

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2360

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REDMON.

6251H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 173.260 and 287.243, RSMo, and to enact in lieu thereof two new sections relating to public safety officer or employee survivor benefits.

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

Section A. Sections 173.260 and 287.243, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 173.260 and 287.243, to read as follows:

173.260. 1. As used in this section, unless the context clearly requires otherwise, the following terms 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;

(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) "Air ambulance registered respiratory therapist", a person licensed as a registered respiratory therapist in accordance with sections 334.800 to 334.930 and corresponding regulations adopted by the state board for respiratory care, who provides respiratory therapy services in conjunction with an air ambulance program that is certified

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 **in accordance with sections 190.001 to 190.245 and corresponding regulations applicable**
17 **to such programs;**

18 **(4)** "Board", the coordinating board for higher education;

19 ~~[(2)]~~ **(5)** "Eligible child", the natural, adopted or stepchild of a public safety officer or
20 employee, as defined in this section, who is less than twenty-four years of age and who is a
21 dependent of a public safety officer or employee or was a dependent at the time of death or
22 permanent and total disability of a public safety officer or employee;

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

26 ~~[(3)]~~ **(7)** "Employee", any full-time employee of the department of transportation
27 engaged in the construction or maintenance of the state's highways, roads and bridges;

28 **(8)** "Flight crew member", an individual engaged in flight responsibilities with an
29 **air ambulance licensed in accordance with sections 190.001 to 190.245 and corresponding**
30 **regulations applicable to such programs;**

31 ~~[(4)]~~ **(9)** "Grant", the public safety officer or employee survivor grant as established by
32 this section;

33 ~~[(5)]~~ **(10)** "Institution of postsecondary education", any approved public or private
34 institution as defined in section 173.205;

35 ~~[(6)]~~ **(11)** "Line of duty", any action of a public safety officer, whose primary function
36 is crime control or reduction, enforcement of the criminal law, or suppression of fires, is
37 authorized or obligated by law, rule, regulation or condition of employment or service to
38 perform;

39 ~~[(7)]~~ **(12)** "Public safety officer", any firefighter, **uniformed employee of the office of**
40 **the state fire marshal, emergency medical technician, police officer, capitol police officer,**
41 **parole officer, probation officer, state correctional employee, water safety officer, park ranger,**
42 **conservation officer or highway patrolman employed by the state of Missouri or a political**
43 **subdivision thereof who is killed or permanently and totally disabled in the line of duty or any**
44 **emergency medical technician, air ambulance pilot, air ambulance registered professional**
45 **nurse, air ambulance registered respiratory therapist, or flight crew member who is killed**
46 **or permanently and totally disabled in the line of duty;**

47 ~~[(8)]~~ **(13)** "Permanent and total disability", a disability which renders a person unable to
48 engage in any gainful work;

49 ~~[(9)]~~ **(14)** "Spouse", the husband, wife, widow or widower of a public safety officer or
50 employee at the time of death or permanent and total disability of such public safety officer;

51 ~~[(10)]~~ **(15)** "Tuition", any tuition or incidental fee or both charged by an institution of
52 postsecondary education, as defined in this section, for attendance at that institution by a student
53 as a resident of this state.

54 2. Within the limits of the amounts appropriated therefor, the coordinating board for
55 higher education shall provide, as defined in this section, a grant for either of the following to
56 attend an institution of postsecondary education:

57 (1) An eligible child of a public safety officer or employee killed or permanently and
58 totally disabled in the line of duty; or

59 (2) A spouse of a public safety officer killed or permanently and totally disabled in the
60 line of duty.

61 3. An eligible child or spouse may receive a grant under this section only so long as the
62 child or spouse is enrolled in a program leading to a certificate, or an associate or baccalaureate
63 degree. In no event shall a child or spouse receive a grant beyond the completion of the first
64 baccalaureate degree or, in the case of a child, age twenty-four years, except that the child may
65 receive a grant through the completion of the semester or similar grading period in which the
66 child reaches his twenty-fourth year. No child or spouse shall receive more than one hundred
67 percent of tuition when combined with similar funds made available to such child or spouse.

