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Survivors and Domestic Relations Orders

§ 11-101. Definitions.

As used in this rule:

(1) "Alternate payee" means a spouse, former spouse, child, or other dependent of a member under Arkansas law;

(2) "Application" for the purposes of retirement eligibility means an application form and any other documents required by the Arkansas Teacher Retirement System to establish a member's eligibility to retire;

(3) "Immediately eligible" for the purpose of survivor annuity benefits means a survivor of an active member who at the time of his or her death would have been eligible to receive benefits and could have retired from the system;

(4) "Legal parent" means the biological father or mother of a child or the adoptive father or mother of a child;

(5) "Lump-sum death beneficiary" means one (1) or more persons or entities designated in writing by the member to receive payment of the lump-sum death benefit under Arkansas Code § 24-7-720;

(6) "Lump-sum death benefit" means a monetary amount set by the Board of Trustees of the Arkansas Teacher Retirement System, and paid by the system to one (1) or more lump-sum death beneficiaries; and

(7) "QDRO" means a court order that:

(A) Meets the definition of a qualified domestic relations order under Arkansas Code § 9-18-101; or

(B) Assigns a portion of a member's retirement benefit to an alternate payee upon the member's retirement or a refund of the member's contributions at the request of the member;

(8) "Qualifying member" means:

(A) For the purposes of eligibility for a lump-sum death benefit, a member or retiree to whom one (1) of the following categories apply:

(i) The member:

(a) Is deceased;

(b) Was an active member of the system before July 1, 2007;

and

(c) Has five (5) or more years of actual service, including actual service for the year immediately preceding his or her death;

(ii) The member:

(a) Is deceased;

(b) Was an active member of the system on or after July 1, 2007; and

(c) Has ten (10) or more years of actual service, including actual service for the year immediately preceding his or her death; or

(iii) The retiree:

(a) Dies before July 1, 2007; and

(b) Has accrued five (5) or more years of actual service,

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including actual service, for the year immediately preceding his or her death; or

(iv) The retiree:

(a) Dies on or after July 1, 2007; and

(b) Has accrued ten (10) or more years of actual service, including actual service for the year immediately preceding his or her death; or

(B) For the purpose of an eligible survivor qualifying for survivor annuity benefits under Arkansas Code § 24-7-710, a member who:

(i) Is an active member;

(ii) Has at least five (5) years of actual service and reciprocal service, including credited service for the year immediately preceding his or her death; and

(iii) Is active as provided in Arkansas Code § 24-7-710(f) and this rule.

§ 11-102. Survivors.

(a) The law in effect on the date of a qualifying member's death shall determine the:

(1) Eligibility of a qualifying member's spouse or child to receive survivor annuity benefits;

(2) Amount of the survivor annuity benefits to be received by an eligible survivor;

(3) The time at which an eligible survivor may begin receiving survivor annuity benefit payments; and

(4) Member's effective retirement date.

(b)(1) The Arkansas Teacher Retirement System shall send each survivor who is identified by the qualifying member to the system and who may be eligible for a survivor annuity benefit written notice of his or her potential eligibility at the survivor's last address on file with the system.

(2) Survivor annuity benefits shall not be paid to the survivor of a qualifying member until the survivor provides the system with sufficient proof of his or her eligibility to receive survivor annuity benefit payments.

§ 11-103. Survivors — Qualifying members.

(a) A member shall be considered active for the purpose of an eligible survivor qualifying for survivor annuity benefits under Arkansas Code § 24-7-710 if:

(1) The member has at least:

(A) Ten (10) days of service credit in each prior quarter of the fiscal year from the time the fiscal year began or the member was employed by a covered employer, whichever occurs last; and

(B) One (1) quarter with ten (10) days of service; or

(2) Either of the following apply to the member:

(A) The member has earned at least ten (10) days of service credit in the quarter of the member's death and in each quarter before the member's death, collectively; or

(B) Less than ten (10) working days have elapsed in the quarter of the member's death.

(b) A member shall also be considered active for an additional fiscal year following the last fiscal year in which the member renders actual service to a covered employer and obtains at least one-fourth (1/4) of a year of service credit.

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§ 11-104. Survivors — Surviving spouse.

(a) An eligible survivor of a qualifying member may receive survivor annuity benefits after the death of the qualifying member.

(b) Unless a qualifying member designates one (1) or more alternative residue beneficiaries by written form approved by the Arkansas Teacher Retirement System, the survivor annuity benefits provided for in Arkansas Code § 24-7-710 shall be paid to the spouse of the qualifying member if the spouse:

(1) Survives the qualifying member; and

(2) Was married to the qualifying member for at least two (2) years immediately before the qualifying member's death.

(c)(1) A surviving spouse who is eligible to receive surviving spouse annuity benefits may file a waiver of his or her right to the surviving spouse annuity benefits with the system if, at the time of the qualifying member's death, the qualifying member does not have children who are eligible to receive dependent child survivor annuity benefits.

(2) If the surviving spouse files a waiver of his or her right to receive surviving spouse annuity benefits, then the surviving spouse may receive the qualifying member's accumulated contributions plus interest, if any, in a lump-sum distribution.

(d)(1) Pursuant to Arkansas Code § 24-7-710, surviving spouse annuity benefits are payable for the surviving spouse's lifetime, regardless of the remarriage of the surviving spouse.

(2) The surviving spouse may defer receipt of the surviving spouse annuity benefits, if applicable, under the deferred retirement provisions of Arkansas Code § 24-7-707.

(3) A surviving spouse shall submit the following documents to the system before a surviving spouse annuity benefit payment is issued to the surviving spouse:

(A) Proof of the qualifying member's death and date of death from the qualifying member's death certificate or another legally acceptable document;

(B) Proof of the surviving spouse's taxpayer identification number from a Social Security card or another authenticating document;

(C) Proof of the surviving spouse's date of birth from a birth certificate or another authenticating document; and

(D) Proof of the marriage between the qualifying member and surviving spouse from a marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage.

(4) A surviving spouse who is immediately eligible to receive a monthly survivor annuity benefit after the death of the qualifying member shall receive monthly survivor annuity benefits:

(A) Beginning the month after the death of the qualifying member if the survivor application is filed **by the end of the sixth full calendar month following the date** of the qualifying member's death; or

(B) Beginning the month in which the survivor application is filed with the system if at the time of the qualifying member's death the qualifying member:

(i) Accumulated at least twenty-five (25) years of credited service and was eligible to receive a voluntary retirement or early retirement annuity; or

(ii) Reached sixty (60) years of age and was eligible to receive a deferred retirement annuity.

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(5) A surviving spouse who is not immediately eligible to receive a monthly survivor annuity benefit shall receive monthly survivor annuity benefits beginning the later of either the:

(A) Month following the date on which the qualifying member would have been eligible to receive retirement benefits had the qualifying member survived; or

(B) Date on which a survivor application is filed with the system.

§ 11-105. Survivors — Alternative residue beneficiary.

(a) A member may change his or her alternative residue beneficiary designation and designate his or her spouse as a residue beneficiary under Arkansas Code § 24-7-710 by documenting the change on a form provided and approved by the Arkansas Teacher Retirement System.

(b)(1) A qualifying member may designate one (1) or more alternative beneficiaries, also known as alternative residue beneficiaries, to receive a lump-sum payment of the qualifying member's residue in lieu of the qualifying member's surviving spouse by using a beneficiary form provided and approved by the system.

