

HOUSE No. 4626

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 13, 2024.

The committee on Public Service, to whom was referred the petition (accompanied by bill, House, No. 2536) of Jessica Ann Giannino and others relative to disability pensions for violent crimes committed against certain public employees, reports recommending that the accompanying bill (House, No. 4626) ought to pass.

For the committee,

KENNETH I. GORDON.

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to disability pensions for violent crimes.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2016
2 Official Addition, is hereby amended by inserting after the word “inclusive”, in line 599, the
3 following definition:-

4 “Violent act injury”, a catastrophic, life-threatening and/or life altering and permanent
5 bodily injury sustained as a direct and proximate result of a violent attack upon a person by
6 means of a dangerous weapon, including a firearm, knife, automobile, explosive device or other
7 dangerous weapon, which for the purposes of this section shall be defined as “an item which is
8 designed for the purpose of causing serious injury or death.”

9 SECTION 2. Said chapter 32 is hereby further amended by striking out subsection (1) of
10 section 7 and inserting in place thereof the following subsection:-

11 Section 7. (1) Conditions of Allowance. Any member in service classified in Group 1,
12 Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of
13 subdivision (2) of section twenty-six are not applicable, who is unable to perform the essential

14 duties of the member's job and that such inability is likely to be permanent before attaining the
15 maximum age for the member's group by reason of a personal injury or violent act injury
16 sustained or a hazard undergone as a result of, and while in the performance of the member's
17 duties at some definite place and at some definite time on or after the date of becoming a
18 member or prior to such date while any provision of this chapter relating to noncontributory
19 pensions was applicable to the member, without serious and willful misconduct on the member's
20 part, upon the member's written application on a prescribed form filed with the board and the
21 member's respective employer or upon such an application by the head of the member's
22 department after a hearing, if requested, as provided for in subdivision (1) of section sixteen and
23 subject to the conditions set forth in said section and in this section, shall be deemed retired for
24 an accidental disability as of a date which shall be specified in such application and which shall
25 be not less than fifteen days nor more than four months after the filing of such application but in
26 no event later than the maximum age for the member's group. Except as provided for in
27 subdivision (3) of this section, no such retirement shall be allowed unless such injury or violent
28 act injury was sustained or such hazard was undergone within two years prior to the filing of
29 such application or, if occurring earlier, unless written notice thereof was filed with the board by
30 such member or on the member's behalf within ninety days after its occurrence. No retirement
31 under clauses (i) to (iii), inclusive, shall be allowed unless the board, after a review of the
32 evidence it deems appropriate, and after a review by the commission, pursuant to the provisions
33 of section twenty-one, and including in any event on examination by the regional medical panel
34 provided for in subdivision (3) of section six and including a certification of such incapacity by a
35 majority of the physicians on such medical panel, shall find that such member is physically
36 unable to perform the essential duties of the member's job and that such inability is likely to be

37 permanent, and that the member should be so retired. No retirement under clause (iv) shall be
38 allowed unless the board, after a review of the evidence it deems appropriate, and after a review
39 by the commission, pursuant to the provisions of section twenty-one, and including in any event
40 on examination or re-examination by the regional medical panel provided for in subdivision (3)
41 of section six and including a certification of such incapacity by a majority of the physicians on
42 such medical panel, shall find that such member is physically unable to perform the essential
43 duties of the member's job because of a violent act injury and that such inability is likely to be
44 permanent, and that the member should be so retired. Any member who was injured while a
45 member of a retirement system established in any governmental unit other than that by which the
46 member is presently employed, and who has complied with the provisions of this section as to
47 notice, or whose case falls under paragraph (3), shall file such application with the retirement
48 board of the unit where he is presently employed. Such board shall secure a statement of facts
49 and records, which it shall be the duty of the retirement board of the first governmental unit to
50 furnish, and on which it shall be entitled to make recommendations.

51 Prior to the determination of a retirement under this section, a member shall submit to the
52 retirement board a written statement authorizing release of information from the federal internal
53 revenue service and the department of revenue relative to the annual gross earned income of the
54 member in pursuant to an agreement between the federal internal revenue service, the department
55 of revenue, and the public employee retirement administration commission in accordance with
56 section ninety-one A.

