

## CHAPTER 490

## JUDGES RETIREMENT, JUDICIAL STANDARDS

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**490.101 RETIREMENT OF DISTRICT JUDGE.**

*[For text of subd 1, see M.S.1980]*

Subd. 2. If a judge of the district court becomes mentally or physically incapacitated from performing official duties and the governor has determined that the judge shall be retired on the application of either the judge or of the legally appointed guardian of the judge or if a judge is retired by the supreme court because of a disability pursuant to section 490.16, subdivision 3, the judge shall be entitled to receive a disability benefit.

If the judge has served for not less than 15 years as a judge of district court, or as a judge of district court and as a judge of a court of record, the disabled judge shall be entitled to receive the maximum retirement allowance provided by law for a judge of the district court pursuant to section 490.102. If the judge has served less than the number of years required for the maximum retirement allowance pursuant to section 490.102 but for a period of not less than six years, the disabled judge shall be entitled to receive a retirement allowance in an amount equal to that portion of the maximum retirement allowance pursuant to section 490.102, that the years of service as a district court judge, or as a judge of district court and as a judge of a court of record, prior to retirement for disability, bears to the number of years required for the maximum retirement allowance of a district court judge. Years of service shall be determined only on the basis of a whole year and not on the basis of any fractional service.

*[For text of subds 3 and 4, see M.S.1980]*

**History:** 1981 c 224 s 219

**490.102 COMPENSATION ALLOWANCE.**

*[For text of subds 1 to 4, see M.S.1980]*

Subd. 6. The spouse of every judge of the district or supreme court who dies, in active service, shall be paid one-half of the retirement compensation to which the judge would have been entitled on the date of death, if the judge would have been otherwise eligible for retirement under the provisions of section 490.101 or under section 490.025, and had retired on that date, irrespective of whether the judge attained the age of retirement at the date of death or not and irrespective of whether the judge had served 15 years as district judge or as a judge of a court of record, and irrespective of whether the judge had previously been eligible to retire, but had not retired under the provisions of section 490.101, prior to death, provided the spouse had been married to the judge for three years prior to the judge's death. The spouse of every judge of the district court or supreme court

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who dies after retiring shall be paid one-half of the retirement compensation which the judge was receiving at the date of death.

Any judge who has heretofore retired and exercised the option previously set forth in section 490.102, shall, after July 1, 1961, be paid the full retirement compensation herein provided for, and the judge's spouse shall upon the judge's death be entitled to compensation as herein set forth.

The term "spouse" as used in this subdivision means the surviving spouse of a district or supreme court judge, but only if the spouse was married to the judge for a period of not less than three years immediately prior to the date of the judge's retirement or death, whichever occurs first.

If the spouse, either of a retired judge or a judge who dies in active service, who is otherwise qualified under this section, has not attained the age of 40 years at the time of the judge's death, the spouse will not become eligible for retirement compensation payments hereunder until the spouse's 40th birthday but shall receive the payments thereafter.

A spouse who is entitled to a retirement compensation under the provisions of this subdivision and subdivision 7 shall be paid the retirement compensation for the period of the spouse's life, unless the spouse remarries, in which event the retirement compensation is to cease and terminate. All judges of the district court and of the supreme court shall contribute four percent of their state salaries, which amount shall be deducted from their salaries at least once each month and paid to the state treasurer to be deposited in a special survivor retirement account. This contribution shall be for the purpose of providing the survivor benefits established by this subdivision and subdivision 7 and such amount as may be necessary to carry out this purpose is hereby appropriated from the special retirement account. It is declared to be the policy of the legislature that the survivor benefits provided for herein shall be wholly paid from contributions by the judges to the special retirement account. To implement this policy the rate of contribution by the judges shall be reviewed periodically and contributions adjusted to make this account sufficient to cover all benefits.

