

AMENDED IN SENATE JUNE 24, 1999

AMENDED IN SENATE APRIL 15, 1999

SENATE BILL

No. 857

Introduced by Senator Peace

February 25, 1999

An act to add ~~Section 75059~~ *Sections 75059 and 75059.1* to the Government Code, relating to the Judges' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

SB 857, as amended, Peace. Judges' Retirement System: benefits.

The Judges' Retirement Law ~~prescribed~~ *prescribes* rights and benefits of a former spouse of a judge when the community property interests of the parties in the system are divided between them by the court in proceedings for legal separation or dissolution of marriage.

This bill would provide that, in ~~cases where the parties were married on the date of the judge's retirement and their community interests in the system were later divided in dissolution or separation proceedings~~ *dissolution or separation proceedings involving a retired judge, when the community property interests of the parties in the retirement allowance are divided as specified*, the former spouse shall be entitled to receive a lifetime benefit, *as specified*, and ~~shall be entitled to designate a beneficiary for any unpaid allowance payable at the time of his or her death, notwithstanding the prior election of benefits by the retired judge.~~ *The bill would make*

those benefits available prospectively to a former spouse of a judge who retired or died prior to January 1, 2000, if the former spouse notifies the system prior to January 1, 2001.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 75059 is added to the
2 Government Code, to read:

3 ~~75059. A former spouse of a retired judge who was
4 married to the judge on the date of retirement shall be
5 eligible for the benefits provided by this section if the
6 community property interest was divided by court order
7 pursuant to paragraph (3) of subdivision (a) of Section
8 2610 of the Family Code. Notwithstanding any prior
9 election of benefits by the retired judge or any other
10 provision of this chapter, a monthly allowance payable
11 pursuant to that division to the former spouse from the
12 former spouse's separate account shall be a lifetime
13 benefit, however, the former spouse shall have the right
14 to designate a beneficiary for any unpaid allowance
15 payable at the time of or following his or her death.~~

16 *75059. (a) Upon the legal separation or dissolution of
17 marriage of a retired member, the court shall include in
18 a judgment or court order the date on which the parties
19 separated.*

20 *(b) If the court orders the division of the community
21 property interest in the system pursuant to paragraph (4)
22 of subdivision (a) of Section 2610 of the Family Code, the
23 retirement allowance payable to the member
24 attributable to periods of service during the marriage
25 shall be irrevocably divided into two separate and distinct
26 payments in the names of the member and nonmember
27 former spouse, respectively. Benefits under this section
28 shall be based on the actuarial equivalent of the member's
29 retirement allowance as of the effective date of the order
30 dividing the benefit. The share of the actuarially reduced
31 monthly allowance payable to the former spouse
32 pursuant to that division shall be a lifetime benefit, and*



1 *the former spouse shall have the right to designate a*
2 *beneficiary for any unpaid allowance payable at the time*
3 *of his or her death.*

4 *(c) Any retirement allowance not explicitly awarded*
5 *by the judgment or court order shall be deemed the*
6 *exclusive property of the member.*

7 *(d) Any survivor benefits payable to any eligible*
8 *surviving spouse of a retired member whose allowance*
9 *was reduced under this section shall be based solely on the*
10 *reduced allowance.*

11 *SEC. 2. Section 75059.1 is added to the Government*
12 *Code, to read:*

13 *75079.1. (a) A former spouse of a judge retired or*
14 *deceased as of January 1, 2000, shall be eligible for the*
15 *benefits provided by this section if the community*
16 *property interest in the system was divided by court*
17 *order pursuant to paragraph (4) of subdivision (a) of*
18 *Section 2610 of the Family Code, the former spouse*
19 *retained an interest in the system, and the parties did not*
20 *divide the member's account pursuant to Section 75050.*
21 *The monthly allowance payable pursuant to that division*
22 *to the former spouse shall be a lifetime benefit and the*
23 *former spouse shall have the right to designate a*
24 *beneficiary for any unpaid allowance payable at the time*
25 *of his or her death.*

26 *(b) The section shall apply retroactively to establish*
27 *eligibility for a former spouse to the benefits provided by*
28 *this section, but any payment made to the former spouse*
29 *shall be prospective and shall commence no earlier than*
30 *(1) the first of the month in which the application was*
31 *received by the system in those cases where the member*
32 *is deceased, or (2) the first of the month in which a valid*
33 *court order is received in cases where the retired judge*
34 *is still living.*

35 *(c) The board has no duty to locate or notify the*
36 *members or former spouses who may be eligible to apply*
37 *for the benefits under this section.*



1 *(d) The benefits provided by this section shall be*
2 *applicable to persons otherwise eligible who notify the*
3 *system in writing prior to January 1, 2001.*

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