

Act No. 51
Public Acts of 1991
Approved by the Governor
June 27, 1991
Filed with the Secretary of State
June 27, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Reps. Nye, Barns, Ciaramitaro, Martin, Strand, Bobier, Bouchard, Law, Bandstra, Fitzgerald, Brown, Perry Bullard, Harder, Baade, Olshove, DeMars and London

ENROLLED HOUSE BILL No. 4765

AN ACT to amend sections 17 and 27 of Act No. 165 of the Public Acts of 1954, entitled "An act to provide for a retirement system for judges of the probate courts of this state; to provide for the retirement of judges due to age or disability; to provide for annuities; to create a probate judges retirement board and prescribe its powers and duties; to provide for the collection of filing fees in certain cases for the payment of annuities and to establish certain funds in connection therewith; to provide for contributions thereto by probate judges; and to provide penalties for failure to comply with the provisions of this act," section 27 as amended by Act No. 38 of the Public Acts of 1985, being sections 38.917 and 38.927 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 17 and 27 of Act No. 165 of the Public Acts of 1954, section 27 as amended by Act No. 38 of the Public Acts of 1985, being sections 38.917 and 38.927 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 17. (1) A member, before the effective date of his or her retirement under section 12 or section 18, may elect to receive his or her retirement annuity payable throughout his or her life and terminating at death, called a regular retirement annuity; or the member may elect to receive the actuarial equivalent of his or her regular retirement annuity, at that time, in a reduced retirement annuity payable throughout his or her life, and nominate a beneficiary, pursuant to option A or B, as provided in this subsection. If a member fails to elect an option as provided in this subsection, the member shall be presumed to have automatically elected to receive his or her retirement annuity as a regular retirement annuity. The options are as follows:

(a) Option A. Under this option, upon the death of the retirant, his or her reduced retirement annuity shall be continued throughout the life of and paid to the person having an insurable interest in the member's life that the member nominated by written designation duly executed and filed with the board before the date of his or her retirement.

(b) Option B. Under this option, upon the death of the retirant, 1/2 of his or her reduced retirement annuity shall be continued throughout the life of and paid to the person having an insurable interest in the member's life that the member nominated by written designation duly executed and filed with the board before the date of his or her retirement.

(2) If a retirant receiving a reduced retirement annuity under subsection (1)(a) or (b) is divorced from the spouse who had been designated the retirant's survivor beneficiary under subsection (1)(a) or (b), the election of a reduced retirement annuity payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in section 27 and dated after the effective date of the amendatory act that added this subsection

provides that the election of a reduced retirement annuity payment option under subsection (1)(a) or (b) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement annuity payment option under subsection (1)(a) or (b) is considered void by the retirement system under this subsection, the retirant's retirement annuity shall revert to a regular retirement annuity, including postretirement adjustments, if any, subject to an award or order of the court as described in section 27. The retirement allowance shall revert to a regular retirement annuity under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on the effective date of the amendatory act that added this subsection. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

Sec. 27. (1) The right of a person to an annuity, the return of accumulated contributions, the annuity itself, an optional benefit, any other right accrued or accruing to a person under this act, and the money belonging to the retirement system is unassignable and is not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law, except as is specifically provided in this act.

(2) The right of a member, an inactive member who meets the requirements of section 15, or a retirant to an annuity, the return of accumulated contributions, the annuity itself, an optional benefit, or any other benefit under this act shall be subject to award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws, and to any other order of a court pertaining to alimony or child support. The right of a member, an inactive member under section 15, or a retirant to an annuity, the return of accumulated contributions, the annuity itself, an optional benefit, or any other benefit under this act is subject to an eligible domestic relations order under the eligible domestic relations order act.

(3) If an award or order described in subsection (2) requires the retirement system to withhold payment of a pension, deferred pension, accumulated contributions, or other benefit from the person to whom it is due or requires the retirement system to make payment or requires the person to request that the retirement system make payment of a pension, deferred pension, accumulated contributions, or other benefit, for the purpose of meeting the person's obligations to a spouse, former spouse or child, as provided in subsection (2), the withholding or payment provisions of the award or order shall be effective only against such amounts as they become payable to the person receiving a retirement allowance unless otherwise provided in an eligible domestic relations order under the eligible domestic relations order act. The limitation contained in this subsection does not apply to the accumulated contributions of a person who terminates employment before acquiring a vested member status.

Section 2. This amendatory act shall not take effect unless House Bill No. 4884 of the 86th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