(2) A surviving spouse annuity benefit or any other type of monthly benefit shall not be paid to a qualifying member's surviving spouse if the qualifying member designates one (1) or more alternative residue beneficiaries to receive a lump-sum payment of the qualifying member's residue in lieu of the qualifying member's surviving spouse.

(3) A surviving spouse may elect Option A — 100% Survivor Annuity benefits if:

(A) The qualifying member:

(i) Designates only the surviving spouse as the primary residue beneficiary; and

(ii) Does not designate an alternative residue beneficiary as the primary residue beneficiary; or

(B)(i) The surviving spouse is ineligible for an annuity solely as a result of the qualifying member designating an alternative residue beneficiary and the alternative residue beneficiary waives his or her right to the residue.

(ii) An alternative residue beneficiary's waiver of his or her right to the residue is not required if the qualifying member does not have a residue with a payable balance.

(c)(1) A member's designation of his or her former spouse as the member's alternative residue beneficiary shall not be honored by the system with regard to the former spouse if the:

(A) Member remarries;

(B) Member's current spouse would be eligible to receive survivor annuity benefits but for the member's former spouse's designation as the member's alternative residue beneficiary; and

(C) System receives proof of the member's remarriage in the manner required by the system before payment of the residue is issued to the former spouse.

(2) A member who remarries and desires to maintain his or her former spouse's designation as the member's alternative residue beneficiary shall file with the system a residue beneficiary designation form that:

(A) Designates his or her former spouse as the member's alternative residue beneficiary; and

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(B) Has a signature date of the member that is on or after the date of the member's remarriage.

(3) The system shall not be obligated to recoup or reimburse a member's current spouse for any residue amount paid to the member's former spouse in accordance with a law, rule, or policy applicable to the system.

§ 11-106. Survivors — T-DROP plan participant.

(a)(1) A participant in the Teacher Deferred Retirement Option Plan may designate one (1) or more alternative residue beneficiaries to receive a lump-sum payment of his or her T-DROP benefits in lieu of his or her surviving spouse.

(2) A T-DROP plan benefit, surviving spouse annuity benefit, or any other type of monthly benefit shall not be paid to a plan participant's surviving spouse if the plan participant designates one (1) or more alternative residue beneficiaries to receive a lump-sum payment of his or her TDROP benefits in lieu of his or her surviving spouse.

(3) A surviving spouse may elect Option A — 100% Survivor Annuity benefits if:

(A) The plan participant:

(i) Designates only the surviving spouse as the primary residue beneficiary; and

(ii) Does not designate an alternative residue beneficiary as the primary residue beneficiary; or

(B)(i) The surviving spouse is ineligible for an annuity solely as a result of the plan participant designating an alternative residue beneficiary and the alternative residue beneficiary waives his or her right to the residue.

(ii) An alternative residue beneficiary's waiver of his or right to the residue is not required if the plan participant does not have a residue with a payable balance.

(b) A plan participant's T-DROP residue that otherwise would have been paid pursuant to Arkansas Code § 24-7-709 shall be calculated as the greater of either of the following:

(1) The accumulated contributions and regular interest credited to the retirement reserve account as of the member's effective retirement date reduced by the total amount of regular annuities paid, further reduced by amounts received from the T-DROP account in the form of a lump-sum or annuity benefit payments; or

(2) The T-DROP account as of the member's effective retirement date reduced by amounts received from the T-DROP account in the form of a lump-sum or annuity benefit payments.

§ 11-107. Survivors — Dependent children.

(a)(1) A child of a qualifying member is eligible to receive a survivor annuity benefit under Arkansas Code § 24-7-710 if the child qualifies as a dependent child.

(2) A qualifying member's child shall be eligible to qualify as a dependent child or maintain his or her status as a dependent child if:

(A) The qualifying member was the legal parent of the child at the time of the qualifying member's death; and

(B) The child meets all other requirements to qualify as a dependent child or maintain his or her status as a dependent child.

(b)(1) A child of a qualifying member qualifies as a dependent child if the child is:

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(A) Is younger than eighteen (18) years of age; or
(B) Is at least eighteen (18) years of age and not older than twenty-two (22) years of age and continuously enrolled as a full-time student in an accredited secondary school, college, university, or vocational-technical school; or

(C) Has been adjudged physically or mentally incapacitated by a court of competent jurisdiction.

(2) A dependent child who enrolls in an accredited college, university, or vocational-technical school shall remain eligible to receive a dependent child annuity during his or her period of deferred enrollment if the dependent child:

(A) Is not older than twenty-two (22) years of age; and

(B) Submits proof of his or her deferred enrollment to the Arkansas Teacher Retirement System in the manner required by the system.

(c) A qualifying member's dependent child shall not be eligible to qualify as a dependent child again and shall have his or her dependent child annuity terminated by the system if the dependent child dies or ceases to qualify as a dependent child of the qualifying member.

§ 11-108. Survivors — Dependent children — Full-time students.

(a) To be considered a full-time student, a dependent child shall:

(1) Take twelve (12) semester hours or eight (8) trimester hours in college;

(2) Take four (4) hours per day in a secondary or postsecondary school; or

(3) Engage full-time in a curriculum or field of study based upon verifiable indices from an accredited institution.

(b) After a dependent child reaches eighteen (18) years of age, in the absence of a parent or legal guardian, the dependent child may self-report his or her Certification of Attendance to the Arkansas Teacher Retirement System.

(c)(1) A qualifying member's child who is at least eighteen (18) years of age and not older than twenty-two (22) years of age and not a full-time student may continue to qualify as a dependent child and receive a survivor annuity benefit if a doctor certifies that the child is temporarily physically or mentally incapacitated and unable to attend school as a full-time student for the current semester or term due to the temporary physical or mental incapacitation.

(2) If a doctor does not certify the child as temporarily physically or mentally incapacitated and unable to attend school as a full-time student for the current semester or term due to the temporary physical or mental incapacitation and the child does not attend school as a full-time student in the following semester, the child shall no longer qualify as a dependent child and shall be ineligible to receive survivor annuity benefits.

§ 11-109. Survivors — Dependent children — Active military duty or training.

(a) A dependent child who qualifies under Arkansas Code § 24-7-710(c)(2)(B)(i) to receive survivor annuity benefit payments may have his or her payments temporarily suspended if he or she:

(1) Is called to active military duty or active military training; and

(2) Submits a copy of his or her military orders to the Arkansas Teacher Retirement System.

(b)(1) Survivor annuity benefit payments to a dependent child shall be temporarily

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suspended for the duration of the dependent child's participation in active military duty or active military training.

(2) Survivor annuity benefit payments to the dependent child shall be reinstated if the dependent child:

(A) Is at least eighteen (18) years of age and not older than twenty-two (22) years of age;

(B) Immediately re-enrolls as a full-time student at an accredited secondary school, college, university, or vocational-technical school upon his or her return from active military duty or active military training; and

(C) Submits documentation of his or her re-enrollment as a full-time student to the system.

§ 11-110. Survivors — Dependent children — Incapacitated child.

A qualifying member's child who qualifies as a dependent child because he or she has been adjudged physically or mentally incapacitated by a court of competent jurisdiction and for whom a guardian has been appointed shall continue to be eligible to receive a dependent child survivor annuity benefit as long as the incapacity exists, regardless of the age of the child.

§ 11-111. Survivors — Dependent children — Return to work retirees.

(a) A dependent child annuity shall be payable to a surviving child of a retiree who dies after returning to work if the child qualifies as a dependent child and is eligible for a dependent child annuity under the law and rules applicable to the Arkansas Teacher Retirement System.

(b) The same rules applicable to the surviving child of qualifying member shall apply to the surviving child of a retiree who dies after returning to work.

