



INFORMATION BULLETIN
Expanded Eligibility for Police Surviving Spouse Benefits
June, 2022

Illinois has adopted Public Act 102-0811 effective January 1, 2023 which provides expanded eligibility for pension benefits for some surviving spouses of police retirees. A copy of the public act is attached.

Prior to adoption of the new law, spouses who married retired police officers after the officer separates from service did not qualify for surviving spouse benefits. Under the new law, a surviving spouse who marries a police officer after he or she retired may potentially qualify for surviving spouse benefits.

Under Section 3-120 of the Illinois Pension Code (Downstate Police), survivor pensions are not payable to spouses and children when a marriage occurs subsequent to separation of service. PA 102-0811 establishes an exception to that exclusion, under a new subsection (c), as follows:

This section does not disqualify a surviving spouse from receiving a survivor's pension if (i) the police officer was married to the surviving spouse for at least 5 years prior to the police officer's death and (ii) the surviving spouse has attained age 62. For a person who first becomes eligible for a benefit under this subsection (c), the benefit shall begin to accrue on the effective date of this amendatory act of the 102nd General Assembly or the first day of the month following the police officer's death, whichever is later. Notwithstanding any other provision of this Code, the benefits for a surviving spouse who qualifies under this subsection shall terminate no later than 15 years after the benefits begin to accrue. For the purpose of Section 1-103.1 of this Code, this subsection is applicable without regard to whether the police officer was in active service on or after the effective date of this amendatory Act of the 102nd General Assembly.

In essence, a surviving spouse who marries a retired police officer after the date-of-separation from service may potentially receive surviving spouse benefits if the marriage lasted 5 or more years and the surviving spouse is 62 or older. The duration of the benefit payment is limited to the lesser of 15 years or the spouse's death.

It is unclear from this legislation whether or not the surviving spouse must be 62 or older at the date of the retiree's death or, if younger, may she or he receive benefits once age 62 is attained. It is also unclear if this new eligibility applies retroactively from the effective date of January 1, 2023. There may be other issues that arise from this new law that are not immediately identifiable.

IPPFA suggests that member pension funds work with the pension fund attorney to address the applicability of this new law to their current and future surviving spouses. IPPFA will include this subject in the "Legal Update" and "Ask the Attorneys" modules at the upcoming October conference.

IPPFA
June, 2022

Public Act 102-0811	
HB5447 Enrolled	LRB102 21821 RPS 30941 b
AN ACT concerning public employee benefits.	
Be it enacted by the People of the State of Illinois, represented in the General Assembly:	
Section 5. The Illinois Pension Code is amended by changing Section 3-120 as follows:	
(40 ILCS 5/3-120) (from Ch. 108 1/2, par. 3-120)	
Sec. 3-120. Marriage after retirement.	
(a) If a police officer marries subsequent to retirement on any pension under this Article other than a pension established under Section 3-109.3, the surviving spouse and the children of such surviving spouse shall receive no pension on the death of the officer, except as provided in subsection (b) or (c).	
(b) Notwithstanding Section 1-103.1 of this Code, this Section shall not be deemed to disqualify from receiving a survivor's pension the surviving spouse and children of any police officer who (i) retired from service in 1973, married the surviving spouse during 1974, and died in 1988, or (ii) retired on disability in October of 1982, married the surviving spouse during 1991, and died in 1992. In the case of a person who becomes eligible for a benefit under this subsection (b), the benefit shall begin to accrue on July 1, 1990 or July 1 of the year following the police officer's death, whichever is later.	
(c) <u>This Section does not disqualify a surviving spouse from receiving a survivor's pension if (i) the police officer was married to the surviving spouse for at least 5 years prior to the police officer's death and (ii) the surviving spouse has attained age 62. For a person who becomes eligible for a benefit under this subsection (c), the benefit shall begin to accrue on the effective date of this amendatory Act of the 102nd General Assembly or the first day of the month following the police officer's death, whichever is later.</u>	
<u>Notwithstanding any other provision of this Code, the benefits for a surviving spouse who qualifies under this subsection shall terminate no later than 15 years after the benefits begin to accrue. For the purposes of Section 1-103.1 of this Code, this subsection is applicable without regard to whether the police officer was in active service on or after the effective date of this amendatory Act of the 102nd General Assembly.</u>	

(Source: P.A. 91-939, eff. 2-1-01.)
Section 90. The State Mandates Act is amended by adding
Section 8.46 as follows:
(30 ILCS 805/8.46 new)
Sec. 8.46. Exempt mandate. Notwithstanding Sections 6 and
8 of this Act, no reimbursement by the State is required for
the implementation of any mandate created by this amendatory
Act of the 102nd General Assembly.