68 4. The coordinating board for higher education shall:

69 (1) Promulgate all necessary rules and regulations for the implementation of this section;

70 (2) Determine minimum standards of performance in order for a child or spouse to
71 remain eligible to receive a grant under this program;

72 (3) Make available on behalf of an eligible child or spouse an amount toward the child's
73 or spouse's tuition which is equal to the grant to which the child or spouse is entitled under the
74 provisions of this section;

75 (4) Provide the forms and determine the procedures necessary for an eligible child or
76 spouse to apply for and receive a grant under this program.

77 5. An eligible child or spouse who is enrolled or has been accepted for enrollment as an
78 undergraduate postsecondary student at an approved institution of postsecondary education shall
79 receive a grant in an amount not to exceed the least of the following:

80 (1) The actual tuition, as defined in this section, charged at an approved institution where
81 the child or spouse is enrolled or accepted for enrollment; or

82 (2) The amount of tuition charged a Missouri resident at the University of Missouri for
83 attendance as a full-time student, as defined in section 173.205.

84 6. An eligible child or spouse who is a recipient of a grant may transfer from one
85 approved public or private institution of postsecondary education to another without losing his
86 entitlement under this section. The board shall make necessary adjustments in the amount of the

87 grant. If a grant recipient at anytime withdraws from the institution of postsecondary education
88 so that under the rules and regulations of that institution he is entitled to a refund of any tuition,
89 fees, or other charges, the institution shall pay the portion of the refund to which he is entitled
90 attributable to the grant for that semester or similar grading period to the board.

91 7. If an eligible child or spouse is granted financial assistance under any other student
92 aid program, public or private, the full amount of such aid shall be reported to the board by the
93 institution and the eligible child or spouse.

94 8. Nothing in this section shall be construed as a promise or guarantee that a person will
95 be admitted to an institution of postsecondary education or to a particular institution of
96 postsecondary education, will be allowed to continue to attend an institution of postsecondary
97 education after having been admitted, or will be graduated from an institution of postsecondary
98 education.

99 9. A public safety officer who is permanently and totally disabled shall be eligible for
100 a grant pursuant to the provisions of this section.

101 10. An eligible child of a public safety officer or employee, spouse of a public safety
102 officer or public safety officer shall cease to be eligible for a grant pursuant to this section when
103 such public safety officer or employee is no longer permanently and totally disabled.

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 mean:

4 (1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with
5 sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted
6 by the department of health and senior services ~~[, division of regulation and licensure, 19 CSR~~
7 ~~30-40.005, et seq.]~~;

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

14 (3) **"Air ambulance registered respiratory therapist", a person licensed as a**
15 **registered respiratory therapist in accordance with sections 334.800 to 334.930 and**
16 **corresponding regulations adopted by the state board for respiratory care, who provides**
17 **respiratory therapy services in conjunction with an air ambulance program that is certified**
18 **in accordance with sections 190.001 to 190.245 and corresponding regulations applicable**
19 **to such programs;**

20 ~~[(3)]~~ (4) “Child”, any natural, illegitimate, adopted, or posthumous child or stepchild
21 of a deceased ~~[law enforcement officer, emergency medical technician, air ambulance pilot, air~~
22 ~~ambulance registered professional nurse, or firefighter]~~ **public safety officer** who, at the time
23 of the ~~[law enforcement officer’s, emergency medical technician’s, air ambulance pilot’s, air~~
24 ~~ambulance registered professional nurse’s, or firefighter’s]~~ **public safety officer's** fatality is:

- 25 (a) Eighteen years of age or under;
26 (b) Over eighteen years of age and a student, as defined in 5 U.S.C. Section 8101; or
27 (c) Over eighteen years of age and incapable of self-support because of physical or
28 mental disability;

29 ~~[(4)]~~ (5) “Emergency medical technician”, a person licensed in emergency medical care
30 in accordance with standards prescribed by sections 190.001 to 190.245 and by rules adopted by
31 the department of health and senior services under sections 190.001 to 190.245;