Subd. 7. In addition to the provisions of Minnesota Statutes 1961, Section 490.102, Subdivisions 1 to 6, inclusive, and notwithstanding the limitations thereof, the surviving spouse of every judge of the district or supreme court who died in active service prior to May 19, 1961, who had been married to the judge for five years prior to the judge's death and who has now attained the age of 49 years, shall be paid during the spouse's life one-half of the retirement compensation to which the judge would have been entitled, if the judge had been retired as of date of death. For the purposes of this subdivision, the judge shall be deemed to have been entitled to full retirement and to have retired as of the day of death. If retirement of a district judge from active service was by executive order prior to enactment of Laws 1949, Chapter 640, the judge's unremarried surviving spouse who would otherwise qualify under this section will receive one-half of the compensation the judge would have received if the judge's retirement occurred in 1949 after enactment of that law and the judge was eligible for compensation thereunder.

*[For text of subd 8, see M.S.1980]*

**History:** 1981 c 31 s 8,9

**490.104** [Repealed, 1981 c 224 s 276]

**490.106 AGREEMENT TO ACCEPT BENEFITS, EFFECT.**

(1) Upon submission of an agreement to the director of the Minnesota state retirement system prior to July 1, 1975, signed by a retired district or supreme court judge whereby the retired judge who is entitled to receive benefits computed under laws in effect on or prior to December 31, 1973 shall agree to accept as of July 1, 1975, and thereafter, a benefit based on the salary allotted the retired judge's former office at the salary level in effect on January 1, 1975, and in the same proportion of the salary as the proportion to which the retired judge was entitled upon retirement; the state shall agree to accept the liability for payment of the retirement benefit for the life of the retired judge and upon the death of the retired judge the payment of the benefit of the surviving spouse, if any and provided spouse is otherwise entitled thereto, with adjustments in the benefit amount only as may be provided under the provisions of the Minnesota post-retirement investment fund after January 1, 1976, and to pay to the judge any accrued benefits due to the retired judge as a result of the nonpayment of benefits since January 1, 1975, or as a result of any deficiency in benefits paid to the retired judge from and after November 1971.

Upon receipt of agreements, for each retired judge who signed an agreement, the director shall make the appropriate transfer of funds to the judges' retirement fund from the assets, if any, in the account for payment of retirement benefits to the retired district or supreme court judges. The benefit shall be paid from the judges' retirement fund and shall be adjusted in the same manner at the same time as other benefits payable from the Minnesota post-retirement investment fund to state employees.

(2) Upon submission of agreements to the director of the Minnesota state retirement system by each district court judge who elected to continue contributions to the survivors' account as provided by section 490.124, subdivision 10, wherein each judge shall agree to accept at time of retirement and for life a benefit based on a salary not greater than the salary allotted to the office of the judge at the date of retirement and agreements signed by surviving spouses of deceased district and supreme court judges who served as a judge between May 1961 and July 1967 wherein each surviving spouse shall agree to accept as of July 1, 1975, and thereafter, a benefit based on the salary of the deceased judge's former office at the salary level in effect on January 1, 1975; the contributions to the survivors' account made by the district court judges. Notwithstanding the provisions of section 490.102, subdivision 8, shall not be required and upon retirement of the judge, the benefit and in the event of the death of the judge, the surviving spouse's benefit, if any and provided the spouse is otherwise entitled thereto, shall be paid from the judges' retirement fund and benefits shall be adjusted at the same time and in the same manner as the benefits payable from the Minnesota post-retirement investment fund to state employees; the liability for payment of the benefits payable on July 1, 1975, from the special supreme and district court survivors' account shall be transferred to the judges retirement fund and benefits shall be adjusted in the same manner at the same time as benefits payable from the Minnesota post-retirement investment fund; and the director shall pay to each surviving spouse any deficiency in the amount of the benefit due the spouse since November, 1971.

Upon receipt of the agreements provided in clause 2 the director shall commence payment from the judges' retirement fund of the benefits payable as of July 1, 1975, from the special district and supreme court survivor's account. If agreements are not submitted, the contribution rate to the survivors' account shall be as required by section 490.102, subdivision 8, and the surviving spouse benefits shall not be payable from the judges' retirement fund.

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District and supreme court judges not referenced in this subdivision may, prior to their retirement, submit comparable agreements to the director and thus be afforded the same benefits. The contributions to the survivors' account by any supreme court judge who makes an agreement shall not be waived but shall be thereafter paid to the judges' retirement fund.

