

LAWS OF DELAWARE
VOLUME 84
CHAPTER 446
152nd GENERAL ASSEMBLY
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 174

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO PENSIONS FOR THE STATE JUDICIARY.

WHEREAS, the position of Justice of the Peace is one of the oldest offices in Delaware, preceding the Constitution of 1776. The Justice of the Peace Court handles virtually all aspects of criminal law, from issuing warrants to setting bail, as well as presiding over most traffic cases, civil actions up to \$25,000.00 and all landlord-tenant cases. Because of the volume of cases and its largely non-lawyered litigants, the Court has also become recognized as "The People's Court." As directed by the 1897 Constitution, Justices of the Peace are appointed by the Governor, with the consent of the Senate; and

WHEREAS, the positions of Commissioner in Superior Court, Family Court, and Court of Common Pleas and Magistrate in Chancery are held by professional, dedicated lawyers that fulfill a multitude of responsibilities in assisting their respective court's judges. These responsibilities, in part, include resolving disputes, issuing warrants, establishing guardianships, processing trusts and estates, and mediating, arbitrating, and adjudicating matters before their court. Commissioners are appointed by the Governor and confirmed by the Senate and Magistrates in Chancery are designated by, and serve at the pleasure of, the Chancellor of the Court of Chancery; and

WHEREAS, all of these officials are integral parts of Delaware's nationally recognized exemplary judiciary, it is fitting and proper to include them in the State's Judicial Pension Plan.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5600, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 5600. Definitions.

For purposes of this chapter:

(1) "Board" means the Board of Pension Trustees established under § 8308 of this title.

(2) "Closed plan" means the eligibility and benefit pensions under this chapter in effect on June 30, 1980.

(3) "Commissioner" means an individual appointed under § 511, § 915, or § 1315 of Title 10.

~~(3)~~(4) "Final average compensation" means the member's average annual compensation during ~~his or her~~ the member's highest paid 3 years, comprised of 3 periods of 12 consecutive months, for service as a ~~judge, State judicial officer,~~ or the average annual compensation during the period of ~~his or her~~ the member's service as a ~~judge~~ State judicial officer if such period is less than 3 years.

(4) ~~The clause "for which he or she is eligible under the Federal Social Security Act" means the old age insurance benefit or the disability insurance benefit for which an individual is or will be eligible by virtue of age and his or her wage credits under the Federal Social Security Act [42 U.S.C. § 301 et seq.], based on his or her final average compensation and the Federal Social Security Act in effect when the individual ceased to be a judge and computed in accordance with rules and regulations approved by the Board, regardless of any other factors such as, without limitation, whether the judge has made application for social security benefits or is subsequently employed.~~

(5) ~~"Magistrate in Chancery" means an attorney designated by, and serving at the pleasure of, the Chancellor of the Court of Chancery on a full-time basis.~~

~~(5)~~(6) "Member" means ~~an individual~~ a State judicial officer who accepts the provisions of this ~~chapter while a member of the state judiciary.~~ chapter.

~~(6)~~(7) "Service" means ~~an individual for whom all of the following apply:~~ all of the following:

a. ~~Employment as a member of the state judiciary.~~ State judicial officer.

b. Years of service as an "employee" as defined in § 5501(f)(1), (f)(2), and (f)(3) of this title, excluding service as an elected official. It ~~shall~~ does not include service for which the employee has received the refund provided by § 5523(b) of this title, unless such refund is first repaid with interest at a rate determined by the Board.

c. Employment with the Municipal Court for the City of Wilmington prior to January 1998 if the individual is subsequently employed as a ~~member of the state judiciary~~. State judicial officer. An individual may receive credit for such previous service upon payment to the Fund, on or before the date of issuance of the individual's first benefit check or not later than March 23, 2003 (whichever is later), of a single lump sum payment equal to the actuarial value of the pension benefits to be derived from such service credits computed on the basis of actuarial assumptions approved by the Board and the individual's attained age and final average compensation.

(8) "State judicial officer" means an individual who is appointed to the State judiciary.

