

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1874

4  
5 By: Representatives J. Roebuck, Nix, Hobbs, G. Smith, Kerr, Lea, Dale, Betts, B. Wilkins, Dismang,  
6 Pennartz, Carnine, Stewart, D. Creekmore, Gaskill, Cook, J. Edwards, House, D. Hutchinson, Kidd,  
7 Pierce, Powers  
8 By: Senator Glover

## For An Act To Be Entitled

9  
10  
11 AN ACT TO INCREASE THE DEATH BENEFITS FOR LAW  
12 ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY;  
13 AND FOR OTHER PURPOSES.  
14

## Subtitle

15  
16 AN ACT TO INCREASE DEATH BENEFITS FOR  
17 LAW ENFORCEMENT OFFICERS KILLED IN THE  
18 LINE OF DUTY.  
19

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

23  
24 SECTION 1. Arkansas Code § 21-5-701 is amended to read as follows:  
25 21-5-701. Definitions.

26 As used in this subchapter:

27 (1) "Child" or "children" means any natural child, adopted  
28 child, or stepchild who is eligible under § 21-5-707;

29 (2) "Covered public employee" means ~~police officer~~, firefighter,  
30 state highway employee, state correction employee, Department of Community  
31 Correction employee, qualified emergency services worker, ~~wildlife~~  
32 ~~enforcement officer~~, emergency medical technician, State Arkansas Forestry  
33 Commission employee, commissioned law enforcement personnel, or emergency  
34 response personnel of the State Parks Division of the Department of Parks and  
35 Tourism;

36 (3) "Department of Community Correction employee" means ~~any~~ an



1 employee of the Department of Community Correction who becomes subject to  
2 injury through contact with parolees, probationers, or center residents;

3 (4) "Emergency medical technician" means emergency medical  
4 technicians as defined in § 20-13-202;

5 (5) "Firefighter" means ~~any~~ a member of a fire department or  
6 fire fighting unit of any city of the first class or city of the second  
7 class, or any town, or any unincorporated rural area of this state, who  
8 actively engages in the fighting of fires on either a regular or voluntary  
9 basis, or any instructor of the Arkansas Fire Training Academy, or any member  
10 of the fire fighting organization of the Camp Robinson Military Reservation  
11 or of Fort Chaffee;

12 (6) "Police Law enforcement officer" means:

13 (A) ~~Any law enforcement officer~~ A person engaged in  
14 official duty who is a member of any regular or auxiliary police force on a  
15 full-time or part-time basis, the Department of Arkansas State Police, or any  
16 member of the law enforcement organization of the Camp Robinson Military  
17 Reservation or of Fort Chaffee;

18 (B) A sheriff or deputy sheriff of any county who is  
19 engaged in official duty; ~~or~~

20 (C) ~~Any~~ A constable or night marshal of any town of this  
21 state engaged in official duty; or

22 (D) A wildlife enforcement officer;

23 (7) "Qualified emergency services worker" means state, local,  
24 volunteer, and other emergency services workers as defined in § 12-75-103;

25 (8) "State correction employee" means ~~any~~ an employee of the  
26 Department of Correction or the Department of Correction School District who  
27 becomes subject to injury through contact with inmates or parolees of the  
28 Department of Correction;

29 (9) "State highway employee" means ~~any~~ an employee of the  
30 Arkansas State Highway and Transportation Department who actively engages in  
31 highway maintenance, construction, or traffic operations on the roadways and  
32 bridges of the state highway system while the roadways and bridges are open  
33 for use by the traveling public; and

34 (10) "Wildlife enforcement officer" means ~~any~~ an employee of the  
35 Arkansas State Game and Fish Commission who actively engages, on a full-time  
36 or part-time basis, in the enforcement of the boating safety laws and

1 regulations enacted for the protection of game, fish, furbearing animals, and  
 2 other wildlife of the State of Arkansas.

3  
 4 SECTION 2. Arkansas Code § 21-5-703(b), concerning the deadline for  
 5 filing claims for death or disability benefits, is amended to read as  
 6 follows:

7 (b) All claims asserted under this subchapter shall be filed within  
 8 five (5) years of the following:

- 9 (1) The date of the covered public employee's or law enforcement  
 10 officer's death;
- 11 (2) The date of the incident causing the covered public  
 12 employee's or law enforcement officer's total and permanent disability; or
- 13 (3) The date the covered public employee or law enforcement  
 14 officer permanently leaves the employment position covered by this  
 15 subchapter.

