

PROPOSAL FOR RETIREMENT SYSTEM LEGISLATION
(for the 2013 Legislative Session)

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PROPOSER'S NAME/TITLE: James Smith
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1. Which retirement systems would be covered by the legislation?
Sheriffs Retirement System

2. What is the problem or issue?
SRS members suffer a benefit reduction when they designate a spouse as beneficiary. Other law enforcement retirement systems do not have this benefit reduction.

3. What do you want the legislation to do?
Amend the SRS to be consistent with similar sections in the Police, Firefighters and Highway Patrol Retirement systems.

4. If possible, please list the Montana Code Annotated (MCA) sections to be amended.
Amend MCA 19-7-1001. Strike current language. Insert language from the Municipal Police retirement System, MCA 19-9-804. See Attached)

5. If the proposed change requires additional funding, what funding sources do you propose (i.e., an increase in employer contributions, employee contributions, both, other?)
Pension reform in the 2013 Session is likely to include increased employer & employee contributions.

6. Has similar legislation been requested in the past, been considered in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.
Not to my knowledge

7. If you are holdover senator or unopposed legislative candidate, would you like to make this a formal bill draft request for the 2013 Legislative Session?

PLEASE RETURN THIS FORM BY AUGUST 1, 2012

Sheriff's Retirement System

Delete current language at MCA 19-7-1001.

19-7-1001. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant, as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (1)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis; (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

(2) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(5) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in [19-2-907](#). The benefit must revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the contingent annuitant.

(6) A member who applies to revert under subsection (5) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement; (b)

retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

(7) If the member selects an alternative under subsection (6)(b) or (6)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

(8) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant.

History: En. 68-2626 by Sec. 26, Ch. 178, L. 1974; amd. Sec. 10, Ch. 59, L. 1977; R.C.M. 1947, 68-2626; amd. Sec. 2, Ch. 126, L. 1987; amd. Sec. 151, Ch. 265, L. 1993; Sec. [19-7-701](#), MCA 1991; redes. [19-7-1001](#) by Code Commissioner, 1993; amd. Sec. 3, Ch. 217, L. 1999; amd. Sec. 62, Ch. 562, L. 1999; amd. Sec. 83, Ch. 99, L. 2001; amd. Sec. 79, Ch. 429, L. 2003; amd. Sec. 50, Ch. 329, L. 2005; amd. Sec. 17, Ch. 284, L. 2009; amd. Sec. 31, Ch. 99, L. 2011.

Insert language from MPORS at MCA 19-9-804:

19-7-901. Amount of service retirement benefit -- continuation of benefit after death of member. (1) A member who is eligible for service retirement must receive a retirement benefit equal to 2.5% of the member's final average compensation for each year of service credit.

(2) (a) Upon the death of a member receiving a service retirement benefit, the member's surviving spouse, if there is one, must receive a benefit equal to the amount of the member's benefit at the time of the member's death.

(b) If the member leaves one or more dependent children, then upon the member's death, if there is no surviving spouse, or upon the death of the surviving spouse, the member's surviving dependent child or children collectively if there are more than one must receive the same monthly payments that a surviving spouse would receive for as long as the child or one of the children remains a dependent child as defined in [19-9-104](#). The payments must be paid pursuant to [19-2-803](#). If there is more than one dependent child, upon a child no longer qualifying as dependent under [19-9-104](#), that child's pro rata payments must be made to the remaining dependent children.