(3) Notwithstanding any law to the contrary, except as provided by this section, the reserve to pay a retirement benefit of a judge who served as a district or supreme court judge prior to July 1, 1967, and who elected or elects to have the retirement benefit computed under laws in effect on December 31, 1973, shall not remain or be transferred to nor shall the benefit be payable from the post-retirement investment fund.

**History:** 1981 c 224 s 220

## 490.107 RETIREMENT BENEFITS; INCREASE AND PAYMENT.

(1) Effective July 1, 1978, all retirement and disability benefits payable pursuant to sections 490.11, 490.12, subdivisions 1 and 2, and 222, commencing with the monthly benefit payment accruing on and after July 1, 1978 shall be paid by the judges retirement fund.

(2) The county auditors of the counties which on March 30, 1978 are liable for the payment of retirement benefits pursuant to section 490.12, subdivision 2 or 9, or Minnesota Statutes 1978, Section 487.06, shall certify to the executive director of the Minnesota state retirement system the amount of the monthly benefit that the former judge of that county is entitled to receive and, annually on each June 30 shall pay to the Minnesota state retirement system for deposit in the judges retirement fund an amount equal to the annual retirement benefit due to each retired judge for the following fiscal year plus \$25 for administrative expense. In the event of the death of the retired judge, the director shall refund to the county from the judges retirement fund the amount of any unexpended balance of the moneys the county had paid.

(3) All payments made pursuant to sections 490.11 and 490.12, subdivision 1, after January 1, 1978, shall be made by the state regardless of the date on which the payments commenced or commence.

(4) All retirement and disability benefits to which this section applies shall be payable from the judges retirement fund and shall thereafter be adjusted in the same manner and at the same time as other benefits payable from the Minnesota post-retirement investment fund. The benefit level in effect on July 1, 1978, including any increase pursuant to this clause, shall be the base for any future adjustments made pursuant to section 11A.18.

**History:** 1981 c 224 s 221

## 490.12 HALF PAY.

*[For text of subs 1 to 6, see M.S.1980]*

Subd. 9. **Retirement coverage for certain probate court judges.** A probate judge who has served as a probate judge, or as a probate judge and a judge of a court of record or a referee in probate, and who is not elected, is not appointed or does not seek election as a county court judge, who serves in a county which has been combined with another county to form a county court district, and who has served for a period of at least ten years shall, upon retirement after attaining the age of 65 years, be entitled to receive a retirement allowance. The retirement allowance shall be equal to one-half of the compensation allotted to the office of

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the probate judge for the year 1970 if the retiring probate judge has credit for at least 24 years of service and that amount reduced by 1/24 of the amount for each year which the retiring probate judge has credit for less than 24 years of service if the retiring probate judge does not have credit for at least 24 years of service.

A probate judge who has attained the age of at least 65 years but less than 70 years at the expiration of the term of office of the judge, or who has attained the age of at least 70 years at or prior to the expiration of the term of office of the judge, and who has served for a period of at least ten years shall upon retirement be entitled to receive a retirement allowance. The retirement allowance shall be equal to one-half of the compensation allotted to the office of the probate judge for the year 1970 plus the salary increase granted pursuant to Extra Session Laws 1971, Chapter 32, Section 26, if the retiring probate judge has attained the age of at least 65 years but less than 70 years and has credit for at least 24 years of service or if the retiring probate judge has attained the age of at least 70 years and has credit for at least 20 years of service, and that amount reduced by 1/24 of the amount for each year of service less than 24 years of service if the retiring probate judge has attained the age of at least 65 years but less than 70 years and does not have credit for at least 24 years of service or by one-twentieth of the amount for each year of service less than 20 years of service if the retiring probate judge has attained the age of at least 70 years and does not have credit for at least 20 years of service.

The retirement allowance shall be payable for the life of the retired probate judge.

A probate judge to whom this subdivision is applicable may continue survivor benefit coverage for the spouse of the probate judge pursuant to section 490.1091 by making the survivor benefit contribution pursuant to section 490.109, based on the salary allotted to the office of the probate judge for the year 1970. The provisions of this section and section 490.11 shall apply to judges of county court and to probate judges who have become judicial officers and who have met the minimum eligibility requirements for coverage specified in those sections.

