

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2063

By Joint Committee on Pensions, Investments and Benefits

1-13

1 AN ACT concerning retirement and pensions; relating to the Kansas police
2 and firemen's retirement system; providing certain spousal and
3 children's benefits for death resulting from a service-connected
4 disability; **enacting the Michael Wells memorial act**; amending
5 K.S.A. 74-4960a and repealing the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 74-4960a is hereby amended to read as follows: 74-
9 4960a. (1) If any active contributing member who is appointed or
10 employed on or after July 1, 1989, or who makes an election pursuant to
11 K.S.A. 74-4955a, and amendments thereto, to be covered by the provisions
12 of this act becomes disabled as defined in subsection (2), such member
13 shall receive a monthly benefit equal to 50% of the member's final average
14 salary at the time such member was disabled payable in monthly
15 installments, accruing from the first day upon which the member ceases to
16 draw compensation, if a report of the disability in such form and manner
17 as the board shall prescribe is filed in the office of the executive director of
18 the board within 220 days after the date of the commencement of such
19 disability and if an application for such benefit in such form and manner as
20 the board shall prescribe is filed in the office of the executive director of
21 the board within two years of the date of the commencement of such
22 disability, except that the board may waive such two-year requirement, if
23 the board is presented with evidence that clearly warrants such a waiver.

24 (2) For the purposes of this section, "disabled" means total inability to
25 perform permanently the duties of the position of policeman or fireman.

26 (3) In the event a member who is disabled and entitled to such
27 benefits as provided in subsection (1) dies after the date of such disability,
28 the following benefits shall be payable:

29 ~~(a)~~ *On and after ~~July 1, 2019~~ **January 1, 2017***, pursuant to the
30 provisions of K.S.A. 74-49,128, and amendments thereto, *if the member's*
31 *death is not service-connected as defined in K.S.A. 74-4952(10), and*
32 *amendments thereto*, to the member's spouse, if lawfully wedded to the
33 member at the time of the member's death, and if no benefits are payable
34 under ~~subsection (3)~~ of K.S.A. 74-4958a(3), and amendments thereto, a
35 lump-sum benefit equal to 50% of the member's final average salary at the
36 time such member was disabled.

1 (ii)(b) To the member's spouse, if lawfully wedded to the member at
2 the time of the member's death, an annual benefit equal to 50% of the
3 member's benefit payable in monthly installments, to accrue from the first
4 day of the month following the member's date of death and ending on the
5 last day of the month in which the spouse dies. Commencing on the
6 effective date of this act, any surviving spouse, who was receiving benefits
7 pursuant to this section and who had such benefits terminated by reason of
8 such spouse's remarriage, shall be entitled to once again receive benefits
9 pursuant to this section, except that such surviving spouse shall not be
10 entitled to recover any benefits not received after the termination of
11 benefits by reason of such surviving spouse's remarriage but before the
12 effective date of this act. If there is no surviving spouse, or if after the
13 death of the spouse there remain one or more children under the age of 18
14 years or one or more children under the age of 23 years who is a full-time
15 student as provided in K.S.A. 74-49,117, and amendments thereto, the
16 spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-
17 49,123, and amendments thereto, in equal shares to such children and each
18 child's share shall end on the last day of the month in which such child
19 attains the age of 18 years or dies, whichever occurs earlier or in which
20 such child attains the age of 23 years, if such child is a full-time student as
21 provided in K.S.A. 74-49,117, and amendments thereto. Commencing on
22 the effective date of this act, any child who was receiving benefits
23 pursuant to this section and who had such benefits terminated by reason of
24 such child's marriage, shall be entitled to once again receive benefits
25 pursuant to this section subject to the limitations contained in this section,
26 except that such child shall not be entitled to recover any benefits not
27 received after the termination of benefits by reason of such child's
28 marriage but before the effective date of this act.

29 (c) ~~On and after July 1, 2019~~ **January 1, 2017**, pursuant to the
30 provisions of K.S.A. 74-49,128, and amendments thereto, if the member's
31 death is service-connected as defined in K.S.A. 74-4952(10), and
32 amendments thereto, to the member's spouse, if lawfully wedded to the
33 member at the time of the member's death, and if no benefits are payable
34 under K.S.A. 74-4958a(3), and amendments thereto, a spouse's benefit
35 equal to 50% of the member's final average salary or, if the member has
36 no dependents as outlined in subsection (3)(b), the retirement benefit the
37 member would have been entitled to as provided under K.S.A. 74-4958a,
38 and amendments thereto, had the member retired, whichever is greater.
39 Such benefit shall accrue from the day upon which the member ceases to
40 draw compensation.

