SPONSOR: Rep. Spiegelman & Sen. Ennis
Rep. Baumbach

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 398

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO STATE EMPLOYEES' PENSION PLAN.

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

Section 1. Amend Chapter 55, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5528 Ordinary survivor's pension [For application of this section, see 79 Del. Laws, c. 315, § 10]

(a)(1) Upon the death of an employee who has 5 years of credited service, exclusive of service credited under § 5501(e)(4), (5) and (12) of this title, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to 3/4 of the service pension the employee would have been eligible to receive had he or she elected the option provided under § 5527(g) of this title.

(2) A survivor's pension shall begin with the month following the month in which the employee dies. If payable to a widow or widower, it shall cease with the month in which the survivor dies. If payable to a parent, it shall cease with the month in which the parent dies. If payable to a child, it shall cease with the month in which the child dies or fails to meet the conditions of eligibility in paragraph (2) of subsection (d) of this section. <u>If payable to a grandchild, it shall cease with the month in which the grandchild dies or fails to meet the conditions of eligibility in paragraph (3) of subsection (d) of this section.</u>

(b)(1) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to the greater of:

a. 50% of such service or disability pension;

b. If such pension was computed under the provisions of § 5627(g)(1) of this title, 2/3 of such service or disability pension;

c. If such pension was computed under the provisions of § 5527(g)(2) or (3) of this title, 75% of such service or disability pension; or

d. If such pension was computed under the provisions of § 5527(g)(4) of this title, 100% of such service or disability pension.

(2) A survivor's pension shall begin with the month following the month in which the pensioner dies. If payable to a widow or widower, it shall cease with the month in which the survivor dies. If payable to a parent, it shall cease with the month in which the parent dies. If payable to a child, it shall cease with the month in which the child dies or fails to meet the conditions of eligibility in paragraph (2) of subsection (d) of this section. If payable to a grandchild, it shall cease with the month in which the grandchild dies or fails to meet the conditions of eligibility in paragraph (3) of subsection (d) of this section.

(c) Upon the death of a former employee with a vested right to a pension, a monthly survivor's pension equal to one half of the former employee's entitlement shall be payable to his or her eligible survivor or survivors beginning with the month that the former employee would have been eligible to receive such pension. If payable to a widow or widower, it shall cease with the month in which the survivor dies. If payable to a parent, it shall cease with the month in which the parent dies. If payable to a child, it shall cease with the month in which the child dies or fails to meet the conditions of eligibility in paragraph (2) of subsection (d) of this section. If payable to a grandchild, it shall cease with the month in which the grandchild dies or fails to meet the conditions of eligibility in paragraph (3) of subsection (d) of this section.

(d) For the purpose of this section, the eligible survivors of any employee covered under this chapter on or after the effective date of the 1976 Pension Act shall be as follows, provided that an employee may change the priority of eligible survivors specified for herein by designating his or her priority of eligible survivors on a form prescribed by the Board and filed with the Board at the time of the employee's death:

(1) The widow or widower; or

(2) If there is no 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:

a. Has not attained age 18;

b. Has attained age 18 but not age 22 and is attending school on a full-time basis; or

c. Has attained age 18 and has a permanent disability as the result of a disability which began before the child attained age 18; or

(3) If there is no eligible widow, eligible widower, or eligible child, a grandchild if the eligible employee had a court ordered guardianship of the grandchild (or, with the survivor’s pension divided among them in equal shares, all such grandchildren if there are more than 1), provided the grandchild is unmarried and either:

a. Has not attained age 18;

b. Has attained age 18 but not age 22 and is attending school on a full-time basis; or

c. Has attained age 18 and has a permanent disability as the result of a disability which began before the child attained age 18; or

~~(3)~~ (4) If there is no eligible widow, eligible widower, ~~or~~ eligible child, or eligible grandchild, 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 actuarially reduced, in accordance with actuarial tables approved by the Board, for each month the survivor is under age 50 at such time. However, the actuarial reduction for any such widow or widower shall not apply for the period during which such widow or widower has in his or her care a son, ~~or~~ daughter, or grandchild who is unmarried and either: (1) Has not attained age 18, (2) has attained age 18 but not age 22 and is attending school on a full-time basis or (3) 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 parent shall be deemed to have been dependent on the deceased employee, former employee or pensioner if such individual was receiving at least one half of his or her support from such deceased person at the time of death.

SYNOPSIS

This bill makes certain grandchildren eligible to receive a survivor's pension if the state employee has a court ordered guardianship of the grandchild.