HOUSE . . . . . No. 4626

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 13, 2024.

The committee on Public Service, to whom was referred the petition (accompanied by bill, House, No. 2536) of Jessica Ann Giannino and others relative to disability pensions for violent crimes committed against certain public employees, reports recommending that the accompanying bill (House, No. 4626) ought to pass.

For the committee,

KENNETH I. GORDON.

FILED ON: 5/2/2024

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The Commonwealth of Massachusetts

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

An Act relative to disability pensions for violent crimes.

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

SECTION 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2016 Official Addition, is hereby amended by inserting after the word “inclusive”, in line 599, the following definition:-

“Violent act injury”, a catastrophic, life-threatening and/or life altering and permanent bodily injury sustained as a direct and proximate result of a violent attack upon a person by means of a dangerous weapon, including a firearm, knife, automobile, explosive device or other dangerous weapon, which for the purposes of this section shall be defined as “an item which is designed for the purpose of causing serious injury or death.”

SECTION 2. Said chapter 32 is hereby further amended by striking out subsection (1) of section 7 and inserting in place thereof the following subsection:-

Section 7. (1) Conditions of Allowance. Any member in service classified in Group 1, Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of subdivision (2) of section twenty-six are not applicable, who is unable to perform the essential

duties of the member’s job and that such inability is likely to be permanent before attaining the maximum age for the member’s group by reason of a personal injury or violent act injury sustained or a hazard undergone as a result of, and while in the performance of the member’s duties at some definite place and at some definite time on or after the date of becoming a member or prior to such date while any provision of this chapter relating to noncontributory pensions was applicable to the member, without serious and willful misconduct on the member’s part, upon the member’s written application on a prescribed form filed with the board and the member’s respective employer or upon such an application by the head of the member’s department after a hearing, if requested, as provided for in subdivision (1) of section sixteen and subject to the conditions set forth in said section and in this section, shall be deemed retired for an accidental disability as of a date which shall be specified in such application and which shall be not less than fifteen days nor more than four months after the filing of such application but in no event later than the maximum age for the member’s group. Except as provided for in subdivision (3) of this section, no such retirement shall be allowed unless such injury or violent act injury was sustained or such hazard was undergone within two years prior to the filing of such application or, if occurring earlier, unless written notice thereof was filed with the board by such member or on the member's behalf within ninety days after its occurrence. No retirement under clauses (i) to (iii), inclusive, shall be allowed unless the board, after a review of the evidence it deems appropriate, and after a review by the commission, pursuant to the provisions of section twenty-one, and including in any event on examination by the regional medical panel provided for in subdivision (3) of section six and including a certification of such incapacity by a majority of the physicians on such medical panel, shall find that such member is physically unable to perform the essential duties of the member's job and that such inability is likely to be

permanent, and that the member should be so retired. No retirement under clause (iv) shall be allowed unless the board, after a review of the evidence it deems appropriate, and after a review by the commission, pursuant to the provisions of section twenty-one, and including in any event on examination or re-examination by the regional medical panel provided for in subdivision (3) of section six and including a certification of such incapacity by a majority of the physicians on such medical panel, shall find that such member is physically unable to perform the essential duties of the member's job because of a violent act injury and that such inability is likely to be permanent, and that the member should be so retired. Any member who was injured while a member of a retirement system established in any governmental unit other than that by which the member is presently employed, and who has complied with the provisions of this section as to notice, or whose case falls under paragraph (3), shall file such application with the retirement board of the unit where he is presently employed. Such board shall secure a statement of facts and records, which it shall be the duty of the retirement board of the first governmental unit to furnish, and on which it shall be entitled to make recommendations.

Prior to the determination of a retirement under this section, a member shall submit to the retirement board a written statement authorizing release of information from the federal internal revenue service and the department of revenue relative to the annual gross earned income of the member in pursuant to an agreement between the federal internal revenue service, the department of revenue, and the public employee retirement administration commission in accordance with section ninety-one A.

