

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 313

*An Act to amend and reenact §§ 51.1-162, 51.1-207, 51.1-218, 51.1-505, 51.1-505.01, and 51.1-511 of the Code of Virginia, relating to the payment of life insurance funds and retirement benefits to beneficiaries of members of the Virginia Retirement System.*

[H 80]

Approved April 1, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 51.1-162, 51.1-207, 51.1-218, 51.1-505, 51.1-505.01, and 51.1-511 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-162. Death before retirement.

A. *If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative according to the order of precedence set forth in this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.* Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed in a manner prescribed by the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed in a manner prescribed by the Board. ~~If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.~~

If no designation has been made, ~~or the death of the designated person occurs prior to the death of the member and another designation has not been made,~~ the proceeds shall be paid to the persons surviving at the death of the member in the following order of precedence:

First, to the spouse of the member;

Second, if no surviving spouse, to the children of the member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of the member;

Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the member;

Fifth, if none of the above, to other next of kin of the member entitled under the laws of the domicile of the member at the time of his death.

~~If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.~~

B. If a member dies in service and if no benefits are payable under subsection C of this section, a retirement allowance shall be paid to the person *or persons* designated as provided in subsection A of this section if the person is the *member's* (i) surviving spouse, (ii) minor child, *or* (iii) ~~mother, or (iv) father of the member parent(s).~~ If no designation has been made, *or if the death of the designated person occurs prior to the death of the member and another designation has not been made,* a retirement allowance shall be paid in the following order of precedence to the *member's* (i *a*) surviving spouse, (ii *b*) minor ~~child~~ children, *or* (iii *c*) ~~mother, or (iv) father of the member parent(s).~~ The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. *If more than one parent survives the deceased member, the allowance shall be divided among them in a manner determined by the Board.* The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection, the member shall be presumed to be age fifty-five on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions or lump sum payment shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced

by the amount of any retirement allowance previously received by the member under this chapter.

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' Compensation Commission shall determine whether the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the children die or attain the age of majority, whichever occurs first. If more than one minor child survives the deceased member, the allowance shall be divided in a manner determined by the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner determined by the Board, shall be paid to the member's parents during their lives.

The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member equals fifty percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by written notification to the Board within ninety days after the death of the member in order to make available a retirement allowance under the provisions of subsection B of this section.

§ 51.1-207. Death before retirement.

A. *If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.* Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed in a manner prescribed by the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed in a manner prescribed by the Board. ~~If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.~~

*If no designation has been made, or the death of the designated person occurs prior to the death of the member and another designation has not been made, the proceeds shall be paid to the persons surviving at the death of the member in the following same order of precedence: as set forth in subsection A of § 51.1-162.*

*First, to the spouse of the member;*

*Second, if no surviving spouse, to the children of the member and descendants of deceased children, per stirpes;*

*Third, if none of the above, to the parents of the member;*

*Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the member;*

*Fifth, if none of the above, to other next of kin of the member entitled under the laws of the domicile of the member at the time of his death.*

*If a member dies at any time before retirement and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member.*

B. If a member dies in service and if no benefits are payable under subsection C, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the *member's* (i) surviving spouse, (ii) minor child, *or* (iii) ~~mother, or parent(s)~~ *father* of the member. If no designation has been made, *or if the death of the designated person occurs prior to the death of the member and another designation has not been made,* a retirement allowance shall be paid in the following same order of precedence *as set forth in subsection B of § 51.1-162 to the* (i) surviving spouse, (ii) minor child, (iii) ~~mother, or~~ *father* of the member. The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever

occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age fifty on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsection B of § 51.1-206 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' Compensation Commission shall determine whether the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the children die or attain the age of majority, whichever occurs first. If more than one minor child survives the deceased member, the allowance shall be divided in a manner determined by the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner determined by the Board, shall be paid to the member's parents during their lives.

The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall equal fifty percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by written notification to the Board within ninety days after the death of the member in order to make available a retirement allowance under the provisions of subsection B of this section.

§ 51.1-218. Death before retirement.

*A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.* Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed with the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed with the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.

*If no designation has been made, or the death of the designated person occurs prior to the death of the member and another designation has not been made, the proceeds shall be paid to the persons surviving at the death of the member in the following same order of precedence: as set forth in subsection A of § 51.1-162.*

*First, to the spouse of the member;*

*Second, if no surviving spouse, to the children of the member and descendants of deceased children, per stirpes;*

*Third, if none of the above, to the parents of the member;*

*Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the member;*

*Fifth, if none of the above, to other next of kin of the member entitled under the laws of the domicile of the member at the time of his death.*

*If a member dies at any time before retirement and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member.*

B. If a member dies in service and if no benefits are payable under subsection C, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the *member's* (i) surviving spouse, (ii) minor child, *or* (iii) ~~mother, or~~ (iv) ~~father of the~~

~~member~~ parent(s). If no designation has been made, *or if the death of the designated person occurs prior to the death of the member and another designation has not been made*, a retirement allowance shall be paid in the ~~following~~ *same* order of precedence *as set forth in subsection B of § 51.1-162 to the* (i) surviving spouse, (ii) minor child, (iii) mother, or (iv) father of the member. The retirement allowance shall be paid to the first person qualifying in the order of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age fifty on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsection B of § 51.1-217 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' Compensation Commission shall determine whether the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the children die or attain the age of majority, whichever occurs first. If more than one minor child survives the deceased member, the allowance shall be divided in a manner determined by the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance shall be paid to the member's parents, divided in a manner determined by the Board, during the lives of the parents.