§ 11-112. Survivors — Dependent children — Calculation and payment of survivor annuity.

(a) The amount of the survivor annuity benefit payable to a dependent child shall be the amount provided in Arkansas Code § 24-7-710.

(b) The highest of the following shall be used to calculate a dependent child's survivor annuity benefit:

(1) The total salary that the qualifying member would have received in the fiscal year in which the qualifying member died; or

(2) The qualifying member's highest salary in another fiscal year.

(c) The dependent child survivor annuity shall remain at the initial monthly amount, adjusted by an annual cost-of-living adjustment increase, as may be designated by the Board of Trustees of the Arkansas Teacher Retirement System.

(d) If more than one (1) dependent child of a qualifying member receives survivor annuity benefits, each dependent child's survivor annuity benefit shall:

(1) Remain at the initial monthly amount; and

(2) Not be readjusted if the survivor annuity benefit payments to one (1) or more of the dependent children terminates.

(e) A dependent child shall receive monthly survivor annuity benefits:

(1) Beginning the month after the qualifying member's death if the survivor

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application is filed with the Arkansas Teacher Retirement System by the end of the sixth full calendar month following the qualifying member's death; or

(2) If a survivor application is not filed with the system by the end of the sixth full calendar month following the qualifying member's death, beginning the month in which the survivor application is filed with the system.

(f) A dependent child shall submit the following documents to the system before a survivor annuity benefit payment is issued to the dependent child:

(1) Proof of the qualifying member's death and date of death from the qualifying member's death certificate or another legally acceptable document;

(2) Proof of the dependent child's taxpayer identification number from a Social Security card or another authenticating documents;

(3) Proof that the dependent child is a child of the qualifying member from the dependent child's birth certificate or another legally acceptable document;

(4) Proof of the dependent child's date of birth from a birth certificate or another authenticating document;

(5) If applicable, a file-marked court order finding the dependent child physically or mentally incapacitated; and

(6) If applicable, proof of enrollment as a full-time student from an accredited secondary school, college, university, or vocational-technical school.

(g)(1) A deposit account designated to receive a survivor annuity benefit payment for the benefit of a dependent child who is under eighteen (18) years of age shall conform with:

(A) The Arkansas Uniform Transfers to Minors Act, Arkansas Code § 9-26201 et seq.; or

(B) A court order in a guardianship proceeding for the benefit of the dependent child.

(2) Each survivor annuity benefit payment is shall:

(A) Be made as a separate payment to the eligible dependent child in the appropriate deposit account; and

(B) Not be co-mingled with payments to other family members.

§ 11-113. Survivors — Disability retirees.

(a) If a member receives final approval for disability retirement and dies before receiving the first disability retirement benefit payment, the member's disability retirement benefits shall be paid to one (1) or more option beneficiaries, alternative residue beneficiaries, or other beneficiaries designated by the member.

(b) If a member's disability retirement application is received by the Arkansas Teacher Retirement System and the member dies before his or her disability application is approved, the member shall be considered to have died in active service and survivor annuity benefits under Arkansas Code § 24-7-710 may be paid if the member has not designated an alternative residue beneficiary.

§ 11-114. Survivors — Annuity benefits payable by reciprocal systems.

(a) If survivor annuity benefits are payable by more than one (1) reciprocal system to one (1) or more eligible survivors of a deceased qualifying member, the survivors shall not receive, as a percentage of the qualifying member's final pay or as a minimum dollar amount, more than the largest amount payable by a single, reciprocal system.

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(b)(1) The Arkansas Teacher Retirement System shall prorate minimum benefits payable with any other reciprocal system that has a minimum benefit provision.

(2)(A) A reciprocal system shall pay the reciprocal system's proportionate share of the minimum benefit amount.

(B) A reciprocal system's proportionate share of the minimum benefit amount shall be based on the ratio of the qualifying member's service in the reciprocal system to the qualifying member's total service in all other reciprocal systems.

(c) When a member elects to transfer from the Arkansas Teacher Retirement System to the Arkansas Public Employees' Retirement System under the provisions of Acts 1977, No. 793, the Arkansas Public Employees' Retirement System's law shall govern the survivors' eligibility for a payment of residue or survivor annuity benefits upon the member's death.

§ 11-115. Survivors — Lump-sum death benefit — Qualification.

(a) **A member of the system who is active, retired, or a T-DROP plan participant and** accrues the required amount of actual service at the time of his or her death may qualify for a lump-sum death benefit.

(b) For the purposes of eligibility for a lump-sum death benefit, a member shall be considered active for an additional fiscal year following the last fiscal year in which the member renders actual service to a covered employer and obtains at least a quarter (1/4) of a year of service credit.

§ 11-116. Survivors — Lump-sum death benefit — Amount and tax exemption.

(a)(1) The amount of the lump-sum death benefit may be **set by a resolution or rules adopted** by the Board of Trustees of the Arkansas Teacher Retirement System in an amount of up to ten thousand dollars (\$10,000) per member.

(2) The board may adjust the amount of the lump-sum death benefit each year and, as actuarially appropriate, prorate the amount of the lump-sum benefit based on the ratio of the member's contributory and noncontributory service credit.

(b)(1) **Upon a qualifying member's death, the maximum lump-sum death benefit that the qualifying member qualifies to receive in accordance with the law, rules, and resolutions of the board applicable to the system shall be paid in equal shares to each person designated as a beneficiary by the qualifying member in the manner required by the system.**

(2) If the qualifying member fails to designate a beneficiary or **all the designated beneficiaries predecease** the qualifying member, the lump-sum death benefit shall be paid to the qualifying member's estate.

(c)(1) Pursuant to Acts 2009, No. 1323, a lump-sum death benefit distribution made after June 30, 2009, shall be tax exempt, and no federal or state income tax shall be withheld by the Arkansas Teacher Retirement System.

(2) After June 30, 2009, a lump-sum death benefit shall not be eligible for a direct rollover.

§ 11-117. Survivors — Lump-sum death benefit — Beneficiary designations and authorized agents.

(a)(1) A member may designate one (1) or more natural persons, a duly formed legal

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entity, including a corporation, trust, partnership, or other legal entity, as his or her lump-sum death benefit beneficiary.

(2) If a member designates a funeral home as his or her lump-sum death benefit beneficiary and the member is a qualifying member who may receive a lump-sum death benefit at the time of his or her death, the Arkansas Teacher Retirement System shall not be obligated to do any of the following:

(A) Issue payment to the funeral home in an amount that exceeds the:

(i) Lump-sum death benefit amount that the member qualifies to receive in accordance with the laws, rules, and resolutions of the Board of Trustees of the Arkansas Teacher Retirement System; or

(ii) Share of the lump-sum death benefit amount that the funeral home would be entitled to receive if the member designates more than one (1) lump-sum death benefit beneficiary;

(B) Reimburse any person or entity for any amount received by the funeral home that exceeds the cost of the member's funeral service; or

(C) Recoup or assist any person or entity in recouping any amount received by the funeral home that exceeds the cost of the member's funeral service.

(3)(A) A member's designation of his or her former spouse as the member's lump-sum death benefit beneficiary shall not be honored by the system with regard to the former spouse if the:

(i) Member remarries; and

(ii) System receives proof of the member's remarriage in the manner required by the system before payment of the lump-sum death benefit is issued to the former spouse.

(B) A member who remarries and desires to maintain his or her former spouse's designation as the member's lump-sum death benefit beneficiary shall file with the system a lump-sum death benefit beneficiary designation form that:

(i) Designates his or her former spouse as the member's lump-sum death benefit beneficiary; and

(ii) Has a signature date of the member that is on or after the date of the member's remarriage.

