

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 996

6
7 H.P. 766

House of Representatives, March 3, 1983

8 Referred to the Committee on Aging, Retirement and Veterans. Sent up
9 for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Mayo of Thomaston.

Cosponsor: Representative Ainsworth of Yarmouth.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Clarify the Definition of Child
18 or Children and to Delete Restrictions on
19 Death Benefits to Spouses in the Retirement
20 System Statutes.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 Sec. 1. 5 MRSA §1001, sub-§6 is repealed and the
25 following enacted in its place:

26 6. Child or children. "Child" or "children"
27 means any unmarried, natural, born or unborn, or
28 legally adopted progeny of the member, under 18 years
29 of age or under 22 years of age and a full-time
30 student; or regardless of age or marital status, any
31 other progeny certified by the medical board to be
32 permanently mentally incompetent or permanently
33 physically incapacitated and determined by the execu-
34 tive director to be unable to engage in any substan-

1 tially gainful employment. For the purposes of this
2 chapter, provided that any beneficiary is not law-
3 fully qualified to make an election, that election
4 shall be entered into in his behalf by the person
5 authorized to do so by Title 18-A, Article V. The
6 board of trustees shall adopt such rules as are found
7 necessary for a beneficiary to qualify as a full-time
8 student.

9 Sec. 2. 5 MRSA §1124, sub-§1, ¶B, as amended by
10 PL 1981, c. 519, §1, is repealed and the following
11 enacted in its place:

12 B. In lieu of accepting the payment provided in
13 paragraph A, the first of certain designated ben-
14 eficiaries, if living at the death of the member
15 or former member, may elect to substitute the
16 benefits described in subparagraph (1). The des-
17 ignated beneficiary shall be a spouse, child or
18 children of the member or former member, mother
19 or father, mother and father, or if no designa-
20 tion was made, the first of the following listed
21 persons, if any, alive at the death of the member
22 or former member, spouse, child or children, par-
23 ents or parent of the deceased.

24 (1) Benefits. Benefits shall be as fol-
25 lows.

26 (a) A spouse, alive at the time of
27 the death of the member or former
28 member, shall be paid \$150 a month,
29 commencing the first month after that
30 death occurs, and continuing until the
31 date of his death, providing that
32 either the deceased member or former
33 member had 10 years of creditable ser-
34 vice at the time of his death or that
35 the surviving spouse is certified by
36 the medical board to be permanently
37 mentally incompetent or permanently
38 physically incapacitated and deter-
39 mined by the executive director to be
40 unable to engage in any substantially
41 gainful employment. This spouse shall
42 not receive this benefit simultaneously
43 with that provided by division (b).

1 (b) A spouse, alive at the time of
2 the death of the member or former
3 member who has the care of the child or
4 children, as defined by section 1001,
5 subsection 6, of the deceased member or
6 former member, shall be paid \$150 a
7 month, commencing the first month after
8 the death occurs and continuing during
9 his lifetime for such time as these
10 children are in his care.

11 (c) The child or children, as defined
12 by section 1001, subsection 6, of the
13 deceased member or former member, shall
14 receive benefits as follows.

15 One child shall be paid \$150 per month.

16 Two children shall be paid \$225 per
17 month, which shall be divided equally
18 between them.

19 Three children or more shall be paid
20 \$300 per month, which shall be divided
21 equally among them.

22 The benefits shall commence the first
23 month after the death of the member or
24 former member and be payable to each
25 child, in accordance with Title 18-A,
26 Article V, so long as he meets the def-
27 inition of "child" as set forth in
28 section 1001, subsection 6. When any
29 child becomes ineligible to receive
30 benefits under this subparagraph, the
31 other children, if any, shall continue
32 to receive benefits in accordance with
33 the foregoing schedule.

34 (d) A spouse, living at the time of
35 death of the member or former member,
36 shall be paid \$150 a month, commencing
37 the first month after the attainment of
38 60 years of age and continuing until
39 the date of his death. This spouse
40 shall not receive this benefit simulta-
41 neously with that provided by division
42 (a) or (b).

1 (e) A parent, if living at the time of
2 the death of the member or former
3 member, and at least 60 years of age or
4 when that age is attained shall be paid
5 \$150 per month. If both parents are
6 eligible to benefits under this
7 section, and the older parent elects
8 benefits under this subsection, the
9 younger parent shall receive \$105 per
10 month if at least 60 years of age or
11 when that age is attained. Upon the
12 death of either parent, the survivor
13 shall receive \$150 per month.

14 The payments to any parent shall com-
15 mence the first month after the death
16 of the member or former member occurs
17 and continue until death. Benefits are
18 only payable under this provision in
19 the event no other benefits have been
20 received in accordance with division
21 (a), (b), (c) or (d).