Any judge whose office is terminated pursuant to section 487.01, subdivision 7, shall be eligible for a retirement allowance pursuant to the provisions of this section.

**History:** 1981 c 224 s 222

### 490.121 DEFINITIONS.

Subdivision 1. For purposes of sections 490.121 to 490.132, terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

*[For text of subds 2 and 3, see M.S.1980]*

Subd. 4. "Allowable service" means a whole year, or any fraction thereof, served as a judge at any time, or served as a referee in probate for all referees in probate who were in office prior to January 1, 1974.

*[For text of subd 5, see M.S.1980]*

Subd. 6. "Annuity" means the payments made each year to an annuitant from the judges' retirement fund, pursuant to the provisions of sections 490.121 to 490.132.

Subd. 7. "Annuitant" means a judge, surviving spouse or dependent child entitled to an annuity under the provisions of sections 490.121 to 490.132.

*[For text of subds 8 to 21, see M.S.1980]*

**History:** 1981 c 224 s 223-226

**490.122 ADMINISTRATION OF JUDGES' RETIREMENT.**

The policymaking, management and administrative functions governing the operation of the judges' retirement fund and the administration of sections 490.025 to 490.132 shall be vested in the board of directors and executive director of the Minnesota state retirement system with such duties, authority and responsibility as are provided in chapter 352. Except as otherwise specified, no provision of chapter 352 shall apply to the judges' retirement fund or any judge.

**History:** 1981 c 224 s 227

**490.123 JUDGES' RETIREMENT FUND.**

Subdivision 1. **Creation; contributions.** There is hereby created a special fund known as the "judges' retirement fund". The fund shall be credited with all contributions, all interest and all other income authorized by law. From this fund there are appropriated the payments authorized by sections 490.121 to 490.132 in the amounts and at times provided herein, including the expenses of administering the fund. Each judge shall contribute to the fund from each salary payment a sum equal to one-half of one percent of salary, plus a sum equal to the salary multiplied by the rate of employee tax specified in the Federal Insurance Contributions Act as defined in section 355.01, subdivision 9, but in aggregate not less than seven percent of salary. The balance of all money necessary for administering sections 490.121 to 490.132 and the judges' retirement fund, including payment of retirement compensation and other benefits under sections 490.121 to 490.132, shall be contributed to the fund by the state.

Money certified by the executive director of the Minnesota state retirement system to the commissioner of finance as needed to meet the state's obligations to the judges' retirement fund shall be transferred to the fund at least once a month.

*[For text of subds 2 and 3, see M.S.1980]*

**History:** 1981 c 224 s 228

**490.124 MATURITY OF BENEFITS; RETIREMENT AND SURVIVORS' ANNUITIES.**

Subdivision 1. **Basic retirement annuity.** Except as qualified hereinafter from and after mandatory retirement date, normal retirement date, early retirement date, or two years from the disability retirement date, as the case may be, a retirement annuity shall be payable to a retiring judge from the judges' retirement fund in an amount equal to: (1) 2-1/2 percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered prior to July 1, 1980; plus (2) three percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered after June 30, 1980; provided that the annuity shall not exceed 65 percent of the judge's annual salary for the year immediately preceding retirement.

Subd. 2. **Minimum service requirement; extension of term.** No judge shall be eligible for an annuity at normal or early retirement date if the judge has less than ten years of allowable service. A judge who shall retire on or, as permitted under sections 490.121 to 490.132, after mandatory retirement date, shall be entitled to a proportionate annuity based upon the allowable service of the judge at date of retirement.

A judge who was in office on December 31, 1973 and thereafter and who, by the date on which the current term expires, would not be eligible to retire with full

benefits under statutes in effect on December 31, 1973, may apply to the governor for an extension to serve up to three additional years, stating the intention of the judge to retire upon attaining eligibility to receive a retirement allowance. Notwithstanding section 490.125, the governor shall forthwith make a written order accepting the retirement application, and extending the term of office of the judge for the period of time, not to exceed three years, as may be necessary to make the judge eligible for retirement, solely for purposes of computing benefits hereunder.

