

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1324 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: S2/10/09

A Bill

SENATE BILL 228

5 By: Senator J. Jeffress  
6  
7

8 **For An Act To Be Entitled**

9 AN ACT TO CLARIFY THE PROVISIONS OF ARKANSAS CODE  
10 §24-7-710 AND MAKE CONSISTENT THE SURVIVOR  
11 BENEFITS UNDER THE ARKANSAS TEACHER RETIREMENT  
12 SYSTEM; AND FOR OTHER PURPOSES.  
13

14 **Subtitle**

15 TO CLARIFY AND MAKE CONSISTENT THE  
16 SURVIVOR BENEFITS UNDER THE ARKANSAS  
17 TEACHER RETIREMENT SYSTEM.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 24-7-710 is amended to read as follows:  
23 24-7-710. Survivor benefits.

24 (a) If an active member with five (5) or more years of actual and  
25 reciprocal service, including credited service for the year immediately  
26 preceding his or her death, dies ~~in employer service before retirement,~~  
27 before the receipt of retirement benefits from the Arkansas Teacher  
28 Retirement System, then the ~~applicable~~ benefits provided in this section  
29 shall be paid to eligible survivors.

30 (b)(1)(A) The member's surviving spouse, who was married to the member  
31 for at least the two (2) years immediately preceding the member's death,  
32 shall receive an annuity computed in the same manner in all respects as if  
33 the member had+ retired on the date of the member's death and elected Option  
34 A under § 24-7-706 to provide one hundred percent (100%) survivor annuity  
35 benefits for his or her spouse.



1                   ~~(A) Retired the date of his or her death with entitlement~~  
2 ~~to an annuity provided for in § 24-7-705, notwithstanding that he or she~~  
3 ~~might not have attained age sixty (60) or acquired five (5) years of actual~~  
4 ~~service;~~

5                   ~~(B) Elected Option A—One hundred percent (100%) survivor~~  
6 ~~annuity, as provided for in § 24-7-706; and~~

7                   ~~(C) Nominated his or her spouse as an option beneficiary.~~

8                   (B) The surviving spouse's benefits shall begin in the  
9 month following the month of the member's death if at the time of the  
10 member's death the member had;

11                   (i) Accumulated twenty-five (25) years or more of  
12 credited service and qualified as eligible to receive a retirement annuity  
13 under §§ 24-7-701 – 702; or

14                   (ii) Reached sixty (60) years of age and qualified  
15 as eligible to receive a retirement annuity under § 24-7-707.

16                   (C) If the surviving spouse is not eligible to receive  
17 benefits under subdivision (b)(1)(B) of this section, the surviving spouse's  
18 benefits shall begin in the month following the date the member would have  
19 been eligible to receive benefits had the member survived.

20                   (D) If the surviving spouse is eligible to receive the  
21 survivor annuity and the member had not reached sixty (60) years of age at  
22 the time of the member's death, the surviving spouse may elect to defer  
23 receipt of the annuity until the member would have reached sixty (60) years  
24 of age, and the surviving spouse's benefits shall not be reduced under the  
25 early retirement provisions of § 24-7-702.

26                   (E) The surviving spouse's benefits under this section are  
27 payable for the surviving spouse's lifetime.

28                   ~~(2) However, if the spouse annuity payable under subdivision (b)(1) of~~  
29 ~~this section is less than the amount payable to a dependent child under~~  
30 ~~subdivision (c)(1)(A) of this section, the spouse annuity shall be the amount~~  
31 ~~payable under subdivision (c)(1)(A) of this section.~~

32                   ~~(3)(A) The spouse annuity shall begin when the surviving spouse~~  
33 ~~reaches age sixty two (62) and is payable until the spouse remarries or dies.~~

34                   ~~(B) However, if the member had:~~

35                   ~~(i) Satisfied the age and service requirements~~  
36 ~~provided for in § 24-7-701 or had acquired twenty (20) years of credited~~

1 ~~service, the spouse annuity shall begin immediately and be payable for the~~  
2 ~~spouse's life; or~~

3 ~~(ii) Acquired fifteen (15) years of credited service~~  
4 ~~but had not attained age sixty (60), then the spouse annuity shall begin when~~  
5 ~~the surviving spouse reaches age fifty (50) and be payable until the spouse~~  
6 ~~remarries or dies.~~

7 ~~(4)(2)~~ If at the time of the member's death there are no  
8 dependent children and the surviving spouse who is eligible to receive the  
9 annuity under this subsection files with the ~~Arkansas Teacher Retirement~~  
10 system a written waiver of his or her right to the spouse spousal annuity, a  
11 lump sum distribution of the deceased member's accumulated contributions plus  
12 regular interest may be made to the ~~beneficiary or beneficiaries by the~~  
13 ~~member before death~~ surviving spouse.