32 ~~[(5)]~~ (6) “Firefighter”, any person, including a volunteer firefighter, employed by the
33 state or a local governmental entity as an employer defined under subsection 1 of section
34 287.030, or otherwise serving as a member or officer of a fire department either for the purpose
35 of the prevention or control of fire or the underwater recovery of drowning victims;

36 (7) **"Flight crew member", an individual engaged in flight responsibilities with an**
37 **air ambulance licensed in accordance with sections 190.001 to 190.245 and corresponding**
38 **regulations applicable to such programs;**

39 ~~[(6)]~~ (8) “Killed in the line of duty”, when any person defined in this section loses his
40 or her life when:

- 41 (a) Death is caused by an accident or the willful act of violence of another;
42 (b) The ~~[law enforcement officer, emergency medical technician, air ambulance pilot,~~
43 ~~air ambulance registered professional nurse, or firefighter]~~ **public safety officer** is in the active
44 performance of his or her duties in his or her respective profession and there is a relationship
45 between the accident or commission of the act of violence and the performance of the duty, even
46 if the individual is off duty; the ~~[law enforcement officer, emergency medical technician, air~~
47 ~~ambulance pilot, air ambulance registered professional nurse, or firefighter]~~ **public safety officer**
48 is traveling to or from employment; or the ~~[law enforcement officer, emergency medical~~
49 ~~technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter]~~
50 **public safety officer** is taking any meal break or other break which takes place while that
51 individual is on duty;

- 52 (c) Death is the natural and probable consequence of the injury; and
53 (d) Death occurs within three hundred weeks from the date the injury was received.
54

55 The term excludes death resulting from the willful misconduct or intoxication of the ~~[law~~
56 ~~enforcement officer, emergency medical technician, air ambulance pilot, air ambulance~~
57 ~~registered professional nurse, or firefighter]~~ **public safety officer**. The division of workers'
58 compensation shall have the burden of proving such willful misconduct or intoxication;

59 ~~[(7)]~~ **(9)** "Law enforcement officer", any person employed by the state or a local
60 governmental entity as a police officer, peace officer certified under chapter 590, or serving as
61 an auxiliary police officer or in some like position involving the enforcement of the law and
62 protection of the public interest at the risk of that person's life;

63 ~~[(8)]~~ **(10)** "Local governmental entity", includes counties, municipalities, townships,
64 board or other political subdivision, cities under special charter, or under the commission form
65 of government, fire protection districts, ambulance districts, and municipal corporations;

66 **(11) "Public safety officer", any law enforcement officer, firefighter, uniformed**
67 **employee of the office of the state fire marshal, emergency medical technician, police**
68 **officer, capitol police officer, parole officer, probation officer, state correctional employee,**
69 **water safety officer, park ranger, conservation officer or highway patrolman employed by**
70 **the state of Missouri or a political subdivision thereof who is killed in the line of duty or**
71 **any emergency medical technician, air ambulance pilot, air ambulance registered**
72 **professional nurse, air ambulance registered respiratory therapist, or flight crew member**
73 **who is killed in the line of duty;**

74 ~~[(9)]~~ **(12)** "State", the state of Missouri and its departments, divisions, boards, bureaus,
75 commissions, authorities, and colleges and universities;

76 ~~[(10)]~~ **(13)** "Volunteer firefighter", a person having principal employment other than as
77 a firefighter, but who is carried on the rolls of a regularly constituted fire department either for
78 the purpose of the prevention or control of fire or the underwater recovery of drowning victims,
79 the members of which are under the jurisdiction of the corporate authorities of a city, village,
80 incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual
81 who volunteers assistance without being regularly enrolled as a firefighter.