(C) The system shall not be obligated to recoup or reimburse a member's current spouse for any lump-sum death benefit amount paid to the member's former spouse in accordance with this rule.

(b)(1) A completed lump-sum death benefit beneficiary form shall not be considered effective if the form is received by the Arkansas Teacher Retirement System after the member's death.

(2) A member's most recently completed, executed, and filed lump-sum death benefit beneficiary form shall supersede all previous lump-sum death benefit beneficiary forms completed, executed, and filed by the member.

(c)(1) A lump-sum death benefit beneficiary form that is signed by a member's authorized agent, including an attorney-in-fact, agent under a power of attorney, or any other legally recognized agent, shall not be processed until the document appointing the member's authorized agent is filed with and accepted by the system.

(2) Only a document that appoints and authorizes the member's authorized agent to transact retirement plan business on behalf of the member shall be effective for the

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system's purposes.

(3) Only a document that specifically authorizes a member's authorized agent to change the member's beneficiary designations shall be effective to allow the authorized agent to change a beneficiary designation on the member's behalf with the system.

(d) A lump-sum death benefit beneficiary form signed by a guardian of the member's estate or another court-appointed conservator shall not be effective to allow the guardian or court-appointed conservator to change a beneficiary designation on the member's behalf with the system unless there is an accompanying court order specifically authorizing the guardian or court-appointed conservator to change a beneficiary designation on the member's behalf.

§ 11-118. Survivors — Lump-sum death benefit — Distribution, waiver, and assignment.

(a) A designated beneficiary shall submit the following forms and documents to the Arkansas Teacher Retirement System before a lump-sum death benefit payment is issued to the designated beneficiary:

(1) A written application on a form approved by the system; and

(2) The qualifying member's death certificate or other acceptable proof of the qualifying member's death.

(b) A lump-sum death benefit payment shall be made within a reasonable time to a qualifying member's designated beneficiary after the death of the qualifying member.

(c)(1) A designated beneficiary of a lump-sum death benefit may waive his or her right to receiving a payment of the lump-sum death benefit by submitting a waiver of his or her right to the lump-sum death benefit on a form that is acceptable to the system.

(2) If a designated beneficiary waives his or her right to the payment of a lump-sum death benefit, the system shall pay all or the balance of the lump-sum death benefit, whichever is applicable, to any other remaining designated beneficiaries.

(d) A designated beneficiary shall not assign his or her right to a payment of a lump-sum death benefit to another person or entity.

§ 11-119. Survivors — Lump-sum death benefit — Overpayments.

(a) The Arkansas Teacher Retirement System may deduct and reserves the right to deduct from a qualifying member's lump-sum death benefit any amount owed to the system by the qualifying member under Arkansas Code § 24-7-205.

(b) The system may collect and reserves the right to collect any overpayment or other amount owed to the system by a designated beneficiary.

§ 11-120. Survivors — Lump-sum death benefit — Transfers to minors.

The Arkansas Teacher Retirement System shall comply with all applicable laws relating to the distribution of a lumpsum death benefit including the Arkansas Uniform Transfers to Minors Act, Arkansas Code § 9-26-201 et seq.

§ 11-121. Qualified domestic relations order.

(a) The model qualified domestic relations order adopted by the Arkansas Teacher Retirement System pursuant to Arkansas Code § 9-18-103(b) shall be used by a member if a court intends to divide the member's retirement benefits or contributions between the

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member and an alternate payee.

(b)(1) The system shall promptly notify a member and the alternate payee upon receiving a QDRO.

(2)(A) Upon receiving a QDRO, the system shall determine within a reasonable time after receiving the QDRO whether the QDRO complies with the Arkansas Code, the system's rules, the system's model qualified domestic relations order, and other applicable laws.

(B) The system shall notify the member and the alternate payee in writing if the system determines that a QDRO submitted by the member or alternate payee does not comply with the Arkansas Code, the system's rules, the system's model qualified domestic relations order, or other applicable laws.

(C) The system shall accept a QDRO issued by a circuit court of the State of Arkansas or other court of competent jurisdiction regarding a member and an alternate payee if the QDRO complies with the Arkansas Code, the system's rules, the system's model qualified domestic relations order, and other applicable laws.

§ 11-122. Qualified domestic relations order — Limitations.

(a) A QDRO shall not require the Arkansas Teacher Retirement System to:

(1) Provide an alternate payee with any type or form of benefit or option not otherwise available to the member;

(2) Provide an alternate payee actuarial benefits not available to the member;

(3) Pay any benefits to an alternate payee that are required to be paid to another alternate payee under an existing QDRO;

(4) Provide any benefit that is an actuarial cost to the system and is not otherwise contemplated in the law and rules applicable to the system; or

(5) Violate any plan qualification requirement in the Internal Revenue Code, 26 U.S.C. § 401(a), or otherwise affect the system's requirement to operate as a governmental plan under the Internal Revenue Code, 26 U.S.C. § 414(d).

(b) The system shall not accept a QDRO for a member who does not have five (5) years of actual service with the system at the time the QDRO is issued by a court.

(c) No provision in the system's rules or in a QDRO accepted by the system shall require the system to violate any plan qualification requirement in the Internal Revenue Code, 26 U.S.C. § 401(a), or otherwise affect the system's requirement to operate as a governmental plan under the Internal Revenue Code, 26 U.S.C. § 414(d).

§ 11-123. Qualified domestic relations order — Computation of benefit payments.

(a)(1) The Arkansas Teacher Retirement System shall compute an alternate payee's monthly annuity benefit under a QDRO accepted by the system by using the benefit formula in effect at the time of the member's retirement.

(2) When computing an alternate payee's monthly retirement annuity benefit under a QDRO accepted by the system, the system shall include only service credit earned by the member during the marriage.

(b) If the QDRO issued by the circuit court assigns a marital portion or other part of a member's interest in his or her T-DROP plan deposits and interest, the benefits in the member's T-DROP account shall be computed as a separate calculation as provided by the model qualified domestic relations order adopted by the system.

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§ 11-124. Qualified domestic relations order — Eligibility to receive benefits.

(a) The member or the alternate payee may file a QDRO with the Arkansas Teacher Retirement System before the member's retirement or termination of covered employment.

(b)(1) An alternate payee is eligible to receive benefit payments if the member retires or terminates employment with a covered employer and receives a refund of contributions.

(2) The alternate payee's portion of the member's retirement benefits or contributions shall be held in the member's account until the alternate payee is eligible to receive benefit payments under this rule.

(c) A benefit enhancement enacted by the General Assembly or the Board of Trustees of the Arkansas Teacher Retirement System after entry of a QDRO shall inure to the benefit of the member and shall not be assigned to the alternate payee.

§ 11-125. Qualified domestic relations order — Enrollment of alternate payee.

(a)(1) The alternate payee shall notify the Arkansas Teacher Retirement System of a change of his or her mailing address and verify annually his or her address with the system beginning one (1) year from the date of the letter notifying the alternate payee of the system's acceptance of the QDRO.

(2) If an alternate payee's address changes from the address provided on the QDRO accepted by the system or the address provided by the alternate payee during the system's enrollment of the alternate payee, the system shall not be obligated to determine the current post office address or any other address of the alternate payee.

