

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 580

95TH GENERAL ASSEMBLY

1405L.03P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 287.090, RSMo, and to enact in lieu thereof two new sections relating to compensation for emergency personnel killed in the line of duty, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 287.090, RSMo, is repealed and two new sections enacted in lieu  
2 there of, to be known as sections 287.090 and 287.243, to read as follows:

287.090. 1. This chapter shall not apply to:

2 (1) Employment of farm labor, domestic servants in a private home, including family  
3 chauffeurs, or occasional labor performed for and related to a private household;

4 (2) Qualified real estate agents and direct sellers as those terms are defined in Section  
5 3508 of Title 26 United States Code;

6 (3) Employment where the person employed is an inmate confined in a state prison,  
7 penitentiary or county or municipal jail, or a patient or resident in a state mental health facility,  
8 and the labor or services of such inmate, patient, or resident are exclusively on behalf of the state,  
9 county or municipality having custody of said inmate, patient, or resident. Nothing in this  
10 subdivision is intended to exempt employment where the inmate, patient or resident was hired  
11 by a state, county or municipal government agency after direct competition with persons who are  
12 not inmates, patients or residents and the compensation for the position of employment is not  
13 contingent upon or affected by the worker's status as an inmate, patient or resident;

14 (4) **Except as provided in section 287.243**, volunteers of a tax-exempt organization  
15 which operates under the standards of Section 501(c)(3) of the federal Internal Revenue Code,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 where such volunteers are not paid wages, but provide services purely on a charitable and  
17 voluntary basis;

18 (5) Persons providing services as adjudicators, sports officials, or contest workers for  
19 interscholastic activities programs or similar amateur youth programs who are not otherwise  
20 employed by the sponsoring school, association of schools or nonprofit tax-exempt organization  
21 sponsoring the amateur youth programs.

22 2. Any employer exempted from this chapter as to the employer or as to any class of  
23 employees of the employer pursuant to the provisions of subdivision (3) of subsection 1 of  
24 section 287.030 or pursuant to subsection 1 of this section may elect coverage as to the employer  
25 or as to the class of employees of that employer pursuant to this chapter by purchasing and  
26 accepting a valid workers' compensation insurance policy or endorsement, or by written notice  
27 to the group self-insurer of which the employer is a member. The election shall take effect on  
28 the effective date of the workers' compensation insurance policy or endorsement, or by written  
29 notice to the group self-insurer of which the employer is a member, and continue while such  
30 policy or endorsement remains in effect or until further written notice to the group self-insurer  
31 of which the employer is a member. Any such exempt employer or employer with an exempt  
32 class of employees may withdraw such election by the cancellation or nonrenewal of the workers'  
33 compensation insurance policy or endorsement, or by written notice to the group self-insurer of  
34 which the employer is a member. In the event the employer is electing out of coverage as to the  
35 employer, the cancellation shall take effect on the later date of the cancellation of the policy or  
36 the filing of notice pursuant to subsection 3 of this section.

37 3. Any insurance company authorized to write insurance under the provisions of this  
38 chapter in this state shall file with the division a memorandum on a form prescribed by the  
39 division of any workers' compensation policy issued to any employer and of any renewal or  
40 cancellation thereof.

41 4. The mandatory coverage sections of this chapter shall not apply to the employment  
42 of any member of a family owning a family farm corporation as defined in section 350.010,  
43 RSMo, or to the employment of any salaried officer of a family farm corporation organized  
44 pursuant to the laws of this state, but such family members and officers of such family farm  
45 corporations may be covered under a policy of workers' compensation insurance if approved by  
46 a resolution of the board of directors. Nothing in this subsection shall be construed to apply to  
47 any other type of corporation other than a family farm corporation.

