

1 AN ACT relating to survivor benefits in the Kentucky Teachers' Retirement System.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 161.520 is amended to read as follows:

4 Upon the death of an active contributing member or upon the death of a member retired
5 for disability, except as provided in KRS 161.661(6), the survivors of the deceased
6 member in the following named order, may elect to receive a survivor's benefit payable as
7 follows:

8 (1) Where there is a surviving widow or widower who ***was married to the deceased***
9 ***contributing member for not less than five (5) years and*** is named as the primary
10 beneficiary of the member's retirement account, the benefit shall be:

11 (a) One hundred eighty dollars (\$180) per month with no restriction on other
12 income;

13 (b) Two hundred forty dollars (\$240) per month when the surviving widow or
14 widower's total income from all sources does not exceed six thousand six
15 hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per
16 month; or

17 (c) If the deceased member has a minimum of ten (10) years of service credit with
18 the Teachers' Retirement System, the surviving widow or widower may apply
19 for an annuity actuarially equivalent to the annuity that would have been paid
20 to the deceased member when eligibility conditions were met. Eligibility for
21 payments would begin at the time the age of the deceased member would have
22 met the requirements of KRS 161.600(1). In exercising this right, the
23 surviving widow or widower shall be entitled to receive an annuity for life~~;~~
24 ~~except as provided in subsection (6) of this section].~~ This subsection applies
25 to surviving spouses of members who die on or after July 1, 1978. A surviving
26 widow or widower of a member who dies after July 1, 1978, shall be eligible
27 for benefit payments provided under paragraphs (a) and (b) of this subsection

1 until they begin receiving payments under this provision;

2 (2) (a) Where there are surviving unmarried children under age eighteen (18) or
3 under age nineteen (19) if a full-time student in high school, the benefit shall
4 be two hundred dollars (\$200) per month in the case of one (1) child, three
5 hundred forty dollars (\$340) per month in the case of two (2) children, four
6 hundred dollars (\$400) per month in the case of three (3) children, and four
7 hundred forty dollars (\$440) per month in the case of four (4) or more
8 children. Benefits under this subsection shall apply in addition to benefits
9 which may be payable under subsections (1) and (3) of this section.

10 (b) Notwithstanding any provision of law to the contrary, the surviving spouse
11 may elect to receive a lump-sum refund of the member's account in lieu of the
12 survivorship benefits payable under this subsection and subsection (1) of this
13 section only if the surviving spouse is designated as the primary beneficiary
14 and:

15 1. Is a biological or adoptive parent of all children eligible for a benefit
16 under this subsection and has not had his or her parental rights
17 terminated; or

18 2. Has been appointed as legal guardian of all of the children eligible under
19 paragraph (a) of this subsection.

20 (c) To elect a lump-sum refund of the member's account under paragraph (b) of
21 this subsection, the surviving spouse who is designated as the primary
22 beneficiary must sign a waiver on forms prescribed by the retirement system
23 of his or her rights and the member's children's rights to the survivorship
24 benefits payable under this subsection and subsection (1) of this section. The
25 surviving spouse shall not waive the survivorship benefits available under this
26 subsection or subsections (1) and (6) of this section if any of the member's
27 children have attained age eighteen (18) or older unless all of those children

1 consent in writing on forms prescribed by the retirement system to waive their
2 survivorship benefits available under this subsection;

3 (3) (a) Where the survivor is a child age eighteen (18) or older whose mental or
4 physical condition is sufficient to cause his dependency on the deceased
5 member at the time of the member's death, the benefit shall be two hundred
6 dollars (\$200) per month, payable for the life of the child or until the time as
7 the mental or physical condition creating the dependency no longer exists or
8 the child marries. The mental or physical condition of the adult child shall be
9 revealed by a competent examination by a licensed physician and shall be
10 approved by a majority of a medical review committee as defined in KRS
11 161.661(14). Benefits under this subsection shall apply in addition to benefits
12 which may be payable under subsections (1) and (2) of this section.

