

**21.420 Death benefits for members -- Designation of beneficiary to receive accumulated contributions or accumulated account balance.**

- (1) After the death of a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.
- (2)
  - (a) If a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.
  - (b) If a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.
- (3) If a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.
- (4) A member, or a retiree who began participating in the plan prior to January 1, 2014, who has not commenced drawing retirement benefits pursuant to KRS 21.400, and who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. A member, or a retiree who began participating in the plan on or after January 1, 2014, who has not commenced drawing retirement benefits pursuant to KRS 21.402, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated account balance of the member. Absent a designation by the member or retiree, the accumulated contributions or accumulated account balance, as applicable based upon the member's participation date, shall be paid to the member's estate.
- (5) A member who began participating in the plan prior to January 1, 2014, who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, and who dies without a spouse or eligible children entitled to survivor's benefits and

before the benefits received by the member equal the accumulated contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. A member who began participating in the plan on or after January 1, 2014, who commences drawing retirement benefits pursuant to KRS 21.402 or 21.410, and who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the accumulated account balance of the member, may designate a beneficiary who shall receive the balance of the accumulated account balance of the member. Any benefits received shall be deducted from the accumulated contributions or accumulated account balance. Absent a designation by the member, the balance of the accumulated contributions or accumulated account balance, as applicable based upon the member's participation date, shall be paid to the member's estate.

- (6) A member who begins participating in the Judicial Retirement Plan prior to January 1, 2014, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.
- (7) A member who begins participating in the Judicial Retirement Plan prior to January 1, 2014, may, prior to the drawing of benefits, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member and the member's spouse. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:
  - (a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.
  - (b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

(8) For a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014:

(a) If the member dies prior to drawing a retirement allowance, then the surviving spouse may elect to:

1. Take a refund of the member's accumulated account balance or accumulated contributions as provided by KRS 21.402; or
2. If the member had at least five (5) years of service in the plan at the time of his or her death, have the member's accumulated account balance annuitized into a monthly benefit payable for life that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided by paragraph (b)1. of this subsection.

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect to have the benefits payable under this paragraph paid to an individual dependent child by completing the forms provided prescribed by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of subsection (4) of this section shall apply to the member.

(b) If a member dies on or after the date the member begins drawing a retirement allowance, the benefits payable to the surviving spouse shall be based upon whether or not the member elects prior to retirement to receive an optional retirement allowance. The election shall be in writing on the forms prescribed by the Judicial Form Retirement System and shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. The optional retirement allowances shall include:

1. Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse;
2. Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse; or
3. Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have one-half (1/2) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect prior to retirement to have the benefits payable under this paragraph paid to an individual dependent child by completing the forms provided by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of

subsection (5) of this section shall apply to the member.

- (c) For purposes of this section a "dependent child" shall mean a child who is less than twenty-one (21) years of age or a disabled child who is eligible for Social Security disability benefits.

**Effective:** July 15, 2016

**History:** Amended 2016 Ky. Acts ch. 12, sec. 8, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 120, sec. 27, effective July 1, 2013. -- Amended 1998 Ky. Acts ch. 389, sec. 1, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 266, sec. 4, effective July 15, 1994. -- Amended 1974 Ky. Acts ch. 386, sec. 3. -- Created 1960 Ky. Acts ch. 84, Art. III, sec. 8.