(b) If the alternate payee is eligible to receive benefit payments and has not completed and submitted an enrollment form or all other required documents to the system, the following shall apply:

(1) The system shall notify the member in writing that the alternate payee has not completed and submitted an enrollment form or all other documents required in order for the system to issue a payment to the alternate payee;

(2) The system shall pay the alternate payee's portion of the member's retirement benefits or contributions to the member;

(3) The member shall hold as constructive trustee the alternate payee's portion of the member's retirement benefits or contributions upon receiving the alternate payee's portion of the member's retirement benefits or contributions; and

(4) The member shall be responsible for verifying with the system the amount of the alternate payee's portion of the member's retirement benefits or contributions to be held by the member as constructive trustee.

(c) If an alternate payee is eligible to receive benefit payments, the system shall:

(1) Not hold the alternate payee's portion of the member's retirement benefits or contributions in the member's account;

(2) Pay the alternate payee's portion of the member's retirement benefits or contributions when payment is due to the:

(A) Alternate payee if the alternate payee has completed and submitted to the system an enrollment form and all other documents required by the system in order to issue the payment; or

(B) Member to be held by the member as constructive trustee.

(d)(1) The system shall pay the member the total retirement benefit if the system

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determines that the alternate payee's monthly retirement benefit is less than twenty dollars (\$20.00).

(2) The member shall be responsible for paying the alternate payee his or her portion of benefits if the system determines that the alternate payee's monthly retirement benefit is less than twenty dollars (\$20.00).

§ 11-126. Qualified domestic relations order — Benefit payments — Overpayments.

(a) The Arkansas Teacher Retirement System shall have the right to:

(1) Make any necessary correction to the monthly annuity benefit paid under a QDRO accepted by the system; and

(2) Recover any overpayments owed to the system from either the member or the alternate payee.

(b)(1) If an amount that should not have been distributed to the member or alternate payee under the QDRO accepted by the system is received by the member or alternate payee, the member or alternate payee shall:

(A) Be responsible for holding the amount as a constructive trustee; and

(B) Notify the system immediately that he or she received the amount.

(c) The system shall not make restitution for:

(1) A payment that is issued to the alternate payee before the system receives notice of the alternate payee's change of address;

(2) A distributed amount that:

(A) The alternate payee is entitled to receive under the terms of a QDRO accepted by the system; and

(B) Is received by the member as constructive trustee;

(3) A distributed amount that:

(A) The member is entitled to receive under the terms of a QDRO accepted by the system; and

(B) Is received by the alternate payee as constructive trustee; or

(4) An amount that was distributed before the system receives a court order voiding the QDRO accepted by the system.

§ 11-127. Qualified domestic relations order — Benefit payments — Death of member or alternate payee.

(a)(1) Any benefit that would be due to the alternate payee under a QDRO accepted by the Arkansas Teacher Retirement System shall revert back to the member if the alternate payee dies before receiving the first benefit payment issued to him or her by the system.

(2) An alternate payee's portion of benefits payable to him or her under a QDRO accepted by the system shall not revert back to the member if the alternate payee dies after receiving the first benefit payment issued to him or her by the system.

(b)(1) If a member dies before retirement and a survivor annuity is not payable, the alternate payee shall receive the same portion of the member's contributions, if any, as was assigned by the QDRO accepted by the system.

(2) The alternate payee shall not receive monthly retirement annuity benefits from the system if the member has not received his or her retirement annuity at the time of his or her death.

(c) If a member dies after retiring from the system, the alternate payee shall not be entitled

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to continue receiving his or her portion of benefits and the system shall cease paying the alternate payee his or her portion of benefits in the month immediately following the member's date of death.

§ 11-128. Qualified domestic relations order — Cancellation of retirement — Order voiding qualified domestic relations order.

(a)(1) If a member cancels his or her retirement, the Arkansas Teacher Retirement System may recoup any benefits paid to an alternate payee from the member, the alternate payee, or both the member and the alternate payee.

(2) If a member cancels his or her retirement, the system may recoup benefits paid to an alternate payee regardless of whether a court enters an order voiding the QDRO approved by system.

(b)(1) If a member does not cancel his or her retirement, the system shall not be required to:

(A) Reimburse the member for benefits that were paid to an alternate payee before an order voiding the QDRO approved by the system was entered by a court; or

(B) Recoup for the member any benefits that were paid to an alternate payee before an order voiding the QDRO approved by the system was entered by a court

(2) If a court enters an order voiding a QDRO approved by the system, the alternate payee's portion of benefits shall revert back to the member as of the date on which the court entered the order voiding the QDRO approved by the system.

§ 11-129. Lost payees and benefit forfeitures.

(a)(1) Each member and beneficiary of a deceased member is responsible for filing and shall file his or her respective current post office address and any subsequent change of address with the Arkansas Teacher Retirement System.

(2) Communication addressed to a member or beneficiary at the post office address last filed with the system, or, if no post office address has been filed with the system, the last post office address indicated on the records of the employer of the member or the beneficiary shall be:

(A) The official post office address used for the system's communication to the member or beneficiary; and

(B) Binding on the member or beneficiary for all system purposes.

(b) The system shall not be obligated to determine the current post office address or any other address for a member or beneficiary.

(c)(1) Member payments in the possession of the system shall be excluded from the definition of property as provided in the Unclaimed Property Act, Arkansas Code § 18-28-201 et seq.

(2) Arkansas Code § 24-7-734 supersedes any conflict with the Unclaimed Property Act, Arkansas Code § 18-28-201 et seq.

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Authority: Arkansas Code §§ 9-18-101 — 9-18-103, 24-7-710, 24-7-713, 24-7-720, and 24-7-734

History

<u>Adopted:</u>	<u>August 10, 1993</u>	<u>11-3</u>
<u>Amended:</u>	<u>March 6, 1996</u>	<u>11-3</u>
<u>Amended:</u>	<u>February 10, 1998</u>	<u>11-3</u>
<u>Amended:</u>	<u>May 5, 1998</u>	<u>11-3</u>
<u>Amended:</u>	<u>October 7, 2003</u>	<u>11-3</u>
<u>Amended:</u>	<u>June 15, 2004</u>	<u>11-1, 11-2</u>
<u>Adopted:</u>	<u>July 18, 2005</u>	<u>11-5</u>
<u>Amended:</u>	<u>February 7, 2006</u>	<u>11-1, 11-2</u>
<u>Amended:</u>	<u>April 26, 2007</u>	<u>11-1, 11-2</u>
<u>Amended:</u>	<u>October 6, 2008</u>	<u>11-3</u>
<u>Amended:</u>	<u>June 16, 2009</u>	<u>(Emergency) 11-2</u>
<u>Amended:</u>	<u>October 5, 2009</u>	<u>(Permanent) 11-2</u>
<u>Amended:</u>	<u>December 18, 2009</u>	<u>11-1</u>
<u>Amended:</u>	<u>July 1, 2011</u>	<u>(Emergency) 11-1,</u> <u>(Emergency) 11-2</u>
<u>Adopted:</u>	<u>August 8, 2011</u>	<u>11-1, 11-2</u>
<u>Effective:</u>	<u>November 11, 2011</u>	<u>11-1, 11-2</u>
<u>Approved by Board:</u>	<u>August 6, 2012</u>	<u>11-1</u>
<u>Amended:</u>	<u>October 13, 2012</u>	<u>11-1</u>
<u>Effective:</u>	<u>March 6, 2013</u>	<u>11-1</u>
<u>Approved by Board:</u>	<u>July 26, 2013</u>	<u>11-1, 11-2, 11-5</u>
<u>Amended:</u>	<u>October 9, 2013</u>	<u>11-1, 11-2, 11-5</u>
<u>Effective:</u>	<u>November 8, 2013</u>	<u>11-1, 11-2, 11-5</u>
<u>Approved by Board:</u>	<u>December 1, 2014</u>	<u>11-1</u>
<u>Amended:</u>	<u>May 18, 2015</u>	<u>11-1</u>
<u>Effective:</u>	<u>June 16, 2015</u>	<u>11-1</u>
<u>Approved by Board:</u>	<u>February 5, 2018</u>	<u>11-1</u>
<u>Effective:</u>	<u>February 16, 2018</u>	<u>11-1</u>
<u>Effective:</u>	<u>May 28, 2020</u>	<u>Rule 11</u>
<u>Effective:</u>	<u>May 20, 2022</u>	<u>Rule 11</u>
<u>Effective:</u>	<u>TBD</u>	<u>Rule 11</u>