22 (2) Transfer of accumulated contributions.
23 If benefits are paid under paragraph B, the
24 amount of deceased member's accumulated con-
25 tributions in the Members' Contribution Fund
26 shall be transferred to the Survivors' Bene-
27 fits Fund, and the amount of former member's
28 accumulated contributions in the Retirement
29 Allowance Fund shall be transferred to the
30 Survivors' Benefits Fund.

31 (3) Death of beneficiary before payment.
32 In the event that any person becomes enti-
33 tled to the payment of benefits under this
34 section and dies before either the refund
35 check or the initial survivor benefit check
36 shall be endorsed and presented to a holder
37 in due course then it shall be considered as
38 if such person had predeceased the member or
39 former member. Any beneficiary of this
40 section shall have the right to change his
41 choice of payment at any time up to the
42 point of endorsement and presentation to a
43 holder in due course of either the refund
44 check or the initial survivor benefit pay-
45 ment.

1 Sec. 3. 5 MRSA §1125, sub-§1-A, as amended by PL
2 1975, c. 622, §57, is further amended to read:

3 1-A. Members of the retirement system. If a
4 member of the retirement system or a former member
5 who is a beneficiary receiving a disability retire-
6 ment allowance shall die as a result of an injury
7 received in the line of duty his beneficiary, if his
8 surviving spouse, and if there is no surviving child
9 or children under age 18, as defined by section 1001,
10 subsection 6, shall receive an annual sum equal to
11 $\frac{2}{3}$ of the average final compensation of the member;
12 or his beneficiary, if his surviving spouse, if the
13 member is survived by a spouse and a child or chil-
14 dren under age 18, as defined by section 1001, sub-
15 section 6, jointly, shall be entitled to an annual
16 sum equal to the average final compensation of the
17 member; or his beneficiary, if his child or children,
18 if the member is survived only by a child or children
19 under 18, as defined by section 1001, subsection 6,
20 jointly, shall receive an annual sum equal to the
21 average final compensation of the member.

22 When the beneficiaries are a surviving spouse and
23 child or children under 18, as defined by section
24 1001, subsection 6, they shall be paid the annual sum
25 equal to the average final compensation only until
26 the youngest surviving child reaches age 18 no longer
27 meets the definition of "child," as set forth in
28 section 1001, subsection 6, at which time the annual
29 sum paid shall be reduced to $\frac{2}{3}$ of the average final
30 compensation of the member.

31 When the beneficiaries are a child or children under
32 age 18, as defined by section 1001, subsection 6, he
33 or they shall be paid the annual sum equal to the
34 average final compensation only until the youngest
35 surviving child reaches age 18 no longer meets the
36 definition of "child," as set forth in section 1001,
37 subsection 6, at which time all payments shall cease.

38 Sec. 4. 5 MRSA §1125, sub-§3, as amended by PL
39 1975, c. 770, §25, is further amended to read:

40 3. Termination of payment. Each annual sum pro-
41 vided for in subsections 1-A and 2 shall be paid to
42 the surviving spouse until he or she dies or becomes

1 the dependent of another person and to a child or
2 children until they die or reach the age of 18 years
3 no longer meet the definition of "child" or "chil-
4 dren" as set forth in section 1001, subsection 6. If
5 the spouse dies without becoming the dependent of
6 another person and leaves a child or children, the
7 payment shall continue until such child or children
8 die or reach the age of 18 years.

9 STATEMENT OF FACT

10 Section 1 recognizes the change in societal atti-
11 tudes allowing employment opportunities for handi-
12 capped persons. The original thought when this stat-
13 ute was enacted was that handicapped people could not
14 be gainfully employed. Sections 1 and 2 move lan-
15 guage defining "child or children" from the section
16 on death benefits to the subsection which defines
17 "child or children" which appears to be the proper
18 place for such language. Section 2 removes from the
19 statute restrictions on paying survivor benefits to a
20 surviving spouse who becomes the dependent of another
21 person. This restriction tends to be discriminatory
22 toward women as the retirement system seldom becomes
23 aware of the remarriage of a man, and a man seldom
24 becomes the dependent of his new spouse.

25 Sections 3 and 4 are to make the provisions
26 relating to payment of benefits to children of mem-
27 bers of the retirement system who die as a result of
28 an injury received in the line of duty comparable
29 with the provisions relating to payment of benefits
30 to children of members who die as a result of illness
31 or injury not received in the line of duty. Section
32 3 also removes the restriction relating to discon-
33 tinuing benefits received by the spouse of a deceased
34 member who becomes the dependent of another person.

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