

INTERIM STUDY PROPOSAL 2017-085

1
2 State of Arkansas
3 91st General Assembly
4 Regular Session, 2017

A Bill

HOUSE BILL 1179

5
6 By: Representative Ballinger

7 Filed with: House Committee on State Agencies and Governmental Affairs
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO AMEND PROVISIONS PROVIDING DEATH BENEFITS
11 TO DESIGNATED BENEFICIARIES OR SURVIVORS OF POLICE
12 OFFICERS; AND FOR OTHER PURPOSES.

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14
15 **Subtitle**

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

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20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. Arkansas Code § 12-8-212 is amended to read as follows:
24 12-8-212. Death benefits – Definitions.

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

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

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

4 (2) ~~The sum of twenty five thousand dollars (\$25,000) death~~
 5 benefit under subdivision (a)(1)(A) of this section shall be paid from the
 6 Department of Arkansas State Police Fund.

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

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

14
 15 SECTION 2. Arkansas Code § 21-5-704(a), concerning the payment of
 16 claims to covered public employees, their designated beneficiaries, or their
 17 survivors, is amended to read as follows:

18 (a)(1)(A) The state shall pay to the designated beneficiary or, if
 19 there is no designated beneficiary, then to the surviving spouse or surviving
 20 children under ~~the age of~~ twenty-two (22) years of age or, if there is no
 21 surviving spouse or surviving children under ~~the age of~~ twenty-two (22)
 22 years of age, then to the surviving children twenty-two (22) years of age or
 23 older or to the surviving parents of any a covered public employee who is
 24 killed in the official line of duty, the sum of fifty thousand dollars
 25 (\$50,000).

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

33 ~~(B)(C)~~ (C) In addition thereto, the municipality that employed
 34 the police officer or firefighter shall, upon certification of the amount by
 35 the police or fire department, pay to the designated beneficiary or, if there
 36 is no designated beneficiary, then to the surviving spouse or surviving

1 children under ~~the age of~~ twenty-two (22) years of age, if there is no
 2 surviving spouse or surviving children under ~~the age of~~ twenty-two (22) years
 3 of age, then to the surviving children twenty-two (22) years of age or older
 4 or to the surviving parents of the deceased police officer or firefighter an
 5 allowance for all sick leave, vacation, or other leave time accumulated to
 6 the credit of the police officer or firefighter at the time of his or her
 7 death.

8 (2)(A) ~~In the event~~ If a covered public employee ~~shall suffer~~
 9 suffers an injury while engaged in the performance of official duties
 10 resulting in his or her total and permanent disability, the disabled covered
 11 public employee shall be entitled to the sum of ten thousand dollars
 12 (\$10,000) from the State of Arkansas upon establishing proof of the total and
 13 permanent disability.

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

20
 21 SECTION 3. Arkansas Code § 21-5-705 is amended to read as follows:

22 21-5-705. Payment of claim to designated beneficiaries or survivors of
 23 certain specified public employees killed in the line of duty – Funds.

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

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

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

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

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

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

3 ~~(2)(B)~~ Firefighter, emergency medical technician, or employee of
4 the Arkansas Forestry Commission killed after July 1, 1987, while responding
5 to, engaging in, or returning from a fire, a rescue incident, a hazardous
6 material or bomb incident, an emergency medical activity, or simulated
7 training thereof; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 ~~(c)(3)~~ Make recommendations to the Arkansas
4 State Claims Commission on death benefit awards under subdivision
5 ~~(a)(3)(A)(a)(1)(C)(i)~~ of this section.

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

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

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

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

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

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

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

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

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

30 (A) After July 1, 2017; and

31 (B) Either in the:

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

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

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

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

7 (B) Whose death occurred:

8 (i) After July 1, 2017; and

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

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

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

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

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

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

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36 Referral requested by: Representative Bob Ballinger

1 Prepared by: VJF

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