*[For text of subs 3 to 5, see M.S.1980]*

**Subd. 6. Part-time judges.** Notwithstanding other provisions of this section, except as provided herein, service by a judge who was not paid an annual salary or who served in a jurisdiction in which the judge was entitled to practice law while serving as a judge shall be credited only at one-half of the regular rate. Any period of part time uncredited judicial service may be credited service for the purposes of sections 490.121 to 490.132 only if:

(a) The judge or his employer pays to the judges' retirement fund a sum equal to the rate of employee tax specified in the Federal Insurance Contributions Act during the period of part time service applied to one-half of the average salary earned during the period of part time service, plus accrued interest thereon at the rate of five percent per year compounded annually from the period of service so credited to the date payment is made;

(b) The payment is made in not more than 36 monthly installments; and

(c) The judge shall elect to make the payment and shall commence doing so within 90 days after the commencement of the judge's first term in office.

*[For text of subd 8, see M.S.1980]*

**Subd. 9. Survivors' annuity.** Upon the death of a judge prior to retirement, or upon the death of a person who has qualified for an annuity but who ceases to be a judge prior to retirement and has not received a refund of contributions pursuant to subdivision 12, his surviving spouse or, if there be no surviving spouse, his dependent children, shall receive an annuity, payable monthly, equal to 60 percent of the normal retirement annuity which would have been payable to the judge or former judge had the date of his death been the normal retirement date, provided that the surviving spouse or dependent children shall receive an annuity of not less than 25 percent of the judge's or former judge's final average compensation.

If a judge, whose surviving spouse was not entitled to survivors benefits provided solely for judges under statutes in effect prior to January 1, 1974, shall have died prior to retirement on or after May 23, 1973 and before January 1, 1974, his surviving spouse and dependent children, if any, shall be entitled to survivors benefits as provided hereunder as if such judge had died on January 1, 1974.

**Subd. 10. Prior survivors' benefits; limitation.** Benefits provided pursuant to sections 490.102, subdivision 6, or 490.1091, for a surviving spouse of a retired judge, payable after the death of the judge, shall be limited to:

(a) Spouses of judges who have retired prior to January 1, 1974; and

(b) Spouses of judges in office on December 31, 1973 and thereafter who elect to continue contributions pursuant to sections 490.102, subdivision 6 or 490.109. The contributions shall be in addition to contributions pursuant to section 490.123, and upon retirement the judge may not elect to receive any optional annuity pursuant to subdivision 11 unless the judge and the spouse shall waive any benefits pursuant to sections 490.102, subdivision 6 or 490.1091.

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No other judge in office on or after January 1, 1974, shall be required to contribute pursuant to sections 490.102, subdivision 6 or 490.109.

*[For text of subd 11, see M.S.1980]*

Subd. 12. **Refund.** Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be entitled to a refund in an amount equal to all his contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at the rate of five percent per annum compounded annually.

**History:** 1981 c 224 s 229-232; 1981 c 319 s 1,2

## 490.126 PROCEDURES.

Subdivision 1. **Compulsory retirement.** Proceedings for compulsory retirement of a judge, if necessary, shall be conducted in accordance with rules issued by the supreme court pursuant to section 490.16.

*[For text of subds 2 to 4, see M.S.1980]*

**History:** 1981 c 224 s 233

490.127 [Repealed, 1981 c 224 s 276]

490.128 [Repealed, 1981 c 224 s 276]

## 490.129 BENEFITS OFFSET.

Upon any event of maturity of benefits for any judge referred to in section 158, subdivision 1, clause (b), or for the judge's surviving spouse or dependent children, the amount payable from the judges' retirement fund shall be reduced by 75 percent of the amount of the judge's primary benefit payable upon the event of maturity of benefits under the social security act.

**History:** 1981 c 224 s 234

490.13 [Repealed, 1981 c 224 s 276]

## 490.132 COVERAGE FOR CERTAIN SUPREME COURT JUSTICES.

A judge of the supreme court who holds office on or prior to January 1, 1974, shall be covered by the applicable provisions of sections 490.025 to 490.106, shall continue to receive all the benefits thereunder and shall not be covered by the provisions of sections 490.121 to 490.132 unless the judge had elected, in writing, to be covered by the provisions of sections 490.121 to 490.132 by notifying the director of the state retirement system by January 1, 1974.

**History:** 1981 c 224 s 235