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**GOVERNMENT CODE - GOV**

**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 5. Survivor Benefits [75090 - 75094]** ( Article 5 added by Stats. 1961, Ch. 2136. )

**75090.** The benefits of this article are payable only to the surviving spouse of a judge who elects to come within this article. Any person who becomes a judge after August 22, 1964, may elect to come within this article within six months after becoming a judge or three months after notice is mailed to him or her by the Judges' Retirement System, except as otherwise provided in this section. Election to come within this article is made by filing written notice thereof with the Judges' Retirement System. Any election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after that revocation.

Any judge who was married prior to January 1, 1990, and who had not previously elected to come within this article, shall exercise his or her election prior to April 1, 1990. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75092 had he or she been covered by this article as soon as originally eligible pursuant to this section.

(Amended by Stats. 1989, Ch. 1379, Sec. 4.)

**75091.** (a) If a judge who is credited with at least 10 years of service but less than 20 years of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 1.625 percent of the monthly salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed multiplied by the number of years of service of the deceased judge.

(b) If a judge who is credited with 20 years or more of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 37<sup>1</sup>/<sub>2</sub> percent of the monthly salary payable, at the time the payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed.

(c) For the purposes of this section any fraction of a year equals one year. The allowance is payable commencing upon the death of the judge and continuing until the death of the surviving spouse.

(d) If the surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and no allowance shall be made under this article. If an allowance is paid under this section, no payment shall be made pursuant to Section 75104 or 75104.5.

(Amended by Stats. 2004, Ch. 231, Sec. 15. Effective January 1, 2005.)

**75092.** Any judge electing to come within this article shall contribute two dollars (\$2) a month to the Judges' Retirement Fund. Such contribution shall be deducted from the monthly salary of each judge so electing by the State Controller and each county auditor in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

(Added by Stats. 1961, Ch. 2136.)

**75093.** (a) Notwithstanding any other provisions of this article to the contrary, the surviving spouse of any judge who died in office on or after January 1, 1987, shall receive a monthly allowance, equal to 25 percent of the monthly salary payable at the time payment of the allowance falls due, to the judge last holding the judicial office to which the deceased judge was last elected or appointed.

(b) A surviving spouse who receives an allowance pursuant to this section shall have no other claim with respect to the Judges' Retirement Fund or with respect to any other provisions of the Judges' Retirement Law except that a surviving spouse who receives an allowance pursuant to this section on account of a death in office on or after January 1, 1987, and who was eligible to elect the

allowance payable pursuant to Section 75091, may elect, within a 24-month period after the date of the death of the judge, to become subject to Section 75091 in lieu of the benefit payable pursuant to this section, and that any surviving spouse who was, prior to January 1, 1987, eligible to elect the monthly allowance provided by Section 75091 but, instead, had elected at the time of the judge's death, the monthly allowance payable pursuant to this section, may elect, within a 24-month period after the date of the death of the judge, to receive the monthly allowance provided by Section 75091 in lieu of the benefit payable pursuant to this section. An election revoking the benefit payable pursuant to this section and electing to receive the monthly allowance payable pursuant to Section 75091 shall be filed with the Judges' Retirement System and the effective date of payment provided by Section 75091 shall be the first of the month following the date on which that election was filed.

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

(d) If the surviving spouse has received a benefit under Division 4 (commencing with Section 3201) of the Labor Code, on account of the death of a judge, the amount of that benefit shall be deducted from the allowance payable under this section.

(e) The allowance provided by this section shall be payable commencing with the day following the date of the judge's death.

(f) This section does not apply to the death of any retired judge while serving on assignment in any court.

*(Amended by Stats. 2003, Ch. 10, Sec. 35. Effective May 14, 2003.)*

**75094.** (a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge shall receive an allowance that is equal to the amount that the judge would have received had the judge been retired from service on the date of his or her death and had elected the optional settlement specified in subdivision (b) of Section 75071 and 75073, if all of the following apply to the judge:

(1) The judge died in office on or after January 1, 2005.

(2) The judge had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service.

(3) The judge was eligible to receive an allowance pursuant to Section 75025 or 75033.5.

(b) A surviving spouse receiving an allowance pursuant to this section shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law.

(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

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

*(Amended by Stats. 2016, Ch. 199, Sec. 45. (AB 2404) Effective January 1, 2017.)*