

A Pensão por Morte no Direito Previdenciário Brasileiro: uma análise da legislação do Regime Geral da Previdência Social de 2014 a 2024.

The Survivor's Pension in Brazilian Social Security Law: an analysis of the Legislation of the General Social Security System from 2014 to 2024.

Rosana Martins Vieira¹
ORCID: 0009-0005-0079-3754

Submetido em 22.11.2025
Aceito em 30.04.2026

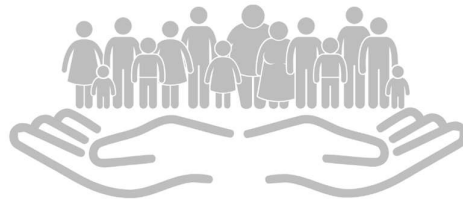
ABSTRACT: For many years, the spouse or partner who did not work expected that, with the death of the insured person, the death pension benefit would guarantee their financial support. However, with the recent changes in social security legislation, new requirements have been made for granting the benefit, leading to some restrictions on the right to a pension for death. Depending on the age of the spouse or partner, the death pension can be enjoyed for a limited period, which aggravates the economic vulnerability of these dependents. This article aims to analyze the changes in the legislation of the General Social Security System (RGPS). The main changes are related to the pension benefit for death. The methodology adopted was bibliographical research and documental analysis, focusing on understanding the implications of the social security reforms that took place by constitutional amendments. The conclusions point to the urgent need for more excellent social security education to ensure that individuals understand the new rules and reinforce the importance of social security affiliation to provide adequate and dignified social protection for all.

Keywords: Social Security. Social Security Law. Death pension.

¹ Graduada em Direito pela Universidade Tiradentes. Especialista em Direito e Processo Previdenciário na Faculdade ANASPS em Brasília (DF).

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:1-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





RESUMO: Por muitos anos, o cônjuge ou companheiro(a) que não exercia atividade remunerada tinha a expectativa de que, com o falecimento do segurado, o benefício da pensão por morte garantiria seu sustento. No entanto, com as recentes modificações na legislação previdenciária, novos requisitos passaram a ser exigidos para a concessão do benefício, o que tem implicado em algumas restrições quanto ao direito à pensão. A pensão por morte, dependendo da idade do cônjuge ou companheiro(a), pode ser usufruída por um período limitado, o que agrava a situação de vulnerabilidade econômica desses dependentes. Este artigo tem como objetivo analisar as principais alterações na legislação do Regime Geral de Previdência Social (RGPS) relacionadas ao benefício de pensão por morte, abordando os impactos dessas mudanças quanto à proteção social dos dependentes. A metodologia adotada será a pesquisa bibliográfica e a análise documental, com foco em compreender as implicações das reformas previdenciárias. As conclusões apontam para a necessidade urgente de uma maior educação previdenciária, de forma a garantir que os indivíduos compreendam as novas regras, além de reforçar a importância da filiação previdenciária para assegurar uma proteção social adequada e digna para todos.

Palavras-chave: Seguridade Social. Direito Previdenciário. Pensão por morte.

1 INTRODUCTION

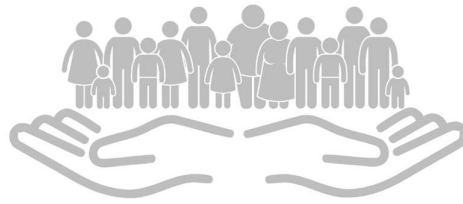
The survivor's pension is a key part of Brazil's Social Security system. It provides financial support for spouses, partners, and dependents after the insured person dies. Due to increasing pressures on the pension system, reforms have imposed stricter eligibility rules to balance financial sustainability with social protection. The main changes relate to who qualifies as a beneficiary and new limits on how long benefits last. These now depend on the pensioner's age and other factors.

A pensioner is not an insured person but is recognized as a beneficiary. Unlike active contributors, pensioners receive protection based on their legal relationship with the deceased.

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:2-20.

ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





This distinction is more important today, as recent reforms affect both the duration of benefits and who is eligible.

Recent legislative efforts to reduce the pension deficit have included measures to mitigate the fiscal impact of survivors' pensions. These reforms have prompted debate: Is economic balance worth limiting social protection for dependents? Experts criticize shorter benefit periods for older beneficiaries, noting their increased vulnerability and difficulty rejoining the workforce.

This article critically examines changes in social security legislation regarding survivors' pensions, focusing on the period from 2014 to 2024 and their effects on pensioners. The study utilizes bibliographic research and documentary analysis of current legislation to assess the impact of these reforms on surviving spouses or partners, as well as on insured individuals with potential dependents under the revised social security framework.

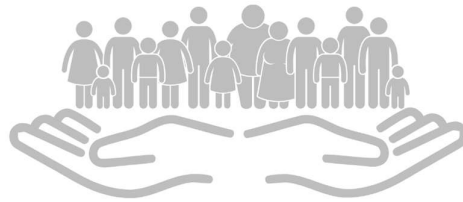
The article first introduces the concept of the right to a survivor's pension, examining its historical development and fundamental role within the Brazilian Social Security system. This section traces the evolution of the benefit, highlighting the guarantees afforded to the insured's dependents and the conditions that regulate access to the pension.

