

ASSEMBLY, No. 1818

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

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District 25 (Morris and Somerset)

SYNOPSIS

Allows PFRS death benefits to be paid to supplemental needs trust for unmarried disabled child.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/1/2020)

1 **AN ACT** concerning eligibility for the benefits of a deceased active
2 or retired member of the Police and Firemen's Retirement
3 System and amending P.L.1944, c.255.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to
9 read as follows:

10 1. As used in this act:

11 (1) "Retirement system" or "system" shall mean the Police and
12 Firemen's Retirement System of New Jersey as defined in section 2
13 of this act.

14 (2) (a) "Policeman" shall mean a permanent, full-time employee
15 of a law enforcement unit as defined in section 2 of P.L.1961, c.56
16 (C.52:17B-67) or the State, other than an officer or trooper of the
17 Division of State Police whose position is covered by the State
18 Police Retirement System, whose primary duties include the
19 investigation, apprehension or detention of persons suspected or
20 convicted of violating the criminal laws of the State and who:

21 (i) is authorized to carry a firearm while engaged in the actual
22 performance of his official duties;

23 (ii) has police powers;

24 (iii) is required to complete successfully the training
25 requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or
26 comparable training requirements as determined by the board of
27 trustees; and

28 (iv) is subject to the physical and mental fitness requirements
29 applicable to the position of municipal police officer established by
30 an agency authorized to establish these requirements on a Statewide
31 basis, or comparable physical and mental fitness requirements as
32 determined by the board of trustees.

33 The term shall also include an administrative or supervisory
34 employee of a law enforcement unit or the State whose duties
35 include general or direct supervision of employees engaged in
36 investigation, apprehension or detention activities or training
37 responsibility for these employees and a requirement for
38 engagement in investigation, apprehension or detention activities if
39 necessary, and who is authorized to carry a firearm while in the
40 actual performance of his official duties and has police powers.

41 (b) "Fireman" shall mean a permanent, full-time employee of a
42 firefighting unit whose primary duties include the control and
43 extinguishment of fires and who is subject to the training and
44 physical and mental fitness requirements applicable to the position
45 of municipal firefighter established by an agency authorized to

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 establish these requirements on a Statewide basis, or comparable
2 training and physical and mental fitness requirements as determined
3 by the board of trustees. The term shall also include an
4 administrative or supervisory employee of a firefighting unit whose
5 duties include general or direct supervision of employees engaged
6 in fire control and extinguishment activities or training
7 responsibility for these employees and a requirement for
8 engagement in fire control and extinguishment activities if
9 necessary. As used in this paragraph, "firefighting unit" shall mean
10 a municipal fire department, a fire district, or an agency of a county
11 or the State which is responsible for control and extinguishment of
12 fires.

13 (3) "Member" shall mean any policeman or fireman included in
14 the membership of the retirement system pursuant to this
15 amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6
16 et al.).

17 (4) "Board of trustees" or "board" shall mean the board provided
18 for in section 13 of this act.

19 (5) "Medical board" shall mean the board of physicians
20 provided for in section 13 of this act.

21 (6) "Employer" shall mean the State of New Jersey, the county,
22 municipality or political subdivision thereof which pays the
23 particular policeman or fireman.

24 (7) "Service" shall mean service as a policeman or fireman paid
25 for by an employer.

26 (8) "Creditable service" shall mean service rendered for which
27 credit is allowed as provided under section 4 of this act.

28 (9) "Regular interest" shall mean interest as determined by the
29 State Treasurer, after consultation with the Directors of the
30 Divisions of Investment and Pensions, the board of trustees and the
31 actuary. It shall bear a reasonable relationship to the percentage
32 rate of earnings on investments based on the market value of assets
33 but shall not exceed the assumed percentage rate of increase applied
34 to salaries plus 3%, provided however that the board of trustees
35 shall not set the average percentage rate of increase applied to
36 salaries below 6%.

