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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 5.1. Surviving Children Benefits [75095 - 75098] (Article 5.1 added by Stats. 1970, Ch. 1100.)

75095. The benefits of this article are payable only to the surviving children of a judge who elects to come within this article. Any person who becomes a judge after November 23, 1970, may elect to come within this article within six months after becoming a judge, or within six months of accepting or acquiring a legal duty to support one or more eligible children, whether his or her own or those of another person.

Any judge who accepted or acquired a legal duty to support one or more eligible children prior to January 1, 1988, and who had not previously elected to come within this article, shall exercise his or her election prior to July 1, 1988. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article as soon as originally eligible pursuant to this section.

Any person who is a judge on November 23, 1970, may elect to come within the provisions of this article on or before July 1, 1971.

(Amended by Stats. 1987, Ch. 1380, Sec. 1.)

75096. The monthly allowance payable pursuant to Section 75091 shall be paid to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under the age of 22 who are full-time students, and to the child or guardian of a surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies prior to retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death. The amount paid shall be divided equally among the children.

"Children," for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her death.

"Disabled" or "disability" means, with respect to qualification for an allowance to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within this article shall be made by filing a 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 revocation.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the judge last held prior to discontinuance of service as a judge.

The amendments to this section made during the 1991–92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993.

(Amended by Stats. 1992, Ch. 176, Sec. 9. Effective July 13, 1992.)

75096.1. Notwithstanding any other provisions of this article to the contrary, the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, of a judge who dies prior to retirement without a surviving spouse, or in the event that the surviving spouse of such judge dies after his death while receiving an allowance payable pursuant to Section 75093, may elect to receive in lieu of any other surviving children's benefits an allowance equivalent to that payable pursuant to Section 75093, including, in the event of the death of the judge without a surviving spouse, the deduction therein provided. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include the judge's election that his children should enjoy the election granted by this section, and contributions shall be made by the judge so electing as provided in Section 75097.

(Amended by Stats. 1983, Ch. 395, Sec. 26.)

75096.2. A monthly allowance equivalent to the allowance payable pursuant to Section 75104.4 shall be paid, in lieu of the allowance provided in Section 75096, or any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age of 22 who are full-time students, of a judge who, although eligible for retirement, dies prior to retirement under this chapter without a surviving spouse, or in the event that the surviving spouse dies after his death while receiving an allowance payable pursuant to Section 75104.4. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefit of this section, and contributions shall be made by the judge so electing as provided in Section 75097.

(Amended by Stats. 1983, Ch. 395, Sec. 27.)

75096.3. A monthly allowance equivalent to the allowance payable pursuant to Section 75077 shall be paid, in lieu of any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, and to the guardian of a surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies after retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death while receiving an allowance payable pursuant to Section 75077. The amount paid shall be divided equally among the children.

"Children," for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her retirement.

"Disabled" or "disability" means, with respect to qualification for an allowance to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefits of this section, and contributions shall be made by any retired judge so electing as fixed by Section 75097 to be deducted from the judge's retirement allowance during his or her lifetime as provided in Section 75106.5.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to discontinuance of service as a judge.

The amendments made to this section during the 1991–92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993. A retired judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article at the time of retirement.

(Amended by Stats. 1992, Ch. 176, Sec. 10. Effective July 13, 1992.)

75097. Any judge electing to come within this article shall contribute three dollars (\$3) a month to the Judges' Retirement Fund. The contribution shall be deducted from the monthly salary of each judge so electing by the 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.

(Amended by Stats. 1992, Ch. 176, Sec. 11. Effective July 13, 1992.)

75098. If an allowance is paid under this article no payment shall be made pursuant to Section 75104 or Section 75104.5, provided however, that if the prospective allowance payable to the children under the provisions of this article upon the death of a judge or retired judge without a surviving spouse is less than the aggregate amount payable under the provisions of Sections 75104 and 75104.5, and the judge has designated his children as his beneficiaries, the guardian of the children under age 18 and the children over 18 may elect to take the latter amount and waive the allowance otherwise payable under this article.

(Amended by Stats. 1983, Ch. 395, Sec. 29.)

