

HOUSE No. 2598

The Commonwealth of Massachusetts

PRESENTED BY:

Paul McMurtry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to updating judicial retirement benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/18/2023</i>
<i>Deborah B. Goldberg</i>	<i>Office of the State Treasurer and Receiver General</i>	<i>1/19/2023</i>

HOUSE No. 2598

By Representative McMurtry of Dedham, a petition (accompanied by bill, House, No. 2598) of Paul McMurtry and Deborah B. Goldberg relative to updating judicial retirement benefits. Public Service.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to updating judicial retirement benefits.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 32 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended by striking out section 65C and inserting in place thereof the following
3 section:-

4 Section 65C: Joint and Survivor Allowance

5 (1) A chief justice, justice, associate justice, judge, associate judge, or special justice,
6 hereinafter in this section called judge, who is retired or who resigns and who is entitled to a
7 pension or retirement allowance for life under the provisions of section sixty-five A, sixty-five B
8 sixty-five D, sixty-five F, or sixty-five I may elect to receive, in lieu thereof, a pension or
9 retirement allowance for life at a lesser annual rate with provision that upon his death, there shall
10 be paid to such surviving eligible beneficiary as such member shall have nominated in his
11 written election of this option, two-thirds of such pension or retirement allowance for life at a
12 lesser annual rate provided, however, that if such eligible beneficiary dies on or after the date

13 such lesser retirement allowance becomes effective and before the death of such member, such
14 member thereafter shall be paid a full retirement allowance and may not choose another option.
15 Such full retirement allowance shall be determined by multiplying the amount of the lesser
16 retirement allowance at the time of the death of such eligible beneficiary by a fraction the
17 numerator of which is the yearly amount of the full retirement allowance which such member
18 would have received at the time his retirement allowance became effective, and the denominator
19 of which is the yearly amount of the lesser retirement allowance which such member received at
20 the time his retirement allowance first became effective. The yearly amount of such lesser
21 retirement allowance shall be determined so that the value, on the date such allowance becomes
22 effective, of the prospective payments to such member and to such eligible beneficiary shall be
23 the actuarial equivalent of the value on such date of the full retirement allowance; provided,
24 however, that the yearly amount of such lesser retirement allowance shall be decreased to reflect
25 the costs to the system of providing full retirement allowances in accordance with the first
26 sentence of this paragraph. Such election shall be in writing on a prescribed form and filed with
27 the appropriate retiring authority at the time of retirement or resignation or within thirty days
28 thereafter. The computation of said actuarial equivalent shall be subject to supervision and
29 verification in accordance with the provisions of section twenty-one by the actuary appointed by
30 the public employee retirement administration commission.

31 No person shall be eligible for nomination as beneficiary under the joint and survivor
32 allowance under this section unless such person is the spouse, former spouse who has not
33 remarried, child, father, mother, sister or brother of such member.

34 If a spouse receiving an allowance as beneficiary under this option dies leaving any
35 children of the deceased member and of such spouse who are under age eighteen, such amount as

36 would have been paid to such spouse shall be divided into such number of equal shares as there
37 are such children, and each such share shall be paid to a guardian for the benefit of each such
38 child until the child reaches age eighteen.

39 (2) At any time prior to his retirement a judge upon his written notice on a prescribed
40 form filed with the state retirement board prior to his death, may nominate an eligible beneficiary
41 as set forth under subdivision (1) of this section, who if such member dies before being retired
42 shall receive the yearly amount of the joint and survivor allowance to which such member would
43 have been entitled had his retirement taken place on the date of his death.

44 If a judge, who would be entitled, upon resigning, to a pension or retirement allowance
45 for life under sections sixty-five A, sixty-five B or sixty-five D, dies before resigning, the
46 provisions of paragraph (d) of subdivision (2) or section 12 of chapter 32 shall apply.

