

State Retirement System Rules on “Spousal Consent”

Does your husband or wife work in a job covered by a state retirement system? If so, it is important for you to know if you have a say in whether you will receive a pension if you outlive your spouse.

In private-sector pension plans, husbands and wives who outlive their spouses automatically receive a portion of their spouse’s pension unless they have agreed to give up these benefits. This is also true in some public pension plans, but not all. The rules relating to “spousal consent” differ from state to state. This fact sheet provides basic information on the rules governing spousal consent for the largest retirement plans in each state.

What is spousal consent?

When employees who are entitled to retirement benefits from state retirement plans are ready to retire, they must apply to begin receiving their pensions. Their pension application form will ask them to make certain choices. Employees who are married will typically be given two basic choices: They can select a single-life annuity in which their pension is paid only for their own lifetime, or they can choose to take a joint-and-survivor annuity, in which their pension is reduced during their lifetime in order to provide a survivor annuity for their spouse if they are outlived by their spouse. (Payments to widows and widowers are often one-half the amounts received by the retiree.) Many plans also offer other choices, including the option of receiving their pension as a lump sum.

Some state systems require that a spouse consent when an employee decides to receive his or her pension in the form of a single-life annuity. Other states simply require that the husband or wife be notified that the employee has chosen to receive a pension that does not provide survivor annuity. There are 20 states in which retirees can receive single-life annuities without their spouse’s knowledge or consent.

Why is spousal consent important?

If a retirement plan requires spousal consent, the spouse must agree to the chosen form of benefit. Spousal consent is especially important when an employee chooses to receive his or her pension as a “single-life annuity” because the pension payments will end once the retiree dies, leaving no survivor pension for the surviving spouse.

If the retirement plan requires spousal notification only, the spouse is informed about the benefit chosen, but his or her consent is not required. If neither spousal consent nor notification is required, the spouse may not know that he or she will not receive any pension benefits after the retiree dies.

To learn about the spousal consent rules in each state's retirement system, see the information below.



Note: This list is based on information on the websites of the largest state-wide retirement systems in each state. Many states have several plans. This fact sheet does not cover city, town, and county retirement plans, or certain plans for police and firefighters, which often have their own rules. If you have questions about a state retirement plan, contact us or one of the [Pension Counseling and Information Projects](#) for assistance.

State retirement systems also differ in how they treat pension benefits at divorce. See our fact sheet, [State Retirement Plans and Divorce](#), for more information.

Alabama

[Retirement Systems of Alabama](#)

What is required on benefit election forms?

Spousal consent not required.

Notes:

Default option provides no survivor benefit.

Source:

AL State Code: §36.27.16
AL Administrative Code: 800-2-1-03

Alaska

[Alaska Division of Retirement and Benefits](#)

What is required on benefit election forms?

Spousal consent required

Notes:

Survivor benefit provided by default. Consent requirement can be waived in certain limited circumstances.

Source:

AK State Code: §39.35.450

Arizona

[Arizona State Retirement System](#)

What is required on benefit election forms?

Spousal consent required

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

AZ Revised Statutes: §38-776

Arkansas

[Arkansas Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal acknowledgment required if survivor benefit waived.

Notes:

If spouse refuses to acknowledge, plan will pay single life benefit regardless.

Source:

APERS Board of Trustees Regulations:
Regulation 215

California

[California Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent required.

Notes:

Participant can request the consent requirement to be waived if spouse refuses to sign election form.

Source:

CA Government Code: §21261

Colorado

[Colorado Public Employees Retirement Association](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Default option provides no survivor benefit.

Source:

CO Revised Statutes: §24.51.801;
8 CCR 1502-1 CO PERA Rules, 8.10

Connecticut

[Connecticut State Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

CT Statute: §5-165; 5-192q
CT SPD: [Tier I](#), [Tier II](#), [Tier III](#)

Delaware

[Delaware Public Employees Retirement System](#)

What is required on benefit election forms?

Survivor benefit is mandatory

Notes:

Source:

DE State Code: §5528

D.C.

[District of Columbia Retirement Board](#)

What is required on benefit election forms?

Spousal consent not required.

Notes:

Police & Firefighter Plan provides mandatory survivor benefit. Teacher's Plan does not require consent.

Source:

Police: D.C. Code: §5-716
Teachers: D.C. Code: §38-2021.05

Florida

[Florida Retirement System](#)

What is required on benefit election forms?

Spouse must be notified of benefit election.

Notes:

Spouse must either acknowledge benefit election in writing, or the plan will send the spouse a letter of notification if spouse refuses to sign.

Source:

FL Statute: §121.091
FL Administrative Code: 60S-4.010

Georgia

[Employees Retirement System of Georgia](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Survivor benefit is optional.

Source:

GA Code: O.C.G.A. §47-2-121

Hawaii

[State of Hawaii Employee Retirement System](#)

What is required on benefit election forms?

Spouse must be notified by mail.

Notes:

Default option provides no survivor benefit.

Source:

HI Revised Statutes: Title 7, §88-83
HI Administrative Rules: §6-26-5

Idaho

[Public Employee Retirement System of Idaho](#)

What is required on benefit election forms?

Spousal consent required

Notes:

Plan will elect option without survivor benefit if worker delays application by 90 days.

Source:

ID Administrative Code: IDAPA
59.01.06, PERSI Retirement Rules,
Rule 122

Illinois

[State Employees Retirement System of Illinois](#)

What is required on benefit election forms?

Survivor benefit is mandatory.

Notes:

Source:

IL Statute: 40 ILCS §5/14-118

Indiana

[Public Employees Retirement Fund](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

IN Code: IC §5-10.2-4-1.3
IN Admin Code: 35 IAC §1.2-5-1

Iowa

[Iowa Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent required.