~~(7)~~(9) "State judiciary" means the ~~judges mentioned~~ officers listed in Article IV, § 2, of the Constitution of Delaware, § 2 of Article IV of the Delaware Constitution and any other ~~judge of a court of record~~ officer for whom all of the following apply:

a. Is appointed by ~~the Governor and confirmed by the Senate for a term of 12 years~~. one of the following methods:

1. By the Governor with confirmation by the Senate, as prescribed under Article IV of the Delaware Constitution.

2. As prescribed by §§ 511, 915, and 1315 of Title 10, for a Commissioner.

3. By the Chancellor of the Court of Chancery, for a Magistrate in Chancery.

b. Receives ~~his or her~~ the officer's entire remuneration as ~~judge~~ a State judicial officer in the form of a salary paid by ~~the~~ this State.

c. Is by law during this tenure of office either prohibited from practicing law, or else prohibited from engaging in any other gainful occupation.

Section 2. Amend § 5601, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5601. State Judiciary Retirement Fund; contributions; use; division of benefits into plans.

(a)(1) There shall be established a State Judiciary Retirement Fund, hereinafter referred to as "Fund." Each member who elects or who has elected the provisions of this chapter and:

~~(1)~~a. Who was first appointed to the state judiciary ~~prior to~~ before July 1, 1980, and is a member covered by the closed plan, shall contribute \$500 to the Fund each year for the first 25 years of service; or

~~(2)~~b. Who is a member covered by the revised ~~plan~~, plan before [the effective date of this act] shall contribute to the Fund each year for the first 24 years of service an amount equal to 3% of annual compensation in excess of \$6,000 up to the Social Security wage base, and 5% of total compensation in excess of the Social Security wage base. ~~In no event shall total~~ Total compensation during any calendar year in excess of \$6,000 may not be exempt from contributions. ~~contributions.~~

c. Who is a member covered by the revised plan on or after [the effective date of this act] shall contribute to the Fund each year for the first 24 years of service an amount equal to 4% of annual compensation in excess of \$6,000 up to the Social Security wage base, and 5% of total compensation in excess of the Social Security wage base. Total compensation during any calendar year in excess of \$6,000 may not be exempt from contributions.

(2) Effective July 1, 1997, employee pension contributions made ~~pursuant to~~ under this section ~~shall not be~~ are not subject to adjustment or recovery after the expiration of 3 full calendar years from December 31 of the year in which the contributions were made unless no contributions were paid during that calendar year.

(c) The benefit provisions of this chapter ~~shall be~~ are divided into 2 plans, the closed plan and the revised plan. Members of the state judiciary first appointed before July 1, 1980, who do not elect, as provided in § 5605 of this title, to accept the revised plan ~~shall be~~ are members covered by the closed plan even through reappointments to the state judiciary. All other ~~members of the state judiciary~~ State judicial officers who accept the provisions of this chapter, as provided in § 5605 of this title, ~~shall be~~ are members covered by the revised plan.

Section 3. Amend § 5604, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5604. Definition of involuntary retirement.

Retirement from the state judiciary ~~shall be~~ is deemed to be involuntary ~~if, upon~~ if one of the following applies:

(1) For a State judicial officer other than a Magistrate in Chancery, on expiration of ~~the judge's~~ the State judicial officer's term of office, ~~a judge shall fail to be~~ the State judicial officer is not reappointed and confirmed, unless the ~~judge shall have declined~~ State judicial officer declines reappointment.

(2) For a Magistrate in Chancery, ~~the Magistrate in Chancery fails to continue to serve at the pleasure of the Chancellor, unless the Magistrate in Chancery declines to continue to serve at the pleasure of the Chancellor.~~

Section 4. Amend § 5605, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5605. Acceptance of provisions; result.

(a)(1) ~~Each new member of the state judiciary, whether by appointment and confirmation or as a result of any provision of this chapter, State judicial officer may accept the provisions of this chapter by:~~ by one of the following:

a.(1) Written declaration to that effect within 30 days following the member's ~~member~~ becoming a member of the state judiciary. State judicial officer. A member first appointed on or after July 1, 1980, ~~shall not be~~ is not required to file a written declaration as ~~such~~ the member is covered under the revised plan; or plan.

b.(2) Through the authorization, heretofore or hereafter accomplished, by said ~~authorization by the~~ member to permit deductions for the contributions provided in § 5601 of this title.

