

20-2610a. Retirement annuity options; elections of judge and spouse; joint annuitants. (a) A judge may elect to have such judge's retirement annuity paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 20-2610, and amendments thereto. Such election shall be made before the date of actual retirement. A specific person shall be designated as joint annuitant at the time of election of the joint and 1/2 to joint annuitant survivor option, joint and survivor option and the joint and 3/4 to joint annuitant survivor option. Except as specifically provided in this subsection, an option elected by a member as provided in this section shall not be changed or canceled nor shall the named joint annuitant be changed after the date of actual retirement of the judge. If a retirant is divorced after the retirant's date of actual retirement, and the retirant has named the retirant's ex-spouse as a joint annuitant under subsection (c), the joint annuitant option may be canceled and the retirant's benefit returned to the maximum amount of such retirant's retirement benefit commencing the first month following the date such cancellation is ordered by the district court of the county where the divorce action was filed. The retirant shall not receive a refund or interest of any amounts already paid to fund the original joint annuitant benefit. The retirant may not name a subsequent joint annuitant once the original joint annuitant option has been canceled.

(b) The amount of retirement annuity payable under an option shall be based on the age of the judge and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, as prescribed in subsection (c). Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion. In no case shall the total amount of retirement annuity payable under any option provided in this section be more than 100% of the retirement annuity which would have been otherwise payable if no option had been elected under this section.

(c) The following retirement options, which are subject to the provisions of K.S.A. 74-49,123, and amendments thereto, are available:

(1) *Joint and 1/2 to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and (B) the percentage equal to 91% minus 0.4% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus 0.4% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with 1/2 of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(2) *Joint and survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and (B) the percentage equal to 83% minus 0.6% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus 0.6% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(3) *Joint and 3/4 to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and (B) the percentage equal to 87% minus 0.5% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus 0.5% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with 3/4 of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(4) *Life with 5 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and if the judge dies within the five-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the five-year certain period.

(5) *Life with 10 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and if the judge dies within the ten-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the ten-year certain period.

(6) *Life with 15 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and if the judge dies within the fifteen-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the fifteen-year certain period.

(7) *Lump sum payment at retirement.* (A) Pursuant to this option, the judge must specify a lump sum amount to be paid to the judge upon the judge's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 20-2610, and amendments thereto. The lump sum amount designated by the judge must be in 10% increments and shall not exceed 1/2 of the actuarial present value of the benefit provided in K.S.A. 20-2610, and amendments thereto. If the judge's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (d), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed 1/2 of the actuarial present value of the option selected in this section.

(B) Pursuant to this option, the judge must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 20-2610, and amendments thereto, or subsections (c)(1) through (c)(6) of this section.

(C) In the event that the designated joint annuitant pursuant to subsection (c)(1), (c)(2) or (c)(3), under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) The provisions of this subsection shall be effective on and after July 1, 2001.

(d) If a judge, who is eligible to retire, dies without having actually retired, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits as a joint annuitant under one of the options provided in this section in lieu of receiving the judge's accumulated contributions.

(e) On and after May 1, 2004, if a judge with 10 or more years of credited service dies before attaining retirement age, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the judge's accumulated contributions. Payments under one of the options provided in this section to the judge's spouse if so elected, shall commence on the date that the judge would have been eligible for normal retirement pursuant to subsection (a) of K.S.A. 20-2608, and amendments thereto, or would have been eligible for early retirement pursuant to subsection (b) or (c) of K.S.A. 20-2608, and amendments thereto, if such early retirement date occurs earlier.

(f) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and 1/2 to joint annuitant survivor option, the joint and survivor option and the joint and 3/4 to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(g) The provisions of the law in effect on the retirement date of a judge under the retirement system for judges shall govern the retirement annuity payable to the retired judge and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for judges who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (c)(1), (2) or (3), as applicable, predeceased the judge, the amount of the retirement benefit otherwise payable to the judge under the option provided in subsection (c)(1), (2) or (3), as applicable, shall be adjusted automatically to the retirement benefit which the judge would have received if no option had been elected under this section.

(h) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retired judge over the sum of all retirement benefit payments made to such retired judge and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retired judge. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of

preference as follows:

- (1) The joint annuitant's surviving spouse;
- (2) the joint annuitant's dependent child or children;
- (3) the joint annuitant's dependent parent or parents;
- (4) the joint annuitant's nondependent child or children;
- (5) the joint annuitant's nondependent parent or parents; or
- (6) the estate of the deceased joint annuitant.

(i) In any event, benefits shall be adjusted as necessary to satisfy the incidental death benefits regulations under the federal internal revenue code.

History: L. 1968, ch. 41, § 3; L. 1969, ch. 178, § 2; L. 1975, ch. 190, § 10; L. 1980, ch. 238, § 2; L. 1982, ch. 319, § 10; L. 1983, ch. 254, § 2; L. 1985, ch. 254, § 1; L. 1987, ch. 299, § 6; L. 1988, ch. 302, § 3; L. 1989, ch. 232, § 4; L. 1993, ch. 227, § 8; L. 1998, ch. 64, § 18; L. 2000, ch. 152, § 6; L. 2001, ch. 209, § 4; L. 2003, ch. 155, § 1; L. 2005, ch. 196, § 2; L. 2013, ch. 132, § 1; June 13.