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**HOUSE BILL NO. 593**

Offered January 12, 2022

Prefiled January 11, 2022

*A BILL to amend and reenact §§ 51.1-207 and 51.1-218 of the Code of Virginia, relating to pensions; law-enforcement officers; death before retirement.*

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Patron—VanValkenburg

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Committee Referral Pending

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

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

**§§ 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 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 and filed in a manner prescribed by the Board.

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 same order of precedence as set forth in subsection A of § 51.1-162.

B. To the extent required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans, if a member dies in service, including a member performing active duty military service in the armed forces of the United States, 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) 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 same order of precedence as set forth in subsection B of § 51.1-162. 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 50 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, *unless the member dies by suicide or is a deceased person, as that term is defined in § 9.1-400, in which event the benefits payable pursuant to subsection B of § 51.1-206 shall continue until the date on which the member would have reached his retirement age, as described in § 51.1-206.* If the person elects in writing, 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

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59 which when added to the compensation payable under the Virginia Workers' Compensation Act for the  
60 death of the member, shall equal 50 percent of the member's average final compensation if the survivor  
61 does not qualify for death benefits under the provisions of the Social Security Act in effect on the date  
62 of the death of the member. If the survivor qualifies for death benefits under the provisions of the  
63 Social Security Act in effect on the date of the death of the member, the allowance payable from the  
64 retirement system when added to the compensation payable under the Virginia Workers' Compensation  
65 Act shall equal thirty-three and one-third percent of the member's average final compensation.

66 Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this  
67 subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by  
68 written notification to the Board within 90 days after the death of the member in order to make  
69 available a retirement allowance under the provisions of subsection B.

70 **§ 51.1-218. Death before retirement.**

71 A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount  
72 of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative  
73 according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall  
74 be reduced by the amount of any retirement allowance previously received by the member under this  
75 chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated  
76 contributions credited to his account in the event of the death of the member prior to retirement. The  
77 designation must be made on a form prepared by the Board, signed by the member, and filed with the  
78 Board. The designation may be changed by the member by the written designation of some other  
79 person, signed and filed with the Board.

80 If no designation has been made, or the death of the designated person occurs prior to the death of  
81 the member and another designation has not been made, the proceeds shall be paid to the persons  
82 surviving at the death of the member in the same order of precedence as set forth in subsection A of  
83 § 51.1-162.

84 B. To the extent required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered,  
85 and the regulations thereunder applicable to governmental plans, if a member dies in service, including a  
86 member performing active duty military service in the armed forces of the United States, and if no  
87 benefits are payable under subsection C, a retirement allowance shall be paid to the person designated as  
88 provided in subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor  
89 child, or (iii) parent(s). If no designation has been made, or if the death of the designated person occurs  
90 prior to the death of the member and another designation has not been made, a retirement allowance  
91 shall be paid in the same order of precedence as set forth in subsection B of § 51.1-162. The retirement  
92 allowance shall be continued during the lifetime of the person or in the case of a minor child until the  
93 child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the  
94 decreased retirement allowance that would have been payable under the joint and survivor option so that  
95 the same amount would be continued to such person after the member's death. If the member dies prior  
96 to his fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age 50  
97 on his date of death. When determining the allowance that would have been payable to the member had  
98 the member retired on the date of his death, the provisions of subsection B of § 51.1-217 shall not  
99 apply, *unless the member dies by suicide or is a deceased person, as that term is defined in § 9.1-400,*  
100 *in which event the benefits payable pursuant to subsection B of § 51.1-206 shall continue until the date*  
101 *on which the member would have reached his retirement age, as described in § 51.1-206.* If the person  
102 elects in writing, the amount of the member's accumulated contributions shall be paid to the person  
103 exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount  
104 of any retirement allowance previously received by the member.

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

116 The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount  
117 which, when added to the compensation payable under the Virginia Workers' Compensation Act for the  
118 death of the member, shall equal 50 percent of the member's average final compensation if the survivor  
119 does not qualify for death benefits under the provisions of the Social Security Act in effect on the date  
120 of the death of the member. If the survivor qualifies for death benefits under the provisions of the

121 Social Security Act in effect on the date of the death of the member, the allowance payable from the  
122 Retirement System when added to the compensation payable under the Virginia Workers' Compensation  
123 Act shall equal thirty-three and one-third percent of the member's average final compensation.  
124 Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this  
125 subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by  
126 written notification to the Board within 90 days after the death of the member in order to make  
127 available a retirement allowance under the provisions of subsection B.

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