14 ~~(5)(A) If the surviving spouse is not eligible to receive a~~  
15 ~~spouse annuity under subsection (b) of this section but has in his or her~~  
16 ~~custody a member's dependent child receiving a benefit as provided for in~~  
17 ~~subsection (c) of this section, a spouse annuity shall be paid to the spouse~~  
18 ~~of not less than the minimum in an amount equal to the amount payable to the~~  
19 ~~dependent children under subdivision (c)(1) of this section.~~

20 ~~(B) The surviving spouse is eligible to receive the~~  
21 ~~annuity until all dependent child annuities terminate or the spouse no longer~~  
22 ~~maintains custody of any of the dependent children.~~

23 ~~(c)(1)(A) The member's dependent children~~ A surviving dependent child  
24 of the member shall each receive an annuity in an amount equal to the  
25 following:

26 ~~(i) If the member had only contributory service, the~~  
27 ~~greater of ten percent (10%) of the member's salary for the fiscal year at~~  
28 ~~the time of death or fifty dollars (\$50.00) monthly, plus the benefits~~  
29 ~~applicable under § 24-7-713;~~

30 ~~(ii) If the member had noncontributory credited~~  
31 ~~service, the greater of six percent (6%) of the member's salary for the~~  
32 ~~fiscal year at the time of death or thirty one dollars (\$31.00) monthly, plus~~  
33 ~~the benefits applicable under § 24-7-713; or~~

34 ~~(iii) If the member had a combination of both~~  
35 ~~contributory and noncontributory credited service, the greater of the~~  
36 ~~prorated amount between the member's noncontributory credited service and~~

1 ~~total credited service, or the prorated minimum amount, plus the benefits~~  
 2 ~~applicable under § 24-7-713, twenty percent (20%) of the member's highest~~  
 3 ~~salary year received in covered employment.~~

4 (ii) If the member's highest salary year occurs in  
 5 the year that the member died, the system shall calculate the surviving  
 6 dependent child's annuity on the basis of a full year of salary by the  
 7 member.

8 (B) ~~However, if there are three (3) or more dependent~~  
 9 ~~children, each dependent child shall receive a dependent child annuity of an~~  
 10 ~~equal share of the total amount payable according to the following: If a~~  
 11 ~~member has more than three (3) surviving dependent children, the aggregate~~  
 12 ~~amount of the surviving dependent children's annuity shall not exceed sixty~~  
 13 ~~percent (60%) of the member's highest salary year and shall be divided~~  
 14 ~~equally among the surviving dependent children.~~

15 ~~(i) If the member had only contributory credited~~  
 16 ~~service, the greater of twenty five percent (25%) of the member's salary for~~  
 17 ~~the fiscal year at the time of death or one hundred twenty five dollars~~  
 18 ~~(\$125) monthly, plus the benefits applicable under § 24-7-713;~~

19 ~~(ii) If the member had a combination of both~~  
 20 ~~contributory and noncontributory credited service, the greater of sixteen~~  
 21 ~~percent (16%) of the member's salary for the fiscal year at the time of death~~  
 22 ~~or seventy nine dollars (\$79.00) monthly, plus the benefits applicable under~~  
 23 ~~§ 24-7-713; or~~

24 ~~(iii) If the member had a combination of both~~  
 25 ~~contributory and noncontributory credited service, the greater of the~~  
 26 ~~prorated amount between the member's noncontributory credited service and~~  
 27 ~~total credited service, or the prorated minimum amount, plus the benefits~~  
 28 ~~applicable under § 24-7-713.~~

29 (2)(A) A child shall be considered a dependent child until he or  
 30 she ~~marries or~~ reaches eighteen (18) years of age.

31 (B)(i) However, eligibility for the dependent child  
 32 annuity shall continue after the child reaches ~~age~~ eighteen (18) years of age  
 33 if the child continues consecutively as a full-time student at an accredited  
 34 secondary school, college, or university, but in any event, not beyond ~~the~~  
 35 ~~age of~~twenty-three (23) years of age.

36 (ii) Any child who has been deemed physically or

1 mentally incapacitated by a court of competent jurisdiction is eligible to  
2 receive a dependent child annuity for as long as the incapacity exists,  
3 regardless of age.

4 (3) When a dependent child ceases to be a dependent or dies, his  
5 or her share of the annuity shall terminate, ~~and there shall be a~~  
6 ~~redetermination of the amounts payable to any remaining dependent children.~~

7 ~~(d)(1) If at the time of the member's death there is neither a spouse~~  
8 ~~nor a dependent child, each dependent parent shall receive a dependent parent~~  
9 ~~annuity equal to the amount provided for dependent children under subsection~~  
10 ~~(e) of this section.~~

11 ~~(2) To qualify as a dependent parent, the parent shall be the~~  
12 ~~natural or adoptive parent of the member and have been receiving at least~~  
13 ~~fifty percent (50%) of his or her financial support from the member at the~~  
14 ~~time of the member's death.~~

15 ~~(e)(1) If a member dies in employer service before retirement, the~~  
16 ~~member's accumulated contributions standing to his or her credit in the~~  
17 ~~member's deposit account at the time of the member's death, together with~~  
18 ~~regular interest until the date of death, shall be paid as if the member~~  
19 ~~retired as of the date of his or her death in accordance with the provisions~~  
20 ~~applicable to the disposition of residue under § 24-7-709.~~

21 ~~(2) (d)~~ For the purposes of § 24-7-709 related to the  
22 disposition of residue, any amounts received from the member's deposit  
23 account in the form of a survivor annuity under this section shall be  
24 considered annuity payments received by the member or his or her designated  
25 beneficiary and shall offset any disposition of residue payable under § 24-7-  
26 709.

27 ~~(f) (e)~~ Annuities payable under ~~the provisions of~~ this section shall  
28 ~~commence~~ begin the first day of the calendar month following the date the  
29 survivor annuity is payable as provided in this section.

30 ~~(g) (f)~~ ~~In the event~~ If the member had previously received benefits  
31 from the system and has not repaid in full all amounts payable by him or her  
32 to the system, the annuity amounts otherwise provided by this section shall  
33 be withheld ~~and used to effect repayment until the total of the withholdings~~  
34 ~~repays in full all amounts payable by him or her to the system~~ until the  
35 total amount owed to the system is repaid.

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