(2)a. The declaration of acceptance shall be filed in the office of the Secretary of State; provided, however, that in the event under paragraph (a)(1)a. of this section must be filed with the Secretary of State. If the member accepts the provisions of this chapter through authorization of deductions for ~~contributions;~~ contributions under paragraph (a)(1)b. of this section, the member shall thereafter file a written declaration with the Secretary of State.

b. Upon ~~On~~ filing of such written declaration a declaration of acceptance by a member of the state judiciary or ~~upon~~ State judicial officer or on authorization of deductions for contributions, whichever first occurs, the benefits of this chapter shall be are available to the ~~member.~~ State judicial officer.

c. Any judge who was, prior to November 8, 1955, a member of the state judiciary, who has not already done so, may file a written declaration of acceptance of the provisions of this chapter within 30 days after November 8, 1955. [Repealed.]

d. A declaration of acceptance, or authorization to permit of deductions for the contributions provided in § 5601 of this title, heretofore or hereafter accomplished, by a member first appointed on or after July 1, 1980, shall cover ~~such~~ covers the member under the revised plan.

(b) A member first appointed before July 1, 1980, may elect to be covered by the revised plan by filing a declaration of acceptance ~~in the office of~~ with the Secretary of State.

(c) Any declaration of acceptance of this chapter or authorization of deductions for the contributions provided in § 5601 of this title as provided in subsection (a) of this section ~~shall constitute~~ constitutes an authorization and direction by the ~~member of the state judiciary making the same~~ State judicial officer making the declaration or authorization that if a certificate of permanent physical or mental disability of ~~such member shall be thereafter~~ the State judicial officer is filed ~~as provided for in~~ under § 5602(c) or § 5612(c) of this title, such certificate shall, the certificate constitutes, without any further act by ~~such member, constitute~~ the State judicial officer, a resignation by such member, the State judicial officer, effective immediately after the filing of ~~such~~ the certificate. ~~A declaration of acceptance shall also authorize deductions for the contributions provided for in § 5601 of this title.~~

(d) ~~Any~~ A declaration of acceptance filed or authorization of deductions for contributions made ~~pursuant to~~ under this section ~~shall be~~ is irrevocable.

(e)(1) A Justice of the Peace, Commissioner, or Magistrate in Chancery who qualifies for the State Judicial Pension plan on [the effective date of this Act] may, under § 4 of Article XV of the Delaware Constitution, decline participation in the State Judicial Pension Plan and remain in the State Employee's Pension Plan.

(2) A Justice of the Peace, Commissioner, or Magistrate in Chancery who exercises the right under paragraph (e)(1) of this section to decline participation in the State Judicial Pension Plan must do so in writing to the Board within 30 days of [the effective date of this Act].

(3) The exercise of the right under paragraph (e)(1) of this section is irrevocable.

(4) A Justice of the Peace, Commissioner, or Magistrate in Chancery who qualifies for the State Judicial Pension Plan on [the effective date of this Act] and elects to be covered by the State Judicial Pension Plan is entitled to a payout for

accrued annual leave in incremental payments over a 5-year period, with the first payout to be completed 1 year from [the effective date of this Act]. If termination of state service occurs before receiving the full accrued payout, the outstanding amount must be paid on termination.

Section 5. Amend § 5607, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5607. Termination of pension benefits.

Any state pension benefits available to any judge under this chapter shall immediately terminate upon the judge's a person immediately terminate on the person's appointment to and acceptance of any judicial office under state law. a position as a State judicial officer.

Section 6. Amend § 5609, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5609. Relationship of judicial pensions to other pensions; social security.

(a)(1) No judge, while serving as a judge, shall be entitled to A State judicial officer, while in service as a State judicial officer, may not receive any other pension: pension that meets all of the following:

a. (4) Payable Is payable by the this State under any law of the State, this State.

b. (2) For which the judge State judicial officer would otherwise be eligible because of the judge's State judicial officer's prior service as an employee, officer officer, or elected or appointed official.

(2) Upon the judge's On the State judicial officer's retirement or death, the judge State judicial officer or the person or persons entitled to survivor's benefits provided under this chapter shall be is entitled to receive the pension benefits provided under this chapter as well as any other pension benefits for which the judge State judicial officer or the person or persons entitled to survivor's benefits is eligible under any other pension plan payable by the this State.

(b) Within 6 months after July 7, 1998, any judge who withdrew his or her contributions from any other pension plan payable by the State, shall be entitled to repay the contributions, with interest at a rate to be determined by the Board. Repayment in accordance with this subsection shall restore all pension benefits for which the judge would have been eligible under the other pension plan payable by the State had the judge not withdrawn his or her contributions. [Repealed.]

