

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1410

By: Representative Porter

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 24, CHAPTER 6, SUBCHAPTER 2 OF THE ARKANSAS CODE OF 1987 TO CONTINUE STATE POLICE SURVIVOR'S BENEFITS FOR CHILDREN ENROLLED IN HIGHER EDUCATION; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 24-6-216 is hereby amended to read as follows:

"24-6-216. Benefits - Survivor's pension upon death of retirant.

(a) (1) In the event a retirant dies and leaves a spouse to whom the retirant was married at least three (3) years prior to the date of his retirement, the surviving spouse shall receive a pension equal to seventy-five percent (75%) of the retirant's pension, but only if the spouse has under care the retirant's unmarried children under the age of eighteen (18) years or the age of twenty-two (22) years if enrolled in an institution of higher education, and whose dates of birth are prior to the retirant's date of retirement.

(2) When the spouse no longer has under care such an unmarried child under the age of eighteen (18) years or a child under the age of twenty-two (22) years enrolled in an institution of higher education, the pension shall be reduced to fifty percent (50%) of the retirant's pension.

(3) Upon the spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b) (1) In the event a retirant dies and leaves a spouse to whom he was married at least three (3) years prior to the date of his retirement and who does not have under care the retirant's unmarried children under the age of eighteen (18) years, the surviving spouse shall receive a pension equal to fifty percent (50%) of the retirant's pension.

(2) Upon the spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c) (1) In the event a retirant dies and does not leave a spouse eligible for a pension as provided for in this section, or in the event the surviving spouse dies or remarries and the pension provided for in subsection (a) of this section is terminated, and there is surviving the retirant an unmarried child under the age of eighteen (18) years or under the age of twenty-two (22) years while enrolled in an institution of higher education, each such child shall receive a pension of an equal share of seventy-five percent (75%) of the retirant's pension. In no case shall the pension payable to any such child exceed twenty-five percent (25%) of the retirant's pension.

(2) Upon any such child's adoption, marriage, attainment of the age of eighteen (18) years, failure to enroll in an institution of higher education if under the age of twenty-two (22), or death, whichever event occurs first, his pension shall terminate and the board shall distribute the pension to the retirant's remaining eligible children under the age of eighteen (18) years or the age of twenty-two (22) years if enrolled in an institution of higher education, if any, subject to the limitations contained in this subsection.

(d) (1) For purposes of this section, 'an institution of higher education' means any public university, college, community college, and any non-publicly supported not-for-profit college or university.

(2) The Board of Trustees is hereby authorized to establish through rules and regulations a means of verification of enrollment in an institution of higher education by a surviving child under this section for purposes of continuation of pension benefits."

SECTION 2. Arkansas Code 24-6-217 is hereby amended to read as follows:

"24-6-217. Benefits - Survivor's pension upon death of member.

(a) (1) In the case of a member who dies on or after January 1, 1956, and leaves a spouse who has the care of the member's unmarried child or children under the age of eighteen (18) years or the age of twenty-two (22) while enrolled in an institution of higher education, the surviving spouse shall receive a pension equal to the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he retired the day preceding the date of

his death, notwithstanding that the member might not have been eligible to retire.

(2) When the surviving spouse no longer has the care of such an unmarried child under the age of eighteen (18) years or a child under age twenty-two (22) is no longer enrolled in an institution of higher education, the pension shall be reduced to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(3) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b) (1) In the case of a member who dies on or after January 1, 1956, and leaves a spouse who does not have in his care the member's unmarried child or children under the age of eighteen (18) years, the surviving spouse shall receive a pension equal to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(2) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c) (1) In the event a member dies and does not leave a spouse, or in the event the surviving spouse remarries or dies, and there is surviving the member an unmarried child or children under the age of eighteen (18) years or the age of twenty-two (22) years while enrolled in an institution of higher education, each such child shall receive a pension of an equal share of the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that he might not have been eligible to retire. In no case shall the annual pension payable to any such child exceed fifteen percent (15%) of the final average annual salary of the deceased member.