Subsequently, the article provides a detailed examination of legislative changes implemented since 2014, emphasizing key regulatory milestones that have reformed the survivor's pension benefit in the Brazilian Social Security system. The analysis covers eligibility requirements, benefit calculation methods, and the new rules determining pension duration based on the beneficiary's age. The discussion further considers the impact of these changes on the social protection of dependents.

The analysis then addresses the challenges faced by pensioners under the current legislative framework. Practical obstacles include the need to demonstrate economic

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:3-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





dependence, the need to adapt to new legal criteria, such as the required duration of marital or cohabitation relationships, and the limited time available to receive benefits, particularly for younger spouses and partners.

Finally, the article highlights the importance of education, noting that increased awareness of pension rights and eligibility requirements can support more effective retirement and benefit planning, thereby reducing the risk of unforeseen challenges during periods of vulnerability. The conclusion emphasizes the need to balance the sustainability of the pension system with the assurance of social protection for beneficiaries.

2 THE RIGHT TO A SURVIVOR'S PENSION IN SOCIAL SECURITY

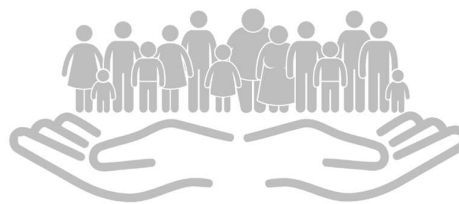
In Chapter 2, the concept of the right to a survivor's pension will be presented, addressing its historical development and its fundamental role within the Brazilian Social Security system. This section explains how the benefit has evolved over time, focusing on the guarantees offered to the insured's dependents and the conditions that govern them.

However, it should be noted that social security, in a State that seeks to guarantee the well-being and security of its citizens, is one of the essential pillars of social protection, especially for people in vulnerable situations. The pursuit of protection for workers and their families, throughout decades of industrial development, has been incorporated as a duty of the State:

Social protection techniques have always accompanied the individual throughout their development: if the search for "preventive" measures that distance them from situations of need is inherent to human beings, coexistence in social groups has not removed this concern. On the contrary, the collective perspective on prevention has always permeated development, with social difficulties serving as a fostering environment for the creation of new ideas and protective networks (Marques, Pierdoná, & Francisco, 2022, p. 159)

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:4-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





It can be concluded that social protection has always been a concern for humankind since the beginning and has evolved over the years (Rossetto, 2024). Living in society, this concern not only continued but also evolved, becoming collective and creating support networks that, over time, became support systems, from which social security, social assistance, and public policies for the protection of individuals emerged.

In the case of social security protection, technically speaking, it flourished in Germany in 1883 with the so-called Bismarckian system, which protected workers and their families with funds collected from a tripartite source. To this system, the evolution of social security law theoretically added concepts from the English social system attributed to Beveridge:

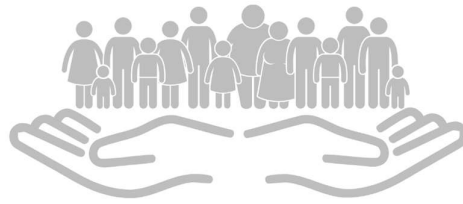
The Beveridge Plan is based on three pillars, working with distinct and coordinated techniques of aid and provision: i) social insurance - a mandatory provision technique (for the basic needs of the worker and his family); ii) national assistance - a support technique (individual assistance for those in need); and iii) voluntary insurance - an optional provision technique (for additional coverage). (Moimaz Marques; Pierdoná; Francisco, 2022, p. 161).

However, it is clear that the Beveridge Plan was heavily copied by modern social security systems, which combined three systems to guarantee economic security and social protection for individuals. The idea is that workers in situations of social security risk maintain a standard of living equivalent to what they maintained during their working lives. To achieve this, a financial base is necessary. Since an individual working alone cannot achieve this due to a lack of discipline and education regarding social security, or limited resources, the practical result of implementing public policy is that the mandatory public system protects them and their families. Moimaz Marques, Pierdoná, and Francisco (2022) explain that:

Therefore, a premise of the English social protection system is the State's obligation to guarantee a minimum standard of living for all. Precisely to maintain this, the State needs a financial base, which it obtains by intervening in the economy to safeguard full employment

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:5-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





and the effectiveness of protective techniques. Intervention to guarantee employability is essential for the plan's survival: employment is the best and main instrument to combat the major causes that lead to vulnerability, in addition to being the way that values individual autonomy, which should guide any solidarity regime (it does not exclude each individual's role and importance for the common goal; on the contrary, it gives them co-responsibility for the success of collective protection). (Moimaz Marques; Pierdoná; Francisco, 2022, p. 164).