(c) Nothing contained in this chapter shall prevent any judge prevents a State judicial officer from participating on the same basis as other state employees in the social security program except that federal Social Security payments to which a judge State judicial officer may become entitled shall may not be deducted from any pension payments made under this chapter.

Section 7. Amend § 5610, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5610. Assignment of retired ~~judges~~ State judicial officers to active duty.

(a)(1) Any judge retired from a statutorily created court and receiving a judicial pension may be designated by the Chief Justice of the Supreme Court to perform such judicial duties in any court where such retired judge could serve if such retired judge still held the judicial position from which the judge retired; provided, however, that such retired judge assents to such designation and provided further that such retired judge is not actively engaged in the practice of law.

(2) Any justice, judge, chancellor or vice chancellor who is retired and receiving a judicial pension may be designated by the Chief Justice of the Supreme Court pursuant to a constitutional or statutory authority to sit temporarily in the court from which the justice, judge, chancellor or vice chancellor retired or in any other court to which the justice, judge, chancellor or vice chancellor could be designated under the Constitution and statutes of ~~the~~ this State if the justice, judge, chancellor or vice chancellor still held the judicial position from which the justice, judge, chancellor or vice chancellor retired and if the retired justice, judge, chancellor or vice chancellor assents to such designation, and is not actively engaged in the practice of law. However, no former justice, judge, chancellor or vice chancellor shall be designated to sit in the Supreme Court except temporarily to fill up the number of that Court to the required quorum.

(b) Any retired justice, judge, chancellor or vice chancellor accepting an active duty designation pursuant to the constitutional or statutory authorization shall be compensated on a per diem basis on the formula representing 1/365 of the annual salary for such a retired justice, judge, chancellor or vice chancellor, but in no event shall the total compensation received on a per diem basis when added to the retirement pay exceed the then current annual salary of the judicial position from which such justice, judge, chancellor or vice chancellor has retired. In addition, each retired justice, judge, chancellor or vice chancellor so

serving shall receive reimbursement for expenses for travel or secretarial services necessarily incurred for the performance of such active duty.

(c) A Justice of the Peace or Commissioner who is retired and receiving a judicial pension can be designated to serve temporarily as provided under the following:

- (1) Section 9211 of Title 10, for a Justice of the Peace.
- (2) Section 513 of Title 10, for a Superior Court Commissioner.
- (3) Section 916 of Title 10, for a Family Court Commissioner.
- (4) Section 1316A of Title 10, for a Court of Common Pleas Commissioner.

Section 8. Amend § 5612, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5612. Revised plan — Eligibility; annual pension for permanent disability.

(a) A member covered by the revised plan ~~shall become~~ is eligible to receive a pension ~~who has:~~ if the member meets one of the following:

- (1) ~~Completed~~ Has completed 12 years of service as a ~~judge, State judicial officer~~ and has attained age ~~62;~~ 62.
- (2) ~~Completed~~ Has completed 24 years of ~~service;~~ service.
- (3) ~~Been~~ Has been involuntarily retired after having served 22 years as a ~~judge, State judicial officer.~~

(b) A member covered by the revised plan who has completed 12 years of service as a ~~judge shall have~~ State judicial officer has a vested right to a pension. ~~Such right shall be~~ The vested right is forfeited ~~upon his or her~~ on the member's application for a refund of ~~his or her~~ the member's accumulated contributions.

(c)(1) ~~If a member of the state judiciary shall develop~~ State judicial officer develops a permanent physical or mental ~~disability, disability while in office, the member shall,~~ a State judicial officer, the State judicial officer is to receive, from and after the ascertainment of ~~such~~ the disability in the manner ~~hereafter set forth,~~ receive set forth in paragraph (c)(2) of this section, an annual pension from ~~the~~ this State, payable in equal monthly installments during the remainder of the ~~member's~~ State judicial officer's lifetime.

