

**Representative Kay L. McIff** proposes the following substitute bill:

**DOMESTIC RELATIONS RETIREMENT SHARES**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay L. McIff**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending certain death benefits.

**Highlighted Provisions:**

This bill:

- ▶ provides that a former spouse of a member who dies before retiring may receive a death benefit in certain circumstances; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**49-12-405**, as last amended by Laws of Utah 2011, Chapter 439

**49-13-405**, as last amended by Laws of Utah 2011, Chapter 439

**49-22-502**, as last amended by Laws of Utah 2011, Chapter 439

**49-23-502**, as last amended by Laws of Utah 2011, Chapter 439



26 [49-23-503](#), as last amended by Laws of Utah 2014, Chapter 15

27 ENACTS:

28 [49-14-507](#), Utah Code Annotated 1953

29 [49-15-507](#), Utah Code Annotated 1953

30 [49-16-508](#), Utah Code Annotated 1953

31 [49-17-503](#), Utah Code Annotated 1953

32 [49-18-503](#), Utah Code Annotated 1953

33 [49-19-502](#), Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section [49-12-405](#) is amended to read:

37 **[49-12-405. Death of married member -- Service retirement benefits to surviving](#)**  
38 **[spouse.](#)**

39 (1) As used in this section, "surviving spouse" means:

40 (a) the lawful spouse who has been married to the member for at least six months

41 immediately prior to the death date of the member; or

42 (b) a former spouse of a member with a valid domestic relations order benefits on file  
43 with the office prior to the member's death date in accordance with Section [49-11-612](#).

44 ~~[(1)]~~ (2) Upon the request of a deceased member's ~~[lawful]~~ surviving spouse ~~[at the~~  
45 ~~time of the member's death]~~, the deceased member is considered to have retired under Option  
46 Three on the first day of the month following the month in which the member died if the  
47 following requirements are met:

48 (a) the member has:

49 (i) 25 or more years of service credit;

50 (ii) attained age 60 with 20 or more years of service credit;

51 (iii) attained age 62 with 10 or more years of service credit; or

52 (iv) attained age 65 with four or more years of service credit; and

53 (b) the member dies leaving a surviving spouse ~~[to whom the member has been~~  
54 ~~married at least six months immediately prior to the death date]~~.

55 (2) The surviving spouse who requests a benefit under this section shall apply in  
56 writing to the office. The allowance shall begin on the first day of the month:

57 (a) following the month in which the member died, if the application is received by the  
58 office within 90 days of the member's death; or

59 (b) following the month in which the application is received by the office, if the  
60 application is received by the office more than 90 days after the ~~[spouse's]~~ member's death.

61 (3) The Option Three benefit calculation, when there are 25 or more years of service  
62 credit, shall be calculated without a reduction in allowance under Section [49-12-402](#).

63 (4) The benefit calculation for a surviving spouse with a valid domestic relations order  
64 benefits on file with the office prior to the member's death date in accordance with Section  
65 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
66 be partitioned, whether as a fixed amount or as a percentage of the benefit.

67 ~~[(4)]~~ (5) Except for a return of member contributions, benefits payable under this  
68 section are retirement benefits and shall be paid in addition to any payments made under  
69 Section [49-12-501](#) and constitute a full and final settlement of the claim of the surviving  
70 spouse or any other beneficiary filing claim for benefits under Section [49-12-501](#).

71 (6) If the death benefits under this section are proportioned among more than one  
72 surviving spouse due to domestic relations order benefits on file with the office prior to the  
73 member's death date in accordance with Section [49-11-612](#), the total amount received by the  
74 surviving spouses may not exceed the death benefits normally provided to one surviving  
75 spouse under this section.

76 Section 2. Section [49-13-405](#) is amended to read:

77 **[49-13-405. Death of married members -- Service retirement benefits to surviving](#)**  
78 **[spouse.](#)**

79 (1) As used in this section~~["member's"]~~:

80 (a) "Member's full allowance" means an Option Three allowance calculated under  
81 Section [49-13-402](#) without an actuarial reduction.

82 (b) "Surviving spouse" means:

83 (i) the lawful spouse who has been married to the member for at least six months  
84 immediately prior to the death date of the member; or

85 (ii) a former spouse of a member with a valid domestic relations order benefits on file  
86 with the office prior to the member's death date in accordance with Section [49-11-612](#).

