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TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655] (Title 8 added by Stats. 1953, Ch. 206.)

CHAPTER 11. Judges' Retirement Law [75000 - 75111] (Chapter 11 added by Stats. 1953, Ch. 206.)

ARTICLE 3.5. Payment of Benefits [75070 - 75074.5] (Article 3.5 added by Stats. 1953, Ch. 1592.)

75070. In lieu of electing the unmodified allowance for his or her life alone, a judge may elect to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75071 when the judge retires on or before December 31, 2017, or Section 75071.5 when the judge retires on or after January 1, 2018.

That election, revocation, or change of election shall be made by a writing filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

If a person qualifies for the survivor allowance under Section 75077 or 75096.3, then the election with respect to any optional settlement other than the optional settlement in subdivision (a) of Section 75071 or subdivision (b) of Section 75071.5, shall apply only to the portion of the retirement allowance that exceeds the amount of the allowance deemed payable to the survivor.

(Amended by Stats. 2016, Ch. 199, Sec. 40. (AB 2404) Effective January 1, 2017.)

75070.5. If a judge elects an optional settlement that provides for a monthly allowance for his or her named beneficiary or beneficiaries, the combined allowance payable to the judge's named beneficiary or beneficiaries and the judge's survivor pursuant to Section 75077 or 75096.3, if applicable, shall not exceed the amount of the judge's monthly allowance.

(Added by Stats. 2016, Ch. 199, Sec. 41. (AB 2404) Effective January 1, 2017.)

75071. This section shall apply to any judge who retires on or before December 31, 2017.

(a) Optional settlement one consists of the right to have a retirement allowance paid to the judge for life and if the judge dies before receiving the amount of the judge's accumulated contributions at retirement, to have the balance at death paid to the judge's designated beneficiary or, if no beneficiary designation is in effect on the date of death, to the judge's estate.

(b) (1) Optional settlement two consists of the right to have a retirement allowance paid to the judge for life and thereafter to the judge's designated beneficiary for life.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the designated beneficiary is a spouse and the marriage is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the beneficiary awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, and the judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(c) (1) Optional settlement three consists of the right to have a retirement allowance paid to the judge for life, and thereafter to have one-half of the judge's retirement allowance paid to the judge's designated beneficiary for life.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the designated beneficiary is a spouse and the marriage is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the beneficiary awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(d) Optional settlement four consists of other benefits that are the actuarial equivalent of the judge's retirement allowance, that the judge may select subject to the approval of the Judges' Retirement System.

(e) When a judge elects, on or after January 1, 2003, to receive benefits provided by paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c), and the judge and judge's optional settlement beneficiary both die before receiving in annuity payments the full amount of the judge's accumulated contributions at retirement, the balance of the judge's accumulated contributions shall be paid to the beneficiary designated by the judge. If the judge had no designated beneficiary in effect on the date of death, payment shall be made to the judge's estate.

(Amended by Stats. 2019, Ch. 330, Sec. 25. (SB 782) Effective January 1, 2020.)

75071.5. This section shall apply to any judge who retires on or after January 1, 2018.

(a) The unmodified allowance consists of the right to have the maximum retirement allowance paid to the judge for his or her life alone. There is no continuing allowance to a beneficiary and there is no return of unused accumulated contributions after the death of the judge.

(b) The Return of Remaining Contributions Option 1 consists of the right to have a retirement allowance paid to the judge until his or her death and, if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her designated beneficiary or estate.

(c) (1) The 100 Percent Beneficiary Option 2 consists of the right to have a retirement allowance paid to the judge until his or her death, and thereafter to have the same monthly allowance paid to his or her designated beneficiary for life; provided that with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) Upon the death of both the judge and the designated beneficiary, any remaining balance of the judge's accumulated contributions at retirement not used to fund the allowances paid to the judge and the designated beneficiary will be paid in a lump sum to the secondary beneficiary or beneficiaries designated by the judge.

(d) (1) The 100 Percent Beneficiary Option 2 with Benefit Allowance Increase consists of the right to have a retirement allowance paid to the judge until his or her death and thereafter to have the same monthly allowance paid to his or her designated beneficiary for life; provided that with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the designated beneficiary is a spouse and the marriage is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the beneficiary awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(e) (1) The 50 Percent Beneficiary Option 3 consists of the right to have a retirement allowance paid to the judge until his or her death, and thereafter to have one-half of the monthly allowance paid to his or her designated beneficiary for life, provided that, with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a monthly allowance equal to one-half of that portion of the judge's allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) Upon the death of both the judge and the designated beneficiary, any remaining balance of the judge's accumulated contributions at retirement not used to fund the allowances paid to the judge and the designated beneficiary will be paid in a lump sum to the secondary beneficiary or beneficiaries designated by the judge.