(2) ~~A member of the state judiciary~~ State judicial officer may be deemed to have a permanent physical or mental disability and unable to perform the State judicial officer's duties ~~of the member's office~~ after the Board of Pension Trustees has considered a certificate to that effect signed by all of the following:

a. ~~the~~ The Chief Justice of the Supreme Court, or if the Chief Justice ~~shall be~~ is the subject of ~~such~~ the certificate, by the senior Justice of the Supreme ~~Court,~~ Court.

b. ~~and by~~ By 3 persons previously designated by the Board who meet all of the following:

1. Are duly licensed to practice medicine or surgery in this ~~State~~ State.
2. ~~and who have~~ Have been actively engaged in ~~such~~ the practice of medicine or surgery in this State for at least 10 years immediately preceding the signing of ~~such~~ the certificate; ~~said 3 persons to be previously designated by the Trustees.~~ the certificate.

Section 9. Amend § 5613, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5613. Revised plan — Pension amount [For application of this section, see 79 Del. Laws, c. 315, § 10].

Subject to the provisions of paragraph (2) of this section:

(1) The amount of the annual pension or disability pension payable to a member under the revised plan ~~shall be~~ is the sum of $\frac{1}{24}$ of final average compensation multiplied by years of service as a ~~judge~~ State judicial officer up to 12 years inclusive, plus $\frac{1}{48}$ of final average compensation multiplied by years of service as a ~~judge~~ State judicial officer from 13 to 24 years inclusive. Disability pensions will be computed on the basis of actual service as a ~~judge~~ State judicial officer or 12 years of service as a ~~judge, State judicial officer,~~ whichever is greater.

(2) For a member first appointed before July 1, 1980, who accepts the revised plan, as provided in § 5605 of this title, the pension payable under the revised plan shall be the greater of the pension computed in accordance with paragraph (1) of this section or 3% of final average compensation multiplied by years of service as a judge subject to a minimum pension of 50% of final average compensation and a maximum of 75% of final average compensation.

(3) a. Notwithstanding provisions of this section to the contrary, a member may elect to have ~~his or her~~ the member's service or disability pension, computed under this section, reduced by 2%, thereby providing a survivor's pension

equal to $\frac{2}{3}$ of ~~such~~ the reduced amount to ~~their~~ the member's eligible survivor ~~or survivors~~ at the time of the member's death. ~~This~~ The member's election must be made in a form approved by the ~~Board, filed prior to~~ Board and filed before the issuance of the member's first benefit ~~check, and shall be~~ check. The member's election is irrevocable.

b. Notwithstanding the provisions of this section to the contrary, an individual receiving a service or disability pension which was effective ~~prior to~~ before July 1, 2001, or an individual with a vested right to a service pension, may elect to have ~~his or her~~ the individual's service or disability pension reduced by 2%, thereby providing a survivor's pension equal to ~~two-thirds of such~~ $\frac{2}{3}$ of the reduced amount to ~~his or her~~ the individual's eligible survivor ~~or survivors~~ at the time of ~~his or her~~ the individual's death. ~~This~~ The individual's election must be made in a form approved by the Board, filed ~~prior to~~ before December 15, 2001, to be effective January 1, 2002, for the individual receiving a service or disability pension on July 1, 2001, or, in the case of an individual with a vested right to a service pension, filed ~~prior to~~ before the issuance of the individual's first pension check.

c. Notwithstanding provisions of this section to the contrary, a member may elect to have ~~his or her~~ the member's service or disability pension, computed under this section, reduced by 3%, thereby providing a survivor's pension equal to 75% of such reduced amount to the member's eligible survivor ~~or survivors~~ at the time of the member's death. ~~This~~ The member's election must be made in a form approved by the ~~Board, filed prior to~~ Board and filed before the issuance of the member's first benefit ~~check, and shall be~~ check. The member's election is irrevocable.

d. Notwithstanding provisions of this section to the contrary, a member may elect to have ~~his or her~~ the member's service or disability pension, computed under this section, reduced by 6%, thereby providing a survivor's pension equal to 100% of ~~such~~ the reduced amount to the member's eligible survivor ~~or survivors~~ at the time of the member's death. ~~This~~ The member's election must be made in a form approved by the ~~Board, filed prior to~~ Board and filed before the issuance of the member's first benefit ~~check, and shall be~~ check. The member's election is irrevocable.

Section 10. Amend § 5614, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5614. Revised plan — Survivor's pension [For application of this section, see 79 Del. Laws, c. 315, § 10].

(a) ~~Upon~~ On the death during service of a member covered by the revised plan, a monthly survivor's pension ~~shall be payable~~ must be paid to the member's eligible survivor ~~or survivors~~ that is equal to ~~two-thirds~~ $\frac{2}{3}$ of the service pension for which the ~~judge~~ member would have been eligible and computed on the basis of actual service to the date of death or 12 years, whichever is greater, and had elected the option provided under § 5613(3) of this title.