Thus, under the English social protection system, the State is responsible for guaranteeing a minimum level of sustenance for its citizens. Therefore, to guarantee this minimum, it needs financial resources to ensure social policies. This underscores the importance of full employment and economic stability. The promotion of work becomes the main rule of the system, as it guarantees both social protection and economic equilibrium.

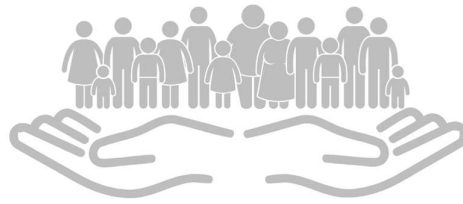
The Brazilian social security system, which belongs to the broader Social Security system based on the German model, received new characteristics in the 1988 Constitution, derived from incorporating general principles of the English Beveridge system, which conceived of the social security system as an integrated system encompassing social security, health, and social assistance.

Therefore, this basically means that social security is an essential right. As a comprehensive social protection system, it guarantees basic protection and care to citizens, ensuring assistance to those who need it.

Furthermore, one of its subsystems, social security, is a public policy of the State that aims to develop society sustainably and ensure that all citizens can live with dignity throughout their lives, regardless of circumstances. The organization of the State through social security is seen as a crucial mechanism for guaranteeing citizens' rights and meeting their needs, especially in times of financial difficulty, such as retirement, disability, or the loss of a loved one. Thus, social security emerged as a form of security, promoting to people, through a mechanism of

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:6-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





assistance provided by the State, that, in certain critical situations, such as illness and aging, citizens are assisted, thereby improving their quality of life.

It can be safely stated that Social Security is one of the essential foundations of the State's social protection structure. However, its effectiveness is intrinsically linked to judicial action and the implementation of public policies that ensure both its universality and its sustainability (Pedroza, 2024, p. 12).

It is important to note that the social security relationship involves the right to benefits not only for the worker, who is the true insured party, but also for members of their family unit, such as a spouse or partner, children (minors or incapacitated), and parents (economically dependent). This means that, as a contributor to social security, the worker ensures that, in situations such as death, disability, or retirement, their dependents may be entitled to certain social security benefits, such as pensions.

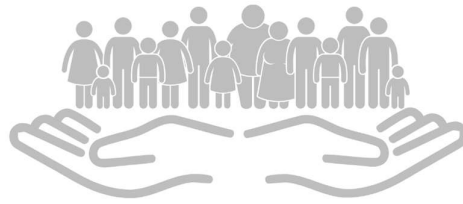
Therefore, we have seen that the Bismarckian system evolved to incorporate advances from the English Beveridge system, aiming to provide comprehensive protection for workers and their families. It has been noted that the survivor's pension benefit is granted not to the insured person but to a family member in the event of the insured person's unfortunate death.

In the next chapter, we will see that, despite the importance of the survivor's pension benefit, federal legislation has tightened the legal requirements for proof and entitlement to lifetime benefits. The protection of incapacitated beneficiaries, such as minors, requires state protection, which, in light of legislative changes, also presents some challenges.

3 SURVIVOR'S PENSION IN BRAZILIAN SOCIAL SECURITY LAW

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:7-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





This chapter will examine in detail the legislative changes introduced since 2014, highlighting the main regulatory milestones that reformed the survivor's pension benefit. Eligibility requirements, the calculation of the benefit amount, and the new rules defining the pension duration based on the beneficiary's age will be analyzed. The impact of these changes on the social protection of dependents will also be discussed.

The survivor's pension benefit is a Social Security benefit payable upon the death of the insured person, the original policyholder. Thus, the survivor's pension primarily aims to protect against the risk of death.

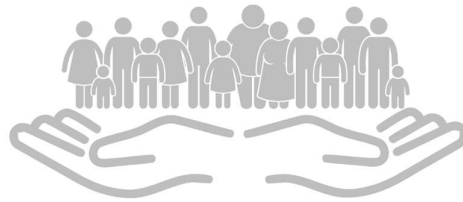
However, social security, a type of mandatory insurance, is a right of all citizens, established by law and administered by public entities, that aims to protect people against unexpected events such as accidents, illnesses, disability, and death.

In the specific case of death, its purpose is to protect the deceased's dependents, guaranteeing them financial resources to cover funeral expenses and providing financial benefits to compensate for the resources the deceased provided for their support. The survivor's pension benefit is granted not to the insured person but to a family member in the event of the insured person's unfortunate death.

Federal legislation has tightened the legal requirements for proof and entitlement to lifetime benefits. Protection for incapacitated beneficiaries, such as minors, requires state protection, which, in light of legislative changes, also presents some challenges. It is worth noting that all insured individuals may establish a survivor's pension if they leave dependents; however, this benefit is independent of any waiting period, according to Law No. 13.135/2015, which reinstated the exemption from the waiting period for survivor's pensions, previously established by Provisional Measure No. 664/2014.

