



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 2. LEGISLATIVE DEPARTMENT [8902 - 10606] (Division 2 enacted by Stats. 1943, Ch. 134.)

PART 1. LEGISLATURE [8902 - 9937] (Part 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 3.5. Retirement of Legislators [9350 - 9378] (Chapter 3.5 added by Stats. 1947, Ch. 879.)

ARTICLE 8. Survivor's Allowances [9371 - 9378] (Article 8 added by Stats. 1972, Ch. 1409.)

9371. (a) This article applies to members who elect to be subject to its provisions and does not apply to any member while his or her services are included in the federal social security system.

(b) An election pursuant to this section shall be in writing and shall be effective only when received in the office of the board. The board may, on the request of any member who elects to be subject to this article, cancel the election if it finds that the election was made because of the member's mistake or misunderstandings and that the member has acted diligently in making the request. The cancellation is effective as of the first day of the month following the board's action canceling the election.

(Amended by Stats. 2002, Ch. 664, Sec. 93.2. Effective January 1, 2003.)

9372. "Survivor allowance" means the allowance provided for in Section 9374.

(Added by Stats. 1972, Ch. 1409.)

9373. "Disability," "disabled" or "incapacitated" means, with respect to qualification for a survivor allowance, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined on the basis of competent medical opinion secured by the board, to be of permanent or extended and uncertain duration.

(Added by Stats. 1972, Ch. 1409.)

9374. Upon the death of a member before retirement (a) the surviving spouse of the member, who has the care of children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age, or if there is no such spouse, then (b) the guardian of surviving children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 18 years of age or so incapacitated, if any, or (c) the surviving spouse of the member, who does not qualify under (a), if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to, or was in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 18 years of age or so incapacitated, shall be paid three hundred sixty dollars (\$360) if there is one such child, or four hundred thirty dollars (\$430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars (\$180) per month, shall be divided equally among all of those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies, remarries, or enters into a subsequent registered domestic partnership, and if there are children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(A) If there is only one such child, such child shall be paid one hundred eighty dollars (\$180) per month.

(B) If there are two such children, such children shall be paid three hundred sixty dollars (\$360) per month divided equally between them.

(C) If there are three or more such children, such children shall be paid four hundred thirty dollars (\$430) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, regardless of the gender of the surviving spouse, who was married to, or in a registered domestic partnership with, such member prior to the occurrence of the injury or onset of the illness that resulted in death, and has not remarried or entered into a registered domestic partnership subsequent to the member's death, shall be paid one hundred eighty dollars (\$180) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be seventy dollars (\$70) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies, remarries, or enters into a subsequent registered domestic partnership, or if such children reach 18 years of age or die, marry, or enter into a registered domestic partnership prior thereto, each of the member's dependent mother and father who has attained or attains 62 years of age, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars (\$180) per month.

"Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(Amended by Stats. 2016, Ch. 50, Sec. 46. (SB 1005) Effective January 1, 2017.)

9375. For the purposes of Section 9374, a person shall be considered to be under the age of 18 if he or she is under the age of 22 and a full-time student.

(Amended by Stats. 2002, Ch. 664, Sec. 93.4. Effective January 1, 2003.)

9376. When the survivor is entitled to receive a monthly allowance as a death benefit provided by any other provision of this chapter and at the same time is entitled to receive a survivor allowance, the survivor allowance payable in any month shall be reduced by the amount of such other allowance or benefit.

(Added by Stats. 1972, Ch. 1409.)

9377. The rate of contribution of a member subject to this article shall include in addition to his normal rate, two dollars (\$2) per month. Such contributions shall not become a part of a member's accumulated contributions or be treated or administered as normal contributions and shall not be refundable to a member under any circumstances. Such contributions shall be available only for payment of survivors' allowances under this article.

Contributions shall begin on the first of the month or the payroll period following the filing of an election to be subject to this article.

(Added by Stats. 1972, Ch. 1409.)

9378. A person who in any month is an eligible survivor of more than one member, shall receive only one allowance under this article, which shall be the largest of the monthly allowances to which he or she would otherwise be entitled.

(Amended by Stats. 2002, Ch. 664, Sec. 93.5. Effective January 1, 2003.)