(b) ~~Upon~~ On the death of a member covered by the revised plan and receiving a service or disability pension at the time of death, a monthly survivor's pension ~~shall be payable~~ must be paid to the member's eligible survivor ~~or survivor's equal to:~~ that is equal to one of the following:

(1) One half of ~~such~~ the service or disability ~~pension;~~ pension.

(2) If ~~such~~ the pension was computed under § 5613(3) a. or b. of this title, $\frac{2}{3}$ of ~~such~~ the service or disability ~~pension;~~ pension.

(3) If ~~such~~ the pension was computed under § 5613(3)c. of this title, 75% of ~~such~~ the service or disability ~~pension;~~ pension.

(4) If ~~such~~ the pension was computed under § 5613(3)d. of this title, 100% of ~~such~~ the service or disability pension.

(c) ~~Upon~~ On the death after retirement of a member covered by the revised plan, who has a vested right to a pension ~~pursuant to~~ under § 5612(b) of this title, but who dies before reaching the age of 62, a monthly survivor's pension ~~shall be payable~~ must be paid beginning in the month during which the member would have reached the age of 62 in an amount equal to one half of the pension for which the ~~judge~~ member would have been eligible at the age of 62.

(d) For the purpose of this section, the priority of eligible survivors of a member covered by the revised plan ~~shall be~~ is as follows, provided that a member may change the priority of eligible survivors specified ~~herein~~ under this subsection by designating the priority of eligible survivors on a form prescribed by the ~~Board at the time of the member's death:~~ Board:

(1) The widow or widower, provided ~~such person~~ the widow or widower had been married to the deceased member for at least 1 year before the date of ~~death;~~ death.

(2) If there is ~~no~~ not an eligible widow or eligible widower, a child (or with the survivor's pension divided among them in equal shares, all such children if there are more than 1), provided the child is unmarried and ~~either:~~ one of the following applies:

- a. ~~Has~~ The child has not attained age ~~18~~; 18.
- b. ~~Has~~ The child has attained age 18 but not age 22 and is attending school on a full-time ~~basis~~; or basis.
- c. ~~Has~~ The child has attained age 18 and has a permanent disability as the result of a disability which began before the child attained age ~~18~~; or 18.

(3) If there is ~~no~~ not an eligible widow, eligible ~~widower~~ widower, or eligible child, a dependent parent (or, with the survivor's pension divided between them in equal shares, both such parents if there are 2).

(e) The amount payable to a widow or widower who has not attained age 50 at the time the survivor's pension begins ~~shall be~~ must be actuarially reduced, in accordance with actuarial tables approved by the Board, for each month the survivor is under age 50 at ~~such~~ the time. However, the actuarial reduction for any ~~such~~ widow or widower ~~shall~~ does not apply for the period during which ~~such~~ the widow or widower has in ~~that~~ the widow's or widower's care a ~~son or daughter~~ child who is unmarried and ~~either~~: to whom one of the following applies:

- (1) ~~Has~~ The child has not attained age ~~18~~; 18.
- (2) ~~Has~~ The child has attained age 18 but not age 22 and is attending school on a full-time ~~basis~~; or basis.
- (3) ~~Has~~ The child has attained age 18 and has a permanent disability as the result of a disability which began before the child attained age 18.

(f) A ~~deceased member's~~ parent ~~shall be~~ is deemed to have been dependent on the deceased member if ~~such individual~~ the parent was receiving at least 1/2 of ~~that individual's~~ the parent's support from the deceased member at the time of death.

(g) A survivor's pension ~~shall begin~~ begins with the month following the month in which the member dies. If payable to a widow, ~~widower~~ widower, or parent, it ~~shall cease~~ the survivor's pension ceases with the month in which the survivor dies. If payable to a child, it ~~shall cease~~ the survivor's pension ceases with the month in which the child dies or fails to meet the conditions of eligibility ~~in paragraph (2)~~; under paragraph (d)(2) of this section.

Section 10. Amend Chapter 56, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 56. Pensions for ~~Members of the State Judiciary~~ State Judicial Officers.

Section 11. This Act takes effect on January 1, 2025.

Approved September 26, 2024