82 3. (1) A claim for compensation under this section shall be filed by survivors of the
83 deceased with the division of workers' compensation not later than one year from the date of
84 death of a ~~[law enforcement officer, emergency medical technician, air ambulance pilot, air~~
85 ~~ambulance registered professional nurse, or firefighter]~~ **public safety officer**. If a claim is made
86 within one year of the date of death of a ~~[law enforcement officer, emergency medical technician,~~
87 ~~air ambulance pilot, air ambulance registered professional nurse, or firefighter]~~ **public safety**
88 **officer** killed in the line of duty, compensation shall be paid, if the division finds that the
89 claimant is entitled to compensation under this section.

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

92 4. Any compensation awarded under the provisions of this section shall be distributed
93 as follows:

94 (1) To the surviving spouse of the ~~[law enforcement officer, emergency medical~~
95 ~~technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter if there~~
96 ~~is no child who survived the law enforcement officer, emergency medical technician, air~~
97 ~~ambulance pilot, air ambulance registered professional nurse, or firefighter]~~ **public safety**
98 **officer**;

99 (2) Fifty percent to the surviving child, or children, in equal shares, and fifty percent to
100 the surviving spouse if there is at least one child who survived the ~~[law enforcement officer,~~
101 ~~emergency medical technician, air ambulance pilot, air ambulance registered professional nurse,~~
102 ~~or firefighter]~~ **public safety officer**, and a surviving spouse of the ~~[law enforcement officer,~~
103 ~~emergency medical technician, air ambulance pilot, air ambulance registered professional nurse,~~
104 ~~or firefighter]~~ **public safety officer**;

105 (3) To the surviving child, or children, in equal shares, if there is no surviving spouse
106 of the ~~[law enforcement officer, emergency medical technician, air ambulance pilot, air~~
107 ~~ambulance registered professional nurse, or firefighter]~~ **public safety officer**;

108 (4) If there is no surviving spouse of the ~~[law enforcement officer, emergency medical~~
109 ~~technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter]~~
110 **public safety officer** and no surviving child:

111 (a) To the surviving individual, or individuals, in shares per the designation or,
112 otherwise, in equal shares, designated by the ~~[law enforcement officer, emergency medical~~
113 ~~technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter]~~
114 **public safety officer** to receive benefits under this subsection in the most recently executed
115 designation of beneficiary of the ~~[law enforcement officer, emergency medical technician, air~~
116 ~~ambulance pilot, air ambulance registered professional nurse, or firefighter]~~ **public safety officer**
117 on file at the time of death with the public safety agency, organization, or unit; or

118 (b) To the surviving individual, or individuals, in equal shares, designated by the ~~[law~~
119 ~~enforcement officer, emergency medical technician, air ambulance pilot, air ambulance~~
120 ~~registered professional nurse, or firefighter]~~ **public safety officer** to receive benefits under the
121 most recently executed life insurance policy of the ~~[law enforcement officer, emergency medical~~
122 ~~technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter]~~
123 **public safety officer** on file at the time of death with the public safety agency, organization, or
124 unit if there is no individual qualifying under paragraph (a);

(5) To the surviving parent, or parents, in equal shares, of the ~~[law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter]~~ **public safety officer** if there is no individual qualifying under subdivision (1), (2), (3), or (4) of this subsection; or

(6) To the surviving individual, or individuals, in equal shares, who would qualify under the definition of the term “child” but for age if there is no individual qualifying under subdivision (1), (2), (3), (4), or (5) of this subsection.

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

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

(2) The name and address of the claimant;

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

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

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

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

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

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

161 9. Pursuant to section 23.253 of the Missouri sunset act:

162 (1) The provisions of the new program authorized under this section shall automatically
163 sunset six years after June 19, 2019, unless reauthorized by an act of the general assembly; and

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

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

169 10. The provisions of this section, unless specified, shall not be subject to other
170 provisions of this chapter.

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

180 12. The division shall promulgate rules to administer this section, including but not
181 limited to the appointment of claims to multiple claimants, record retention, and procedures for
182 information requests. Any rule or portion of a rule, as that term is defined in section 536.010,
183 that is created under the authority delegated in this section shall become effective only if it
184 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
185 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
186 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
187 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
188 any rule proposed or adopted after June 19, 2009, shall be invalid and void.

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