

**HOUSE . . . . . No. 2598**

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**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>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>3/28/2023</i>

**HOUSE . . . . . No. 2598**

By Representative McMurtry of Dedham, a petition (accompanied by bill, House, No. 2598) of Paul McMurtry and Deborah B. Goldberg (Treasurer and Receiver General) 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."