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:8-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





3.1 Death benefits for those under 21 years of age and those who are completely incapable

Law No. 13,846 (Brazil, 2019a), enacted in June 2019, introduced a series of significant changes to survivors' pensions, primarily affecting dependents under 21 years of age and those who are absolutely incapable. These changes had a significant impact, generating discussions about the rights of minors and incapacitated individuals, especially regarding the 180-day deadline to request the benefit retroactively, as can be inferred below:

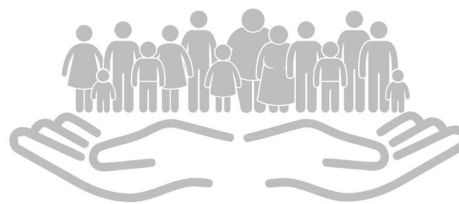
For absolutely incapable dependents under 16 years of age, the new provision of Article 219, item I, of the aforementioned Law No. 13,846, of June 18, 2019, established that the survivor's pension for absolutely incapable minors under 16 years of age would have a 180-day statute of limitations to claim the right to the social security benefit retroactively; otherwise, they would only enjoy their right from the date of filing the request. This merit shows that the Brazilian legislator overlooked the fundamental rights of minors, especially regarding the constitutional principles of their full protection and their best interests (Horvath Júnior, Ribeiro, Moreira, 2021, p. 3).

The aforementioned legal provision appears to violate a fundamental principle enshrined in the Federal Constitution and the Statute of Children and Adolescents (ECA), given that the 180-day time limit for claiming the survivor's pension benefit for those who are absolutely incapable establishes a limitation, considering the complexity of the situation due to the dependents being minors, in addition to the loss of a financially responsible person. Therefore, this legislative change requires a more in-depth analysis of its potential impacts on those who most need the State's protection, especially regarding the effective guarantee of their constitutional rights.

It is worth mentioning that Law 13.146 (Brazil, 2015), which approved the Statute of Persons with Disabilities, amended Article 16, item I, of Law 8.213 (Brazil, 1991b) and included persons with severe disabilities in the list of dependents for death benefits in class I, with its wording becoming as follows:

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:9-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





Art. 16. The following are beneficiaries of the General Social Security Regime, as dependents of the insured:

I - the spouse, the partner, and the unemancipated child, of any condition, under 21 (twenty-one) years of age or disabled or who has an intellectual or mental disability or a severe disability; (emphasis added) (Brazil, 2015).

However, starting in January 2016, all children of insured individuals with severe disabilities were included in the priority class list for entitlement to the survivor's pension.

In addition to the aforementioned Class I dependents, same-sex partners and former spouses or partners who receive alimony, as well as those considered equivalent to children (stepchildren and wards), will also be priority dependents.

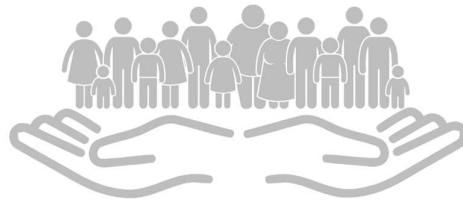
It is crucial to bear in mind that the protection of the rights of children and adolescents constitutes a structuring principle of the Brazilian legal system, as established in the Article 227 of the 1988 Federal Constitution in Brazil. This constitutional mandate imposes on the State and society the duty to protect children. Here, we reiterate what Horvath Júnior, Ribeiro, and Moreira (2021) stated:

Article 227 of the Federal Constitution provides comprehensive protection for children and adolescents due to their vulnerability. Assigning a statute of limitations to a minor seeking a right already constitutionally protected violates the classic individual freedoms guaranteed by the 1988 Federal Constitution of Brazil (Horvath Júnior, Ribeiro, Moreira, 2021, p. 8)

From an actuarial standpoint, the social security protection of children and adolescents would not be among the biggest problems in financing Social Security. Therefore, the need for legal flexibility should enable the rights of this category. Formal barriers that prevent the exercise of constitutionally guaranteed rights should be avoided.

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:10-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





With the new requirements of the benefits law, largely resulting from Constitutional Amendment No. 103 (Brazil, 2019b), greater care is needed in retirement planning. For example, the issue of minors under guardianship, a very sensitive topic, is a concern for Brazilian legal scholars:

Constitutional Amendment 103/2019, entitled Pension Reform, in its article 23, § 6, once again delimited who are the insured's dependents for the purposes of death benefits, at which point, with the term 'exclusively', by remaining silent about minors under guardianship, it excludes them from that dependency, returning them to the uncertainty of the lack of protection established since MP 1.523/96 until the pacification of Theme 732 by the STJ." (Bittencourt; Borsio; Pires, 2021, p. 69).