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 115

By: Senator K. Hammer
By: Representative Warren

For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE LAW CONCERNING
SURVIVOR ANNUITY BENEFITS UNDER THE ARKANSAS TEACHER
RETIREMENT SYSTEM; TO CLARIFY SURVIVOR APPLICATION
DEADLINES UNDER THE ARKANSAS TEACHER RETIREMENT
SYSTEM; TO CLARIFY A DEPENDENT CHILD'S ABILITY TO
RECEIVE A DEPENDENT CHILD ANNUITY UNDER THE ARKANSAS
TEACHER RETIREMENT SYSTEM WHEN THE CHILD IS CALLED TO
ACTIVE MILITARY DUTY OR TRAINING; TO CLARIFY A
DEPENDENT CHILD'S ELIGIBILITY FOR A DEPENDENT CHILD
ANNUITY UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM
WHEN THE CHILD'S PARENT HAS RETIRED BUT RETURNS TO
WORK UNDER A COVERED EMPLOYER; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND AND UPDATE THE LAW CONCERNING
SURVIVOR ANNUITY BENEFITS UNDER THE
ARKANSAS TEACHER RETIREMENT SYSTEM; AND
TO DECLARE AN EMERGENCY.

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

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

(a)(1) If an active member with five (5) or more years of actual and
reciprocal service, including credited service for the year immediately



1 preceding his or her death, dies before the receipt of retirement benefits
2 from the Arkansas Teacher Retirement System, then the benefits provided in
3 this section shall be paid to eligible survivors.

4 (2)(A) An immediately eligible survivor is entitled to receive
5 monthly benefits beginning the month after the death of the active member if
6 the survivor application is filed with the system ~~within three (3) months of~~
7 ~~the death of the member~~ by the end of the sixth full calendar month following
8 the date of the active member's death, otherwise the monthly benefits shall
9 begin the month that the survivor application is filed with the system.

10 (B) If an immediately eligible survivor or the minor
11 survivor's guardian or legal representative fails to complete the application
12 process ~~within six (6) calendar months after~~ by the end of the sixth full
13 calendar month following the date on which the application required under
14 subdivision (a)(2)(A) of this section and any additional documentation
15 required by the system is filed, ~~including the submission of any additional~~
16 ~~documentation required by the system~~, the application shall be void unless an
17 extension is granted by the ~~system~~ Executive Director of the Arkansas Teacher
18 Retirement System.

19 (b)(1)(A)(i) Unless the active member otherwise directs an alternative
20 beneficiary to receive a residue with a payable balance by using a
21 beneficiary form approved by the system, ~~a~~ the active member's surviving
22 spouse, who was married to the active member for at least the two (2) years
23 immediately preceding the active member's death, shall receive an annuity
24 computed in the same manner in all respects as if the active member had
25 retired on the date of the active member's death and elected Option A under §
26 24-7-706 to provide one hundred percent (100%) survivor annuity benefits,
27 including benefits applicable under § 24-7-713, for his or her surviving
28 spouse.

29 (ii)(a) Unless otherwise provided by this section, a
30 surviving spouse who is ineligible for an annuity under this section solely
31 as a result of the active member designating an alternative beneficiary shall
32 be eligible for an annuity under this section if the alternative beneficiary
33 waives his or her right to the residue.

34 (b) If the active member does not have a
35 residue with a payable balance, a waiver of an alternative beneficiary's
36 right to a residue shall not be required.

1 ~~(ii)~~(iii) The system shall continue to pay any
 2 benefits applicable under § 24-7-713 for an eligible surviving spouse,
 3 including a spouse who began receiving benefits on or after July 1, 2009.

4 (B)(i) If a surviving spouse is immediately eligible to
 5 receive a monthly benefit immediately after the death of ~~a~~ an active member,
 6 the immediately eligible surviving spouse is entitled to receive monthly
 7 benefits beginning the month after the death of the active member if the
 8 survivor application and all other required additional information is filed
 9 with the system ~~within three (3) months of the death of the member~~ by the end
 10 of the sixth full calendar month following the date of the active member's
 11 death, otherwise the monthly benefits shall begin the month that the survivor
 12 application is filed with the system if at the time of the active member's
 13 death the active member had:

14 (a) Accumulated twenty-five (25) years or more
 15 of credited service and qualified as eligible to receive a retirement annuity
 16 under §§ 24-7-701 and 24-7-702; or

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

19 (ii) If an immediately eligible spouse fails to
 20 complete the application process ~~within six (6) calendar months after~~ by the
 21 end of the sixth full calendar month following the date on which the survivor
 22 application and additional documentation required under subdivision
 23 (b)(1)(B)(i) of this section is filed, ~~including the submission of all~~
 24 ~~additional documentation required by the system~~, the survivor application
 25 shall be void unless an extension is granted by the ~~system~~ executive
 26 director.

27 (C)(i) If the surviving spouse is not immediately eligible
 28 to receive monthly benefits under subdivision (b)(1)(B) of this section, the
 29 surviving spouse's benefits shall begin the later of either the month
 30 following the date the active member would have been eligible to receive
 31 benefits had the active member survived or the date that ~~an application for a~~
 32 ~~surviving spouse's benefits~~ a survivor application is filed with the system.

33 (ii) If a surviving spouse becomes eligible for
 34 surviving spouse benefits and fails to complete the application process
 35 ~~within six (6) calendar months after~~ by the end of the sixth full calendar
 36 month following the date on which the survivor application and additional

1 documentation required under subdivision (b)(1)(B)(i) of this section is
 2 filed, ~~including the submission of any additional documentation required by~~
 3 ~~the system~~, the survivor application shall be void unless an extension is
 4 granted by the ~~system~~ executive director.

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

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

13 (F) If the active member directs an alternative
 14 beneficiary by using a beneficiary form approved by the system, the active
 15 member may designate one or more residual beneficiaries to receive a lump-sum
 16 payment of the active member's residue amount under § 24-7-709 in lieu of the
 17 active member's surviving spouse.

18 (2) If at the time of the active member's death there are no
 19 dependent children and the surviving spouse who is eligible to receive the
 20 annuity under this subsection files with the system a written waiver of his
 21 or her right to the spousal annuity, a lump-sum distribution of the deceased
 22 active member's accumulated contributions plus regular interest may be made
 23 to the surviving spouse.

24 ~~(3) The Board of Trustees of the Arkansas Teacher Retirement~~
 25 ~~System may adopt rules to carry out the provisions of this section.~~

26 (c)(1)(A)(i) ~~A surviving dependent child of the member~~ An active
 27 member's surviving dependent child shall receive an annuity in an amount
 28 equal to one percent (1%) of the active member's highest salary year for each
 29 quarter of a year credited as actual service in the system but not to exceed
 30 twenty (20) quarters of a year that are credited as actual service in the
 31 system for up to a maximum of twenty thousand dollars (\$20,000).

