



February 22, 2019

SENATE BILL No. 164

DIGEST OF SB 164 (Updated February 21, 2019 11:27 am - DI 125)

Citations Affected: IC 5-10.

Synopsis: Survivors' benefits. Decreases the years of service that a participant in the state excise police, gaming agent, gaming control officer, and conservation officers' retirement plan must have in the plan at the time of the participant's death in order for the nominated survivor of the participant to be entitled to survivors' benefits from 15 years to 10 years.

Effective: July 1, 2019.

**Sandlin, Garten, Doriot, Niezgodski,
Randolph Lonnie M, Ford Jon**

January 3, 2019, read first time and referred to Committee on Pensions and Labor.
January 31, 2019, amended, reported favorably — Do Pass.
February 4, 2019, reassigned to Committee on Appropriations pursuant to Rule 68(b).
February 21, 2019, amended, reported favorably — Do Pass.

SB 164—LS 6298/DI 113



February 22, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 164

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-5.5-15, AS AMENDED BY P.L.136-2018,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 15. **Only** surviving mothers, fathers, surviving
4 spouses, or unmarried children under the age of eighteen (18) years of
5 participants who have accrued at least ~~fifteen (15)~~ **ten (10)** years of
6 creditable service and who die ~~shall be entitled~~ **are eligible** to receive
7 survivors' benefits in the amount provided in this chapter. ~~Survivor's~~
8 **Survivors'** benefits shall be paid to such of the above enumerated
9 persons ~~as whom~~ the participant ~~shall nominate~~ **nominates** by written
10 direction duly acknowledged and filed with the board.

11 SECTION 2. IC 5-10-5.5-16 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. (a) Benefits
13 provided under this section are subject to section 2.5 of this chapter.

14 (b) A surviving mother or father nominated by the participant to
15 receive survivors' benefits under the provisions of this chapter shall be
16 entitled to an annual survivors' allowance for life equal to fifty percent
17 (50%) of the amount the participant would have been entitled to if ~~he~~

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1 **the participant** had retired.

2 (c) A surviving spouse nominated by the participant to receive
3 survivors' benefits under the provisions of this chapter shall be entitled
4 to an annual survivors' allowance equal to fifty percent (50%) of the
5 amount the participant would have been entitled to if ~~he or she~~ **the**
6 **participant** had retired. In the case of a surviving spouse who is more
7 than five (5) years younger than the deceased participant at the time of
8 the participant's death, the amount of the annual survivors' allowance
9 shall be reduced actuarially, without regard to the sex of the spouse or
10 the participant. In all cases the survivors' allowance to a surviving
11 spouse shall cease with the last payment prior to the surviving spouse's
12 death.

13 (d) A surviving child eligible and nominated by the participant to
14 receive survivors' benefits under the provisions of this chapter shall be
15 entitled to an annual survivors' allowance equal to fifty percent (50%)
16 of the amount the participant would have been entitled to if ~~he~~ **the**
17 **participant** had retired. If more than one (1) surviving child is eligible
18 and nominated to receive survivors' benefits, the annual allowance shall
19 be divided equally between or among such children. In all cases, the
20 survivors' allowance to a child shall cease when the child attains the
21 age of eighteen (18) years or marries, whichever occurs first. Where a
22 survivors' allowance is divided between or among more than one (1)
23 child, and payments to one (1) or more children cease, the total annual
24 allowance payable shall be divided evenly among or between such of
25 the remaining children who are eligible therefor.

26 (e) In the event that no nomination is made by an eligible
27 participant, or in the event that the nominated survivor predeceases the
28 participant and no contingent survivor is nominated and an eligible
29 participant dies, no survivors' allowance shall be payable. In such case,
30 the board shall make a lump sum payment to the estate of the deceased
31 participant equal to the total of all funds standing to the credit of the
32 participant in the participant's savings fund plus accumulated interest
33 thereon.

34 (f) A survivor's allowance under this section that was terminated
35 because of a surviving spouse's remarriage shall be reinstated on July
36 1, 1997, and continue during the life of the surviving spouse.