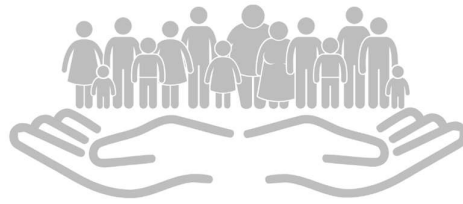
However, there has already been discussion of the case regarding minors under guardianship being entitled to the INSS survivor's pension, generating general repercussions in 2023. The STF (Supreme Federal Court) will have to determine whether such an exclusionary rule is constitutional.

This controversial issue led to the proposal of "Theme 1271 - Exclusion of children and adolescents under guardianship from the list of beneficiaries, as dependents, of the insured of the General Social Security Regime, implemented by art. 23 of Constitutional Amendment No. 103/2019".

It is important to mention that by the end of this final paper, the new wording of Law 15.108 of March 14, 2025, amended Article 16, §2 of Law 8.213 (Brazil, 1991b), equating stepchildren, minors under guardianship, and minors under judicial custody to the status of children, upon declaration by the insured and provided that they do not have sufficient means for their own support and education.

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:11-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





3.2 The granting of survivor's pension benefits to the surviving spouse/partner

An interesting aspect regarding the granting of survivor's pension benefits to the spouse/partner is that, under the social security system prior to Law No. 8,213 (Brazil, 1991b), only an invalid husband could receive a survivor's pension from his wife.

With the advent of the aforementioned Law, survivors' pensions became payable also to male spouses and partners, but certain legal requirements had to be met. Let's look at what is contained in INSS/DIRBEN Ordinance 991/2022:

Article 19. The male spouse or partner became part of the list of dependents for events occurring from April 5, 1991, as provided for in the art. 145 of Law No. 8,213 of 1991, repealed by Provisional Measure No. 2,187-13 of August 24, 2001.

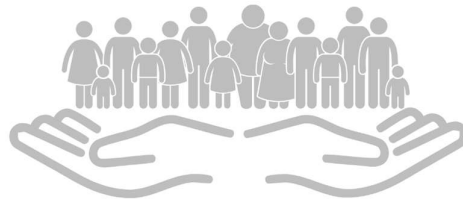
Article 20. Same-sex partners were included in the list of dependents for events occurring from April 5, 1991, as per MPS Ordinance No. 513 of December 9, 2010 (INSS, 2022).

However, it was in the view of the Supreme Federal Court that men came to have equal rights to women by constitutional provision, making the survivor's pension due to men immediately applicable, taking effect for deaths occurring after its promulgation on October 5, 1988².

However, it became clear that regardless of whether Law No. 8,213 (Brazil, 1991b) came into effect, the Supreme Federal Court (STF) already understood that, constitutionally, men and women are equal before the law – the principle of equality – and, therefore, the male

² In this regard, the Attorney General's Office (PGF) issued Reference Opinion 00019/2018/DEPCONT/PGF/AGT, whose summary reads: "SUMMARY: REFERENCE OPINION. AGU ORDINANCE No. 488/2016. CONSOLIDATED JURISPRUDENCE OF THE STF. SURVIVOR'S PENSION. GRANTING. SURVIVING HUSBAND. DEATH OF THE INSURED OCCURRED AFTER THE 1988 FEDERAL CONSTITUTION AND BEFORE THE ENACTMENT OF LAW 8.213/91. POSSIBILITY. PRINCIPLE OF EQUALITY. SELF-APPLICABILITY OF ARTICLE 201, V, OF THE CONSTITUTION."





spouse is entitled to a survivor's pension from his deceased wife, provided that she was insured by social security.

3.3 Meeting certain conditions, such as age and length of cohabitation.

With the entry into force of Law No. 13.135 (Brazil, 2015), which amends, among other laws, Law No. 8.213 (Brazil, 1991b), several changes were introduced regarding survivor's pensions, notably the survivor's pension due to the spouse and partner, where new criteria/restrictions, previously non-existent, are established.

Article 77, §2, item V, "a, b and c" of Law No. 8,213 (Brazil, 1991b), as amended by Law No. 13,135 (Brazil, 2015), was the one that underwent the most restrictions. These changes concerned the age of the spouse and partner, as well as the period of cohabitation, whether marriage or stable union.

Art. 77.

[...]

§2 The right to receive each individual share will cease:

[...]

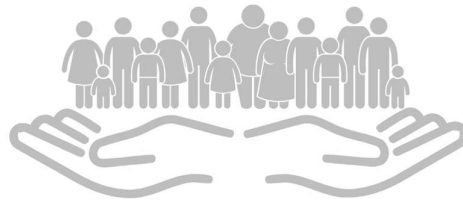
V - for the spouse or partner:

- a) if disabled or with a disability, upon cessation of the disability or upon removal of the disability, respecting the minimum periods resulting from the application of subparagraphs "b" and "c";
- b) in 4 (four) months, if the death occurs without the insured having made 18 (eighteen) monthly contributions or if the marriage or stable union began less than 2 (two) years before the insured's death;
- c) after the following periods, established according to the beneficiary's age on the date of the insured's death, if the death occurs after 18 (eighteen) monthly contributions have been made and at least 2 (two) years after the beginning of the marriage or stable union:
 - 1) 3 (three) years, if under 21 (twenty-one) years of age;
 - 2) 6 (six) years, if between 21 (twenty-one) and 26 (twenty-six) years of age;
 - 3) 10 (ten) years, if between 27 (twenty-seven) and 29 (twenty-nine) years of age;
 - 4) 15 (fifteen) years, between 30 (thirty) and 40 (forty) years of age;
 - 5) 20 (twenty) years, between 41 (forty-one) and 43 (forty-three) years of age;
 - 6) lifetime, at 44 (forty-four) years of age or older [...]. (Brazil, 1991b).

