

AN ACT relating to post-retirement survivorship options under the Kentucky Retirement Systems.

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

➔Section 1. KRS 61.542 is amended to read as follows:

- (1) Prior to the first day of the month in which the member receives his or her first retirement allowance and prior to the member filing a notification of retirement or a request for refund:
 - (a) Each member may designate on the form prescribed by the board a principal beneficiary and contingent beneficiary for his or her account. The principal beneficiary or contingent beneficiary designated by the member shall be:
 1. One (1) or more persons; or
 2. The member's estate; or
 3. A trust;
 - (b) If multiple persons are designated as provided by paragraph (a)1. of this subsection, the member shall indicate the percentage of total benefits each person is to receive.
 1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.
 2. If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.
 3. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member;

- (c) The principal and contingent beneficiary designation established by the member pursuant to paragraph (a) of this subsection shall remain in full force and effect until changed by the member, except:
1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;
 2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary; and
 3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his or her estate, or a trust, shall supersede the designation of all previous beneficiaries, unless the notification of retirement is withdrawn, invalid, or voided. If the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member; and
- (d) Except as provided by paragraph (c)3. of this subsection, if the member fails to designate a beneficiary for his or her account or if the beneficiary designation is determined to be void by the system, the member's estate shall become the beneficiary.
- (2) If the member dies prior to the first day of the month in which the member would have received his or her first retirement allowance and prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the

principal beneficiary, except that:

- (a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (b) If the principal beneficiary is one (1) person and is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (c) If the member is survived by his or her principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries;
 - (d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary; and
 - (e) If the member dies as a direct result of an act in line of duty as defined in KRS 16.505 or dies as a result of a duty-related injury as defined in KRS 61.621, the surviving spouse shall supersede all previously designated principal or contingent beneficiaries, unless the deceased member files a valid beneficiary designation form with the retirement office after the date of marriage to the surviving spouse.
- (3) Prior to the first day of the month in which the member would have received his or her first retirement allowance, a monthly benefit payable for life shall not be offered if the beneficiary designated under subsection (1) of this section is more than one (1) person, the member's estate, or a trust.
 - (4) When a notification of retirement *as provided by Section 2 of this Act or a form to change beneficiaries as provided by subsection (5)(a) and (5)(b) of this section*

has been filed at the retirement office:

- (a) The designation of beneficiary on the notification of retirement **or beneficiary change form** shall supersede the designation of all previous beneficiaries;
 - (b) The beneficiary designated by the member on the member's notification of retirement **or beneficiary change form** shall be one (1) person, the member's estate, or a trust; and
 - (c) If the death of the beneficiary named on the notification of retirement precedes the first day of the month in which the member receives his or her first retirement allowance, the member may designate another beneficiary on the member's notification of retirement.
- (5) On or after the first day of the month in which the member receives his or her first retirement allowance, the member shall not have the right to change his **or her** beneficiary, except that:
- (a) **A retired member receiving a monthly retirement allowance under the basic payment option, a period certain option as provided by KRS 61.635(5) to (7), or the Social Security Adjustment Option without survivor rights as provided by KRS 61.635(8)(a) may elect to change his or her beneficiary at any time by filing a beneficiary change form as prescribed by the board with the retirement office. This paragraph shall not authorize a retired member to change the payment option he or she selected upon retirement;**
 - (b) **A retired member receiving a monthly retirement allowance who marries or remarries following retirement may make a one (1) time election within one hundred twenty (120) days of marriage or remarriage to provide monthly survivorship benefits to his or her new spouse by:**
 - 1. **Designating his or her new spouse as beneficiary by filing a beneficiary change form as prescribed by the board with the retirement office; and**

2. *Selecting a new monthly retirement allowance option under one (1) of the survivorship options provided by KRS 61.635(2), (3), (4), and (8)(b). Any new survivorship payment option shall be actuarially equivalent to the monthly retirement allowance the retired member was receiving prior to the change and shall not impact any other benefits otherwise payable to an alternate payee under KRS 61.690;*
- (c) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member, *and the retired member had not elected a new beneficiary under this subsection;*
- (d)~~(b)~~ The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death, *and the retired member had not elected a new beneficiary under this subsection.* An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death, *and the retired member had not elected a new beneficiary under this subsection;* and
- (e)~~(e)~~ The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).
- (6) Following cessation of membership as provided by KRS 61.535, no beneficiary designation in one (1) account shall be effective for any new retirement account established pursuant to KRS 61.637 or 61.680. If the member fails to designate a beneficiary for his or her new retirement account or if the beneficiary designation is

determined to be void by the system, the member's estate shall become the beneficiary.