48 5. A corporation may withdraw from the provisions of this chapter, when there are no  
49 more than two owners of the corporation who are also the only employees of the corporation, by  
50 filing with the division notice of election to be withdrawn. The election shall take effect and  
51 continue from the date of filing with the division by the corporation of the notice of withdrawal

52 from liability under this chapter. Any corporation making such an election may withdraw its  
53 election by filing with the division a notice to withdraw the election, which shall take effect  
54 thirty days after the date of the filing, or at such later date as may be specified in the notice of  
55 withdrawal.

**287.243. 1. This section shall be known and may be cited as the "Line of Duty  
2 Compensation Act".**

**3 2. As used in this section, unless otherwise provided, the following words shall  
4 mean:**

**5 (1) "Emergency medical technician", a person licensed in emergency medical care  
6 in accordance with standards prescribed by sections 190.001 to 190.245, RSMo, and by  
7 rules adopted by the department of health and senior services under sections 190.001 to  
8 190.245, RSMo;**

**9 (2) "Firefighter", any person, including a volunteer firefighter, employed by the  
10 state or a local governmental entity as an employer defined under subsection 1 of section  
11 287.030, or otherwise serving as, a member or officer of a fire department either for the  
12 purpose of the prevention or control of fire or the underwater recovery of drowning  
13 victims;**

**14 (3) "Killed in the line of duty", when any person defined in this section loses his or  
15 her life when:**

**16 (a) Death is caused by an accident or the willful act of violence of another;**

**17 (b) The law enforcement officer, emergency medical technician, or firefighter is in  
18 the active performance of his or her duties in his or her respective profession and there is  
19 a relationship between the accident or commission of the act of violence and the  
20 performance of the duty, even if the individual is off duty; the law enforcement officer,  
21 emergency medical technician, or firefighter is traveling to or from employment; or the law  
22 enforcement officer, emergency medical technician, or firefighter is taking any meal break  
23 or other break which takes place while that individual is on duty;**

**24 (c) Death is the natural and probable consequence of the injury;**

**25 (d) Death occurs within three hundred weeks from the date the injury was received.**

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**27 The term excludes death resulting from the willful misconduct or intoxication of the law  
28 enforcement officer, emergency medical technician, or firefighter. The division of workers'  
29 compensation shall have the burden of proving such willful misconduct or intoxication;**

**30 (4) "Law enforcement officer", any person employed by the state or a local  
31 governmental entity as a police officer, peace officer certified under chapter 590, RSMo,**

32 or serving as an auxiliary police officer or in some like position involving the enforcement  
33 of the law and protection of the public interest at the risk of that person's life;

34 (5) "Local governmental entity", includes counties, municipalities, townships,  
35 board or other political subdivision, cities under special charter, or under the commission  
36 form of government, fire protection districts, ambulance districts, and municipal  
37 corporations;

38 (6) "State", the state of Missouri and its departments, divisions, boards, bureaus,  
39 commissions, authorities, and colleges and universities;

40 (7) "Volunteer firefighter", a person having principal employment other than as  
41 a firefighter, but who is carried on the rolls of a regularly constituted fire department  
42 either for the purpose of the prevention or control of fire or the underwater recovery of  
43 drowning victims, the members of which are under the jurisdiction of the corporate  
44 authorities of a city, village, incorporated town, or fire protection district. Volunteer  
45 firefighter shall not mean an individual who volunteers assistance without being regularly  
46 enrolled as a firefighter.

47 3. (1) A claim for compensation under this section shall be filed by the estate of the  
48 deceased with the division of workers' compensation not later than one year from the date  
49 of death of a law enforcement officer, emergency medical technician, or firefighter. If a  
50 claim is made within one year of the date of death of a law enforcement officer, emergency  
51 medical technician, or firefighter killed in the line of duty, compensation shall be paid, if  
52 the division finds that the claimant is entitled to compensation under this section.

53 (2) The amount of compensation paid to the claimant shall be twenty-five thousand  
54 dollars for death occurring on or after the effective date of this section.