32 (ii) If the active member's highest salary year
 33 occurs in the year that the active member died, the system shall calculate
 34 the surviving dependent child's annuity on the basis of a full year of salary
 35 by the active member.

36 (B) If a an active member has more than three (3)

surviving dependent children, the aggregate amount of the surviving dependent children's annuity shall not exceed the lesser of sixty percent (60%) of the active member's highest salary year or sixty thousand dollars (\$60,000) per year and shall be divided equally among the surviving dependent children.

(2)(A) A deceased active member's child shall be considered a dependent child and eligible for the dependent child annuity until he or she reaches eighteen (18) years of age.

~~(B)(i) The child of a deceased member is considered a dependent child and is eligible for the dependent child annuity at eighteen (18) years of age or older, but not older than twenty three (23) years of age, if the dependent child stays continuously enrolled as a full-time student at an accredited secondary school, college, or university. A~~
deceased active member's child shall be considered a dependent child who is eligible for a dependent child annuity if the child:

(a) Is at least eighteen (18) years of age and not older than twenty-two (22) years of age; and

(b) Stays continuously enrolled as a full-time student in an accredited secondary school, college, university, or vocational-technical school.

(ii) Notwithstanding subdivision (c)(2)(B)(i)(b) of this section, a dependent child who enrolls in an accredited college, university, or vocational-technical school and defers his or her enrollment in accordance with rules promulgated by the Board of Trustees of the Arkansas Teacher Retirement System shall remain eligible to receive a dependent child annuity during his or her period of deferred enrollment.

~~(ii)(C)~~ (C) Regardless of age, a deceased active member's child who has been deemed physically or mentally incapacitated by a court of competent jurisdiction is eligible to receive a dependent child annuity for as long as the incapacity exists.

(D)(i) A dependent child may have his or her dependent child annuity temporarily suspended if the dependent child:

(a) Is called to active military duty or active military training; and

(b) Submits a copy of his or her military orders to the system.

(ii) The dependent child's dependent child annuity

1 shall be temporarily suspended for the duration of the dependent child's
 2 participation in active military duty or active military duty training.

3 (iii) The dependent child's dependent child annuity
 4 shall be reinstated if the dependent child:

5 (a) Is at least eighteen (18) years of age and
 6 not older than twenty-two (22) years of age;

7 (b) Immediately enrolls as a full-time student
 8 at an accredited secondary school, college, university, or vocational-
 9 technical school after returning from active military duty or active military
 10 training; and

11 (c) Submits documentation of his or her
 12 enrollment at an accredited secondary school, college, university, or
 13 vocational-technical school to the system.

14 (3) When a dependent child ceases to ~~be a dependent~~ qualify as a
 15 dependent child or dies, the dependent child shall not be eligible to qualify
 16 as a dependent child of the deceased active member again, and his or her
 17 share of the dependent child annuity shall terminate.

18 (d) For the purposes of §§ 24-7-709 and 24-7-711 related to the
 19 disposition of a member's residue amount, a survivor annuity received from
 20 ~~the an active~~ member's deposit account under this section shall be considered
 21 annuity payments received by the active member or his or her designated
 22 beneficiary and shall offset any disposition of residue payable under §§ 24-
 23 7-709 and 24-7-711 to the estate of the member or to an alternate payee.

24 (e) If ~~the an active~~ member ~~had~~ previously received benefits from the
 25 system and has not repaid in full all amounts payable by him or her to the
 26 system, the annuity amounts otherwise provided by this section shall be
 27 withheld until the total amount owed to the system is repaid.

28 (f)(1) For eligibility under this section, a member is considered
 29 active for an additional fiscal year following the last fiscal year that the
 30 member renders actual service to a covered employer and obtains at least one-
 31 fourth ($\frac{1}{4}$) of a year of service credit.

32 (2) In addition, a member is considered active for eligibility
 33 under this section if in the fiscal year of a member's death, the member
 34 earned at least ten (10) days of service credit in each quarter before and
 35 including the quarter of the member's death.

36 (3) Service credit used in calculating any benefits paid under

1 this section ~~means~~ includes days of service, ~~including~~ and any paid sick
2 leave covered by the covered employer.

3 (g)(1) A dependent child annuity shall be payable to each surviving
4 child of a retiree who dies after returning to work if the child qualifies as
5 a dependent child and is eligible for a dependent child annuity under this
6 section and the rules and resolutions of the system.

7 (2) The provisions of this section that are applicable to the
8 child of an active member shall be used to determine:

9 (A) Whether the child of a retiree who dies after
10 returning to work qualifies as a dependent child who is eligible for a
11 dependent child annuity;

12 (B) When the dependent child annuity is payable to the
13 child of a retiree who dies after returning to work; and

14 (C) The amount of the dependent child annuity payable to
15 the child of a retiree who dies after returning to work.

16 (h) A member's effective retirement date and the date when survivor
17 benefits under this section are payable shall be determined by the law in
18 effect at the time of a member's death.

19 (i) The board may adopt rules to carry out this section.
20

21 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
22 General Assembly of the State of Arkansas that the operations of a state
23 public retirement system are complex; that the Arkansas Teacher Retirement
24 System must be able to meet the needs of its members as anticipated by the
25 General Assembly; that certain provisions of the Arkansas Teacher Retirement
26 System Act need revision and updating to bring these provisions into
27 conformance with sound public pension policy and actuarial requirements; that
28 the current provisions of the Arkansas Teacher Retirement System Act are
29 unclear with regard to application deadlines, a dependent child's ability to
30 continue receiving a dependent child annuity when the dependent child is
31 called to active military duty or training, and the eligibility of a child of
32 a retiree who returns to work to receive a dependent child annuity; that the
33 revisions and updates are of great importance to members of the Arkansas
34 Teacher Retirement System and to other citizens of the State of Arkansas;
35 that as the Arkansas Teacher Retirement System operates on a fiscal year of
36 July 1 to June 30, a July 1, 2023, effective date is necessary in order to

1 allow the provisions within this act to begin on the first day of the fiscal
2 year and to allow for a structured and proper administration of the
3 procedures referenced in this act; that the updates and revisions to the
4 Arkansas Teacher Retirement System Act are of great importance and necessary
5 for improving and protecting member benefits; and that this act is necessary
6 in order to maintain an orderly system of benefits for the members of the
7 Arkansas Teacher Retirement System. Therefore, an emergency is declared to
8 exist, and this act being necessary for the preservation of the public peace,
9 health, and safety shall become effective on July 1, 2023.

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12 **APPROVED: 2/13/23**
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State of Arkansas

As Engrossed: H2/13/23

94th General Assembly

A Bill

Regular Session, 2023

HOUSE BILL 1187

By: Representative A. Collins

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE LAW CONCERNING THE
LUMP-SUM DEATH BENEFIT UNDER THE ARKANSAS TEACHER
RETIREMENT SYSTEM; TO CLARIFY THE ADMINISTRATION OF
THE LUMP-SUM DEATH BENEFIT UNDER THE ARKANSAS TEACHER
RETIREMENT SYSTEM; TO CLARIFY THE ELIGIBILITY OF A
RETIRED MEMBER AND A T-DROP PARTICIPANT TO RECEIVE A
LUMP-SUM DEATH BENEFIT UNDER THE ARKANSAS TEACHER
RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND AND UPDATE THE LAW CONCERNING
THE LUMP-SUM DEATH BENEFIT UNDER THE
ARKANSAS TEACHER RETIREMENT SYSTEM; AND
TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-720 is amended to read as follows:

24-7-720. Lump-sum death benefit – Definition.

