

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1179

By: Representative Ballinger

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS PROVIDING DEATH BENEFITS
TO DESIGNATED BENEFICIARIES OR SURVIVORS OF POLICE
OFFICERS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND PROVISIONS PROVIDING DEATH
BENEFITS TO DESIGNATED BENEFICIARIES OR
SURVIVORS OF POLICE OFFICERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 12-8-212 is amended to read as follows:
12-8-212. Death benefits – Definitions.

(a)(1)(A) When ~~any~~ a police officer of the Department of Arkansas State Police ~~shall have lost his or her life in~~ dies in the course of employment, then upon satisfactory proof of that fact made to the Arkansas State Police Commission, a death benefit in the sum of ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) shall be paid to the surviving spouse of the deceased police officer.

(B) ~~In case no spouse survives~~ If there is not a surviving spouse of the police officer, the death benefit under subdivision (a)(1)(A) of this section shall be distributed equally among the police officer's children.

(C) If there is not a surviving spouse or surviving children of the police officer, the death benefit under subdivision (a)(1)(A) of this section shall be paid into the estate of the police officer.

(2) The ~~sum of twenty-five thousand dollars (\$25,000)~~ death



benefit under subdivision (a)(1)(A) of this section shall be paid from the Department of Arkansas State Police Fund.

(b) As used in this section, "in the course of employment" means at any time when ~~an~~ a police officer is on duty as a police officer or is performing an act ordinarily performed by a police officer although the police officer is not actually on duty at the time.

(c) ~~Nothing contained in this section shall be construed to~~ This section does not limit or extinguish the right of any police officer or the police officer's survivors to any other benefits provided by law.

SECTION 2. Arkansas Code § 21-5-704(a), concerning the payment of claims to covered public employees, their designated beneficiaries, or their survivors, is amended to read as follows:

(a)(1)(A) The state shall pay to the designated beneficiary or, if there is no designated beneficiary, then to the surviving spouse or surviving children under ~~the age of~~ twenty-two (22) years of age or, if there is no surviving spouse or surviving children under ~~the age of~~ twenty-two (22) years of age, then to the surviving children twenty-two (22) years of age or older or to the surviving parents of ~~any~~ a covered public employee who is killed in the official line of duty, the sum of fifty thousand dollars (\$50,000).

(B) The state shall pay to the designated beneficiary or, if there is no designated beneficiary, then to the surviving spouse or surviving children under twenty-two (22) years of age or, if there is no surviving spouse or surviving children under twenty-two (22) years of age, then to the surviving children twenty-two (22) years of age or older or to the surviving parents of a police officer who is killed in the official line of duty the sum of one hundred thousand dollars (\$100,000)

~~(B)(C)~~ (C) In addition thereto, the municipality that employed the police officer or firefighter shall, upon certification of the amount by the police or fire department, pay to the designated beneficiary or, if there is no designated beneficiary, then to the surviving spouse or surviving children under ~~the age of~~ twenty-two (22) years of age or, if there is no surviving spouse or surviving children under ~~the age of~~ twenty-two (22) years of age, then to the surviving children twenty-two (22) years of age or older or to the surviving parents of the deceased police officer or firefighter an

allowance for all sick leave, vacation, or other leave time accumulated to the credit of the police officer or firefighter at the time of his or her death.

(2)(A) ~~In the event~~ If a covered public employee ~~shall suffer~~ suffers an injury while engaged in the performance of official duties resulting in his or her total and permanent disability, the disabled covered public employee shall be entitled to the sum of ten thousand dollars (\$10,000) from the State of Arkansas upon establishing proof of the total and permanent disability.

(B) Proof of total and permanent disability shall be established by offering evidence that the covered public employee was unable to work in the employment position covered by this subchapter for a period of more than one (1) year or that the covered public employee received a disability rating in excess of twenty-five percent (25%) from the Workers' Compensation Commission.