55 4. Notwithstanding subsection 3 of this section, no compensation is payable under  
56 this section unless a claim is filed within the time specified under this section setting forth:

57 (1) The name, address, and title or designation of the position in which the law  
58 enforcement officer, emergency medical technician, or firefighter was serving at the time  
59 of his or her death;

60 (2) The names and addresses of the claimant;

61 (3) A full, factual account of the circumstances resulting in or the course of events  
62 causing the death at issue; and

63 (4) Such other information that is reasonably required by the division.

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65 When a claim is filed, the division of workers' compensation shall make an investigation  
66 for substantiation of matters set forth in the application.

67           **5. The compensation provided for under this section is in addition to, and not**  
68 **exclusive of, any pension rights, death benefits, or other compensation the claimant may**  
69 **otherwise be entitled to by law.**

70           **6. Neither employers nor workers' compensation insurers shall have subrogation**  
71 **rights against any compensation awarded for claims under this section. Such**  
72 **compensation shall not be assignable, shall be exempt from attachment, garnishment, and**  
73 **execution, and shall not be subject to setoff or counterclaim, or be in any way liable for any**  
74 **debt, except that the division or commission may allow as lien on the compensation,**  
75 **reasonable attorney's fees for services in connection with the proceedings for compensation**  
76 **if the services are found to be necessary. Such fees are subject to regulation as set forth in**  
77 **section 287.260.**

78           **7. Any person seeking compensation under this section who is aggrieved by the**  
79 **decision of the division of workers' compensation regarding his or her compensation claim,**  
80 **may make application for a hearing as provided in section 287.450. The procedures**  
81 **applicable to the processing of such hearings and determinations shall be those established**  
82 **by this chapter. Decisions of the administrative law judge under this section shall be**  
83 **binding, subject to review by either party under the provisions of section 287.480.**

84           **8. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

85           **(1) The provisions of the new program authorized under this section shall**  
86 **automatically sunset six years after the effective date of this section unless reauthorized by**  
87 **an act of the general assembly; and**

88           **(2) If such program is reauthorized, the program authorized under this section**  
89 **shall automatically sunset twelve years after the effective date of the reauthorization of this**  
90 **section; and**

91           **(3) This section shall terminate on September first of the calendar year immediately**  
92 **following the calendar year in which the program authorized under this section is sunset.**

93           **9. The provisions of this section, unless specified, shall not be subject to other**  
94 **provisions of this chapter.**

95           **10. There is hereby created in the state treasury the "Line of Duty Compensation**  
96 **Fund", which shall consist of moneys appropriated to the fund and any voluntary**  
97 **contributions, gifts, or bequests to the fund. The state treasurer shall be custodian of the**  
98 **fund and shall approve disbursements from the fund in accordance with sections 30.170**  
99 **and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for paying**  
100 **claims under this section. Notwithstanding the provisions of section 33.080, RSMo, to the**  
101 **contrary, any moneys remaining in the fund at the end of the biennium shall not revert to**  
102 **the credit of the general revenue fund. The state treasurer shall invest moneys in the fund**

103 **in the same manner as other funds are invested. Any interest and moneys earned on such**  
104 **investments shall be credited to the fund.**

105 **11. The division shall promulgate rules to administer this section, including but not**  
106 **limited to the appointment of claims to multiple claimants, record retention, and**  
107 **procedures for information requests. Any rule or portion of a rule, as that term is defined**  
108 **in section 536.010, RSMo, that is created under the authority delegated in this section shall**  
109 **become effective only if it complies with and is subject to all of the provisions of chapter**  
110 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**  
111 **RSMo, are nonseverable and if any of the powers vested with the general assembly under**  
112 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
113 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
114 **rule proposed or adopted after the effective date of this section, shall be invalid and void.**

Section B. Because monetary support for the families of emergency personnel ensures  
2 that such personnel know that their loved ones will be provided for upon his or her death, it is  
3 deemed necessary for the immediate preservation of the public, health, welfare, peace, and safety  
4 of this state and is hereby declared to be an emergency act within the meaning of the constitution  
5 and shall be in full force and effect upon its passage and approval.

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