

SECOND REGULAR SESSION

HOUSE BILL NO. 2116

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES TORPEY (Sponsor) AND HINSON (Co-sponsor).

6350H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 287.243, RSMo, and to enact in lieu thereof one new section relating to compensation for emergency personnel killed in the line of duty.

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

Section A. Section 287.243, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.243, to read as follows:

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

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

(1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted by the department of health and senior services, division of regulation and licensure, 19 CSR 30-40.005, et seq.;

(2) "Air ambulance registered professional nurse", a person licensed as a registered professional nurse in accordance with sections 335.011 to 335.096 and corresponding regulations adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered professional nursing services as a flight nurse in conjunction with an air ambulance program that is certified in accordance with sections 190.001 to 190.245 and the corresponding regulations applicable to such programs;

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

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.

17 (4) "Firefighter", any person, including a volunteer firefighter, employed by the state or
18 a local governmental entity as an employer defined under subsection 1 of section 287.030, or
19 otherwise serving as a member or officer of a fire department either for the purpose of the
20 prevention or control of fire or the underwater recovery of drowning victims;

21 (5) "Killed in the line of duty", when [a] **any** person defined in this section loses [one's]
22 **his or her** life [as a result of an injury received in the active performance of his or her duties
23 within the ordinary scope of his or her respective profession while the individual is on duty and
24 but for the individual's performance, death would have not occurred] **when:**

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

26 (b) **The law enforcement officer, emergency medical technician, air ambulance**
27 **pilot, air ambulance registered professional nurse, or firefighter is in the active**
28 **performance of his or her duties in his or her respective profession and there is a**
29 **relationship between the accident or commission of the act of violence and the performance**
30 **of the duty, even if the individual is off duty; the law enforcement officer, emergency**
31 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
32 **firefighter is traveling to or from employment; or the law enforcement officer, emergency**
33 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
34 **firefighter is taking any meal break or other break which takes place while that individual**
35 **is on duty;**

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

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

38 The term excludes death resulting from the willful misconduct or intoxication of the law
39 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
40 registered professional nurse, or firefighter. The division of workers' compensation shall have
41 the burden of proving such willful misconduct or intoxication;

42 (6) "Law enforcement officer", any person employed by the state or a local governmental
43 entity as a police officer, peace officer certified under chapter 590, or serving as an auxiliary
44 police officer or in some like position involving the enforcement of the law and protection of the
45 public interest at the risk of that person's life;

46 (7) "Local governmental entity", includes counties, municipalities, townships, board or
47 other political subdivision, cities under special charter, or under the commission form of
48 government, fire protection districts, ambulance districts, and municipal corporations;

49 (8) "State", the state of Missouri and its departments, divisions, boards, bureaus,
50 commissions, authorities, and colleges and universities;

51 (9) "Volunteer firefighter", a person having principal employment other than as a
52 firefighter, but who is carried on the rolls of a regularly constituted fire department either for the

53 purpose of the prevention or control of fire or the underwater recovery of drowning victims, the
54 members of which are under the jurisdiction of the corporate authorities of a city, village,
55 incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual
56 who volunteers assistance without being regularly enrolled as a firefighter.

57 3. (1) A claim for compensation under this section shall be filed by the estate of the
58 deceased with the division of workers' compensation not later than one year from the date of
59 death of a law enforcement officer, emergency medical technician, air ambulance pilot, air
60 ambulance registered professional nurse, or firefighter. If a claim is made within one year of the
61 date of death of a law enforcement officer, emergency medical technician, air ambulance pilot,
62 air ambulance registered professional nurse, or firefighter killed in the line of duty, compensation
63 shall be paid, if the division finds that the claimant is entitled to compensation under this section.

64 (2) The amount of compensation paid to the claimant shall be twenty-five thousand
65 dollars, subject to appropriation, for death occurring on or after June 19, 2009.

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

68 (1) The name, address, and title or designation of the position in which the law
69 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
70 registered professional nurse, or firefighter was serving at the time of his or her death;

71 (2) The name and address of the claimant;

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

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

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

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

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

87 7. Any person seeking compensation under this section who is aggrieved by the decision
88 of the division of workers' compensation regarding his or her compensation claim, may make

89 application for a hearing as provided in section 287.450. The procedures applicable to the
90 processing of such hearings and determinations shall be those established by this chapter.
91 Decisions of the administrative law judge under this section shall be binding, subject to review
92 by either party under the provisions of section 287.480.

93 8. Pursuant to section 23.253 of the Missouri sunset act:

94 (1) The provisions of the new program authorized under this section shall automatically
95 sunset six years after June 19, 2009, unless reauthorized by an act of the general assembly; and

96 (2) If such program is reauthorized, the program authorized under this section shall
97 automatically sunset twelve years after the effective date of the reauthorization of this section;
98 and

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

101 9. The provisions of this section, unless specified, shall not be subject to other provisions
102 of this chapter.

103 10. There is hereby created in the state treasury the "Line of Duty Compensation Fund",
104 which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts,
105 or bequests to the fund. The state treasurer shall be custodian of the fund and shall approve
106 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon
107 appropriation, money in the fund shall be used solely for paying claims under this section.
108 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the
109 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The
110 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.
111 Any interest and moneys earned on such investments shall be credited to the fund.

112 11. The division shall promulgate rules to administer this section, including but not
113 limited to the appointment of claims to multiple claimants, record retention, and procedures for
114 information requests. Any rule or portion of a rule, as that term is defined in section 536.010,
115 that is created under the authority delegated in this section shall become effective only if it
116 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
117 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
118 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
119 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
120 any rule proposed or adopted after June 19, 2009, shall be invalid and void.

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