57 SECTION 3. Paragraph (a) of subsection (2) of said section 7 of said chapter 32 is hereby
58 amended by inserting after clause (iii) the following clauses:-

59 (iv) A yearly amount of pension for any firefighter, any call, volunteer, auxiliary,
60 intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve
61 emergency medical services provider who is a member of a police or fire department and who is
62 not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or
63 reserve police officer, any municipal or public emergency medical technician or licensed health
64 care professional who is unable to perform the essential duties of the member's job by reason of
65 a violent act injury, paid monthly, shall be equal to 100 per cent of their regular compensation,
66 including all applicable benefits and stipends, that the member was earning on the date of such
67 violent act injury, as defined in section 1 of this chapter. The annual amount of pension payable
68 to such member shall be equal to the regular rate of compensation which the member would have
69 been paid had the member continued in service at the grade held by the member at the time of
70 their retirement until their death or reaching mandatory retirement age, whichever comes first;
71 provided that, if the member reaches the mandatory retirement age, the member shall be entitled
72 thereafter to 80 per cent of the average annual rate of compensation paid to the member in the
73 previous 12 months, including any cost of living increases, as defined in sections 102 and 103 of
74 this chapter. Upon retirement, the member shall receive a lump sum payment from the applicable
75 retirement board equal to the member's total accumulated retirement deductions. In the event
76 that the member shall predecease their spouse the member's spouse shall be entitled to 75 per
77 cent of the member's annual pension, paid monthly, as long as such spouse shall live; provided
78 that, when the member would have reached the mandatory retirement age, the member's spouse
79 shall continue to be entitled to 75 per cent of the member's annual pension, including any cost of
80 living increases, as defined in sections 102 and 103 of this chapter, that the member would have
81 received upon reaching the mandatory retirement age; provided, however, that if a beneficiary is

82 eligible for benefits under this section and under option (c) of section 12, the beneficiary shall
83 elect to receive either a benefit under option (c) or a benefit pursuant to this section but shall not
84 be eligible for both benefits. In the event that the member and the member's spouse predecease
85 their children, the member's surviving unmarried children, if any, who are under age 18 or, if
86 over that age and under age 22, are full-time students at an accredited educational institution, or
87 who are over age 18 and physically or mentally incapacitated from earning income on the date of
88 such member's retirement, shall be entitled to receive a pension of equal proportion, paid
89 monthly, which shall total 75 per cent of the amount of the pension payable to the member at the
90 time of their death.

91 The words "full-time student" and "accredited educational institutions" shall have the
92 same meaning that they have under clause (iii). When a child no longer meets the qualifications
93 for receipt of a pension allocation under this section, said child's pension allocation shall cease
94 and any remaining qualified children shall continue to receive the same amount each received
95 before any child's allocation ceased. Any member eligible to receive a pension under clause (iv)
96 shall be indemnified for all hospital, medical and other healthcare expenses, not otherwise
97 covered by health insurance, related to treatment of injuries that have been or may be incurred
98 after the date of the member's retirement as a result of the injuries sustained by the member
99 relating to the violent act injury while in the performance of the member's duties.

100 Notwithstanding the hours and earnings limitations of section 91 or 91A of chapter 32 of
101 the General Laws or any other general or special law to the contrary, the annual earnings of such
102 member of the retirement system from employment in the service of the commonwealth, county,
103 city, town, district or authority, including as a consultant or independent contractor or as a person
104 whose regular duties require that his time be devoted to the service of the commonwealth,

105 county, city, town, district or authority during regular business hours, may equal up to one-half
106 the amount of his or her retirement allowance without refund penalty. Such member shall not be
107 eligible for employment under Groups 3-4, inclusive, of the retirement system while receiving
108 benefits for accidental disability retirement outlined under clause (iv) of paragraph (a) of
109 subsection (2) of said section 7 of said chapter 32. A member who is receiving benefits under
110 clause (iv) of paragraph (a) of subsection (2) of said section 7 of said chapter 32 may be
111 employed by a private entity (or in the private sector, one or the other) without refund penalty
112 provided that their service is not devoted to the commonwealth, county, city, town, district or an
113 authority. Nothing in this section shall prohibit a member under clause (iv), or such member's
114 eligible spouse or children, from receiving additional retirement benefits not required by this
115 section.

116 (v) Critical Incident Stress Management

117 Any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call,
118 volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a
119 member of a police or fire department and who is not subject to chapter 152, any police officer,
120 any auxiliary, intermittent, special, part-time or reserve police officer, any municipal or public
121 emergency medical technician shall participate in critical incident stress management debriefing
122 following any incident involving exposure to actual or threatened death, serious injury, or sexual
123 violence as defined in the most recent version of the Diagnostic and Statistical Manual of Mental
124 Disorders, or any other incident reasonably warranting a critical incident stress management
125 debriefing, as determined by an emergency service provider certified by the Massachusetts Peer
126 Support Network or International Critical Incident Stress Foundation, Inc. At the discretion of
127 the emergency service provider, or at the request of any member, the member will seek a

128 behavioral health consultation on his or her own time. Anything discussed during the behavioral
129 health consultation shall be kept in confidentiality in the following manner:

130 a. All conversations, records, recordings, or other documents resulting from the
131 behavioral health consultation will be subject to physician-patient privilege and will not be
132 provided to the employer except at the request of the member;

133 b. The employer may contact the behavioral health professional to confirm the date and
134 attendance of the member and credentials of the professional.