37 (10) "Aggregate contributions" shall mean the sum of all the
38 amounts, deducted from the compensation of a member or
39 contributed by him or on his behalf, standing to the credit of his
40 individual account in the annuity savings fund.

41 (11) "Annuity" shall mean payments for life derived from the
42 aggregate contributions of a member.

43 (12) "Pension" shall mean payments for life derived from
44 contributions by the employer.

45 (13) "Retirement allowance" shall mean the pension plus the
46 annuity.

47 (14) "Earnable compensation" shall mean the full rate of the
48 salary that would be payable to an employee if he worked the full

1 normal working time for his position. In cases where salary
2 includes maintenance, the retirement system shall fix the value of
3 that part of the salary not paid in money which shall be considered
4 under this act.

5 (15) "Average final compensation" shall mean final
6 compensation.

7 (16) "Retirement" shall mean the termination of the member's
8 active service with a retirement allowance granted and paid under
9 the provisions of this act.

10 (17) "Annuity reserve" shall mean the present value of all
11 payments to be made on account of any annuity or benefit in lieu of
12 any annuity computed upon the basis of such mortality tables
13 recommended by the actuary as shall be adopted by the board of
14 trustees, and regular interest.

15 (18) "Pension reserve" shall mean the present value of all
16 payments to be made on account of any pension or benefit in lieu of
17 any pension computed upon the basis of such mortality tables
18 recommended by the actuary as shall be adopted by the board of
19 trustees, and regular interest.

20 (19) "Actuarial equivalent" shall mean a benefit of equal value
21 when computed upon the basis of such mortality tables
22 recommended by the actuary as shall be adopted by the board of
23 trustees, and regular interest.

24 (20) "Beneficiary" shall mean any person receiving a retirement
25 allowance or other benefit as provided by this act.

26 (21) "Child" shall mean a deceased member's or retirant's
27 unmarried child (a) under the age of 18, or (b) 18 years of age or
28 older and enrolled in a secondary school, or (c) under the age of 24
29 and enrolled in a degree program in an institution of higher
30 education for at least 12 credit hours in each semester, provided that
31 the member died in active service as a result of an accident met in
32 the actual performance of duty at some definite time and place, and
33 the death was not the result of the member's willful misconduct, or
34 (d) of any age who, at the time of the member's or retirant's death, is
35 disabled because of an intellectual disability or physical incapacity,
36 is unable to do any substantial, gainful work because of the
37 impairment and his impairment has lasted or can be expected to last
38 for a continuous period of not less than 12 months, as affirmed by
39 the medical board, or shall mean a supplemental needs trust, or
40 special needs trust, the beneficiary of which is a deceased member's
41 or retirant's unmarried child as described in paragraph (d) of this
42 subsection.

43 (22) "Parent" shall mean the parent of a member who was
44 receiving at least one-half of his support from the member in the
45 12-month period immediately preceding the member's death or the
46 accident which was the direct cause of the member's death. The
47 dependency of such a parent will be considered terminated by
48 marriage of the parent subsequent to the death of the member.

1 (23) (a) "Widower," for employees of the State, means the man
2 to whom a member or retirant was married, or a domestic partner as
3 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of
4 her death and who has not since remarried or established a domestic
5 partnership. In the event of the payment of accidental death
6 benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10),
7 the restriction concerning remarriage or establishment of a domestic
8 partnership shall be waived.

9 (b) Subject to the provisions of paragraph (c) of this subsection,
10 "widower," for employees of public employers other than the State,
11 means the man to whom a member or retirant was married on the
12 date of her death and who has not remarried.

13 (c) A public employer other than the State may adopt a
14 resolution providing that the term "widower" as defined in
15 paragraph (b) of this subsection shall include domestic partners as
16 provided in paragraph (a) of this subsection.

17 (24) (a) "Widow," for employees of the State, means the woman
18 to whom a member or retirant was married, or a domestic partner as
19 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of
20 his death and who has not since remarried or established a domestic
21 partnership. In the event of the payment of accidental death
22 benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10),
23 the restriction concerning remarriage or establishment of a domestic
24 partnership shall be waived.