47 If a judge forty-five years of age or over but under the age of seventy who would be
48 entitled, upon resigning, to a pension or retirement allowance for life under section sixty-five A
49 or sixty-five D except for not having attained age seventy, or if a judge forty-five years of age or
50 over but under the age of sixty-five, who would be entitled upon resigning to a pension or
51 retirement allowance under said section sixty-five A or sixty-five D, except for not having
52 attained age sixty-five, or if a judge fifty-five years of age or over but under age sixty-five, who
53 would be entitled upon resigning to a pension or retirement allowance for life under section
54 sixty-five B, except for not having attained age sixty-five dies before resigning, the judge's
55 eligible beneficiary shall receive a pension or retirement allowance for life computed as
56 provided in the second paragraph except that, in making such computation the proportion of the
57 annual rate of salary payable to a judge under section sixty-five A or sixty-five D or the

58 proportion of the average yearly earning for the required years of service payable to a judge
59 under section sixty-five B shall be reduced by one per cent for each year or part thereof by which
60 the date of death precedes the attainment of the age at which the judge would have received,
61 upon resigning, his pension or retirement allowance for life under section sixty-five A, sixty-five
62 B or sixty-five D, respectively.

63 Pensions under this section payable to surviving beneficiaries shall be paid from the
64 same source and in the same manner as the salaries of like judicial officers of the court from
65 which the judge was retired or resigned or of which he was a judge at the time of his death are
66 paid. Retirement allowances under this section payable to surviving beneficiaries of judges
67 subject to the requirements of paragraphs (a) and (b) of section sixty-five D shall be paid
68 pursuant to the provisions of paragraph (h) of section sixty-five D.

69 The provisions of subdivisions (1) and (2) of this section shall not apply to a surviving
70 spouse unless such surviving spouse and such deceased judge were living together at the time of
71 such judge's death or, if living apart, they were living apart, in the opinion of the appropriate
72 retiring authority, for justifiable cause other than desertion or moral turpitude on the part of such
73 surviving spouse. Payments under said second and third paragraphs shall terminate upon the
74 remarriage of such surviving spouse.

75 In determining whether a judge who was appointed prior to January second, nineteen
76 hundred and seventy-five, has served in any office or offices at least ten years continuously and
77 would be for the purposes of the second or third paragraphs of this section, entitled to a pension
78 for life under section sixty-five A or sixty-five B the period, not exceeding one year, of his
79 wartime service as defined in section one of chapter thirty-one, whether before or after his

80 appointment as a judge, shall be added to and deemed continuous with the period of his service
81 in any such office or offices.

82 In determining whether a judge who was appointed prior to January second, nineteen
83 hundred and seventy-five, has served in any such office or offices at least ten years continuously
84 and would be, for the purposes of the second or third paragraph of this section, entitled to a
85 pension for life under section sixty-five A or sixty-five B, each three years spent by him in the
86 service of the commonwealth or of any county, city or town thereof shall count as one year of
87 creditable service and each such year so credited, but in no event to exceed more than four years
88 of such creditable service, shall be added to and deemed continuous with the period of his
89 service in any such office or offices.

90 If a judge subject to the provisions of paragraphs (a) and (b) of section sixty-five D dies
91 before resigning or before retiring and if the eligible beneficiary is not entitled to a pension or
92 retirement allowance under the provisions of this section, or if a judge subject to the provisions
93 of paragraphs (a) and (b) of said section sixty-five D dies before resigning or before retiring and
94 if there is no eligible beneficiary who is eligible to receive a pension or retirement allowance
95 under the provisions of this section, all funds previously withheld and deducted under the
96 provisions of paragraph (b) of said section sixty-five D plus interest shall be returned to the
97 estate of the deceased.

98 SECTION 2. Paragraph (h) of section 65D of chapter 32 of the General Laws, as so
99 appearing, is hereby amended by inserting, after the first sentence, the following sentence: -
100 “Payments of such retirement allowances and pensions shall be made as provided in sections
101 twelve and thirteen.”