41 (d) Except as otherwise provided by this subsection, each of the
42 member's children under the age of 18 years or each of the member's
43 children under the age of 23 years who is a full-time student as provided

1 *in K.S.A. 74-49,117, and amendments thereto, shall receive an annual*
2 *benefit equal to 10% of the member's final average salary. Such benefit*
3 *shall accrue from the day upon which the member ceases to draw*
4 *compensation and shall end on the last day of the month in which each*
5 *such child shall attain the age of 18 years or die, whichever occurs earlier*
6 *or in which each such child attains the age of 23 years, if such child is a*
7 *full-time student as provided in K.S.A. 74-49,117, and amendments*
8 *thereto.*

9 (e) *In no case shall the total of the benefits payable under subsection*
10 *(3)(c) and (d) be in excess of 75% of the member's final average salary.*

11 **(f) The provisions of the amendments made to subsection (3) by**
12 **this act shall be named the Michael Wells memorial act.**

13 (4) Any member who was employed for compensation by an
14 employer other than the member's participating employer and whose
15 disability was incurred in the course of such other employment shall not be
16 eligible for any of the benefits provided in subsection (1) or (3).

17 (5) If a member becomes totally and permanently disabled and no
18 benefits are payable under subsection (1), the sum of the member's
19 accumulated contributions shall be paid to the member.

20 (6) Any member receiving benefits under this section shall submit to
21 medical examination, not more frequent than annually, by one or more
22 physicians or any other practitioners of the healing arts holding a valid
23 license issued by the state board of healing arts to practice a branch of the
24 healing arts, as the board of trustees may direct. If upon such medical
25 examination, the examiner's report to the board states that the member is
26 physically able and capable of resuming employment with the same or a
27 different participating employer, the disability benefits shall terminate. A
28 member who has been receiving benefits under the provisions of this
29 section and who returns to employment, as defined in ~~subsection (4) of~~
30 ~~K.S.A. 74-4952(4)~~, and amendments thereto, of a participating employer
31 shall immediately commence accruing service credit which shall be added
32 to that which has been accrued by virtue of previous service.

33 (7) Any member who has been receiving benefits under the
34 provisions of this section for a period of five years shall be deemed
35 permanent and shall not be subject to further medical examinations, except
36 that if the board of trustees shall have reasonable grounds to question
37 whether the member remains totally and permanently disabled, a further
38 medical examination or examinations may be required.

39 (8) Refusal or neglect to submit to examination as provided in
40 subsection (6) shall be sufficient cause for suspending or discontinuing
41 benefit payments under this section and if such refusal or neglect shall
42 continue for a period of one year, the member's rights in and to all benefits
43 under this system may be revoked by the board.

1 (9) In the event that a member becomes disabled and is eligible for
2 benefits provided in this section, such member shall be given participating
3 service credit for the entire period of such disability.

4 (10) Any benefits provided pursuant to this section and any
5 participating service credit given pursuant to subsection (9) shall terminate
6 upon the earliest date such member is eligible for retirement upon
7 attainment of the normal retirement date as provided in K.S.A. 74-4964a,
8 and amendments thereto.

9 (11) Any member who has received benefits under the provisions of
10 this section for a period of five years or more immediately preceding
11 retirement shall have such member's final average salary adjusted upon
12 retirement by the actuarial salary assumption rates in existence during such
13 period. Effective July 1, 1993, each member's current annual rate shall be
14 adjusted upon retirement by 5% for each year of disability after July 1,
15 1993, but before July 1, 1998. Effective July 1, 1998, such member's
16 current annual rate shall be adjusted upon retirement by an amount equal
17 to the lesser of: ~~(1)~~ (a) The percentage increase in the consumer price
18 index for all urban consumers as published by the bureau of labor statistics
19 of the United States department of labor minus one percent; or ~~(2) four~~
20 ~~percent~~ (b) 4% per annum, measured from the member's last day on the
21 payroll to the month that is two months prior to the month of retirement,
22 for each year of disability after July 1, 1998.

23 (12) All payments due under this section to a minor shall be made to
24 a legally appointed conservator of such minor.

25 (13) The provisions of this section shall be effective on and after July
26 1, 1989 and shall apply only to members who were appointed or employed
27 prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-
28 4955a, and amendments thereto; and persons appointed or employed on or
29 after July 1, 1989.

30 (14) Any member who has been receiving benefits under the
31 provisions of this section and who returns to employment with the same or
32 different participating employer in the system shall no longer be deemed
33 disabled under the provisions of this section.

34 (15) Upon the death of a member who has been receiving benefits
35 under the provisions of this section, if no further benefits are payable, the
36 excess, if any, of the member's accumulated contributions over the sum of
37 all benefits paid shall be paid to the member's beneficiary.

38 Sec. 2. K.S.A. 74-4960a is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after its
40 publication in the statute book.