25 (b) Subject to the provisions of paragraph (c) of this subsection,
26 "widow," for employees of public employers other than the State,
27 means the woman to whom a member or retirant was married on the
28 date of his death and who has not remarried.

29 (c) A public employer other than the State may adopt a
30 resolution providing that the term "widow" as defined in paragraph
31 (b) of this subsection shall include domestic partners as provided in
32 paragraph (a) of this subsection.

33 (25) "Fiscal year" shall mean any year commencing with July 1,
34 and ending with June 30, next following.

35 (26) (a) "Compensation" shall mean the base salary, for services
36 as a member as defined in this act, which is in accordance with
37 established salary policies of the member's employer for all
38 employees in the same position but shall not include individual
39 salary adjustments which are granted primarily in anticipation of
40 the member's retirement or additional remuneration for performing
41 temporary duties beyond the regular workday.

42 (b) In the case of a person who becomes a member of the
43 retirement system on or after the effective date of P.L.2010, c.1,
44 "compensation" means the amount of base salary equivalent to the
45 annual maximum wage contribution base for Social Security,
46 pursuant to the Federal Insurance Contributions Act, for services as
47 a member as defined in this act, which is in accordance with
48 established salary policies of the member's employer for all

1 employees in the same position but shall not include individual
2 salary adjustments which are granted primarily in anticipation of
3 the member's retirement or additional remuneration for performing
4 temporary duties beyond the regular workday.

5 (27) "Department" shall mean any police or fire department of a
6 municipality or a fire department of a fire district located in a
7 township or a county police or park police department or the
8 appropriate department of the State or instrumentality thereof.

9 (28) (a) "Final compensation" means the compensation received
10 by the member in the last 12 months of creditable service preceding
11 his retirement or death.

12 (b) In the case of a person who becomes a member of the
13 retirement system on or after the effective date of P.L.2010, c.1,
14 "final compensation" means the average annual compensation for
15 service for which contributions are made during any three fiscal
16 years of membership providing the largest possible benefit to the
17 member or the member's beneficiary.

18 (29) (Deleted by amendment, P.L.1992, c.78).

19 (30) (Deleted by amendment, P.L.1992, c.78).

20 (31) (a) "Spouse," for employees of the State, means the husband
21 or wife, or domestic partner as defined in section 3 of P.L.2003,
22 c.246 (C.26:8A-3), of a member.

23 (b) Subject to the provisions of paragraph (c) of this subsection,
24 "spouse," for employees of public employers other than the State,
25 means the husband or wife of a member.

26 (c) A public employer other than the State may adopt a
27 resolution providing that the term "spouse" as defined in paragraph
28 (b) of this subsection shall include domestic partners as provided in
29 paragraph (a) of this subsection.

30 (cf: P.L.2010, c.50, s.74)

31
32 2. This act shall take effect immediately.
33
34

35 STATEMENT

36
37 The Police and Firemen's Retirement System (PFRS) provides
38 certain benefits upon the death of a member who is an active
39 employee or is retired. These benefits are paid to a surviving
40 spouse or partner. If there is no such survivor, or if the survivor
41 dies, remarries or enters a partnership, the benefits are payable to a
42 surviving child or children. The statutes define the term "child" to
43 be an unmarried child (a) under the age of 18, or (b) 18 years of age
44 or older and enrolled in a secondary school, or (c) , in the case of an
45 accidental death benefits only, under the age of 24 and enrolled in a
46 degree program in an institution of higher education, or (d) of any
47 age who, at the time of the member's death, is disabled because of
48 an intellectual disability or physical incapacity.

1 This bill provides that the term “child” also means a
2 supplemental needs trust, or special needs trust, the beneficiary of
3 which is a deceased member’s unmarried disabled child as
4 described in (d) above. Federal law permits the establishment of
5 such trusts to serve as a secondary source of support to supplement
6 other government benefits. Under current law, PFRS death benefits
7 are payable only to an unmarried disabled child of any age and not
8 to a trust established for that child.