, the benefit may be paid to the child until age twenty-one; provided, the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (3) No benefit is payable pursuant to **subdivisions (1) or (2) of this section** if no eligible
17 surviving spouse or children under twenty-one years of age survive the member. Benefits cease
18 pursuant to **subdivisions (1) or (2) of this section** when there is no eligible surviving beneficiary
19 through either death of the eligible surviving spouse or through either death or the attainment of
20 twenty-one years of age by the eligible surviving children. If the member's surviving children
21 are receiving equal shares of the benefit described in subdivision (2) of this subsection, and one
22 or more of such children become ineligible by reason of death or the attainment of twenty-one
23 years of age, the benefit shall be reallocated so that the remaining eligible children receive equal
24 shares of the total benefit as described in subdivision (2) of this subsection.

25 **(4) If an annuity is not payable under subsections (1) or (2) of this section, an**
26 **annuity shall be computed as if such member had:**

27 **(a) Retired on the date of death with a normal retirement annuity based upon**
28 **credited service and final average pay to the date of death, and without reduction if the**
29 **member's age was younger than normal retirement eligibility;**

30 **(b) Elected option 3 provided for in section 104.090; and**

31 **(c) Designated a beneficiary to receive the remaining annuity payments, except that**
32 **if no beneficiary has been designated by the member then the reserve for such annuity for**
33 **the remainder of such one hundred twenty-month period shall be paid as provided under**
34 **subsection 3 of section 104.620.**

35 2. Effective January 1, 1985, if an employee who has three or more, but less than five
36 years of creditable service dies before retirement, the surviving spouse of the deceased employee,
37 if married to the deceased employee on the date of the employee's death, or the deceased
38 employee's surviving eligible children under the age of twenty-one, shall receive a total monthly
39 payment equal to twenty-five percent of the deceased employee's accrued monthly benefit
40 calculated as if the employee were of normal retirement age as of the date of death. If the
41 surviving spouse dies leaving any eligible children under the age of twenty-one years, the
42 payment shall continue until the children reach twenty-one years of age. If there is no surviving
43 spouse eligible for benefits under this subsection, but there are any children of the deceased
44 employee eligible for payments, the payments shall continue until the children reach twenty-one
45 years of age. Any benefits payable to eligible children under twenty-one years of age shall be
46 made on a pro rata basis among the surviving children under twenty-one years of age.

47 3. For the purpose of computing the amount of a benefit payable pursuant to this section,
48 if the board finds that the death was a natural and proximate result of a personal injury or disease
49 arising out of and in the course of the member's actual performance of duty as an employee, then
50 the minimum benefit to such member's surviving spouse or, if no surviving spouse benefits are
51 payable, the minimum benefit that shall be divided among and paid to such member's surviving

52 eligible children under the age of twenty-one shall be fifty percent of the member's final average
53 compensation. The service requirements of subsections 1 and 2 of this section shall not apply
54 to any benefit payable pursuant to this subsection.

104.420. 1. Unless otherwise provided by law, if a member or disabled member who
2 has a vested right to a normal annuity dies prior to retirement, regardless of the age of the
3 member at the time of death, the member's or disabled member's surviving spouse, to whom the
4 member or disabled member was married on the date of the member's death, if any, shall receive
5 the reduced survivorship benefits provided in option 1 of section 104.395 calculated as if the
6 member were of normal retirement age and had retired as of the date of the member's death and
7 had elected option 1.

8 2. If there is no eligible surviving spouse, or when a spouse annuity has ceased to be
9 payable, the member's or disabled member's eligible surviving children under twenty-one years
10 of age shall receive monthly, in equal shares, an amount equal to eighty percent of the member's
11 or disabled member's accrued annuity calculated as if the member or disabled member were of
12 a normal retirement age and retired as of the date of death. Benefits otherwise payable to a child
13 under eighteen years of age shall be payable to the surviving parent as natural guardian of such
14 child if such parent has custody or assumes custody of such minor child, or to the legal
15 conservator of such child, until such child attains age eighteen; thereafter, the benefit may be
16 paid to the child until age twenty-one; provided the age twenty-one maximum shall be extended
17 for any child who has been found totally incapacitated by a court of competent jurisdiction.

18 3. No benefit is payable pursuant to **subsection 1 or 2** of this section if no eligible
19 surviving spouse or children under twenty-one years of age survive the member or disabled
20 member. Benefits cease pursuant to **subsection 1 or 2** of this section when there is no eligible
21 surviving beneficiary through either death of the eligible surviving spouse or through either death
22 or the attainment of twenty-one years of age by the eligible surviving children. If the member's
23 or disabled member's surviving children are receiving equal shares of the benefit described in
24 subsection 2 of this section, and one or more of such children become ineligible by reason of
25 death or the attainment of twenty-one years of age, the benefit shall be reallocated so that the
26 remaining eligible children receive equal shares of the total benefit as described in subsection
27 2 of this section.

