



TO: Members of the Legislative Commission on Pensions and Retirement
 FROM: Lawrence A. Martin, Executive Director *JAM*
 RE: General Consideration of the Definition of Surviving Spouse for Public Pension Plan Survivor Benefits
 DATE: August 3, 2009

Introduction

Periodically, the Legislative Commission on Pensions and Retirement is requested to address the question of the definition of surviving spouse for entitlement for a Minnesota public pension plan survivor benefit.

This Commission staff issue memorandum attempts to provide background information on the various Minnesota public pension plans, the difference between status survivor benefits and optional retirement annuity forms including survivor coverage, and the definitions of surviving spouse where benefit entitlement depends on achieving the status of surviving spouse.

Function of Survivor Benefit Coverage as Part of Casualty Benefit Coverage

Retirement plans, boiled down to the simplest element, are a specialized type of insurance, where a benefit is paid in the event of a discontinuation of employment primarily due to the attainment of an age at which normal employment is no longer expected. Among the earliest Minnesota pension plans, several public safety employee retirement plans initially provided “superannuation benefits” for employees who became so enfeebled by age that continued employment was unexpected or impossible.

Among public safety employee retirement plans, casualty (i.e., disablement or death) benefit coverage has always been a primary purpose for the retirement plan, while among general employee retirement plans, age and service-related retirement benefit coverage was initially the sole purpose for the plans and casualty benefit coverage was added later.

In funding retirement plans, the age and service benefit coverage is always expected to be the most prevalent benefit to be paid, with more employees expected to terminate active employment at or near the normal retirement age and to retire than to become disabled prior to the normal retirement age or to die prematurely, and the age and service benefit coverage is expected to be the largest component of the retirement plan’s normal cost. The normal cost for the casualty benefit (disability or survivorship) coverage components will be a function of the cost of the “extra” liability exposure beyond the expected age and service benefit coverage by virtue of an earlier commencement of benefits, the longer potential payment of benefits, and the potentially larger benefit payment amount. The following compares the normal costs of the various Minnesota public retirement plans, as a percentage of pay, by component and in total, as of July 1, 2008, the most recent actuarial valuation date:

Minnesota Public Retirement Plans: Normal Cost as a Percentage of Pay

Retirement Plan	Age & Service Benefit	Disability Benefit	Survivor Benefit	Deferred Retirement Benefit	Refund	Total Normal Cost
<u>General Employee Retirement Plans:</u>						
MSRS-General	5.53%	0.45%	0.25%	0.92%	0.63%	7.78%
PERA-General (Basic)	5.96	0.34	0.22	1.86	0.00	8.38
PERA-General (Coordinated)	5.74	0.37	0.12	1.51	0.00	7.74
TRA-Basic	11.41	0.49	0.38	2.22	0.40	14.90
TRA-Coordinated	6.93	0.20	0.08	1.03	0.53	8.77
DTRFA-Old Plan	6.46	0.10	0.19	1.33	0.00	8.08
DTRFA-New Plan	7.18	0.12	0.18	1.01	0.00	8.49
SPTRFA-Basic	11.16	0.34	0.14	1.92	0.00	13.57
SPTRFA-Coordinated	7.04	0.13	0.16	1.10	0.00	8.43
MERF	6.09	2.77	0.92	1.49	0.91	12.18
MSRS-Unclassified	--	--	--	--	--	10.15
<u>Specialty Retirement Plans:</u>						
Elective State Officers	--	--	--	--	--	--
Legislators	17.64	0.00	0.59	0.00	0.05	18.28
Judges	14.00	1.03	1.17	0.00	0.01	16.21

Minnesota Public Retirement Plans: Normal Cost as a Percentage of Pay

<u>Retirement Plan</u>	<u>Age & Service Benefit</u>	<u>Disability Benefit</u>	<u>Survivor Benefit</u>	<u>Deferred Retirement Benefit</u>	<u>Refund</u>	<u>Total Normal Cost</u>
<u>Public Safety Retirement Plans:</u>						
PERA-P&F	16.93	3.75	0.89	1.50	0.00	23.07
State Patrol	21.37	2.16	1.06	0.48	0.08	25.15
MSRS-Correctional	13.18	2.91	0.32	0.81	1.02	18.24
PERA-Correctional	8.69	1.92	0.39	2.37	0.00	13.37
Military Affairs	--	--	--	--	--	10.16
Transportation Pilots	--	--	--	--	--	10.50
Arson Investigators	--	--	--	--	--	13.20