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:13-20.

ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





The legislative change established a new paradigm in social security law regarding survivors' pension benefits, since not all spouses or partners will be entitled to a lifetime survivor's pension. The duration of the benefit can now be conditional on the beneficiary's age, the deceased insured person's contribution period, and the duration of the marital or stable union relationship. Furthermore, survivors' pension benefits may be subject to limitations in their granting due to the need to prove a relationship:

Art. 16.

[...]

§ 5º Proof of stable union and economic dependence requires initial material evidence contemporaneous with the facts, produced in a period not exceeding 24 (twenty-four) months prior to the date of death or imprisonment of the insured, exclusively testimonial evidence not being admitted, except in the occurrence of force majeure or fortuitous event, as provided for in the regulations (Brazil, 1991b).

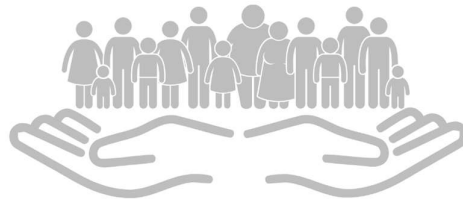
Section 5 of Article 16 of Law 8.213 (Brazil, 1991b) establishes a rigorous criterion for proving a stable union and economic dependence, fundamental requirements for granting social security benefits, such as a survivor's pension. The rule determines that such evidence must have a contemporaneous material origin, that is, documents proving the relationship within a period of up to 24 months before the death or imprisonment of the insured. Furthermore, the legislation prohibits testimonial evidence exclusively, except in cases of force majeure or fortuitous events, as regulated.

Recently, the Federal Executive Branch, with the issuance of Provisional Measures 664 and 665, disregarding the idea of non-limitation, non-diminution, and the prohibition of regression of rights already acquired by workers in their social security, demonstrated a clear disregard for class struggles. Specifically, it modified rights to survivor's pensions, imposing proof of a minimum period (24 months) of cohabitation between spouses for the survivor to

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:14-20.

ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





receive social security benefits, forgetting to consider specific cases of newlyweds who become victims of fatal non-work-related accidents, the justification for which rests on the concept of remaining working time for the surviving spouse (Borsio, 2015, p. 280).

This means that the Provisional Measures issued did not address certain specific circumstances, such as the death of a spouse, even in a recent marriage, which can represent a significant loss and often lead to a need for financial support for the surviving spouse. However, the legislative changes may represent a setback, as the rights already acquired by workers cannot be withdrawn or diminished, since this is prohibited by the Federal Constitution and constitutes an affront to the social rights of citizens. Once again, the lesson from Borsio (2015):

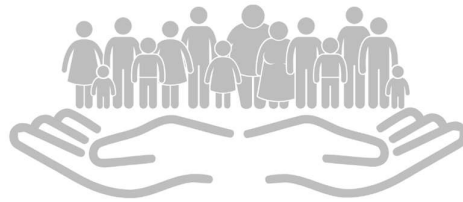
The principle of non-regression gained strength in Brazil with the teachings of José Afonso da Silva, who taught that constitutional norms defining social rights are norms of limited effectiveness with programmatic content, which, even having a binding and imperative character, require regulatory interference from infra-constitutional rules for their effectiveness, bringing binding to institutions and creating a protective network in the prohibition of regression, especially in the social context (Borsio, 2015, p. 279).

The prohibition on retroactive laws must be constitutionally guaranteed, as these rights are acquired by citizens and cannot be withdrawn or diminished, even if the changes are legislative or administrative. The constitutional norms that define social rights, such as the right to education, health, work, and social security, are norms of limited effectiveness; that is, although these norms have binding force, they require the enactment of sub-constitutional norms to be effectively applied.

Given the legal requirements for granting a survivor's pension, greater care must be taken with the documentation proving a stable union, because to obtain this guarantee from the INSS (Brazilian National Social Security Institute), that is, without the need for litigation, it is

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:15-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





necessary to formalize the stable union by registering it in a notary's office, and if the union is not formalized, it is necessary to gather documentary evidence to prove it.

It is worth noting that every citizen should have access to social security education to plan for the future, since without social security contributions, we are not insured and remain unprotected from life's eventualities and misfortunes. We know that social security education is a set of actions aimed at informing and raising awareness among the population about social security rights and duties. The INSS (Brazilian National Institute of Social Security) has a Social Security Education Program (PEP) that aims to integrate social security into citizens' lives through education.