13 (b) Notwithstanding any provision of law to the contrary, the surviving spouse
14 shall not elect to receive a lump-sum refund of the member's account in lieu of
15 the survivorship benefits payable under this subsection and subsection (1) of
16 this section unless:

- 17 1. The surviving spouse is designated as the primary beneficiary;
- 18 2. The surviving spouse has been appointed by the court as guardian,
19 conservator, or other fiduciary with sufficient general or specific
20 authority to waive the survivorship benefits available under this
21 subsection for any child or children age eighteen (18) or older who have
22 been adjudicated incompetent to make decisions on their own behalf by
23 a court of law; and
- 24 3. Any child or children age eighteen (18) or older who are mentally
25 competent to make decisions on their own behalf as attested to by two
26 (2) physicians' statements consent in writing on forms prescribed by the
27 retirement system to waive their survivorship benefits available under

1 this subsection.

2 (c) If eligible to elect a lump-sum refund of the member's account, the surviving
3 spouse shall sign a waiver on forms prescribed by the retirement system of his
4 or her rights and the member's children's rights to the survivorship benefits
5 payable under this subsection and subsections (1) and (2) of this section;

6 (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over,
7 the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two
8 hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a
9 parent shall be established as of the date of the death of the member;

10 (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be
11 one hundred sixty five dollars (\$165) per month. In order to qualify the brother or
12 sister must have been a resident of the deceased member's household for at least one
13 (1) full year prior to the member's death or must have been receiving care in a
14 hospital, nursing home, or other institution at the member's expense for same
15 period;

16 (6) The benefit to a child as defined in subsection (2) of this section shall terminate
17 upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a
18 full-time student in high school, or upon marriage, except that benefits shall
19 continue until the attainment of age twenty-three (23) for an unmarried child who is
20 a full-time student in a recognized educational program beyond the high school
21 level. The benefit to a ~~widow, widower,~~ dependent parent~~,~~ or dependent brother
22 or sister or dependent child age eighteen (18) or older shall terminate upon
23 marriage, or upon termination of the condition creating the dependency;

24 (7) The board of trustees shall be the sole judge of eligibility or dependency of any
25 beneficiary, and may require formal application or information relating to eligibility
26 or dependency, including proof of annual income satisfactory to the board. The
27 board of trustees may subpoena records and individuals whenever it deems this

1 action necessary;

2 (8) No payment of benefits shall be made unless the board of trustees authorizes the
3 payment. The board shall promulgate administrative regulations for the
4 administration of the provisions in this section and in every case the decision of the
5 board of trustees shall be final as to eligibility, dependency, or disability, and the
6 amount of benefits payable;

7 (9) In the event that there are no eligible survivors as defined in subsections (1) to (5)
8 of this section, or in the event that the surviving spouse elects not to receive
9 survivorship benefits on his or her own behalf or on behalf of any of the member's
10 children as permitted under subsections (2) and (3) of this section, the board of
11 trustees shall pay to the estate or the designated beneficiaries of the deceased
12 member a refund of his accumulated contributions as provided in KRS 161.470(7).
13 If the benefits paid or payable under subsections (1) to (5) of this section and KRS
14 161.661 shall amount to a sum less than the member's accumulated contributions at
15 the time of death, the board of trustees shall pay to the estate or designated
16 beneficiaries of the deceased member the balance of the accumulated contributions;

17 (10) Any person who is receiving benefits and becomes disqualified from receiving
18 those benefits under this section shall immediately notify the Teachers' Retirement
19 System of this disqualification in writing and shall return all benefits paid after the
20 date of disqualification. Failure to comply with these provisions shall create an
21 indebtedness of that person to the Teachers' Retirement System. Interest at the rate
22 of eight percent (8%) per annum shall be charged if the debt is not repaid within
23 sixty (60) days after the date of disqualification. Failure to repay this debt creates a
24 lien in favor of the Teachers' Retirement System upon all property of the person
25 who improperly receives benefits and does not repay those benefits; and

26 (11) Benefits under subsections (2) and (3) of this section shall apply to a child who is a
27 legally adopted survivor at the time of the death of the member. This provision shall

1 be retroactive to include a child who was born after January 1, 1990, and is a legally
2 adopted survivor of a member whose death occurred prior to July 15, 2008.