87 (2) Upon the request of a deceased member's ~~[lawful]~~ surviving spouse ~~[at the time of~~

88 ~~the member's death~~], the deceased member is considered to have retired under Option Three on  
89 the first day of the month following the month in which the member died if the following  
90 requirements are met:

91 (a) the member has:

92 (i) 15 or more years of service credit;

93 (ii) attained age 62 with 10 or more years of service credit; or

94 (iii) attained age 65 with four or more years of service credit; and

95 (b) the member dies leaving a surviving spouse ~~[to whom the member has been~~  
96 ~~married at least six months immediately prior to the death date]~~.

97 (3) The surviving spouse who requests a benefit under this section shall apply in  
98 writing to the office. The allowance shall begin on the first day of the month:

99 (a) following the month in which the member died, if the application is received by the  
100 office within 90 days of the member's death; or

101 (b) following the month in which the application is received by the office, if the  
102 application is received by the office more than 90 days after the ~~[spouse's]~~ member's death.

103 (4) The allowance payable to a surviving spouse under Subsection (2) is:

104 (a) if the member has 25 or more years of service credit at the time of death, the  
105 surviving spouse shall receive the member's full allowance;

106 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
107 at the time of death, the surviving spouse shall receive two-thirds of the member's full  
108 allowance;

109 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
110 at the time of death, the surviving spouse shall receive one-third of the member's full  
111 allowance; or

112 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
113 older with 10 or more years of service credit, or age 65 or older with four or more years of  
114 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
115 with actuarial reductions.

116 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
117 benefits on file with the office prior to the member's death date in accordance with Section  
118 49-11-612 is calculated according to the manner in which the court order specified benefits to

119 be partitioned, whether as a fixed amount or as a percentage of the benefit.

120 ~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this  
121 section are retirement benefits and shall be paid in addition to any other payments made under  
122 Section 49-13-501 and shall constitute a full and final settlement of the claim of the spouse or  
123 any other beneficiary filing a claim for benefits under Section 49-13-501.

124 (7) If the death benefits under this section are proportioned among more than one  
125 surviving spouse due to domestic relations order benefits on file with the office prior to the  
126 member's death date in accordance with Section 49-11-612, the total amount received by the  
127 surviving spouses may not exceed the death benefits normally provided to one surviving  
128 spouse under this section.

129 Section 3. Section 49-14-507 is enacted to read:

130 **49-14-507. Spouse at the time of death includes certain former spouses -- Benefit**  
131 **calculation for former spouse.**

132 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
133 member who is under a domestic relations order benefits on file with the office prior to the  
134 member's death date in accordance with Section 49-11-612.

135 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
136 benefits on file with the office prior to the member's death date in accordance with Section  
137 49-11-612 is calculated according to the manner in which the court order specified benefits to  
138 be partitioned, whether as a fixed amount or as a percentage of the benefit.

139 (3) If the death benefits under this section are proportioned among more than one  
140 surviving spouse due to domestic relations order benefits on file with the office prior to the  
141 member's death date in accordance with Section 49-11-612, the total amount received by the  
142 surviving spouses may not exceed the death benefits normally provided to one surviving  
143 spouse under this section.

144 Section 4. Section 49-15-507 is enacted to read:

145 **49-15-507. Spouse at the time of death includes certain former spouses -- Benefit**  
146 **calculation for former spouse.**

147 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
148 member who is under a domestic relations order benefits on file with the office prior to the  
149 member's death date in accordance with Section 49-11-612.

150           (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
151 benefits on file with the office prior to the member's death date in accordance with Section  
152 49-11-612 is calculated according to the manner in which the court order specified benefits to  
153 be partitioned, whether as a fixed amount or as a percentage of the benefit.

154           (3) If the death benefits under this section are proportioned among more than one  
155 surviving spouse due to domestic relations order benefits on file with the office prior to the  
156 member's death date in accordance with Section 49-11-612, the total amount received by the  
157 surviving spouses may not exceed the death benefits normally provided to one surviving  
158 spouse under this section.

159           Section 5. Section **49-16-508** is enacted to read:

160           **49-16-508. Spouse at the time of death includes certain former spouses -- Benefit**  
161 **calculation for former spouse.**

162           (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
163 member who is under a domestic relations order benefits on file with the office prior to the  
164 member's death date in accordance with Section 49-11-612.

165           (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
166 benefits on file with the office prior to the member's death date in accordance with Section  
167 49-11-612 is calculated according to the manner in which the court order specified benefits to  
168 be partitioned, whether as a fixed amount or as a percentage of the benefit.

169           (3) If the death benefits under this section are proportioned among more than one  
170 surviving spouse due to domestic relations order benefits on file with the office prior to the  
171 member's death date in accordance with Section 49-11-612, the total amount received by the  
172 surviving spouses may not exceed the death benefits normally provided to one surviving  
173 spouse under this section.