37 **(g) If a deceased participant had at least ten (10) years of service**
38 **and less than fifteen (15) years of service or was not at least**
39 **sixty-five (65) years of age, the benefit under subsections (b)**
40 **through (d) is computed as if the participant:**

- 41 (1) did have fifteen (15) years of service; and
42 (2) was sixty-five (65) years of age.



1 SECTION 3. IC 5-10-5.5-17 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) Any participant
3 whose employment as an officer is terminated before accumulating
4 fifteen (15) years of creditable service and before attaining the age of
5 forty-five (45) years ~~shall be~~ **is** entitled to a lump-sum refund of all
6 contributions standing to ~~his~~ **the participant's** credit in the
7 participants' savings fund plus accumulated interest thereon.

8 (b) If a participant dies before accumulating ~~fifteen (15)~~ **ten (10)**
9 years of creditable service, all contributions standing to his credit in the
10 participants' savings fund plus the accumulated interest thereon shall
11 be paid by the board to the person the participant shall nominate by
12 written direction duly acknowledged and filed with the board. The
13 payment may be in the form of a lump sum or a series of payments, at
14 the discretion of the board.

15 (c) If a participant dies before accumulating ~~fifteen (15)~~ **ten (10)**
16 years of creditable service and has nominated no beneficiary, or in the
17 event that the participant's nominee predeceases ~~him~~, **the participant**,
18 all contributions standing to ~~his~~ **the participant's** credit in the
19 participants' savings fund, plus accumulated interest thereon shall be
20 paid by the board to the estate of the deceased participant. The payment
21 may be in the form of a lump sum or a series of payments, at the
22 discretion of the board.

23 (d) If a participant terminates ~~his~~ **the participant's** employment
24 after accumulating fifteen (15) years of creditable service, but before
25 becoming eligible for any benefits under this chapter, no refund of
26 contributions and interest shall be allowed. In ~~such~~ **this** case, the
27 participant's contributions shall be retained by the board until the
28 participant becomes eligible for benefits. At that time, benefits shall be
29 paid to, or on behalf of the participant in the same manner and in the
30 same amount as all similar benefits are paid.



COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 164, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 10, begin a new paragraph and insert:

"SECTION 1. IC 5-10-5.5-0.1, AS ADDED BY P.L.220-2011, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.1. (a) As used in this section, "plan" refers to the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan established by section 2 of this chapter.

(b) The following amendments to this chapter apply as follows:

(1) The addition of section 7.5 of this chapter by P.L.180-2007 applies after June 30, 2007, to active participants of the plan.

(2) The amendments made to section 8 of this chapter by P.L.180-2007 apply after June 30, 2007, to active participants of the plan.

(3) The amendments made to sections 10, 11, and 12 of this chapter by P.L.180-2007 apply to participants of the plan who retire after June 30, 2007.

(4) The amendments made to sections 7 and 13.5 of this chapter by P.L.180-2007 apply to participants of the plan who become disabled after June 30, 2007.

(5) The addition of section 22 of this chapter by P.L.128-2008 applies only to a participant in the plan who is in active service after June 30, 2008.

(6) The amendments made to sections 9 and 10 of this chapter by P.L.128-2008 apply only to a participant in the plan who is in active service after June 30, 2008.

(c) Notwithstanding any other law, either of the following may occur for any survivors' benefit received for a participant who died in the line of duty and distributed under section 17(b) of this chapter after January 31, 2018, and before the effective date of this section, as amended by this act:

(1) The survivor may repay the full amount distributed under section 17(b) of this chapter and the board shall provide the full annual survivors' allowance allowed under section 16.5 of this chapter.

(2) The board may adjust the amount of the full annual survivors' allowance allowed under section 16.5 of this chapter to account for any amount distributed under section



17(b) of this chapter.

