

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Chapter 77 of the Acts of 2016, An Act Further Regulating Survivors' Pension Benefits and Qualified Domestic Relations Orders

DATE: May 17, 2016

On April 13, 2016 Governor Charles D. Baker signed H. 3791: *An Act further regulating survivors' pension benefits and qualified domestic relations orders* as Chapter 77 of the Acts of 2016. This Act was approved for filing by the Public Employee Retirement Administration Commission in early 2015 as a late-file Bill (PERAC may only file legislation by the first Wednesday of November prior to the beginning of a new legislative session). The Act was filed by Representative James J. O'Day, Chairman of the legislature's Joint Committee on Municipalities and Regional Government on May 13, 2015. Chapter 77 of the Acts of 2016 will become effective for benefits first granted on or after July 1, 2016.

Chapter 77 protects the rights of ex-spouses who were named the Option C beneficiary in Domestic Relations Orders ("DRO") and yet would still provide a current spouse with a partial benefit under Section 9. Only the amount of the Section 9 benefit will be paid out by the retirement system, but it will be allocated between the Section 9 and Section 12(2)(c) beneficiaries. This will only occur in the limited circumstances where a member retired for accidental disability, a DRO was in place, the member remarried and subsequently died as a result of the injury which led to his/her disability. This could also occur if a firefighter retires for superannuation, or regular retirement, and then dies of cancer which was discovered within 5 years of his retirement.

The Act mandates the payment of the Option C benefit to the former spouse in situations only where the former spouse has been designated as the Option C beneficiary pursuant to a DRO. However, the current spouse would be paid a benefit which would be equal to the difference between the Chapter 32, Section 9 accidental death benefit and the Option C benefit. If the former spouse predeceases the current spouse, the entire Section 9 accidental death benefit would then be payable to the current spouse.



MEMORANDUM - Page Two

TO: All Retirement Boards
FROM: Joseph E. Connarton, Executive Director
RE: Chapter 77 of the Acts of 2016, An Act Further Regulating Survivors' Pension Benefits and Qualified Domestic Relations Orders
DATE: May 17, 2016

If a retirement board has a member who is receiving an ADR, has a DRO naming an ex-spouse as the Option C beneficiary and then dies of the cause for which he/she retired and a current spouse applies for a Section 9 benefit the board should calculate the Section 9 benefit and the Option C benefit for each beneficiary. The board must then subtract the Option C benefit from the Section 9 and pay this benefit to the ex-spouse. Any remainder should be paid to the current spouse who is eligible for the Section 9 benefit. If the Option C beneficiary dies prior to the Section 9 beneficiary the full Section 9 benefit then becomes payable to the Section 9 beneficiary. If the Section 9 beneficiary predeceases the Option C beneficiary then only the amount of the Option C benefit will be paid to the beneficiary.

If you have any questions please contact the legal department at 617-666-4446.