➔Section 2. KRS 61.590 is amended to read as follows:

- (1) (a) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, a correctly completed notification of retirement, giving his or her name, address, Social Security number or Kentucky Retirement Systems member identification number, last day of employment, and other information the system may require. The form entitled "Notification of Retirement" shall not be filed more than six (6) months before the member's effective retirement date.
- (b) A member eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify in writing on the "Notification of Retirement" form or another form prescribed by the board that no prearranged agreement existed prior to the member's retirement between the member and any participating agency in the systems administered by the Kentucky Retirement Systems for the member to return to employment with the participating agency. No retirement benefits shall be paid to the member until the member completes the certification required by this paragraph.
- (2) After receipt of the correctly completed form entitled "Notification of Retirement", the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary.
- (3) The member or beneficiary shall file at the retirement office the form entitled

"Estimated Retirement Allowance" after he or she has checked one (1) payment option of his or her choice, signed the document, and had his or her signature witnessed. A member shall not have the right to select a different payment option on or after the first day of the month in which the member receives his or her first retirement allowance or after the effective date of a deferred retirement option as provided by subsection (6) of this section, except as provided by subsection (5) of Section 1 of this Act. A beneficiary shall not have the right to select a different payment option after the effective date of the beneficiary's retirement allowance as provided in subsection (7) of this section.

- (4) A member or beneficiary choosing a monthly payment option shall have on file at the retirement office his or her birth certificate or other acceptable evidence of date of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.
- (5) (a) The effective date of normal retirement shall be the first month following the month in which employment from all employers participating in any of the systems administered by Kentucky Retirement Systems was terminated.
- (b) The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred, provided the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following the date the notification of approval for disability retirement benefits is mailed. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months of the date the notification of approval for disability retirement benefits is mailed, then the member's form entitled "Notification of Retirement" shall be void. The member shall be required to submit a new form entitled "Notification of Retirement" to apply for disability retirement and reestablish eligibility for disability retirement benefits.

- (c) The effective date of early retirement shall be the first month following the month a correctly completed form entitled "Notification of Retirement" is filed at the retirement office or a future month designated by the member, if employment from all employers participating in any of the systems administered by Kentucky Retirement Systems has been terminated and if the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following termination. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months following the effective retirement date of the member, then the member's form entitled "Notification of Retirement" shall be void and the member shall be required to submit a new form entitled "Notification of Retirement" to apply for early retirement.
- (6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his or her retirement allowance, the effective date of retirement shall be the month following the member's death.
- (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first day of the month in which the member would have received his or her first retirement allowance and his or her beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

➔Section 3. KRS 61.615 is amended to read as follows:

- (1) If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his or her normal retirement date, employed in a position with

the same or similar duties, or in a position with duties requiring greater residual functional capacity and physical exertion, as the position from which he was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the system may reduce or discontinue the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments of a disability retirement allowance made during the employment.

- (2) If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his or her normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he receives a disability retirement allowance, the board may reduce or discontinue the retirement allowance.
- (3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize the services of a medical examiner as provided in KRS 61.665, in determining whether to continue, reduce, or discontinue a disability retirement allowance under this section.
 - (a) The system shall select a medical examiner to evaluate the forms and medical information submitted by the person. If there is objective medical evidence of a mental impairment, the medical examiner may request the board's licensed mental health professional to assist in determining the level of the mental impairment.
 - (b) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
 - (c) The medical examiner shall recommend that disability retirement allowance be continued, reduced, or discontinued.
 1. If the medical examiner recommends that the disability retirement

allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.

2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued, the system shall send notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office.
 - a. The person shall have sixty (60) days from the day that the system mailed the notice to file at the retirement office additional supporting employment or medical information and certify to the retirement office that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner or to appeal the recommendation of the medical examiner to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing.
 - b. If the person fails or refuses to file at the retirement office the forms, the additional supporting employment information, and current medical information or to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.
- (d) The medical examiner shall make a recommendation based upon the evaluation of additional supporting medical information submitted in accordance with paragraph (c)2.a. of this subsection.