174           Section 6. Section **49-17-503** is enacted to read:

175           **49-17-503. Spouse at the time of death includes certain former spouses -- Benefit**  
176 **calculation for former spouse.**

177           (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
178 member who is under a domestic relations order benefits on file with the office prior to the  
179 member's death date in accordance with Section 49-11-612.

180           (2) The benefit calculation for a surviving spouse with a valid domestic relations order

181 benefits on file with the office prior to the member's death date in accordance with Section  
182 49-11-612 is calculated according to the manner in which the court order specified benefits to  
183 be partitioned, whether as a fixed amount or as a percentage of the benefit.

184 (3) If the death benefits under this section are proportioned among more than one  
185 surviving spouse due to domestic relations order benefits on file with the office prior to the  
186 member's death date in accordance with Section 49-11-612, the total amount received by the  
187 surviving spouses may not exceed the death benefits normally provided to one surviving  
188 spouse under this section.

189 Section 7. Section 49-18-503 is enacted to read:

190 **49-18-503. Spouse at the time of death includes certain former spouses -- Benefit**  
191 **calculation for former spouse.**

192 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
193 member who is under a domestic relations order benefits on file with the office prior to the  
194 member's death date in accordance with Section 49-11-612.

195 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
196 benefits on file with the office prior to the member's death date in accordance with Section  
197 49-11-612 is calculated according to the manner in which the court order specified benefits to  
198 be partitioned, whether as a fixed amount or as a percentage of the benefit.

199 (3) If the death benefits under this section are proportioned among more than one  
200 surviving spouse due to domestic relations order benefits on file with the office prior to the  
201 member's death date in accordance with Section 49-11-612, the total amount received by the  
202 surviving spouses may not exceed the death benefits normally provided to one surviving  
203 spouse under this section.

204 Section 8. Section 49-19-502 is enacted to read:

205 **49-19-502. Spouse at the time of death includes certain former spouses -- Benefit**  
206 **calculation for former spouse.**

207 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
208 member who is under a domestic relations order benefits on file with the office prior to the  
209 member's death date in accordance with Section 49-11-612.

210 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
211 benefits on file with the office prior to the member's death date in accordance with Section

212 49-11-612 is calculated according to the manner in which the court order specified benefits to  
213 be partitioned, whether as a fixed amount or as a percentage of the benefit.

214 (3) If the death benefits under this section are proportioned among more than one  
215 surviving spouse due to domestic relations order benefits on file with the office prior to the  
216 member's death date in accordance with Section 49-11-612, the total amount received by the  
217 surviving spouses may not exceed the death benefits normally provided to one surviving  
218 spouse under this section.

219 Section 9. Section 49-22-502 is amended to read:

220 **49-22-502. Death of married members -- Service retirement benefits to surviving**  
221 **spouse.**

222 (1) As used in this section[, "member's"]:

223 (a) "Member's full allowance" means an Option Three allowance calculated under  
224 Section 49-22-305 without an actuarial reduction.

225 (b) "Surviving spouse" means:

226 (i) the lawful spouse who has been married to the member for at least six months  
227 immediately prior to the death date of the member; or

228 (ii) a former spouse of a member with a valid domestic relations order benefits on file  
229 with the office prior to the member's death date in accordance with Section 49-11-612.

230 (2) Upon the request of a deceased member's [~~lawful~~] surviving spouse [~~at the time of~~  
231 ~~the member's death~~], the deceased member is considered to have retired under Option Three on  
232 the first day of the month following the month in which the member died if the following  
233 requirements are met:

234 (a) the member has:

235 (i) 15 or more years of service credit;

236 (ii) attained age 62 with 10 or more years of service credit; or

237 (iii) attained age 65 with four or more years of service credit; and

238 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~  
239 ~~married at least six months immediately prior to the death date~~].

240 (3) The surviving spouse who requests a benefit under this section shall apply in  
241 writing to the office. The allowance shall begin on the first day of the month:

242 (a) following the month in which the member died, if the application is received by the

243 office within 90 days of the member's death; or

244 (b) following the month in which the application is received by the office, if the  
245 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

246 (4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

247 (a) if the member has 25 or more years of service credit at the time of death, the  
248 surviving spouse shall receive the member's full allowance;

249 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
250 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

251 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
252 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

253 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
254 older with 10 or more years of service credit, or age 65 or older with four or more years of  
255 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
256 with actuarial reductions.

257 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
258 benefits on file with the office prior to the member's death date in accordance with Section  
259 49-11-612 is calculated according to the manner in which the court order specified benefits to  
260 be partitioned, whether as a fixed amount or as a percentage of the benefit.