(f) (1) The 50 Percent Beneficiary Option 3 with Benefit Allowance Increase consists of the right to have a retirement allowance paid to the judge until his or her death and thereafter to have one-half of the monthly allowance paid to his or her designated beneficiary for life; provided that with respect to a judge subject to Section 75077 or 75096.3 at retirement, the beneficiary shall receive a

monthly allowance equal to one-half of that portion of the judge's monthly allowance that exceeds the amount of the allowance deemed payable to the judge's survivor.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the designated beneficiary is a spouse and the marriage is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the beneficiary awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(g) The Flexible Beneficiary Option 4 consists of the right to have a retirement allowance paid to a judge until his or her death, and thereafter to have a monthly allowance paid to his or her designated beneficiary or beneficiaries for life. Subject to Section 75070.5, the judge may select the monthly allowance payable to the designated beneficiary or beneficiaries from the options below:

(1) Specific Dollar Amount to a Beneficiary or Beneficiaries. The judge may specify that upon his or her death after retirement, a monthly allowance in an amount determined by the judge be paid to a designated beneficiary or beneficiaries for life.

(2) Specific Percentage to a Beneficiary or Beneficiaries. The judge may specify that upon his or her death after retirement, a monthly allowance in an amount equivalent to a specified percentage of the judge's allowance be paid to a designated beneficiary or beneficiaries for life.

(Amended by Stats. 2017, Ch. 241, Sec. 21. (SB 525) Effective January 1, 2018.)

75072. If, during the life of a judge who has elected to receive an optional settlement in lieu of a retirement allowance for his or her life alone, or during the life of a beneficiary under an optional settlement upon whose life contingency the optional settlement elected depends, the compensation payable to the judge holding the judicial office to which the retired judge was last appointed or elected by the people prior to his or her retirement is increased, the amounts payable to the retired judge or to his or her beneficiary, or both, shall be recomputed and increased to be the actuarial equivalent of the increased amount of the retirement allowance to which the retired judge would be entitled if he or she had not elected an optional settlement. However, this section does not give any retired judge or his or her beneficiary any claim against the state for any increase in retirement allowance or other benefit for time prior to the increase in the compensation of the incumbent judge.

(Amended by Stats. 2002, Ch. 661, Sec. 3. Effective January 1, 2003.)

75073. A judge who elects to receive optional settlement two or three in Section 75071 may concurrently and irrevocably elect to waive the provision for an increase to his or her allowance, as specified in subdivisions (b) and (c) of Section 75071, and shall, instead, have his or her allowance based upon the waiver of this benefit.

This section shall apply to any judge who retires on or before December 31, 2017.

(Amended by Stats. 2016, Ch. 199, Sec. 44. (AB 2404) Effective January 1, 2017.)

75074. (a) Except as provided in subdivision (b), a judge may, at any time, including, but not limited to, at any time after reaching retirement age, designate a beneficiary to receive the benefits as may be payable to his or her beneficiary under this article, by a writing filed with the board.

(b) No designation may be made in derogation of the community property share of any nonmember spouse when any benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code.

(c) The designation, subject to conditions imposed by board rule, may be by class, in which case the members of the class at the time of the judge's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity, or other facts relating to entitlement of any person designated as beneficiary, and payment made by this system in reliance on any determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of this system for further liability for the benefit.

(Added by Stats. 2002, Ch. 661, Sec. 4. Effective January 1, 2003.)

75074.5. (a) Notwithstanding any other provision of law, the designated beneficiary or beneficiaries of any judge who designated a beneficiary to receive an optional settlement benefit by a writing filed with the board, in compliance with Section 75074, on or after January 1, 2003, and before January 1, 2007, and who dies while in office, shall be entitled to receive the optional settlement benefit the judge elected pursuant to Section 75071, subject to the provisions of subdivisions (b) and (c).

(b) The benefit payable under this section shall be actuarially adjusted to an amount equal in value to the amount the judge would have received if the judge retired on the date of death. If the judge was not eligible to retire on the date of death, the allowance shall not be payable until the date upon which the judge would have been eligible to begin receiving a service retirement allowance under Section 75025.

(c) If the designated beneficiary of a judge who dies while in office receives an allowance pursuant to this section, no person shall have any other claim to benefits otherwise available to the judge's designated or statutory beneficiaries with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law. However, if the judge's surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and the allowance payable under this section shall be actuarially adjusted to reflect the benefit provided by Section 75104.4. All benefits paid under this section are subject to the provisions of subdivision (b) of Section 75074.

(d) This section does not prevent a beneficiary from claiming or receiving payments to which he or she may be entitled under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).

(Added by Stats. 2008, Ch. 1, Sec. 1. Effective January 1, 2009.)