Notes:

Source:

IA Administrative Code: §495.11.1
(97B)

Kansas

[Kansas Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Spouse must provide consent within 90 days - otherwise plan will pay whichever option was elected.

Source:

KS Statute: §74-4918a

Kentucky

[Kentucky Retirement Systems](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

KY Statute: §61.635
KY Admin. Reg.: 105 KAR 1:200

Louisiana

[Louisiana State Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit stops if surviving spouse gets remarried.

Source:

LA Revised Statutes: RS §11:446

Maine

[Maine State Retirement System](#)

What is required on benefit election forms?

Spouse must be notified.

Notes:

Spouse or participant must certify that spousal notification has occurred.

Source:

ME Revised Statutes: §17804

Maryland

[State Retirement and Pension System of Maryland](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Default option provides no survivor benefit.

Source:

MD State Code: §21-403
MD Admin. Reg.: 22.01.14.03

Massachusetts

[Massachusetts State Board of Retirement & Massachusetts Teachers Retirement System](#)

What is required on benefit election forms?

Spouse must be notified.

Notes:

Spouse must acknowledge within 30 days, otherwise plan will pay whichever option was elected

Source:

MA Statute: Pt I, Title 4, Ch. 32 Section 12

Michigan

[Michigan Office of Retirement Services](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Consent requirement can be waived by board if there are extenuating circumstances.

Source:

MI Statute: §38:31

Minnesota

[Minnesota State Retirement System & Minnesota Teachers Retirement Association](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

MN Statute: §356.46

Mississippi

[Public Employees Retirement System of Mississippi](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

MS Code Ann.: §25-11-115
MS Admin. Code: Title 27, Pt. 210,
Chapter 35, Section 101

Missouri

[Missouri State Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default.

Source:

MO State Statute: §104.395

Montana

[Montana Public Employee Retirement Administration](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

MT State Code: §19-3-1501
Admin. Rules of MT: 2.43.2601

Nebraska

[Nebraska Public Employees Retirement Systems](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

NE Revised Statutes: §84-1317
NE Admin. Code: Title 303, Ch. 24

Nevada

[Public Employees Retirement System of Nevada](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Spouse must provide consent within 90 days - otherwise plan will pay whichever option was elected.

Source:

NV Revised Statute: NRS §286.545

New Hampshire

[New Hampshire Retirement System](#)

What is required on benefit election forms?

Spousal acknowledgment required.

Notes:

Source:

NH Statute: §100-A:13

New Jersey

[New Jersey Division of Pension and Benefits](#)

What is required on benefit election forms?

Spousal notification is required.

Notes:

If no survivor benefit is elected, plan sends the spouse the notice by certified mail.

Source:

NJ Statute: §43:15A-50a

New Mexico

[Public Employees Retirement Association of New Mexico](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

NM Statute: §10-11-116

New York

[New York State and Local Retirement System](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

NY Statute: Article 2, Title 10, §90
NY Admin. Code: 2 CRR-NY 345.6

North Carolina

[North Carolina Retirement Systems Division](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Default option provides no survivor benefit.

Source:

NC Statute: G.S. §135-5(g)

North Dakota

[North Dakota Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Default option provides no survivor benefit.

Source:

ND Code: §54-52-17.9
ND Admin. Code: §71-02-04-04

Ohio

[Ohio Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided. Consent requirement can be waived by board under certain circumstances.

Source:

OH Revised Code: §145.384
OH Admin. Code: §145-1-70

Oklahoma

[Oklahoma Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

OK Statutes: §74-918

Oregon

[Oregon Public Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

OR Revised Statutes: §238A.190

Pennsylvania

[Pennsylvania State Employees Retirement System](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

PA Statute: Title 71, §5705
PA Admin. Code: Title 4, §247.5

Rhode Island

[Employees Retirement System of Rhode Island](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

RI Statute: §36-10-18

South Carolina

[South Carolina Retirement Systems](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

SC Statute: §9-1-1620

South Dakota

[South Dakota Retirement System](#)

What is required on benefit election forms?

Survivor benefit is mandatory

Notes:

Source:

SD Statute: §3-12-94

Tennessee

[Tennessee Consolidated Retirement System](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

TN State Code: §8-36-601

Texas

[Employees Retirement System of Texas](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Consent requirement can be waived by board in certain circumstances.

Source:

TX Statute: §804.051
TX Admin. Code: Rule §73.29

Utah

[Utah Retirement Systems](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

UT State Code: §49-12-402

Vermont

[Vermont State Retirement System](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Default option provides no survivor benefit.

Source:

VT Statute: 3 V.S.A. §468

Virginia

[Virginia Retirement System](#)

What is required on benefit election forms?

Spousal acknowledgment required.

Notes:

Plan has unspecified procedures if spouse refuses to sign acknowledgment.

Source:

VA State Code: §51.1-165.1

Washington

[Washington State Department of Retirement Systems](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

WA Revised Code: RCW §41.40.188

West Virginia

[West Virginia Consolidated Public Retirement Board](#)

What is required on benefit election forms?

Spousal consent is not required.

Notes:

Source:

WV Code: §5-10-24
WV Admin. Law: §162-5-16.1

Wisconsin

[Wisconsin Department of Employee Trust Funds](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Survivor benefit provided by default if no consent is provided.

Source:

WI Statute: §40.24

Wyoming

[Wyoming Retirement System](#)

What is required on benefit election forms?

Spousal consent is required.

Notes:

Source:

WY Admin. Rule: WRS Chapter 19,
Rule 3562