SECTION 3. Arkansas Code § 21-5-705 is amended to read as follows:

21-5-705. Payment of claim to designated beneficiaries or survivors of certain specified public employees killed in the line of duty – Funds.

(a)(1) The state shall pay the additional sum of one hundred fifty thousand dollars (\$150,000) to the designated beneficiary, surviving spouse, or surviving children under twenty-two (22) years of age of a:

~~(1)(A)~~ Wildlife enforcement officer, commissioned law enforcement officer or emergency response employee of the State Parks Division of the Department of Parks and Tourism, Department of Community Correction employee, employee of the Department of Correction, jailer, or coroner whose death occurred:

~~(A)(i)~~ After January 1, 2003; and

~~(B)(ii)~~ Either in the:

~~(i)(a)~~ Official line of duty as the result of a criminal or negligent action of another person or persons or as the result of the engagement in exceptionally hazardous duty; or

~~(ii)(b)~~ Line of duty while the officer or employee was performing emergency medical activities;

~~(2)(B)~~ Firefighter, emergency medical technician, or employee of the Arkansas Forestry Commission killed after July 1, 1987, while responding

to, engaging in, or returning from a fire, a rescue incident, a hazardous material or bomb incident, an emergency medical activity, or simulated training thereof; and

~~(3)(A)(i)(C)(i)(a)~~ Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if he or she was exposed to a known carcinogen as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer while in the official line of duty.

~~(ii)(b)~~ Subdivision ~~(a)(3)(A)(i)(a)(1)(C)(i)(a)~~ of this section does not include a firefighter who was diagnosed with cancer prior to the start of firefighter service.

~~(B)(ii)~~ A death benefit under subdivision ~~(a)(3)(A)(a)(1)(C)(i)~~ of this section ~~shall be~~ is limited to:

~~(i)(a)~~ A maximum of one hundred fifty thousand dollars (\$150,000) per individual death, including educational benefits provided in § 6-82-501 et seq.; and

~~(ii)(b)~~ A firefighter who is under sixty-eight (68) years of age.

~~(C)(i)(iii)(a)~~ The Firefighter Benefit Review Panel is created for the purpose of making recommendations to the Arkansas State Claims Commission regarding determinations of death benefits under subdivision ~~(a)(3)(A)(a)(1)(C)(i)~~ of this section for deaths associated with cancer.

~~(ii)(b)~~ The panel shall consist of the following seven (7) individuals to be appointed by the Governor:

~~(a)(1)~~ One (1) licensed oncologist;

~~(b)(1)(2)(A)~~ Two (2) firefighters paid by the state, a county, or a municipality.

~~(2)(B)~~ One (1) firefighter under subdivision ~~(a)(3)(C)(ii)(b)(1)(a)(1)(C)(iii)(b)(2)(A)~~ of this section shall be appointed from a list of names submitted by the Arkansas Professional Fire Fighters Association;

~~(e)(1)(3)(A)~~ Two (2) volunteer firefighters.

~~(2)(B)~~ One (1) firefighter under subdivision ~~(a)(3)(C)(ii)(e)(1)(a)(1)(C)(iii)(b)(3)(A)~~ of this section shall be appointed from a list of names submitted by the Arkansas State Firefighters Association;

~~(d)(4)~~ One (1) fire chief who may be appointed from a list of names submitted by the Arkansas Association of Fire Chiefs; and

~~(e)(5)~~ One (1) citizen with experience in either cancer and healthcare professions or firefighter relations.

~~(iii)(a)(c)(1)~~ Panel members shall serve a term of four (4) years.

~~(b)(2)~~ In the event of a vacancy in the membership of the panel, the Governor shall appoint a person meeting the applicable eligibility requirements of the vacated position to fill the vacancy for the remainder of the unexpired term.

~~(iv)(a)(d)(1)~~ The panel shall hold at least one (1) regular meeting in each calendar year at a time and place determined by the panel.

~~(b)(2)~~ Special meetings may be called at the discretion of the chair selected under subdivision ~~(a)(3)(C)(v)(a)(1)(C)(iii)(e)~~ of this section.