SECTION 2. IC 5-10-5.5-1, AS AMENDED BY P.L.35-2012, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

- (1) "Board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.
- (2) "Department" means the Indiana department of natural resources.
- (3) "Commission" means the alcohol and tobacco commission.
- (4) "Officer" means any Indiana state excise police officer, any Indiana state conservation enforcement officer, any gaming agent, or any gaming control officer.
- (5) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.
- (6) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.
- (7) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.
- (8) "Public employees' retirement act" means IC 5-10.3.
- (9) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.
- (10) "Interest" means the rate of interest specified by rule by the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.
- (11) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.
- (12) "Dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the participant, in the participant's capacity as an officer:**
 - (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or**
 - (B) performs in the course of controlling or reducing crime or enforcing the criminal law.**



The term includes a death presumed incurred in the line of duty under IC 5-10-13 for an officer who is an Indiana state excise police officer or an Indiana state conservation enforcement officer.

~~(+2)~~ **(13)** Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 3. IC 5-10-5.5-15, AS AMENDED BY P.L.136-2018, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. **(a) This subsection applies to participants who died before February 1, 2018.** Surviving mothers, fathers, surviving spouses or unmarried children under the age of eighteen (18) years, of participants who have accrued at least fifteen (15) years of creditable service and who die, shall be entitled to receive survivors' benefits in the amount provided in this chapter. Survivor's benefits shall be paid to such of the above enumerated persons as the participant shall nominate by written direction duly acknowledged and filed with the board.

(b) This subsection applies to participants who die after January 31, 2018. Only surviving mothers, fathers, surviving spouses, or unmarried children under the age of eighteen (18) years of participants who die are eligible to receive survivors' benefits in the amount provided in this chapter. Survivors' benefits shall be paid to such of the above enumerated persons whom the participant nominates by written direction duly acknowledged and filed with the board.

SECTION 4. IC 5-10-5.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. **(a) This section applies to participants who died before February 1, 2018.**

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

~~(b)~~ **(c)** A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the amount the participant would have been entitled to if he had retired.

~~(c)~~ **(d)** A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if he or she had retired. In the case of a surviving spouse who is more than five (5) years younger than the deceased participant at the time of the



participant's death, the amount of the annual survivors' allowance shall be reduced actuarially, without regard to the sex of the spouse or the participant. In all cases the survivors' allowance to a surviving spouse shall cease with the last payment prior to the surviving spouse's death.

(d) (e) A surviving child eligible and nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if he had retired. If more than one (1) surviving child is eligible and nominated to receive survivors' benefits, the annual allowance shall be divided equally between or among such children. In all cases, the survivors' allowance to a child shall cease when the child attains the age of eighteen (18) years or marries, whichever occurs first. Where a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children cease, the total annual allowance payable shall be divided evenly among or between such of the remaining children who are eligible therefor.

(e) (f) In the event that no nomination is made by an eligible participant, or in the event that the nominated survivor predeceases the participant and no contingent survivor is nominated and an eligible participant dies, no survivors' allowance shall be payable. In such case, the board shall make a lump sum payment to the estate of the deceased participant equal to the total of all funds standing to the credit of the participant in the participant's savings fund plus accumulated interest thereon.

(f) (g) A survivor's allowance under this section that was terminated because of a surviving spouse's remarriage shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse."

Page 1, delete lines 11 through 17, begin a new paragraph and insert:

"SECTION 5. IC 5-10-5.5-16.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.3. (a) This section applies to participants who die other than in the line of duty after January 31, 2018.**

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

(c) A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the amount the participant would have been entitled to if the participant had retired with twenty-five (25) years



of service at fifty (50) years of age.

(d) A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. In all cases the survivors' allowance to a surviving spouse shall cease with the last payment prior to the surviving spouse's death.

(e) A surviving child eligible and nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. If more than one (1) surviving child is eligible and nominated to receive survivors' benefits, the annual allowance shall be divided equally between or among such children. In all cases, the survivors' allowance to a child shall cease when the child attains the age of eighteen (18) years or marries, whichever occurs first. Where a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children cease, the total annual allowance payable shall be divided evenly among or between such of the remaining children who are eligible therefor.

SECTION 6. IC 5-10-5.5-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. (a) This section applies to participants who die in the line of duty after January 31, 2018.