SECTION 3. Paragraph (a) of subsection (2) of said section 7 of said chapter 32 is hereby amended by inserting after clause (iii) the following clauses:-

(iv) A yearly amount of pension for any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any municipal or public emergency medical technician or licensed health care professional who is unable to perform the essential duties of the member's job by reason of a violent act injury, paid monthly, shall be equal to 100 per cent of their regular compensation, including all applicable benefits and stipends, that the member was earning on the date of such violent act injury, as defined in section 1 of this chapter. The annual amount of pension payable to such member shall be equal to the regular rate of compensation which the member would have been paid had the member continued in service at the grade held by the member at the time of their retirement until their death or reaching mandatory retirement age, whichever comes first; provided that, if the member reaches the mandatory retirement age, the member shall be entitled thereafter to 80 per cent of the average annual rate of compensation paid to the member in the previous 12 months, including any cost of living increases, as defined in sections 102 and 103 of this chapter. Upon retirement, the member shall receive a lump sum payment from the applicable retirement board equal to the member's total accumulated retirement deductions. In the event that the member shall predecease their spouse the member's spouse shall be entitled to 75 per cent of the member's annual pension, paid monthly, as long as such spouse shall live; provided that, when the member would have reached the mandatory retirement age, the member's spouse shall continue to be entitled to 75 per cent of the member's annual pension, including any cost of living increases, as defined in sections 102 and 103 of this chapter, that the member would have received upon reaching the mandatory retirement age; provided, however, that if a beneficiary is

eligible for benefits under this section and under option (c) of section 12, the beneficiary shall elect to receive either a benefit under option (c) or a benefit pursuant to this section but shall not be eligible for both benefits. In the event that the member and the member's spouse predecease their children, the member's surviving unmarried children, if any, who are under age 18 or, if over that age and under age 22, are full-time students at an accredited educational institution, or who are over age 18 and physically or mentally incapacitated from earning income on the date of such member's retirement, shall be entitled to receive a pension of equal proportion, paid monthly, which shall total 75 per cent of the amount of the pension payable to the member at the time of their death.

The words "full-time student" and "accredited educational institutions" shall have the same meaning that they have under clause (iii). When a child no longer meets the qualifications for receipt of a pension allocation under this section, said child's pension allocation shall cease and any remaining qualified children shall continue to receive the same amount each received before any child's allocation ceased. Any member eligible to receive a pension under clause (iv) shall be indemnified for all hospital, medical and other healthcare expenses, not otherwise covered by health insurance, related to treatment of injuries that have been or may be incurred after the date of the member's retirement as a result of the injuries sustained by the member relating to the violent act injury while in the performance of the member's duties.

Notwithstanding the hours and earnings limitations of section 91 or 91A of chapter 32 of the General Laws or any other general or special law to the contrary, the annual earnings of such member of the retirement system from employment in the service of the commonwealth, county, city, town, district or authority, including as a consultant or independent contractor or as a person whose regular duties require that his time be devoted to the service of the commonwealth,

county, city, town, district or authority during regular business hours, may equal up to one-half the amount of his or her retirement allowance without refund penalty. Such member shall not be eligible for employment under Groups 3-4, inclusive, of the retirement system while receiving benefits for accidental disability retirement outlined under clause (iv) of paragraph (a) of subsection (2) of said section 7 of said chapter 32. A member who is receiving benefits under clause (iv) of paragraph (a) of subsection (2) of said section 7 of said chapter 32 may be employed by a private entity (or in the private sector, one or the other) without refund penalty provided that their service is not devoted to the commonwealth, county, city, town, district or an authority. Nothing in this section shall prohibit a member under clause (iv), or such member's eligible spouse or children, from receiving additional retirement benefits not required by this section.

(v) Critical Incident Stress Management

Any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any municipal or public emergency medical technician shall participate in critical incident stress management debriefing following any incident involving exposure to actual or threatened death, serious injury, or sexual violence as defined in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders, or any other incident reasonably warranting a critical incident stress management debriefing, as determined by an emergency service provider certified by the Massachusetts Peer Support Network or International Critical Incident Stress Foundation, Inc. At the discretion of the emergency service provider, or at the request of any member, the member will seek a

behavioral health consultation on his or her own time. Anything discussed during the behavioral health consultation shall be kept in confidentiality in the following manner:

a. All conversations, records, recordings, or other documents resulting from the behavioral health consultation will be subject to physician-patient privilege and will not be provided to the employer except at the request of the member;

b. The employer may contact the behavioral health professional to confirm the date and attendance of the member and credentials of the professional.