~~(v)(e)~~ The panel shall select a chair and vice chair during the first annual meeting of each four-year term.

~~(vi)(f)~~ Four (4) members of the panel shall constitute a quorum to transact business.

~~(vii)(g)~~ The members of the panel may receive expense reimbursement in accordance with § 25-16-901 et seq.

~~(viii)(h)~~ The panel shall:

~~(a)(1)~~ Render advisory opinions and reports concerning research and statistics that show higher instances of cancer among firefighters;

~~(b)(2)~~ Review claims for death benefits of firefighters who have died of cancer; and

~~(e)(3)~~ Make recommendations to the Arkansas State Claims Commission on death benefit awards under subdivision

~~(a)(3)(A)(a)(1)(C)(i)~~ of this section.

~~(D)(iv)~~ This section:

~~(i)(a)~~ Shall not be applied to any other benefits granted by the state, a county, a city, or a municipality; and

~~(ii)(b)~~ Does not grant a cause of action against the state, a county, a city, or a municipality.

~~(b)(2)~~ In addition to the benefits provided for in ~~subsection (a) subdivision (a)(1)~~ of this section, the state shall pay the additional sum of twenty-five thousand dollars (\$25,000) to the designated beneficiary, surviving spouse, or surviving children under ~~the age of~~ twenty-two (22) ~~years of age~~ of ~~any police officer, a wildlife enforcement officer of the Arkansas State Game and Fish Commission, commissioned law enforcement officer of the State Parks Division of the Department of Parks and Tourism, Department of Community Correction employee, or employee of the Department of Correction:~~

~~(1)(A)~~ Who was wearing a bulletproof vest approved by the Director of the Department of Arkansas State Police; and

~~(2)(B)~~ Whose death occurred:

~~(A)(i)~~ After July 1, 1989; and

~~(B)(ii)~~ In the official line of duty as the result of a criminal action of another person or persons.

(b)(1) The state shall pay the additional sum of three hundred thousand dollars (\$300,000) to the designated beneficiary, surviving spouse, or surviving children under twenty-two (22) years of age of a police officer whose death occurred:

(A) After July 1, 2017; and

(B) Either in the:

(i) Official line of duty as the result of a criminal or negligent action of another person or persons or as the result of the engagement in exceptionally hazardous duty; or

(ii) Line of duty while the police officer was performing emergency medical activities.

(2) In addition to the benefits provided for in subdivision (b)(1) of this section, the state shall pay the additional sum of fifty thousand dollars (\$50,000) to the designated beneficiary, surviving spouse, or surviving children under twenty-two (22) years of age of a police officer:

(A) Who was wearing a bulletproof vest approved by the Director of the Department of Arkansas State Police; and

— (B) Whose death occurred:

— (i) After July 1, 2017; and

— (ii) In the official line of duty as the result of a criminal action of another person or persons.

(c)(1) Except as provided in subdivision (c)(2) of this section, the benefits shall be paid totally from state funds appropriated for these benefits. The funds shall not be reimbursed by a transfer or charging the funds against any state funds allocated for turnback to cities or counties or distributed to any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund ~~Account~~.

(2)(A) Seventy-five thousand dollars (\$75,000) of the one hundred fifty thousand dollars (\$150,000) provided in subdivision (c)(1) of this section shall be paid by the appropriate state department agency fund account.

(B) The appropriate state department agency shall transfer the necessary funds to the Arkansas State Claims Commission fund accounts for payment.

(d) The additional benefits provided in this section shall be paid to the designated beneficiary, surviving spouse, surviving children, or surviving parents in three (3) equal annual payments, the first of which shall be paid in July of the next fiscal year after the date of the original order of the Arkansas State Claims Commission establishing entitlement to additional payments and annually thereafter.

(e) Determination of eligibility for the additional payments provided for in this section shall be made by the Arkansas State Claims Commission in accordance with Arkansas State Claims Commission rules and procedures.