

## Chapter 597

(Senate Bill 709)

AN ACT concerning

### State Retirement and Pension System – Disability Retirement Application – Surviving Beneficiary

FOR the purpose of authorizing a certain beneficiary to submit an application for disability retirement under certain circumstances; requiring the Board of Trustees of the State Retirement and Pension System to accept an application for disability retirement from a certain beneficiary under certain circumstances; requiring the medical board to review a certain application to make a certain determination under certain circumstances; requiring the Board of Trustees to review a certain application to make a certain determination; requiring the Board of Trustees to grant a disability retirement allowance under certain circumstances; requiring a certain ~~burden of proof to be on a certain~~ beneficiary to submit to the Board of Trustees an affidavit signed by a certain individual; requiring a disability retirement allowance to begin at a certain time under certain circumstances; providing for the application of this Act; and generally relating to an application for disability retirement submitted by a surviving beneficiary of a deceased member of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 29–103(a) and 29–104  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### Article – State Personnel and Pensions

29–103.

(a) Subject to § 29–104 of this subtitle, an application for disability retirement may be submitted:

- (1) by a member;
- (2) by a former member; [or]
- (3) BY A SURVIVING BENEFICIARY OF A DECEASED MEMBER; OR**

[(3)] (4) for a member, as provided in subsections (b) through (d) of this section.

29–104.

(a) Except as provided in [subsection (c)] **SUBSECTIONS (C) AND (D)** of this section and subject to subsection [(d)] **(E)** of this section, an application for disability retirement must be submitted before the date membership ends.

(b) (1) This subsection applies only to an application for an ordinary or accidental disability retirement allowance filed by a member of the Employees' Pension System or the Teachers' Pension System who is not subject to the contributory pension benefit or the Alternate Contributory Pension Selection and who separated from employment on or before June 30, 2005.

(2) For the purpose of submitting an application for disability, membership continues for 4 years after paid employment ends.

(c) (1) Except as provided in paragraph (2) of this subsection, the Board of Trustees may accept an application for ordinary, accidental, or special disability retirement from a former member within 24 months after the month membership ended if the former member proves to the satisfaction of the medical board that failure to submit an application while a member was attributable solely to physical or mental incapacity during the filing period.

(2) The Board of Trustees may accept an application for ordinary or accidental disability retirement from a former member of the Teachers' Retirement System within 12 months after the month membership ended if the former member of the Teachers' Retirement System proves to the satisfaction of the medical board that failure to submit an application while a member of the Teachers' Retirement System was attributable solely to physical or mental incapacity during the filing period.

(3) If the Board of Trustees accepts a disability retirement application under this subsection and grants a disability retirement allowance, the retirement allowance begins as of the first day of the month after the Board of Trustees receives the application.

**(D) (1) THE BOARD OF TRUSTEES SHALL ACCEPT AN APPLICATION FOR ORDINARY, ACCIDENTAL, OR SPECIAL DISABILITY RETIREMENT FROM A SURVIVING BENEFICIARY OF A DECEASED MEMBER, IF ~~THE DISABILITY APPLICATION~~ A PRELIMINARY APPLICATION FOR DISABILITY RETIREMENT OR AN APPLICATION FOR DISABILITY RETIREMENT:**

(I) IS SIGNED AND DATED BY THE DECEASED MEMBER WITHIN ~~1 WEEK~~ 7 DAYS BEFORE THE DEATH OF THE MEMBER; AND

(II) IS RECEIVED BY THE BOARD OF TRUSTEES ON OR BEFORE ~~1 MONTH~~ 30 DAYS AFTER THE DATE OF THE DEATH OF THE MEMBER.

(2) IF THE BOARD OF TRUSTEES RECEIVES AN APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE MEDICAL BOARD SHALL REVIEW THE APPLICATION TO DETERMINE IF THE DECEASED MEMBER WAS MENTALLY OR PHYSICALLY INCAPACITATED FOR THE FURTHER PERFORMANCE OF THE NORMAL DUTIES OF THE INDIVIDUAL'S POSITION; AND

(II) THE BOARD OF TRUSTEES SHALL REVIEW THE APPLICATION TO DETERMINE ~~THE AUTHENTICITY OF THE SIGNATURE OF THE DECEASED MEMBER~~ IF THE PRELIMINARY APPLICATION FOR DISABILITY RETIREMENT OR THE APPLICATION FOR DISABILITY RETIREMENT WAS SIGNED BY THE DECEASED MEMBER BEFORE THE DEATH OF THE MEMBER.

(3) THE BOARD OF TRUSTEES SHALL GRANT A DISABILITY RETIREMENT ALLOWANCE, IF:

(I) THE MEDICAL BOARD DETERMINES THAT THE DECEASED MEMBER WOULD HAVE BEEN ELIGIBLE FOR DISABILITY RETIREMENT AT THE TIME THE DECEASED MEMBER SIGNED THE DISABILITY APPLICATION; AND

(II) THE BOARD OF TRUSTEES DETERMINES THAT THE SIGNATURE IS VALID.

~~(4) THE BURDEN OF PROOF SHALL BE ON THE SURVIVING BENEFICIARY TO ESTABLISH THE FORMAL AUTHENTICITY OF THE SIGNATURE OF THE DECEASED MEMBER.~~

(4) IN ORDER FOR THE SIGNATURE TO BE VALID, A SURVIVING BENEFICIARY SHALL SUBMIT TO THE BOARD OF TRUSTEES AN AFFIDAVIT SIGNED BY AN INDIVIDUAL WHO WITNESSED THE DECEASED MEMBER SIGNING THE PRELIMINARY APPLICATION FOR DISABILITY RETIREMENT OR THE APPLICATION FOR DISABILITY RETIREMENT BEFORE THE DEATH OF THE MEMBER.

(5) IF THE BOARD OF TRUSTEES ACCEPTS A DISABILITY RETIREMENT APPLICATION UNDER THIS SUBSECTION AND GRANTS A

**DISABILITY RETIREMENT ALLOWANCE, THE RETIREMENT ALLOWANCE BEGINS AS OF THE FIRST DAY OF THE MONTH AFTER THE BOARD OF TRUSTEES RECEIVES THE APPLICATION.**

**[(d)](E)** (1) This subsection does not apply to an application for special disability under the State Police Retirement System or an application for accidental disability under the Law Enforcement Officers' Pension System or to an application for accidental disability under the Correctional Officers' Retirement System.

(2) The Board of Trustees may not accept an application for accidental disability filed by a member or former member more than 5 years after the date of the claimed accident.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who dies on or after May 1, 2009, while employed by the State as a member of the Employees' Retirement System or Employees' Pension System and an application for disability is submitted by a surviving beneficiary within ~~1-month~~ 30 days of the death of the member.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 20, 2010.**