

**20-2609. Retirement annuity for permanently disabled; application; examination; finding by supreme court; eligibility for retirement under 20-2608; final average salary adjustment.** (a) Any judge who has become permanently physically or mentally disabled and who is not entitled to retire under K.S.A. 20-2608, and amendments thereto, may, upon being found so disabled by the supreme court, retire under this section, and upon such retirement such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to 3.5% of the final average salary of the judge, determined as provided in subsection (b) of K.S.A. 20-2610, and amendments thereto, multiplied by the number of total years of service, but for any judge who becomes disabled as provided in this section on or after July 1, 1998, such monthly benefits shall be at least 50% but shall not exceed 70% of the final average salary of the judge, determined as provided in subsection (b) of K.S.A. 20-2610, and amendments thereto.

(b) Any judge, or the conservator of any judge, desiring to retire under the provisions of this section shall file an application for such retirement with the clerk of the supreme court, which application shall be in such form and contain such information as the supreme court shall require. The court may require such judge to be examined by a physician appointed by the court and may require such other evidence and proof of disability as it deems necessary to reach a determination as to whether such judge is so permanently disabled. If the supreme court shall determine that any such judge is so permanently disabled it shall promptly notify the board and thereupon such judge shall be placed on retirement by the board and monthly receive the retirement annuity as provided in this section.

(c) Any judge receiving an annuity under the provisions of this section shall be considered an active judge for the purposes of K.S.A. 20-2608, and amendments thereto, and shall, upon reaching age 65 or upon making application for retirement, have such judge's retirement under this section terminated and such judge shall be placed on retirement under the provisions of K.S.A. 20-2608, and amendments thereto.

(d) In the event that a judge eligible for a disability annuity authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such judge's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such judge's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such judge's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (1) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (2) four percent per annum, measured from the month the disability occurs to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(e) The provisions of law in effect on the retirement date of a judge under the retirement system for judges shall govern the retirement benefit payable to the judge, any joint annuitant and any beneficiary.

**History:** L. 1953, ch. 182, § 9; L. 1972, ch. 108, § 2; L. 1974, ch. 143, § 1; L. 1975, ch. 190, § 8; L. 1985, ch. 254, § 5; L. 1987, ch. 299, § 4; L. 1993, ch. 227, § 6; L. 1998, ch. 201, § 4; July 1.