1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.
 2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting medical information, the system shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office.
 - a. The person shall have sixty (60) days from the day that the system mailed the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing.
 - b. If the person fails or refuses to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his *or her* retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.
- (e) Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the system, at the retirement office in Frankfort. The request for

- formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.
- (f) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance, except as provided in subsection (6)(d) of this section. This paragraph shall not limit the person's right to appeal to a court.
- (g) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the system mailed the order to the person's last address on file in the retirement office. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement allowance as provided in this section.
- (h) Notwithstanding any other provisions of this section, the system may require the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be mailed to the person or his ***or her*** legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his rights to further disability retirement allowance shall cease.
- (i) All requests for a hearing pursuant to this section shall be made in writing.

- (4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.
- (5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (6) If a disability retirement allowance is reduced or discontinued for a person who began participating in the system prior to January 1, 2014, the person may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:
 - (a) The person may not change his beneficiary or payment option, except as provided by subsection (5) of Section 1 of this Act;
 - (b) If the person has returned to employment with an employer participating in one (1) of the systems administered by Kentucky Retirement Systems, the service and creditable compensation shall be used in recomputing his or her benefit, except that the person's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance;
 - (c) The benefit shall be reduced as provided by KRS 61.595(2);
 - (d) The person shall remain eligible for reinstatement of his or her disability allowance upon reevaluation by the medical review board until his or her normal retirement age. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this section. An application for reinstatement of disability benefits shall be administered as an application under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or conditions for which the person was originally approved for disability benefits shall be considered. Bodily injuries, mental illnesses, diseases, or conditions that came into existence after the person's last day of paid employment shall

not be considered as a basis for reinstatement of disability benefits. Bodily injuries, mental illnesses, diseases, or conditions alleged by the person as being incapacitating, but which were not the basis for the award of disability retirement benefits, shall not be considered. If the person establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits; and

- (e) Upon attaining normal retirement age, the person shall receive the higher of either his or her disability retirement allowance or his or her early retirement allowance.
- (7) No disability retirement allowance shall be reduced or discontinued by the system after the person's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the person is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the person's normal retirement date to the retirement allowance prior to adjustment. No reinstated payment shall be less than the person is receiving upon attainment of the person's normal retirement date.

➔Section 4. KRS 61.630 is amended to read as follows:

- (1) If a retired member who did not elect an optional retirement plan dies at any time on or after the first day of the month in which the member received or would have received his or her first retirement allowance but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to his or her accumulated contributions as of the date of his or her retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the properly designated

beneficiary. *Except as otherwise provided by subsection (5) of Section 1 of this Act,* if a living person designated as the beneficiary predeceases the retired member, the estate shall become the beneficiary. *Except as otherwise provided by subsection (5) of Section 1 of this Act,* if a spouse designated as the beneficiary is divorced from the retired member as of the member's death, the estate shall become the beneficiary.

- (2) If a retired member who elected an optional retirement plan and his *or her* beneficiary both die at any time on or after the first day of the month in which the member received or would have received his or her first retirement allowance but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his *or her* retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the last deceased, except that the retired member's estate shall receive the payment if the beneficiary was the spouse and they were divorced as of the date of the member's death. If the retired member and beneficiary die simultaneously, the estate of the retired member shall become the beneficiary.
- (3) If a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 dies before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the beneficiary.
- (4) If a beneficiary receiving a retirement allowance for sixty (60) or one hundred twenty (120) months certain under KRS 16.576, 16.578, or 61.640, or a beneficiary receiving a retirement allowance under KRS 61.635(5), (6), or (7), dies before

receiving all payments under the plan, the executor or administrator of his *or her* estate shall receive a lump sum payment which shall be the actuarial equivalent to the remaining payments.

- (5) If the system is unable to verify a recipient's whereabouts or whether the recipient is living, the system shall suspend the recipient's retirement allowance. If the recipient is located, the system shall restore to the recipient all suspended retirement allowances.

➔Section 5. Retired members receiving a monthly retirement allowance from one of the systems administered by the Kentucky Retirement Systems who married or remarried prior to the effective date of this Act, and are married to that same spouse on the effective date of this Act, shall have one hundred twenty (120) days from the effective date of this Act to exercise their one (1) time election to select a survivorship payment option for their new spouse in accordance with subsection (5)(b) of Section 1 of this Act.