(a)(1)(A) ~~If prior to July 1, 2007, an active member of the Arkansas Teacher Retirement System with five (5) or more years of actual service, including actual service for the year immediately preceding the member's death, dies in employer service before retirement, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the~~



~~Board of Trustees of the Arkansas Teacher Retirement System~~ If an active member, T-DROP participant, or a retired member with five (5) years of actual service, including actual service for the year immediately preceding the member's death, dies before July 1, 2007, then one (1) lump-sum death benefit of up to ten thousand dollars (\$10,000) shall be paid in equal shares to each person designated by the member as a beneficiary in the manner required by the Arkansas Teacher Retirement System.

(B) ~~If on or after July 1, 2007, an active member of the Arkansas Teacher Retirement System with ten (10) or more years of actual service dies in employer service before retirement, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to the persons he or she has nominated by written designation executed and filed with the board~~ Effective July 1, 2009, if a member who retired or became a T-DROP participant on or before July 1, 2007, with five (5) or more years of actual service dies, then one (1) lump-sum death benefit of up to ten thousand dollars (\$10,000) shall be paid in equal shares to each person designated by the member as a beneficiary in the manner required by the system.

(C) If an active member, T-DROP participant, or a retired member with ten (10) or more years of actual service dies on or after July 1, 2007, then one (1) lump-sum death benefit of up to ten thousand dollars (\$10,000) shall be paid in equal shares to each person designated by the member as a beneficiary in the manner required by the system.

(D)(i) If a member accrues a minimum of ten (10) years of actual, contributory service, regardless of noncontributory service accrued in combination with the contributory service, the member shall receive the maximum lump-sum death benefit as determined by the Board of Trustees of the Arkansas Teacher Retirement System under this section.

(ii) Upon the member's death, the maximum lump-sum death benefit shall be paid in equal shares to each person designated by the member as a beneficiary in the manner required by the system.

(iii) The board may set a lump-sum death benefit for noncontributory service as the board deems appropriate.

(2) ~~If there are no designated persons who survive the member, the lump sum shall be paid to the member's estate~~ If a member designates more than one (1) beneficiary, the lump-sum death benefit shall be divided equally amongst each designated beneficiary.

1 (3) If all of the member's designated beneficiaries do not
2 survive the member, the lump-sum death benefit shall be paid to the member's
3 estate.

4 ~~(b)(1) If a retired member of the system dies prior to July 1, 2007,~~
5 ~~and the retired member accrued five (5) or more years of actual service,~~
6 ~~including actual service for the year immediately preceding the member's~~
7 ~~death, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid~~
8 ~~to such persons as he or she shall have nominated by written designation duly~~
9 ~~executed and filed with the board.~~

10 ~~(2) If a retired member of the system dies on or after July 1,~~
11 ~~2007, and the retired member accrued ten (10) or more years of actual~~
12 ~~service, including actual service for the year immediately preceding the~~
13 ~~member's death, then a lump sum of up to ten thousand dollars (\$10,000) shall~~
14 ~~be paid to such persons as he or she shall have nominated by written~~
15 ~~designation duly executed and filed with the board.~~

16 ~~(3) If there are no designated persons who survive the member,~~
17 ~~the lump sum shall be paid to the member's estate.~~

18 ~~(e)(b)~~ The amount of the lump-sum death benefit payments under this
19 section shall be set periodically and not more often than annually by rules
20 and resolutions of the board as the board determines is actuarially
21 appropriate for the system.

22 ~~(d)(1) For determining eligibility for the lump-sum death~~
23 ~~benefit under this section, "actual service" means service rendered in a~~
24 ~~position covered by the system.~~

25 ~~(2) "Actual service" does not include purchased or free credited~~
26 ~~service or reciprocal service.~~

27 ~~(e)(1)(c)(1)~~ A benefit enhancement provided for under this section
28 shall not be implemented if it would cause the system's unfunded actuarial
29 accrued liabilities to exceed an eighteen-year amortization.

30 (2) If the system's unfunded actuarial accrued liabilities
31 exceed an eighteen-year amortization, a benefit enhancement provided for
32 under this section shall not be implemented until the unfunded actuarial
33 accrued liability is reduced to a level less than the standards prescribed by
34 § 24-1-101 et seq.

35 ~~(f)(1)(d)~~ Pursuant to the board's fiduciary duty, the board shall
36 implement this benefit provision for lump-sum death benefit payments by

1 either making the lump-sum death benefit payments directly from the system or
2 by purchasing a group life insurance policy for the benefit of system
3 members.

4 ~~(2) A lump-sum payment under this subsection is intended to be~~
5 ~~exempt from income tax.~~

6 ~~(g) Effective July 1, 2009, a retired member of the system who retired~~
7 ~~on or before July 1, 2007, and had five (5) or more years of actual service~~
8 ~~credited in his or her account at retirement shall have the lump-sum death~~
9 ~~benefit paid upon the retired member's death under subsection (b) of this~~
10 ~~section.~~

11 ~~(h)(e)~~ A lump-sum death benefit payment under this section is intended
12 to be exempt from income tax.

13 ~~(i)(f)~~ For eligibility under this section, a member is considered
14 active for an additional fiscal year following the last fiscal year that the
15 member renders actual service in a position reported to the system by a
16 covered employer and the member obtains at least one-fourth ($\frac{1}{4}$) year of
17 service credit.

18 ~~(j)(1)(A) If a member accrues a minimum of ten (10) years of actual,~~
19 ~~contributory service, regardless of noncontributory service accrued in~~
20 ~~combination with the contributory service, the member shall receive the~~
21 ~~maximum lump-sum death benefit as determined by the board under this section.~~

22 ~~(B) Upon the member's death, the lump-sum death benefit~~
23 ~~shall be paid to persons the member selects by written designation executed~~
24 ~~and filed with the board.~~

25 ~~(2) The board may set a lump-sum benefit for noncontributory~~
26 ~~service as the board deems appropriate.~~

27
28 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas that the operations of a state
30 public retirement system are complex; that the Arkansas Teacher Retirement
31 System must be able to meet the needs of its members as anticipated by the
32 General Assembly; that certain provisions of the Arkansas Teacher Retirement
33 System Act need revision and updating to bring them into conformance with
34 sound public pension policy and actuarial requirements; that the current
35 provisions of the Arkansas Teacher Retirement System Act create ambiguity as
36 to the proper administration of the lump-sum death benefit and the

1 eligibility of a retiree and T-DROP participant to receive a lump-sum death
2 benefit; that the revisions and updates are of great importance to members of
3 the Arkansas Teacher Retirement System and to other citizens of the State of
4 Arkansas; that as the Arkansas Teacher Retirement System operates on a fiscal
5 year of July 1 to June 30, a July 1, 2023, effective date is necessary in
6 order to allow the provisions within this act to begin on the first day of
7 the fiscal year and to allow for a structured and proper administration of
8 the procedures referenced in this act; that the updates and revisions to the
9 Arkansas Teacher Retirement System Act are of great importance for actuarial
10 purposes and for the improvement and protection of member benefits under the
11 Arkansas Teacher Retirement System; and that this act is necessary in order
12 to maintain an orderly system of benefits for the members of the Arkansas
13 Teacher Retirement System. Therefore, an emergency is declared to exist, and
14 this act being necessary for the preservation of the public peace, health,
15 and safety shall become effective on July 1, 2023.

16
17 */s/A. Collins*
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20 **APPROVED: 3/2/23**
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