New Eligibility for Surviving Spouses of Police Officers

P.A. 102-0811

A surviving spouse of a police officer who married after retirement, is not eligible for a surviving spouse benefit. That has been the statutory rule for some time. However, Public Act 102-0811 effective January 1, 2023, changes that general rule.

Section 3-120 of the Pension Code will now include an exception to the rule marriage after retirement precludes a spouse from receiving a benefit. Under this new exception, if the surviving spouse was married to the officer for at least 5 years prior to death and the surviving spouse has attained age 62, they are not disqualified from a surviving spouse benefit.

For those becoming eligible under this new exception, the surviving spouse benefit shall begin to accrue on the effective date of the act (January 1, 2023) or the first day of the month following the police officer's death, whichever is later. Any surviving spouse benefit qualifying under this new section shall terminate no later than 15 years after the benefits begin to accrue. The amendment is effective regardless of whether the police officer was in service on the effective date.

It should be noted surviving spouse benefits for firefighters under Article 4 are handled differently. There, a spouse who marries a firefighter after retirement becomes eligible for a survivor's benefit after twelve months of marriage.