Types of Minnesota Pension Plan Survivor Benefit Coverage

Survivor benefit coverage can be categorized as either pre-retirement survivorship benefit coverage or post-retirement survivorship benefit coverage. Pre-retirement survivorship benefit coverage is the coverage provided in the event of the death of the pension plan participant prior to the commencement of retirement benefit. Post-retirement survivorship benefit coverage is the coverage provided in the event of the death of a retired pension plan member.

For most Minnesota pension plan participants, pre-retirement survivorship benefit coverage is provided largely by the federal Social Security program (i.e., federal Old Age Survivors Disability and health Insurance Program). Exceptions include the situation of survivors covered by those pension plans which do not supplement Social Security, which are typically the older remnants of the major pension plans or by the public safety employee pension plans and the situation of survivors covered by most pension plans where the deceased plan participant was at or nearing the age for early or normal retirement. For these remnant pension plans, the pre-retirement survivorship benefit coverage is typically 50 percent of the final average salary of the deceased plan participant for the surviving spouse and 10 percent of the final average salary of the deceased plan participant for each surviving child. For the public safety employee pension plans, the pre-retirement survivorship benefit coverage ranges from 20 percent to 50 percent of the final salary of the deceased pension plan participant. For most of the remaining pension plans, the pre-retirement survivorship benefit coverage is the second half of a joint and 100 percent optional annuity payable immediately if the deceased active or former plan participant was age 55 with 10 years of service credit or any age with 30 years of service credit or payable at age 55 if the deceased active or former plan participant was under age 55 with 10 years of service credit.

For most Minnesota pension plan participants, post-retirement survivorship coverage beyond any benefit coverage that is provided by the federal Social Security program is elective through the use of optional annuity forms. The chief exception is the situation of the various public safety employee pension plans and that of the St. Paul Teachers Retirement Fund Association (SPTRFA), where the post-retirement survivorship benefit coverage is provided automatically, without the need for an individual election and without the need for an adjustment in the amount of the benefits payable to gain actuarial equivalency. The automatic post-retirement survivorship benefit coverage is typically identical to the pre-retirement survivorship coverage.

Differences Between Status Survivor Benefits and Non-Status Survivor Benefits

Survivor benefits can be provided automatically by virtue of a person having the status of being the surviving spouse or surviving child of a deceased Minnesota public pension plan member or can be elected as part of an optional annuity form.

Unlike optional annuity forms, automatic survivorship benefits require no reduction in the amount of the initially calculated retirement benefit of a plan participant. The cost of this extra coverage is borne by the pension plan rather than by the person electing an optional annuity through a downward benefit adjustment. The actual cost to the pension plan will be dependent upon the number of married plan participants and the frequency of potential surviving spouses outliving retired plan participants. Single retiring plan participants, retiring plan participants with potential surviving spouses also covered by an automatic survivorship benefit, or retiring plan participants with potential surviving spouses who are actuarially unlikely to outlive the retiring plan participant, however, do not receive any increase in benefits to compensate them for their inability to make effective use of the automatic survivor benefit coverage.

In 1957, Minnesota public pension plans began the process of adding Social Security coverage and adapting the prior plan coverage to account for that addition, including scrapping automatic survivor

benefits for Social Security survivor benefit coverage. The Social Security insurance program, known formally as the Old Age, Survivors, Disability and Health Insurance (OASDHI) programs, was initially a private sector employee retirement program and was modified to allow for some public sector employee participation in the early 1950s. In Minnesota, public employees other than police officers and firefighters generally are permitted to participate in Social Security and do so by the State on their behalf entering into an agreement with the Secretary of the federal Department of Health and Human Services.