261 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this  
262 section are retirement benefits and shall be paid in addition to any other payments made under  
263 Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving  
264 spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

265 (7) If the death benefits under this section are proportioned among more than one  
266 surviving spouse due to domestic relations order benefits on file with the office prior to the  
267 member's death date in accordance with Section 49-11-612, the total amount received by the  
268 surviving spouses may not exceed the death benefits normally provided to one surviving  
269 spouse under this section.

270 Section 10. Section 49-23-502 is amended to read:

271 **49-23-502. Death of married members -- Service retirement benefits to surviving**  
272 **spouse.**

273 (1) As used in this section[~~,"member's~~] and Section 49-23-503:

274 (a) "Member's full allowance" means an Option Three allowance calculated under  
275 Section [49-23-304](#) without an actuarial reduction.

276 (b) "Surviving spouse" means:

277 (i) the lawful spouse who has been married to the member for at least six months  
278 immediately prior to the death date of the member; or

279 (ii) a former spouse of a member with a valid domestic relations order benefits on file  
280 with the office prior to the member's death date in accordance with Section [49-11-612](#).

281 (2) Upon the request of a deceased member's [~~lawful~~] surviving spouse at the time of  
282 the member's death, the deceased member is considered to have retired under Option Three on  
283 the first day of the month following the month in which the member died if the following  
284 requirements are met:

285 (a) the member has:

286 (i) 15 or more years of service credit;

287 (ii) attained age 62 with 10 or more years of service credit; or

288 (iii) attained age 65 with four or more years of service credit; and

289 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~  
290 ~~married at least six months immediately prior to the death date~~].

291 (3) The spouse who requests a benefit under this section shall apply in writing to the  
292 office. The allowance shall begin on the first day of the month:

293 (a) following the month in which the member died, if the application is received by the  
294 office within 90 days of the member's death; or

295 (b) following the month in which the application is received by the office, if the  
296 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

297 (4) The allowance payable to a surviving spouse under Subsection (2) is:

298 (a) if the member has 25 or more years of service credit at the time of death, the  
299 surviving spouse shall receive the member's full allowance;

300 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
301 at the time of death, the surviving spouse shall receive two-thirds of the member's full  
302 allowance;

303 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
304 at the time of death, the surviving spouse shall receive one-third of the member's full

305 allowance; or

306 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
 307 older with 10 or more years of service credit, or age 65 or older with four or more years of  
 308 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
 309 with actuarial reductions.

310 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
 311 benefits on file with the office prior to the member's death date in accordance with Section  
 312 49-11-612 is calculated according to the manner in which the court order specified benefits to  
 313 be partitioned, whether as a fixed amount or as a percentage of the benefit.

314 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this  
 315 section are retirement benefits and shall be paid in addition to any other payments made under  
 316 Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving  
 317 spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

318 (7) If the death benefits under this section or Section 49-23-503 are proportioned  
 319 among more than one surviving spouse due to domestic relations order benefits on file with the  
 320 office prior to the member's death date in accordance with Section 49-11-612, the total amount  
 321 received by the surviving spouses may not exceed the death benefits normally provided to one  
 322 surviving spouse under this section.

323 Section 11. Section 49-23-503 is amended to read:

324 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

325 If an active member of this system dies, benefits are payable as follows:

326 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
 327 follows:

328 (a) If the member has accrued less than 20 years of public safety service or firefighter  
 329 service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum of \$1,000  
 330 and an allowance equal to 30% of the member's final average monthly salary.

331 (b) If the member has accrued 20 or more years of public safety service or firefighter  
 332 service credit, the member shall be considered to have retired with an Option One allowance  
 333 calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse [~~at~~  
 334 ~~the time of death~~] shall receive the allowance that would have been payable to the member.

335 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this

336 section if the death results from external force, violence, or disease directly resulting from  
337 firefighter service.

338 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
339 state at the time of death shall be considered to be the final average monthly salary of a  
340 volunteer firefighter for purposes of computing these benefits.

341 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
342 firefighters which meet the requirements of Subsection 49-23-102(12) to determine the  
343 eligibility for this benefit.

344 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are  
345 payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for  
346 benefits under Section 49-23-502.

347 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
348 payable in accordance with Section 49-23-502.

349 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall  
350 apply in writing to the office.

351 (b) The allowance shall begin on the first day of the month following the month in  
352 which the:

353 (i) member or participant died, if the application is received by the office within 90  
354 days of the date of death of the member or participant; or

355 (ii) application is received by the office, if the application is received by the office  
356 more than 90 days after the date of death of the member or participant.