

## Halverson, Beth

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**From:** Joyce Willms <joyce@leoff1coalition.org>  
**Sent:** Thursday, June 13, 2019 3:37 PM  
**To:** Office State Actuary, WA  
**Cc:** Joyce Willms  
**Subject:** RCW Change  
**Attachments:** law regarding children information.pdf; letter to scpp children law.pdf; County Codes - Totals.pdf

Hi Arron and Carbon,

Please read the pdf below regarding Kate Boreen. If you're going to be making changes to the LEOFF 1 RCWs, this would be a good time to make the changes to the wording so that "naturally born children would be treated the same as children adopted after the member retires." According to court documents below, you will see that the courts found this unconstitutional and that this was discrimination against children adopted after member retirement versus naturally born children.

I will be out of the office. If you have any questions, please call Dave Peery at 206-365-8912.

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## DRAFT

Talmadge/Fitzpatrick/Tribe attorney, Aaron Orheim, represented Katharine Boreen in her case against Tracy Guerin, Director of the Washington State Department of Retirement Systems.

On September 21, 2018, Judge Carol Murphy of the Thurston County Superior Court ruled that the State of Washington unconstitutionally discriminated against adopted children in its definition of “child” contained in LEOFF Plan I Pension Law. This important ruling vindicated the efforts of widow Katharine Boreen on behalf of her deceased husband LEOFF I member Lt. Phillip Boreen, of the Seattle Fire Department (SFD), and their adopted children.

Phillip Boreen received a disability retirement in 2000, after serving 28 years as a firefighter with the SFD. After his retirement, he and his wife, Katharine, adopted four minor siblings and loved and cared for them as if they were their biological children. In June of 2014, Mr. Boreen was diagnosed with late-stage cancer. He passed away on August 6, 2016.

The Washington Department of Retirement Systems (DRS) determined the family’s benefits. According to State statute in LEOFF Plan I Pension Law (RCW 41.26.030), adoptive children are treated differently than natural-born (or biological) children. To qualify for benefits, an adopted child must be adopted before a LEOFF I member receives a disability retirement. A biological child must meet no such precondition; a biological child automatically qualifies for benefits, even when born after a LEOFF I member disability retires.

Attorney Aaron Orheim filed a lawsuit arguing that the unequal treatment of adopted children violated their right to equal protection of the laws pursuant to the Fourteenth Amendment to the Constitution of the United States. On September 21, 2018, the court agreed and ruled that the disparate treatment of adopted children is unconstitutional.

### **LEOFF Plan I Benefits for Qualifying Children:**

LEOFF I increases benefits of retirees & surviving spouses with qualifying children:

- **Disability Benefit:** An additional 5% of final average salary (FAS) for each child up to a maximum of 10% - RCW 41.26.130
- **Death Benefit:**
  - Surviving spouse receives an additional 5% of FAS for each child up to a maximum of 10%
  - If no surviving spouse, or surviving spouse dies with qualifying children, the children receive 30% of FAS for one child, 10% for each additional up to 60%, share and share alike – RCW 41.26.160, 41.26.161

**DRAFT**

May 30, 2019

Representative Joe Fitzgibbon

Chair of Select Committee on Pension Policy

Dear Representative Joe Fitzgibbon,

We are respectfully requesting the Select Committee on Pension Policy to submit the statutes to be amended in the LEOFF Plan I Pension Law (RCW 41.26.030) regarding adopted children being treated differently than natural born (biological) children.

Judge Carol Murphy of the Thurston County Superior Court ruled that the State of Washington unconstitutionally discriminated against adopted children in its definition of a child contained in the LEOFF Plan I Pension Law.

Title: An act relating to Law Enforcement Officers and Firefighters Retirement Systems Plan I benefit eligibility law's definition of the word "child."

Brief: Expands eligibility of LEOFF I member's benefits to children adopted after the member's date of retirement.

## Brief Summary of Bill

According to current LEOFF I Pension Law, children a LEOFF I member adopts after the date of retirement are not eligible for any benefits. A natural-born (biological) child born after the member's date of retirement is eligible for benefits. This bill would change the definition of the word "child" in LEOFF I Pension Law to include children whom members adopt after their date of retirement, making the adopted child eligible for benefits under LEOFF I Law.

Thank you for your consideration of this request.

Respectfully,

Bill Dickinson

President of the LEOFF 1 Coalition

The LEOFF 1 Coalition only represents LEOFF I members. The LEOFF I Coalition is a statewide organization that represents retired deputy sheriffs, police officers, and firefighters.

<b><u>Code ID</u></b>	<b><u>County</u></b>	<b><u>Members Living in County</u></b>
1	ADAMS	6
2	ASOTIN	14
3	BENTON	148
4	CHELAN	57
5	CLALLAM	82
6	CLARK	180
7	COLUMBIA	2
8	COWLITZ	89
9	DOUGLAS	90
10	FERRY	6
11	FRANKLIN	51
12	GARFIELD	4
13	GRANT	76
14	GRAYS HARBOR	129
15	ISLAND	107
16	JEFFERSON	41
17	KING	1031
18	KITSAP	185
19	KITTITAS	68
20	KLICKITAT	18
21	LEWIS	87
22	LINCOLN	15
23	MASON	93
24	OKANOGAN	62
25	PACIFIC	21
26	PEND OREILL	12
27	PIERCE	608
28	SAN JUAN	8
29	SKAGIT	119
30	SKAMANIA	8
31	SNOHOMISH	737
32	SPOKANE	567
33	STEVENS	45
34	THURSTON	184
35	WAHKIAKUM	4
36	WALLA WALLA	75
37	WHATCOM	168
38	WHITMAN	17
39	YAKIMA	205
40	OUT OF STATE	
	UNKNOWN	1