28 4. **If an annuity is not payable under subsection 1 or 2 of this section, an annuity**
29 **shall be computed as if such member had:**

30 (1) **Retired on the date of death with a normal retirement annuity based upon**
31 **credited service and final average pay to the date of death, and without reduction if the**
32 **member's age was younger than normal retirement eligibility;**

33 (2) **Elected option 3 provided for in section 104.395; and**

34 **(3) Designated a beneficiary to receive the remaining annuity payments, except that**
35 **if no beneficiary has been designated by the member, then the remaining payments shall**
36 **be paid as otherwise provided under option 3 in section 104.395.**

37 **5.** For the purpose of computing the amount of an annuity payable pursuant to this
38 section, if the board finds that the death was the natural and proximate result of a personal injury
39 or disease arising out of and in the course of the member's actual performance of duty as an
40 employee, then the minimum annuity to such member's surviving spouse or, if no surviving
41 spouse benefits are payable, the minimum annuity that shall be divided among and paid to such
42 member's surviving children shall be fifty percent of the member's final average compensation;
43 except that for members of the general assembly and statewide elected officials with twelve or
44 more years of service, the monthly rate of compensation in effect on the date of death shall be
45 used in lieu of final average compensation. The vesting service requirement of subsection 1 of
46 this section shall not apply to any annuity payable pursuant to this subsection.

 104.1030. 1. If a member with five or more years of credited service or a vested former
2 member dies before such member's or such vested former member's annuity starting date, the
3 applicable annuity provided in this section shall be paid.

4 2. The member's surviving spouse who was married to the member at the date of death
5 shall receive an annuity computed as if such member had:

6 (1) Retired on the date of death with a normal retirement annuity based upon credited
7 service and final average pay to the date of death, and without reduction if the member's age was
8 younger than normal retirement eligibility;

9 (2) Elected option 2 provided for in section 104.1027; and

10 (3) Designated such spouse as beneficiary under such option.

11 3. If a spouse annuity is not payable pursuant to the provisions of subsection 2 of this
12 section, or when a spouse annuity has ceased to be payable, eighty percent of an annuity
13 computed in the same manner as if the member had retired on the date of death with a normal
14 retirement annuity based upon credited service and final average pay to the date of death and
15 without reduction if the member's age at death was younger than normal retirement eligibility
16 shall be divided equally among the dependent children of the deceased member. A child shall
17 be a dependent child until death or attainment of age twenty-one, whichever occurs first;
18 provided the age twenty-one maximum shall be extended for any child who has been found
19 totally incapacitated by a court of competent jurisdiction. Benefits otherwise payable to a child
20 under eighteen years of age shall be payable to the surviving parent as a natural guardian of such
21 child if such parent has custody or assumes custody of such minor child or to the legal
22 conservator of such child until such child attains age eighteen. Upon a child ceasing to be a

23 dependent child, that child's portion of the dependent annuity shall cease to be paid, and the
24 amounts payable to any remaining dependent children shall be proportionately increased.

25 **4. If an annuity is not payable under subsection 2 or 3 of this section, an annuity**
26 **shall be computed as if such member had:**

27 **(1) Retired on the date of death with a normal retirement annuity based upon**
28 **credited service and final average pay to the date of death, and without reduction if the**
29 **member's age was younger than normal retirement eligibility;**

30 **(2) Elected option 3 provided for in section 104.1027; and**

31 **(3) Designated a beneficiary to receive the remaining annuity payments, except that**
32 **if no beneficiary has been designated by the member, then the remaining payments shall**
33 **be paid as otherwise provided under option 3 in section 104.1027.**

34 **5.** For the purpose of computing the amount of an annuity payable pursuant to this
35 section, if the board finds that the death was the natural and proximate result of a personal injury
36 or disease arising out of and in the course of his or her actual performance of duty as an
37 employee, then the minimum annuity to such member's spouse or, if no spouse benefits are
38 payable, the minimum annuity that shall be divided among and paid to such member's dependent
39 children shall be fifty percent of final average pay. The credited service requirement of
40 subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

41 **[5.] 6.** The provisions of this section shall apply to members of the general assembly and
42 statewide elected officials except that the credited service and monthly pay requirements
43 described in section 104.1084 shall apply notwithstanding any other language to the contrary
44 contained in this section.

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