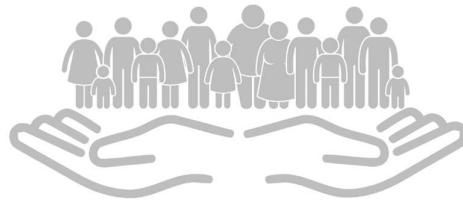
Social Security plays an essential role in protecting dependents in the event of the insured person's death, as we saw in previous chapters. However, several challenges can prevent survivors from accessing pension benefits, especially when there are irregularities in the insured person's contributions.

The first obstacle would be the lack of continuous/regular payments to the system's funding, common among informal and self-employed workers, who often do not contribute to the INSS (Brazilian Social Security Institute), leaving their dependents unprotected, that is, without the right to receive the survivor's pension benefit, for example, in the event of the insured person's death. Furthermore, if the insured person goes for a long time without contributing, they may lose their insured status, preventing the family (dependents) from receiving the benefit.

The second challenge is proving the social security link, especially in cases of informal employment or insufficient records. Even after the insured person's death, the regularization of overdue contributions is not permitted to guarantee the right to a pension, frustrating

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:16-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





dependents. Furthermore, the bureaucracy involved in proving economic dependence or a stable union can further hinder access to the benefit.

To avoid these difficulties, it is essential to keep social security contributions up to date, organize documentation, and seek appropriate guidance. Lack of planning and information can result in the exclusion of dependents from the social security system, compromising their livelihood at the very moment they need protection most.

In light of the foregoing, this Chapter 3 presents the new system for survivors' pensions, with changes in legislation and, primarily, in the Constitution with the promulgation of Constitutional Amendment No. 103 (Brazil, 2019b). The challenges in retirement planning, the discussion of evidence, the vulnerability of minors, the requirements for proving the partner's status, and the length of cohabitation and age determining the duration of pension benefits were identified as difficulties to be addressed by Brazilian social security law.

4 FINAL CONSIDERATIONS

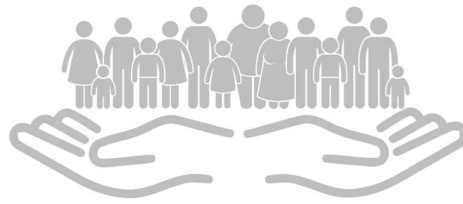
This article aimed to analyze changes in the General Social Security System (RGPS) that tightened the requirements for receiving social security benefits, specifically the survivor's pension benefit.

To that end, in the first part of the article, Chapter 2 discusses the history of social security, aiming to protect workers, and proceeds to the conceptualization of the survivor's pension.

In Chapter 3, we analyzed the main legislative changes to the General Social Security Regime that affected the granting of the survivor's pension benefit in Brazilian social security law. Thus, challenges imposed on the inclusion and regularization of insured persons for the

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:17-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





purpose of protecting their dependents in the event of misfortunes were pointed out, at the moment when the worker's family most needs a social protection benefit, which can be frustrated in the case of non-payment of contributions and affiliation to the general regime.

Among the main changes, the following stand out: modifications to eligibility rules, a reduction in the benefit percentage, and time limitations for certain dependents (spouse). While justified by the need for actuarial balance in Social Security, these measures directly impact the economic security of many families, potentially leaving widows/widowers and children in vulnerable situations without protection.

Given this scenario, it is suggested that future reforms reconcile the sustainability of the system with social protection, avoiding the lack of assistance for dependents.

Thus, it is concluded that the discussion about survivors' pensions and their legislative changes remains relevant and necessary, requiring attention from legal professionals, legislators, and society as a whole. Only through in-depth debate and the formulation of appropriate public policies will it be possible to guarantee the effectiveness of this benefit without compromising the sustainability of the Brazilian social security system.

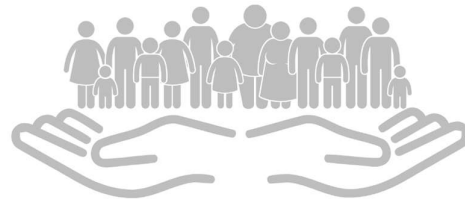
REFERÊNCIAS

BITTENCOURT, Renata Osório Caciquinho; BORSIO, Marcelo Fernando; PIRES, Luiz Henrique Paiva. A (in)visibilidade do menor sob guarda e a pensão por morte. **Revista de Direitos Sociais, Seguridade e Previdência Social**, v. 7, n. 2, p. 63-79, jul./dez. 2021.

BORSIO, Marcelo. Seguridade social, proibição do retrocesso e sustentabilidade das políticas públicas. **Revista de Administração Pública e Políticas Sociais**, v. 1, n. 2, p. 271-283, jul./dez. 2015.

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:18-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





BRASIL. **Constituição da República Federativa do Brasil, de 15 de outubro de 1988.** [https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm]. 1988.