(2) Upon any such child's adoption, marriage, attainment of the age of eighteen (18) years or failure to be enrolled in an institution of higher education if under age twenty-two (22) or death, whichever event occurs first, his pension shall terminate. The board shall distribute the child's pension to

the deceased member's remaining eligible children, if any, subject to the limitations contained in this subsection.

(d) (1) In the event a member who has five (5) or more years of credited service dies and leaves neither a spouse nor children eligible for pensions provided for in subsections (a), (b), and (c) of this section, and there is surviving the member his parents, whom the board finds to be dependent upon the member for at least fifty percent (50%) of their support due to lack of financial means, each dependent parent shall receive a pension of an equal share of fifty percent (50%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(2) Upon the remarriage or death of the parent, his pension shall terminate.

(e) (1) For purposes of this section, 'an institution of higher education' means any public university, college, community college, and any non-publicly supported not-for-profit college or university.

(2) The Board of Trustees is hereby authorized to establish through rules and regulations a means of verification of enrollment in an institution of higher education by a surviving child under this section for purposes of continuation of pension benefits."

SECTION 3. Arkansas Code 24-6-218 is hereby amended to read as follows:

"24-6-218. Benefits - Survivors' benefits upon death of officer killed in line of duty while not member of system. (a) In the event any uniformed employee of the Department of Arkansas State Police is killed while in the performance of his duties, yet the widow and surviving children of the uniformed employee of the department are deprived of receiving benefits as prescribed in § 24-6-217 because the uniformed employee was not a member of the system at the time of his death, or had not completed any probationary period of service required by regulations of the State Police Commission, or had not obtained sufficient service for benefits, the widow may make application to the Board of Trustees of the State Police Retirement System. Upon establishing proof of the facts set forth in this subsection, the widow and surviving children shall be eligible for and receive survivors' benefits for herself and the unmarried children of the deceased uniformed employee who was killed in the line of duty, which children are under eighteen (18) years

of age or age twenty-two (22) while enrolled in an institution of higher education, as provided in § 24-6-217.

(b) Upon the reaching of eighteen (18) years of age by the unmarried children or the failure to enroll in an institution of higher education if the child is under the age of twenty-two (22), the widow shall continue to receive benefits as provided by law, but upon her remarriage or death the benefits shall terminate.

(c) It is the specific intent of this section that widows as described in this section be eligible for survivors' benefits for themselves and any unmarried children under eighteen (18) years of age of the deceased uniformed employee of the department who was killed in the line of duty, or any children under the age of twenty-two (22) while enrolled in an institution of higher education, irrespective of whether the employee was a member of, or was eligible for benefits under, the State Police Retirement System at the time of his death.

(d) Upon certification of these facts by the Board of Trustees of the State Police Retirement System, the Director of the Department of Finance and Administration shall direct the State Treasurer to transfer from the State Police Fund, annually, to the State Police Retirement Fund an amount equal to the funds expended from the State Police Retirement Fund for the payment of survivors' benefits as authorized in this section in order to reimburse the fund therefor.

(e) (1) For purposes of this section, 'an institution of higher education' means any public university, college, community college, and any non-publicly supported not-for-profit college or university.

(2) The Board of Trustees is hereby authorized to establish through rules and regulations a means of verification of enrollment in an institution of higher education by a surviving child under this section for purposes of continuation of pension benefits."

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that current law terminates pension benefits for surviving children of Arkansas State Police officers based solely on age; that it is in the best interests of the state to encourage such children to pursue their educational needs beyond the secondary level; that by the continuation of pension benefits until age twenty-two (22) for surviving children enrolled in institutions of higher education, a greater percentage of those children who have suffered a loss will consider this pursuit; and that this is an immediate need for those surviving children which requires the immediate enactment of this legislation. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

