

## Memorandum in Support

April 8, 2024

S. 5083  
A. 5898

By: Senator Sepulveda

By: M. of A. Tapia

Senate Committee: Finance

Assembly Committee: Governmental Employees

Effective Date: Immediately

**AN ACT** to amend the retirement and social security law, in relation to death benefits for the beneficiaries of certain members of the retirement system.

**LAW AND SECTIONS REFERRED TO:** Adding Section 63-j to the Retirement and Social Security law

This bill would ensure state-paid judges and justices receive death benefits even if they were not retired by their time of death.

In 2015, the New York State Bar Association adopted a resolution supporting the amendment of section 60 of the retirement and social security law to allow for state-paid judges and justices of the Unified Court System to elect to have their beneficiaries receive a pension in lieu of the regular death benefit, upon their death while in service, providing state-paid judges and justices with the same benefits that are provided to most other state employees.

Presently, if a New York State judge dies in office, under Section 60 of the New York State Retirement and Social Security Law, the judge's beneficiaries do not receive the proceeds of their pension, but rather receive only a payment of death benefits in lieu of a pension; benefits which are generally of significantly less value than the pension to which such a deceased judge or their beneficiaries would be entitled to if the judge had retired before death. Also, under Section 60 of the New York State Retirement and Social Security Law, a deceased judge's beneficiaries may not elect any of the benefit options available to a judge who retires.

Legislation enacted in 2000 removed the so-called "Death Gamble" for thousands of police officers, fire fighters, and teachers, but specifically excluded members of the judiciary. Many judges enter service later in life and therefore must continue their work at some risk to their family's financial welfare. It is grossly unfair that New York State judges, who are the cornerstone of our state's justice system, are excluded from the benefit options available to most other state employees.

For the above reasons, the New York State Bar Association **SUPPORTS** this legislation.