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Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1057

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-39-7-0.1, AS ADDED BY P.L.220-2011, SECTION 543, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 0.1. The amendments made to sections 15, 16, and 19 of this chapter by P.L.33-2006 apply to a participant in the fund who:

- (1) is serving on July 1, 2006; or
 - (2) ~~begins service~~ **serves** after July 1, 2006;
- in a position described in section 8 of this chapter.

SECTION 2. IC 33-39-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) As used in this chapter, "services" means the ~~period beginning on the first day upon~~ **sum of all periods in which a person first became: is employed as:**

- (1) a prosecuting attorney or chief deputy prosecuting attorney;
- (2) any other deputy prosecuting attorney who is:
 - (A) appointed under IC 33-39-6-2; and
 - (B) paid by the state from the state general fund; or
- (3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana.

~~whether that date is before, on, or after January 1, 1990; and ending on the date under consideration; including all intervening employment in a position described in subdivisions (1) through (3):~~ If an individual is elected or appointed to a position described in subdivisions (1) through

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(3) and serves one (1) or more terms or part of a term, then retires from office **or otherwise separates from service**, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under IC 33-39-1 is not required to pay into the fund during any period of service as a senior prosecuting attorney.

SECTION 3. IC 33-39-7-12, AS AMENDED BY P.L.13-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) Except as **otherwise** provided in ~~subsection (b)~~, **this section**, each participant shall make contributions to the fund as follows:

(1) A participant described in section 8(a)(1) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section 8(a)(2) or 8(a)(3) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant. **The state may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.**

(c) After a participant has contributed to the fund as provided in subsection (a) for twenty-two (22) years, the participant is not required to make additional contributions to the fund.

~~(e)~~ **(d)** After December 31, 2011, the auditor of state shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 12.5 of this chapter.

SECTION 4. IC 33-39-7-15, AS AMENDED BY P.L.33-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. A participant whose employment in a position described in section 8 of this chapter is terminated is entitled to a retirement benefit computed under section 16 or 18 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The application for retirement benefits and the choice of the retirement date is filed on a form provided by the board, and the

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retirement date is:

- (A) after the cessation of the participant's service;
- (B) on the first day of a month; and
- (C) not more than six (6) months before the date the application is received by the board.

However, if the board determines that a participant is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the participant became incompetent.

(2) The participant:

- (A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit; ~~or~~
- ~~(B) meets the requirements for disability benefits under section 17 of this chapter.~~
- (B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or**
- (C) has become permanently disabled.**

(3) The participant is not receiving and is not entitled to receive any salary for services currently performed, except for services rendered as a senior prosecuting attorney under IC 33-39-1.

SECTION 5. IC 33-39-7-16, AS AMENDED BY P.L.16-2011, SECTION 11, AND SEA 499-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This section does not apply to a participant who ~~meets the requirements for disability benefits under~~ **becomes permanently disabled, as described in** section 17 of this chapter.

(b) A participant who:

- (1) applies for a retirement benefit; and**
- (2) is at least:**

- (A) sixty-five (65) years of age; or**
- (B) fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85);**

is entitled to an annual retirement benefit as calculated in subsection (c).

~~(b) (c)~~ Except as provided in subsections ~~(e)~~, (d), ~~and (e)~~, **and (f)**, the amount of the annual retirement benefit to which a participant ~~who applies for a retirement benefit and who is at least sixty-five (65) years of age~~ **described in subsection (b)** is entitled equals the product of:

- (1) the highest annual salary that was paid to the participant before separation from service; multiplied by

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(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(e) If (d) Except as provided in subsections (e) and (f), and section 19(c)(2)(B) of this chapter, a participant who:

(1) applies for a retirement benefit; and

(2) is not at least sixty-five (65) years of age; the participant described in subsection (b);

is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) (e) Except as provided in subsection (e); (f), benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

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(e) (f) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant:

- (1) had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan; and
- (2) had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund.

(f) (g) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at a rate specified by rule by the board.

SECTION 6. IC 33-39-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) Except as provided in subsection (b); a participant who becomes disabled while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

- (1) the participant has at least five (5) years of creditable service;
- (2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the participant becomes sixty-five (65) years of age a representative of the board verifies the continued disability.

For purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant furnishes proof of the qualification to the board:

(b) Benefits may not be provided under this chapter for any disability that:

- (1) results from an intentionally self-inflicted injury or attempted suicide while sane or insane;
- (2) results from the participant's commission or attempted commission of a felony; or
- (3) begins within two (2) years after a participant's entry or reentry into active service in a position described in section 8 of this chapter and was caused or contributed to by a mental or

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physical condition that manifested itself before the participant entered or reentered active service.

(a) A participant is considered to have a permanent disability if the board has received written certifications by at least two (2) licensed and practicing physicians, appointed by the board, that:

- (1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and
- (2) the condition is likely to be permanent.