The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount which, when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall equal fifty percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the Retirement System when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by written notification to the Board within ninety days after the death of the member in order to make available a retirement allowance under the provisions of subsection B of this section.

§ 51.1-505. Amounts of life and accident insurance for each employee; reduction and termination of insurance.

A. Each employee to whom this chapter applies shall, subject to the terms and conditions thereof, be eligible to be insured for an amount of group life insurance plus an amount of group accidental death and dismemberment insurance, each amount equal to twice the amount of his annual salary. If an employee's annual salary is not an even multiple of \$1,000, his annual salary for purposes of this section shall be considered to be the next higher \$1,000. For purposes of this section, the annual salary of a member of the General Assembly shall be his creditable compensation for his last full calendar year of service or his salary under § 30-19.11, whichever is greater, and shall include the full amount of any salaries payable to such member for working in covered positions, regardless of whether such salaries were paid, reduced, or not paid because of such member's service in the General Assembly. The annual salary for an employee retired for service or disability on an immediate retirement allowance may be adjusted by the Board in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title.

Subject to the conditions and limitations of the group insurance policy, the accidental death and dismemberment insurance shall provide payments as follows:

Loss

Amount Payable

For loss of life

Full amount determined in

accordance with the  
provisions of this section

Loss of one hand or	One-half of the amount
of one foot or loss	determined in accordance
of sight of one eye	with the provisions of this
	Section

Loss of two or	Full amount determined in
more such members	accordance with the
	provisions of this section.

For any one accident, the aggregate amount of accidental death and dismemberment insurance that may be paid shall not exceed the maximum amount of accidental death and dismemberment insurance determined in accordance with this section.

Notwithstanding the provisions of § 51.1-124.8, the amount of life insurance for which an employee shall be eligible shall be equal to twice the amount of his annual salary without regard to the date of the employee's qualification for a retirement allowance.

B. The amount of life insurance on an employee who retires for service on an immediate retirement allowance or who elects to postpone the receipt of his retirement allowance to some date other than his last day of service shall be the amount set forth in subsection A, reduced by an amount equal to twenty-five percent thereof on *the* January 1 ~~of following~~ the first full year ~~following from~~ the date the employee is separated from service and each ~~year~~ *January 1* thereafter. The amount of life insurance on an employee who retires for disability on an immediate retirement allowance shall be the amount set forth in subsection A on the date the employee last rendered service reduced by an amount equal to twenty-five percent thereof on January 1 of the first full year following the date the employee attains age sixty-five, and each ~~year~~ *January 1* thereafter. If the employee by statute or Board regulation has been construed to be in service to the beginning of the next school year, the reduction shall not apply until the beginning of the next school year. The reduction shall not decrease the amount of life insurance on an employee to less than twenty-five percent of the amount of life insurance to which the initial reduction is applied. For purposes of this subsection, an employee shall be deemed to have retired only if the employee has five or more years of continuous service as an employee prior to the date of retirement. This requirement shall not be applicable if the employee is retired for disability.

Any employee who was denied membership in the Retirement System because of having attained age sixty at the time of being employed or reemployed and who has five or more years of continuous service immediately prior to separation from service shall retain the life insurance coverage as though he had retired on an immediate retirement allowance.

C. The amount of life insurance for an employee who is retired for disability on an immediate retirement allowance, who also has attained age fifty-five, and who elects to receive a retirement allowance as set forth in subsection C of § 51.1-160, shall be reduced as set forth in subsection B of this section. The reduction shall begin ~~on the~~ January 1 ~~of the first full year~~ following *the first full year* from the date the employee elects a service retirement allowance.

D. All accidental death and dismemberment insurance on an employee shall cease upon the earliest of (i) his separation from service, (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first twenty-four months of leave without pay, (iii) if the employee has not returned to pay status, the expiration of twenty-four months of leave without pay, or (iv) his retirement.

E. Except in case of retirement as provided in subsections B and C of this section, all life insurance on an employee shall cease upon the earliest of (i) his separation from service, or (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first twenty-four months of

leave without pay, or, (iii) if the employee has not returned to pay status, the expiration of twenty-four months of leave without pay. Except in the case of retirement, life insurance shall be subject to a temporary extension of thirty-one days. During this thirty-one-day extension, the employee may convert his life insurance into an individual policy of life insurance (without disability or other supplementary benefits) in any one of the forms, except term insurance, then customarily issued by the insuring company. The amount of life insurance which may be converted shall not exceed the amount of his life insurance under the group insurance policy at the time coverage is terminated. The insurance shall be converted to an individual policy (i a) without evidence of insurability, (ii b) at the premium applicable to the class of risk to which he belongs, and (iii c) to the form and amount of the individual policy at his then attained age, provided application for the individual policy and payment of the first premium thereon is made to the issuing company within the thirty-one days. The right to convert to an individual policy as provided in § 38.2-3333 shall not apply upon termination of this group policy or elimination of a class of insured employees.

