

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

CHAPTER 146

H.P. 766 - L.D. 996

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

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

Sec. 1. 5 MRSA §1001, sub-§6 is repealed and the following enacted in its place:

6. Child or children. "Child" or "children" means any unmarried, natural, born or unborn, or legally adopted progeny of the member, under 18 years of age or under 22 years of age and a full-time student; or regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment. For the purposes of this chapter, provided that any beneficiary is not lawfully qualified to make an election, that election shall be entered into in his behalf by the person authorized to do so by Title 18-A, Article V. The board of trustees shall adopt such rules as are found necessary for a beneficiary to qualify as a full-time student.

Sec. 2. 5 MRSA §1124, sub-§1, ¶B, as amended by PL 1981, c. 519, §1, is repealed and the following enacted in its place:

B. In lieu of accepting the payment provided in paragraph A, the first of certain designated beneficiaries, if living at the death of the member or former member, may elect to substitute the benefits described in subparagraph (1). The designated beneficiary shall be a spouse, child or children of the member or former member, mother or father, mother and father, or if no designation was made, the first of the following listed persons, if any, alive at the death of the member or former member, spouse, child or children, parents or parent of the deceased.

(1) Benefits. Benefits shall be as follows.

(a) A spouse, alive at the time of

the death of the member or former member, shall be paid \$150 a month, commencing the first month after that death occurs, and continuing until the date of his death, providing that either the deceased member or former member had 10 years of creditable service at the time of his death or that the surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment. This spouse shall not receive this benefit simultaneously with that provided by division (b).

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

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

One child shall be paid \$150 per month.

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

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

The benefits shall commence the first month after the death of the member or former member and be payable to each child, in accordance with Title 18-A, Article V, so long as he meets the definition of "child" as set forth in section 1001, subsection 6. When any child becomes ineligible to receive benefits under this subparagraph, the other children, if any, shall continue to receive benefits in accordance with the foregoing schedule.

(d) A spouse, living at the time of death of the member or former member, shall be paid \$150 a month, commencing the first month after the attainment of 60 years of age and continuing until the date of his death. This spouse shall not receive this benefit simultaneously with that provided by division (a) or (b).

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

The payments to any parent shall commence the first month after the death of the member or former member occurs and continue until death. Benefits are only payable under this provision in the event no other benefits have been received in accordance with division (a), (b), (c) or (d).

(2) Transfer of accumulated contributions. If benefits are paid under paragraph B, the amount of deceased member's accumulated contributions in the Members' Contribution Fund shall be transferred to the Survivors' Benefits Fund, and the amount of former member's accumulated contributions in the Retirement Allowance Fund shall be transferred to the Survivors' Benefits Fund.

(3) Death of beneficiary before payment. In the event that any person becomes entitled to the payment of benefits under this section and dies before either the refund check or the initial survivor benefit check shall be endorsed and presented to a holder in due course then it shall be considered as if such person had predeceased the member or former member. Any beneficiary of this section shall have the right to change his choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund

check or the initial survivor benefit payment.

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

1-A. Members of the retirement system. If a member of the retirement system or a former member who is a beneficiary receiving a disability retirement allowance shall die as a result of an injury received in the line of duty his beneficiary, if his surviving spouse, and if there is no surviving child or children under age 18, as defined by section 1001, subsection 6, shall receive an annual sum equal to $\frac{2}{3}$ of the average final compensation of the member; or his beneficiary, if his surviving spouse, if the member is survived by a spouse and a child or children under age 18, as defined by section 1001, subsection 6, jointly, shall be entitled to an annual sum equal to the average final compensation of the member; or his beneficiary, if his child or children, if the member is survived only by a child or children under 18, as defined by section 1001, subsection 6, jointly, shall receive an annual sum equal to the average final compensation of the member.

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

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

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

3. Termination of payment. Each annual sum provided for in subsections 1-A and 2 shall be paid to the surviving spouse until he ~~or she~~ dies ~~or becomes the dependent of another person~~ and to a child or children until they die or ~~reach the age of 18 years~~ no longer meet the definition of "child" or "children" as set forth in section 1001, subsection 6. ~~If the spouse dies without becoming the dependent of~~

another person and leaves a child or children, the payment shall continue until such child or children die or reach the age of 18 years-

Effective September 23, 1983.

CHAPTER 147

H.P. 1043 - L.D. 1350

AN ACT to Provide for the Negotiation of Seniority Provisions for Teachers.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Supreme Judicial Court of Maine, in the case of Paradis vs. S.A.D. #33 decided on June 7, 1982, and a subsequent decision of the Maine Labor Relations Board determined that the statute governing the elimination of teaching positions in public schools does not permit the negotiation of a strict seniority provision; and

Whereas, it is in the best interests of education to remove the uncertainties that exist as a result of this decision and to clarify the law relating to negotiation of seniority provisions between public school committees or directors and bargaining agents representing teachers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20 MRSA §161, sub-§5, as amended by PL 1977, c. 580, §§16 and 17, is further amended to read:

5. Shall nominate teachers; election to be approved by committee; probationary period; teachers may be elected under contract. He shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school committee or school directors shall make, and