Federal legislation in 1986 and accompanying regulations require public employees who do not have at least equivalent pension coverage to become members of Social Security. In Minnesota, several pension plans supplement Social Security coverage for public employment with coordinated programs based on prior agreements and referendums. When Social Security coverage was added, it has been done following a referendum and, in most cases, public employees who did not elect Social Security coverage in the referendum retained the pre-Social Security benefit plan coverage in what are termed "basic programs." The following summarizes the Social Security coverage provided to Minnesota public employees, with the date of the Social Security referendum noted where applicable.

The following summarizes the benefit practices of the various Minnesota retirement plans, with pre-retirement survivor benefits and post-retirement survivor benefits, and whether the survivor benefits are automatic (status-based) survivor benefits or elective optional annuity forms (non-status-based) for survivor benefit coverage:

Retirement Plan	Pre-Retirement Survivor Benefits	Post-Retirement Survivor Benefits
<u>General Employee Retirement Plans:</u>		
MSRS-General	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 55 or had at least 30 years of service credit	Social Security coverage augmented by elective optional annuity forms
PERA-General (Basic)	Automatic survivor benefit coverage	Elective optional annuity forms
PERA-General (Coordinated)	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 55 or had at least 30 years of service credit	Social Security coverage augmented by elective optional annuity forms
TRA-Basic	Automatic survivor benefit coverage	Elective optional annuity forms
TRA-Coordinated	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 55 or had at least 30 years of service credit	Social Security coverage augmented by elective optional annuity forms
DTRFA-Old Plan	Social Security coverage, plus survivor annuity if decedent is under age 55 or joint and survivor optional annuity if decedent was over age 54	Social Security coverage, plus survivor annuity if decedent is under age 55 or joint and survivor optional annuity if decedent was over age 54
DTRFA-New Plan	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 55 or had at least 30 years of service credit	Social Security coverage augmented by elective optional annuity forms
SPTRFA-Basic	Automatic survivor benefit coverage	Automatic survivor benefit coverage
SPTRFA-Coordinated	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 55 or had at least 30 years of service credit	Social Security coverage augmented by elective optional annuity forms
MERF	Automatic survivor benefit coverage	Elective optional annuity forms
<u>Specialty Retirement Plans:</u>		
Elective State Officers	Automatic survivor benefit coverage	Automatic survivor benefit coverage
Legislators	Automatic survivor benefit coverage	Automatic survivor benefit coverage
Judges	Automatic survivor benefit coverage	Elective optional annuity forms
<u>Public Safety Retirement Plans:</u>		
PERA-P&F	Automatic survivor benefit coverage	Elective optional annuity forms
State Patrol	Automatic survivor benefit coverage	Elective optional annuity forms
MSRS-Correctional	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 49	Social Security coverage augmented by elective optional annuity forms

Retirement Plan	Pre-Retirement Survivor Benefits	Post-Retirement Survivor Benefits
PERA-Correctional	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 49	Social Security coverage augmented by elective optional annuity forms
Military Affairs	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 49	Social Security coverage augmented by elective optional annuity forms
Transportation Pilots	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 49	Social Security coverage augmented by elective optional annuity forms
Arson Investigators	Social Security coverage, plus term-certain or 100% joint and survivor optional annuity if decedent was over age 49	Social Security coverage augmented by elective optional annuity forms

Social Security Coverage for Minnesota Public Employees and Social Security Survivor Benefit Coverage

The following summarizes the Social Security coverage provided to Minnesota public employees, with the date of the Social Security referendum noted where applicable:

Plans Supplementing Social Security Coverage (Coordinated Programs)		Plans without Social Security Coverage (Basic Programs)
MSRS General State Employees Retirement Plan	(1957)*	Legislators Retirement Plan Basic Program
MSRS Correctional Employees Retirement Plan	(1957)**	State Patrol Retirement Plan
MSRS Unclassified Employees Retirement Program	(1957)**	Elective State Officers Retirement Plan
PERA General Employees Retirement Plan Coordinated Program	(1967)***	PERA Basic Program
PERA Local Government Correctional Retirement Plan	(1967)**	Public Employees Police and Fire Retirement Plan
Public Employees Defined Contribution Plan	(1967)**	Teachers Retirement Association (TRA) Basic Program
Teachers Retirement Association (TRA) Coordinated Program	(1959)***	Minneapolis Teachers Retirement Fund Association (MTRFA) Basic Program
Duluth Teachers Retirement Fund Association (DTRFA)	(1957)*	St. Paul Teachers Retirement Fund Association (SPTRFA) Basic Program
Minneapolis Teachers Retirement Fund Association (MTRFA) Coordinated Program	(1978)***	Local Police or Salaried Firefighters Relief Associations and Consolidation Accounts
St. Paul Teachers Retirement Fund Association (SPTRFA) Coordinated Program	(1978)***	Minneapolis Employees Retirement Fund (MERF)
Judges Retirement Plan Coordinated Program	(1973)***	Judges Retirement Plan Basic Program
Legislators Retirement Plan Coordinated Program	(1997/2002) ***	

* Coordination with Social Security following an affirmative referendum vote on a total plan basis.

** Coordination of later established plan based on the coordination of the earlier established plan from which it was separated.

*** Coordination on a split system basis, with coverage based on the individual referendum vote.

Social Security coverage includes retirement benefit coverage, survivor benefit coverage, disability benefit coverage, and health insurance (Medicare) coverage. The survivor benefit coverage is part of Social Security's family benefit coverage. That family benefit coverage applies beyond deceased active employee survivor coverage, with benefits payable to members of a retired or disabled worker's family.

Social Security benefits generally are based on the Primary Insurance Amount, which is computed in determining a retiring worker's retirement benefit. The Primary Insurance Amount is calculated based on a person's average indexed monthly earnings, which are a worker's earnings since 1951 or year of attaining age 22, whichever is later, on which Social Security (FICA, or Federal Insurance Contribution Act) contributions were made and which are subject to specified maximums. Prior to averaging them, the monthly earnings are increased to make the amounts current by indexing them to national average earnings for the year occurring two years before the year in which eligibility occurred (age 62, year of disability, or year of death) based on a ratio between the national average earnings in the indexing years and the national average earnings in the year being indexed. These indexed earnings amounts for the period since 1951 or attainment of age 22, whichever is later, with the five smallest earnings years eliminated, are then averaged, expressed as a monthly earnings amount, and rounded down to the nearest full dollar. The Primary Insurance Amount is derived from the average indexed monthly earnings based on a three-part formula, with average indexed monthly earnings up to the first bend point (currently \$592)

multiplied by 0.90, with average indexed monthly earnings up to the second bend point (currently amounts between \$592 and \$3,567) multiplied by .32, and with average indexed monthly earnings up to the third bend point (currently amounts above \$3,567) multiplied by .15. These three parts are added up to produce the Primary Insurance Amount.

For the survivors of active workers who have died, Social Security provides several potential benefits for various periods of time with various eligibility requirements. The following summarizes the deceased active worker Social Security death benefits, identifying the benefit recipient, the benefit amount, and the duration of the benefit:

Social Security Deceased Active Worker Death Benefits

Benefit Recipient	Benefit Amount	Benefit Duration
1. Surviving Spouse		
a. If widow or widower of a currently insured worker who is caring for a child who is under age 16 or who is disabled, and who is entitled to a surviving child's insurance benefits (known as father's or mother's insurance benefit).	75% of the deceased worker's primary insurance amount, subject to family maximum.	Benefit payable until child attains age 18 (19 if student), or until the post-age-16 child is no longer disabled, or until the spouse remarries, until the spouse attains age 62 and is entitled to a larger benefit, or until the spouse's death, whichever is the earlier event.
b. If widow or widower at least age 60.	100% of the deceased worker's primary insurance amount, reduced if the spouse is under age 65 by 5.7% per year under age 65 through age 60, subject to family maximum.	Benefit payable until the spouse's death.
c. If widow or widower between age 50 and age 60 and is disabled (severity sufficient to prevent any gainful activity).	100% of the deceased worker's primary insurance amount, reduced if the spouse is under age 65 by 5.7% per year under age 65 through age 60, subject to family maximum.	Benefit payable until the spouse's death or until the spouse is no longer disabled, whichever is the earlier event.
2. Surviving child, if under age 18 or under age 19 and a full-time student, or disabled, and unmarried, and dependent on deceased worker.	75% of the deceased worker's primary insurance amount, subject to family maximum.	Benefit payable until age 18 (19 if full-time student) or until marriage, or until recovery from qualifying disability.
3. Surviving divorced spouse, if person is at least age 62, is not married, and was married to the worker for at least 10 years before divorce.	100% of the deceased worker's primary insurance amount, reduced if the spouse is under age 65 by 5.7% per year, subject to family maximum.	Benefit payable until the divorced spouse's death.
4. Dependent grandchild, if under age 18 (19 if full-time student), dependent on the deceased worker at the time of death, unmarried, and parents are dead or disabled.	75% of the deceased worker's primary maximum amount, subject to family maximum	Benefit payable until attainment of age 18 or 19, or until marriage.
5. Dependent parent, if the parent is at least age 62, is not entitled to a larger Social Security benefit in the person's own right, is natural parent or became adopted parent or stepparent before child's 16th birthday, is dependent on deceased worker, and has not remarried since death of insured worker.	82.5% of the deceased worker's primary insurance amount for each parent, 150% for both parents.	Benefit payable until death of parent, eligibility for a larger Social Security benefit, or post-death marriage.
6. Family maximum benefit dependent on eligibility year (year in which decedent died, or attained age 62, if earlier).	For the 2001 eligibility year, 85% of the average indexed monthly earnings, but not less than 100% of the primary insurance amount and not more than 150% of the primary insurance amount.	
7. Lump sum death benefit.	\$225.	Benefit payable to widow or widower if living with worker at the time of death or eligible on workers record, or eligible surviving child, if no widow or widower.

When the initial coordinated program was established for Minnesota public pension plans (the State Employees Retirement Association, the predecessor to MSRS and TRA) in 1957 and 1959, the Commission and the Legislature were at least cognizant of a reduction in the actuarial cost of the pension plan that occurred as a result of the coordination, and perhaps were motivated by that reduced actuarial cost. In the area of survivor benefit coverage, the addition of Social Security through the creation of a coordinated program virtually replaced the prior pension plan survivor benefit coverage, leaving the sole death benefit initially as a refund of prior member contributions. Since 1957, some coordinated program survivor benefit coverage improvements beyond the member contribution refund have been made, chiefly the addition of the death-while-eligible-to-retire optional joint and survivor annuity coverage.

For the family of an active Minnesota public pension plan member who dies leaving young surviving children, Social Security provides an immediate benefit that will generally continue until the youngest child reaches age 18 (19 if still a full-time student; longer if the child is disabled). Between the date that the youngest surviving child reaches age 18 or 19 and the date that the surviving spouse reaches age 60, no Social Security survivor benefit in general is payable. At age 60 (age 50 for a disabled widow or widower), the surviving spouse can begin receiving a reduced widow or widower's benefit from Social Security. A full (unreduced) Social Security widow or widower's benefit is payable at age 65.

In contrast, Minnesota public pension plan coordinated programs pay the second portion of the 100 percent joint and survivor optional annuity that the decedent could have selected as of the date of death, meaning that the survivor benefit will be reduced from the full normal retirement annuity amount to account for the ages of the decedent and the surviving spouse. The survivor benefit is payable at the date when the decedent would have been age 55 if death occurs before age 55 and the benefit is subject to an early retirement annuity reduction (but only one-half of the reduction is used from age 55 to the actual commencement age).

A Minnesota public pension plan basic program would pay an immediate surviving spouse and dependent child benefit in the same circumstances, with the surviving spouse benefit payable for life and with the dependent child benefit payable until age 22. If the death-while-eligible joint and survivor optional annuity benefit is greater than the surviving spouse benefit, the surviving spouse can elect the death-while-eligible benefit without affecting the dependent surviving child benefit.