The amount of life insurance on each insured employee who retires shall be determined under the provisions of this chapter as it exists on the employee's date of retirement.

F. Each employee of a state institution of higher education or of a local school board who remains in service until the completion of the school year and who makes contributions required to provide insurance coverage until service normally will be resumed the beginning of the next school year shall be deemed to be in service as an employee through the period to which the payments apply. If the employee is retired for service or disability during this period, contributions made by the employee shall be accepted and retained as proper.

G. That the provisions of this section shall apply to all members of the Virginia Retirement System who, on and after July 1, 1995, are covered under the group life insurance program created pursuant to this section and whose effective date of retirement is (i) before July 1, 1970, or (ii) on and after July 1, 1970.

#### § 51.1-505.01. Additional accidental death and dismemberment benefits.

The group life, accidental death, and dismemberment insurance coverage purchased by the Board shall include, but not be limited to, the following benefits:

A. If, as a result of an accident, an insured employee dies at least seventy-five miles from his principal residence, an additional accidental death benefit shall be paid for the preparation and transportation of the employee to a mortuary. The additional benefit shall be the lesser of the actual cost for such preparation and transportation or \$5,000;

B. If an insured employee dies or suffers a dismemberment as a result of an accident that occurs while the employee is driving or riding in a private passenger vehicle, an additional accidental death or dismemberment benefit shall be paid, provided that (i) the private passenger vehicle is equipped with a safety restraint system; (ii) such safety restraint system was being used properly by the insured employee at the time of the accident, as certified in the official accident report or by the official investigating officer; and (iii) at the time of the accident, the driver of the private passenger vehicle held a current license to operate a private passenger vehicle and was not intoxicated, driving while impaired or under the influence of alcohol or drugs, as is defined or determined under applicable law.

The additional benefit shall be the lesser of ten percent of the amount otherwise payable due to such accidental death or dismemberment or \$50,000.

#### C. Death or dismemberment from a felonious assault.

1. If an insured employee dies or suffers a dismemberment as a result of an accident caused by a felonious assault committed by other than an immediate family member, there shall be paid an additional accidental death or dismemberment benefit equal to the lesser of twenty-five percent of the amount otherwise payable due to such accidental death or dismemberment or \$50,000.

2. In addition, if (i) an insured employee dies as a result of an accident caused by a felonious assault committed by other than an immediate family member, and (ii) such insured employee has a qualifying child at the time of such accident, a savings trust account shall be opened for each qualifying child pursuant to the Virginia College Savings Plan (§ 23-38.75 et seq.). The Retirement System shall contribute into the account of each such qualifying child an amount approximately equal to the current cost of purchasing in full a prepaid tuition contract for tuition and mandatory fees at a four-year public institution of higher education in the Commonwealth, as determined under § 23-38.75 et seq. ~~The Retirement System shall be the contributor for each savings trust account, and~~ The qualified beneficiary, as defined in § 23-38.75, shall be the qualifying child on whose behalf such account was opened. Specific benefits of the savings trust account shall be as defined by the Virginia College Savings Plan.

Funds in a savings trust account opened on behalf of a qualifying child shall be used for qualified higher education expenses at eligible institutions, both as defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, as determined by the Board of the Virginia College Savings Plan. Savings trust account funds shall not be disbursed prior to a qualifying child being admitted and enrolled at an eligible institution. Any funds in a savings trust account that are not used by a qualifying child before the expiration of the time period for the use of such funds, as determined by the Virginia College Savings Plan, shall be paid to the Retirement System promptly after

the expiration of such period.

The Retirement System's status as a contributor of a savings trust account shall not be considered in determining whether a qualifying child is eligible for in-state tuition. The provisions of § 23-38.86 shall apply to this section *mutatis mutandis*.

§ 51.1-511. Persons entitled to payment of insurance on employee's death.

Any amount of group life, accidental death, and dismemberment insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the beneficiary designated by the employee under the provisions of the Virginia Retirement System or other retirement system administered by the Board, unless the employee has designated and filed with the Board on a form prepared by the Board, a different beneficiary of his group life, accidental death, and dismemberment insurance. If no beneficiary has been designated by the employee, *or if the death of the designated person occurs prior to the death of the member and another designation has not been made*, the proceeds shall be paid to the persons surviving at the date of his death, in the following same order of precedence: *as set forth in subsection A of § 51.1-162*.

First, to the spouse of the employee;

Second, if no surviving spouse, to the children of the employee and descendants of deceased children, *per stirpes*;

Third, if none of the above, to the parents of the employee;

Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the employee;

Fifth, if none of the above, to other next of kin of the employee entitled under the laws of the domicile of the employee at the time of his death.

Payment which otherwise would be made to the estate of an employee may be made in accordance with the provisions of § 51.1-164.