(b) A participant found to have a permanent disability under subsection (a) must be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, benefits cease to be payable as of the date of the examination, unless on that date the participant is:

- (1) at least sixty-five (65) years of age; or
- (2) at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85).

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall **must** be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

SECTION 7. IC 33-39-7-18, AS AMENDED BY SEA 499-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) Except as provided in subsections (b) and (c), ~~the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter becomes permanently disabled, as described in section 17 of this chapter, is entitled to an annual benefit~~ equal to the product of:

- (1) the annual salary that was paid to the participant at the time of separation from service; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 5	0
5-10 0-12	40% 50%
11	41%
12	42%
13	43% 51%

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14	44% 52%
15	45% 53%
16	46% 54%
17	47% 55%
18	48% 56%
19	49% 57%
20	58%
21	59%
20 22 or more	50% 60%

If a participant has a partial year of service in addition to at least ten (10) years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(b) Except as provided in subsection (c), benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

(c) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SECTION 8. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, AND SEA 499-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. **(a) A participant may designate the participant's surviving spouse or one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section upon the death of the participant. A participant may designate a trust or a custodian account under IC 30-2-8.5 that is established for one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section instead of designating one (1) or more of the participant's surviving dependent children to receive the benefit directly.**

- ~~(a)~~ **(b) If a participant: who:**
- (1) dies; and
 - (2) on the date of death:
 - (A) was receiving benefits under this chapter;

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(B) was in service in a position described in section 8 of this chapter and had completed at least eight (8) years of service in a position described in section 8 of this chapter; or
(C) met the requirements for had a permanent disability benefits under as described in section 17 of this chapter; or
(D) was not in service in a position described in section 8 of this chapter, had completed at least eight (8) years of service in a position described in section 8 of this chapter, and was entitled to a future benefit;

the participant's beneficiary designated under subsection (a) is entitled, regardless of the participant's age, to the benefit prescribed by subsection ~~(b)~~, (c), (e), or ~~(d)~~: (f).

~~(b)~~ (c) The surviving spouse amount of the annual benefit payable to a beneficiary to whom subsection (b) applies is entitled to a benefit for life equal to the greater of:

- (1) seven ~~twelve~~ thousand dollars (~~\$7,000~~); (\$12,000); or**
- (2) fifty percent (50%) of the amount of retirement benefit:**
 - (A) the participant was drawing at the time of death; or**
 - (B) to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death. with reductions as necessary under**
However, the reduction described in section ~~16(c)~~ 16(d) of this chapter does not apply to the calculation of a survivor benefit under this clause.

(d) A benefit payable under this section is subject to the following:

- (1) A surviving spouse designated as the beneficiary under subsection (a) is entitled to receive the benefit for life.**
- (2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.**
- (3) If there is more than one (1) child designated by the participant, the children are entitled to share the benefit in equal monthly amounts.**
- (4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.**
- (5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share the benefit equally. If the surviving spouse of the participant is**

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surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit is payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by the participant survives or survive the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

~~(e)~~ **(e)** Except as provided in subsection ~~(d)~~; **(f)**, benefits payable to a surviving spouse **designated beneficiary** under this section are reduced by the amount, if any, that is payable to the surviving spouse **or the surviving dependent children** from the public employees' retirement fund as a result of the participant's death after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

~~(d)~~ **(f)** This subsection applies to a surviving spouse of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a surviving spouse of a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the spouse from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SECTION 9. IC 33-39-7-20, AS AMENDED BY SEA 499-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 20. (a) If:

- (1) a participant's spouse does not survive the participant; and**
- (2) the participant did not designate one (1) or more of the participant's surviving dependent child of a participant is; children to receive the benefit provided by section 19 of this chapter;**

the participant's surviving dependent children are, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

- (b) If a surviving spouse of a decedent participant dies and a

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dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Except as provided in subsection (f), benefits payable to a dependent child are reduced by the amount, if any, that is payable to the dependent child from the public employees' retirement fund after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

(f) This subsection applies to a dependent child of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a dependent child of a participant under this section are reduced by the actuarial equivalent of the pension portion of the retirement benefit, if any, that would be payable to the spouse (assuming the spouse would have had the same birth date as the participant) from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SECTION 10. IC 33-39-7-21, AS AMENDED BY P.L.16-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. (a) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions, plus interest at a rate specified by rule by the board and minus any payments made to the participant, shall be paid to:

- (1) the surviving spouse of the participant **or the children of the participant, as designated by the participant;**
- (2) any ~~dependent~~ or dependents of the participant, if a spouse **or designated child** does not survive; or
- (3) the participant's estate, if a spouse, **designated child, or other** dependent does not survive.



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(b) The amount owed a spouse, ~~dependent~~ or **designated children, other dependents**, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application, **or in monthly installments, as the recipient elects.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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