Social Security benefits are affected by the surviving spouse's remarriage, while Minnesota public pension plan survivor benefits, once granted, are unaffected by remarriage.

Definition of "Surviving Spouse"

Periodically, the Legislative Commission on Pensions and Retirement has dealt with proposed legislation that seeks to modify the definition of "surviving spouse" in particular circumstances. These special modification requests usually relate to the relatively small number of retirement plans (and a relatively small proportion of total Minnesota public pension plan active and retired membership) that provide automatic, status-based survivor benefits, where marriage duration requirements may apply.

The following compares the statutory or benefit plan document surviving spouse definitions of the various Minnesota public retirement plans:

Minnesota Public Pension Plans: Definition of Surviving Spouse

Plan	Statute	Definition
MSRS		No specific definition.
State Patrol	352B.01, Subd. 9	"Surviving spouse" means a member's or former member's legally married spouse who resided with the member or former member at the time of death and was married to the member or former member, for a period of at least one year, during or before the time of membership.
PERA-General/ PERA-P&F	353.01, Subd. 20	"Surviving spouse" means the spouse of a deceased member or disabilitant who was legally married to the member at the time of death.
Local Police/ Paid Fire	353B.11, Subd. 1, Para. (a)	(a) Except as specified in paragraph (b), (c), (d), (e), (f), (g), or (h), the person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was a deceased, deferred, or retired member and who was residing with the member at the time of the death of the deceased member shall be entitled to receive a surviving spouse benefit.
		Applies to: Albert Lea Fire, Bloomington Police, Buhl Police, Chisholm Fire, Columbia Hgts. Fire, Crystal Police, Duluth Fire, Duluth Police, Faribault Fire, Fridley Police, Hibbing Fire, Red Wing Fire, Richfield Fire, Richfield Police, Rochester Fire, Rochester Police, St. Cloud Fire, St. Cloud Police, St. Louis Park Fire, St. Louis Park Police, St. Paul Fire, West St. Paul Fire, Winona Fire, Winona Police

Minnesota Public Pension Plans: Definition of Surviving Spouse

Plan	Statute	Definition
Local Police/ Paid Fire	353B.11, Subd. 1, Para. (b)	(b) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member at the time of separation from active service if the deceased member was a deceased deferred or retired member and who was residing with the member at the time of the death of the member shall be entitled to receive a surviving spouse benefit in the case of former members of the following consolidating relief associations: Albert Lea Police, Anoka Police, Austin Police, Brainerd Police, Columbia Hgts. Police, Crookston Fire, Crookston Police, Faimont Police, Faribault Police, Mankato Fire, Red Wing Police, So. St. Paul Police, Virginia Fire, Virginia Police, W. St. Paul Police
Local Police	353B.11, Subd. 1, Para. (c)	(c) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, and who was legally married to the member at the time of separation from active service if the deceased member was a deceased deferred or retired member shall be entitled to receive a surviving spouse benefit in the case of former members of the following consolidating relief associations: Chisholm Police, Hibbing Police, Mankato Police, New Ulm Police
Local Fire	353B.11, Subd. 1, Para. (d)	(d) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was either legally married to the member at the time of separation from active service or legally married the member after the time of separation from active service and was married for at least three years before the date of death of the member if the deceased member was a deceased deferred or retired member, and who was residing with the member at the time of the death of the member is entitled to receive a surviving spouse benefit in the case of former members of the Austin Firefighters Relief Association.
Local Fire	353B.11, Subd. 1, Para. (g)	(g) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least three years before the separation from active service if the deceased member was a deceased, retired, or deferred member and who was residing with the member at the time of the death of the member shall be entitled to receive a surviving spouse benefit in the case of former members of the South St. Paul Firefighters Relief Association.
Local Police	353B.11, Subd. 1, Para. (h)	(h) The person who survives a deceased active, deferred, or retired member who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was a deceased, deferred, or retired member and who had not deserted the member at the time of the death of the deceased member shall be entitled to receive a surviving spouse benefit in the case of former members of the St. Paul Police Relief Association.
TRA	354.05, Subd. 14a	"Surviving spouse" means the spouse of a deceased member or a disabiltant who was legally married to the member at the time of death.
First Class City Teachers Coord.	354A.011, Subd. 26	"Spouse" means the person who was legally married to the member immediately prior to the member's death.
DTRFA Old Law Coord.	Bylaw XII, Sec. 10, Para. (d)	Surviving spouse is deceased member's spouse if the deceased member had at least ten years of service credit and if the spouse had been married to the person for at least three years as of the member's death.
SPTRFA Basic	Bylaws Art. IV, Sec. 3, Para. 10	Surviving spouse is the member's spouse if the deceased active member had at least five years of service and if the member had been married to the person for at least three years at the time of death or retirement.
MERF	--	No specific definition
Minneapolis Police	423B.01, Subd. 17	"Surviving spouse member" means the person who was the legally married spouse of the member, who was residing with the decedent, and who was married while or before the time the decedent was an active member and was on the payroll of the police department, and who, in case the deceased member was a pensioner or deferred pensioner, was legally married to the member at least one year before the decedent's termination of active service with the police department. The term does not include the surviving spouse who has deserted a member or who has not been dependent upon the member for support, nor does it include the surviving common law spouse of a member.
Minneapolis Fire	423C.01, Subd. 25	"Surviving spouse member" means a person who was: (1) legally married to, and residing with, an active, deferred, or retired member both during the time the member was regularly entered on the payroll and serving on active duty in the fire department and at the time of the member's death; and (2) in the event the person was married to a retired or deferred member, married to that retired or deferred member for at least one year prior to the member's discharge from the fire department.
Volunteer Fire	424A.001, Subd. 6	For purposes of this chapter, and the governing bylaws of any relief association to which this chapter applies, the term "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of death.
Judges	490.121, Subd. 23	"Surviving spouse" means the surviving legally married spouse of a deceased judge.