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

(c) A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance for life equal to one hundred percent (100%) of the amount the participant would have been entitled to if the participant had retired with twenty-five (25) years of service at fifty (50) years of age.

(d) A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to one hundred percent (100%) of the amount the participant would have been entitled to if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. In all cases the survivors'



allowance to a surviving spouse shall cease with the last payment prior to the surviving spouse's death.

(e) A surviving child eligible and nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to one hundred percent (100%) of the amount the participant would have been entitled to if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. If more than one (1) surviving child is eligible and nominated to receive survivors' benefits, the annual allowance shall be divided equally between or among such children. In all cases, the survivors' allowance to a child shall cease when the child attains the age of eighteen (18) years or marries, whichever occurs first. Where a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children cease, the total annual allowance payable shall be divided evenly among or between such of the remaining children who are eligible therefor.

SECTION 7. IC 5-10-5.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) **This section applies to participants who died before February 1, 2018.**

(b) Any participant whose employment as an officer is terminated before accumulating fifteen (15) years of creditable service and before attaining the age of forty-five (45) years shall be entitled to a lump-sum refund of all contributions standing to his credit in the participants' savings fund plus accumulated interest thereon.

~~(b)~~ (c) If a participant dies before accumulating fifteen (15) years of creditable service, all contributions standing to his credit in the participants' savings fund plus the accumulated interest thereon shall be paid by the board to the person the participant shall nominate by written direction duly acknowledged and filed with the board. The payment may be in the form of a lump sum or a series of payments, at the discretion of the board.

~~(c)~~ (d) If a participant dies before accumulating fifteen (15) years of creditable service and has nominated no beneficiary, or in the event that the participant's nominee predeceases him, all contributions standing to his credit in the participants' savings fund, plus accumulated interest thereon shall be paid by the board to the estate of the deceased participant. The payment may be in the form of a lump sum or a series of payments, at the discretion of the board.

~~(d)~~ (e) If a participant terminates his employment after accumulating fifteen (15) years of creditable service, but before becoming eligible for any benefits under this chapter, no refund of contributions and interest



shall be allowed. In such case, the participant's contributions shall be retained by the board until the participant becomes eligible for benefits. At that time, benefits shall be paid to, or on behalf of the participant in the same manner and in the same amount as all similar benefits are paid.

SECTION 8. IC 5-10-5.5-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) This section applies to participants who die after January 31, 2018.**

(b) Any participant whose employment as an officer is terminated before accumulating fifteen (15) years of creditable service and before attaining the age of forty-five (45) years is entitled to a lump-sum refund of all contributions standing to the participant's credit in the participants' savings fund plus accumulated interest thereon.

(c) If a participant dies and has nominated no beneficiary, or in the event that the participant's nominee predeceases the participant, all contributions standing to the participant's credit in the participants' savings fund, plus accumulated interest thereon shall be paid by the board to the estate of the deceased participant. The payment may be in the form of a lump sum or a series of payments, at the discretion of the board.

(d) If a participant terminates the participant's employment after accumulating fifteen (15) years of creditable service, but before becoming eligible for any benefits under this chapter, no refund of contributions and interest shall be allowed. In this case, the participant's contributions shall be retained by the board until the participant becomes eligible for benefits. At that time, benefits shall be paid to, or on behalf of the participant in the same manner and in the same amount as all similar benefits are paid.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the state excise police, gaming agent, gaming control officer, and conservation officers' retirement plan including a participant's retirement allowance and benefits for survivors for members who die other than in the line of duty.**

(b) This SECTION expires January 1, 2020.



SECTION 10. An emergency is declared for this act."

Delete pages 2 through 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 164 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 11, Nays 0.

REPORT OF THE PRESIDENT
PRO TEMPORE

Madam President: Pursuant to Senate Rule 68(b), I hereby report that Senate Bill 164, which is eligible for second reading, has been reassigned to the Committee on Appropriations.

BRAY

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 164, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 164 as printed February 1, 2019.)

MISHLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

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