BRASIL. **Lei nº 8.212, de 24 de julho de 1991.** Dispõe sobre a organização da Seguridade Social, institui Plano de Custeio, e dá outras providências. 1991a.

BRASIL. **Lei nº 8.213, de 24 de julho de 1991.** Dispõe sobre os Planos de Benefícios da Previdência Social e dá outras providências. 1991b.

BRASIL. **Lei nº 13.135, de 17 de junho de 2015.** Altera as Leis nº 8.213, de 24 de julho de 1991, nº 10.876, de 2 de junho de 2004, nº 8.112, de 11 de dezembro de 1990, e nº 10.666, de 8 de maio de 2003, e dá outras providências. 2015.

BRASIL. **Lei nº 13.846, de 18 de junho de 2019.** Institui o Programa Especial para Análise de Benefícios com Indícios de Irregularidade, o Programa de Revisão de Benefícios por Incapacidade, o Bônus de Desempenho Institucional por Análise de Benefícios com Indícios de Irregularidade do Monitoramento Operacional de Benefícios e o Bônus de Desempenho Institucional por Perícia Médica em Benefícios por Incapacidade; altera as Leis nºs 6.015, de 31 de dezembro de 1973, 7.783, de 28 de junho de 1989, 8.112, de 11 de dezembro de 1990, 8.212, de 24 de julho de 1991, 8.213, de 24 de julho de 1991, 8.742, de 7 de dezembro de 1993, 9.620, de 2 de abril de 1998, 9.717, de 27 de novembro de 1998, 9.796, de 5 de maio de 1999, 10.855, de 1º de abril de 2004, 10.876, de 2 de junho de 2004, 10.887, de 18 de junho de 2004, 11.481, de 31 de maio de 2007, e 11.907, de 2 de fevereiro de 2009; e revoga dispositivo da Lei nº 10.666, de 8 de maio de 2003, e a Lei nº 11.720, de 20 de junho de 2008. 2019a.

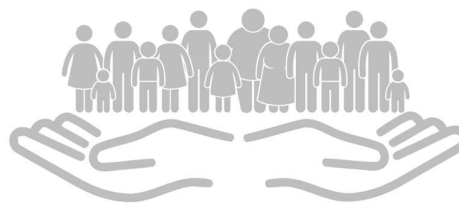
BRASIL. **Emenda Constitucional nº 103, de 12 de novembro de 2019.** Altera o sistema de previdência social e estabelece regras de transição e disposições transitórias. 2019b.

HORVATH JÚNIOR, Miguel; RIBEIRO, Juliana de Oliveira Xavier; MOREIRA, Greicy Mandelli. A dicotomia entre a interpretação hermenêutica da concessão da pensão por morte ao dependente menor absolutamente incapaz frente ao maior incapacitado permanentemente. **Revista Chilena de Derecho del Trabajo y de la Seguridad Social**, v. 12, n. 23, p. 1-19, 2021.

INSS. **Portaria DIRBEN/INSS nº 991, de 28 de março de 2022.** Aprova as Normas Procedimentais em Matéria de Benefícios. 2022.
Disponível em: https://portal.inss.gov.br/portaria_991

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:19-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>





MOIMAZ MARQUES, C. G.; PIERDONÁ, Z. L.; FRANCISCO, J. C. A seguridade social brasileira é realmente Beveridgiana?: O abismo que separa o modelo idealizado na Constituição de 1988 e a realidade que permeou a efetivação do sistema ao longo dos mais de 32 anos. **Revista Chilena de Derecho del Trabajo y de la Seguridad Social**, [S. l.], v. 13, n. 26, p. 157–178, 2022. DOI: 10.5354/0719-7551.2022.65461. Disponível em: <https://revistatrabajo.uchile.cl/index.php/RDTSS/article/view/65461>. Acesso em: 8 feb. 2025.

PEDROZA, Elenice Hass de Oliveira. O Direito à Seguridade Social na Perspectiva do Sistema Internacional de Proteção dos Direitos Humanos e as Decisões do Supremo Tribunal Federal. **Revista ANPPREV de Seguridade Social**, Brasília, DF, v. 1, n. 1, 2024. DOI: [10.70444/2966-330X.v.1.n1.2024.1005](https://doi.org/10.70444/2966-330X.v.1.n1.2024.1005).

ROSSETTO, Geralda Magella de Faria; BEN, Ana Cristina. Cidadania global, hospitalidade planetária e bem-estar em correlação com o ambiente, a tecnologia e a Previdência Social: a responsabilidade que advém da proteção de direitos. **Revista ANPPREV de Seguridade Social**, Brasília, DF, v. 1, n. 1, 2024. DOI: [10.70444/2966-330X.v.1.n1.2024.1007](https://doi.org/10.70444/2966-330X.v.1.n1.2024.1007).

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 1, 2026, pp:20-20.
ISSN 2966-330X DOI: <https://doi.org/10.70444/2966-330X.v3.n1.0008>