Many of the length-of-marriage requirements contained in surviving spouse definitions have existed for some length of time, so it is not possible to determine with certainty the specific policy motives behind the length-of-marriage requirements, but possible arguments can be noted. A common argument for not requiring any length-of-marriage requirement in duty-related death situations under public safety plans is that public safety personnel, in the course of doing their jobs, should not have any concerns regarding the financial welfare of their families if death should occur. Police officers and firefighters at times must put themselves in life-threatening situations to assist their fellow police officers and firefighters and to protect the general public. The families of public safety officers who die in the line of duty deserve financial security.

A length-of-marriage requirement for surviving spouse annuities may not be unreasonable in situations where the death is not duty related, particularly when that benefit is generous and identical to that provided in duty-related situations. One argument for a marriage-duration requirement is concern about

deathbed, potentially sham, marriages. Some of the pension plan members could be in frail health. Perhaps one intention of the marriage duration requirement is to avoid paying survivor benefits in cases where marriage is motivated by a desire to gain access to the survivor benefits. When death occurs well before normal retirement age, the liability created by paying the survivor annuity may be considerably higher than the liability recognized for the plan member if that member had lived. Another possible reason for the marriage duration requirement is to limit plan liability when an active member's death is not related in any way to assisting fellow public safety officers or to protecting the public.

Where the retirement plan historically had limited survivor coverage to spouses who attained that status prior to the retirement of the active member and the plan had been modified to permit post-retirement-marriage spouses to be eligible for automatic, status-based survivor benefit coverage, a minimum marriage-duration requirement is intended to minimize the additional actuarial accrued liability to be absorbed by the retirement plan by excluding potential recipients in the same way that vesting requirements do and also is intended to eliminate deathbed or other potentially sham marriages.

Conclusion

This Commission staff issue memorandum is intended to provide the Commission with general information on the broad topic of survivor benefit coverage, the eligibility requirements for survivor benefits, and the definition of surviving spouse in the event that the Commission is presented with proposed legislation modifying surviving spouse definitions and eligibility requirements in specific circumstances of generally during the 2010 Legislative Session or in the event that the commission desires to add a substantive provision to its Principles of Pension Policy.