16  
 17 SECTION 3. Arkansas Code § 21-5-704 is amended to read as follows:  
 18 21-5-704. Payment of claim to covered public employees or their  
 19 survivors – Funds.

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

26 (B) In addition thereto, the municipality ~~which that~~  
 27 employed the ~~police officer or firefighter shall~~, upon certification of the  
 28 amount by the ~~police or fire department, shall~~ pay to the surviving spouse or  
 29 surviving children under the age of twenty-two (22) or, if there is no  
 30 surviving spouse or surviving children under the age of twenty-two (22), then  
 31 to the surviving children twenty-two (22) years of age or older or to the  
 32 surviving parents of the deceased ~~police officer or firefighter~~ an allowance  
 33 for all sick leave, vacation, or other leave time accumulated to the credit  
 34 of the ~~police officer or firefighter~~ at the time of his or her death.

35 (2)(A) ~~In the event any~~ If a covered public employee ~~shall~~  
 36 ~~suffer~~ suffers ~~any an~~ injury while engaged in the performance of official

1 duties resulting in his or her total and permanent disability, the disabled  
 2 covered public employee shall be entitled to the sum of ten thousand dollars  
 3 (\$10,000) from the State of Arkansas upon establishing proof of the total and  
 4 permanent disability.

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

11 (b)(1) All allowances as provided for in this section for the  
 12 surviving spouse, surviving children, or surviving parents of covered public  
 13 employees killed ~~while performing official duties~~ in the official line of  
 14 duty, or allowances provided covered public employees who are totally and  
 15 permanently disabled while performing official duties, shall be paid totally  
 16 from state funds appropriated ~~therefore~~ for that purpose.

17 (2) The funds shall not be reimbursed by transfer or charging  
 18 the funds against any state funds allocated for turnback to cities or  
 19 counties or distributed to the State Highway and Transportation Department  
 20 Fund or distributed to any Department of Correction fund account or any other  
 21 state department agency fund account other than the Arkansas State Claims  
 22 Commission fund accounts and the Miscellaneous Revolving Fund Account, or  
 23 state funds levied for firefighters, ~~police officers~~, employees of the  
 24 Arkansas State Highway and Transportation Department, and employees of the  
 25 Department of Correction for pension purposes.

26 (c) It is the intent of this subchapter that the total obligation of  
 27 providing the benefits provided by this subchapter, even though the funds are  
 28 to be administered by the Arkansas State Claims Commission, are to be  
 29 defrayed from state funds and are not to be charged against, or recovered  
 30 against, any turnback moneys due the cities or counties of this state or  
 31 allocated to the state highway system of this state or to the Department of  
 32 Correction or any other state department agency fund account other than the  
 33 Arkansas State Claims Commission fund accounts and the Miscellaneous  
 34 Revolving Fund Account.

35  
 36 SECTION 4. Arkansas Code § 21-5-705(a)(1), concerning persons eligible

1 for additional funds if killed in the line of duty under specific  
2 circumstances, is amended to read as follows:

3 (1) ~~Police officer, wildlife enforcement officer of the Arkansas~~  
4 ~~State Game and Fish Commission, commissioned~~ Commissioned law enforcement  
5 officer or emergency response employee of the State Parks Division of the  
6 Department of Parks and Tourism, Department of Community Correction employee,  
7 or employee of the Department of Correction whose death occurred:

8 (A) After January 1, 2003; and

9 (B) Either:

10 (i) In the official line of duty as the result of a  
11 criminal or negligent action of another person or persons or as the result of  
12 the engagement in exceptionally hazardous duty; or

13 (ii) In the line of duty while the officer or  
14 employee was performing emergency medical activities; and  
15

16 SECTION 5. Arkansas Code § 21-5-705(b), concerning persons eligible  
17 for additional funds if killed in the line of duty under certain  
18 circumstances, is amended to read as follows:

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

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

29 (2) Whose death occurred:

30 (A) After July 1, 1989; and

31 (B) In the official line of duty as the result of a  
32 criminal action of another person or persons.  
33

34 SECTION 6. Arkansas Code § 21-5-707 is amended to read as follows:  
35 21-5-707. Children.

36 (a) Unless designated as the beneficiary of a law enforcement officer

1 under § 21-5-708(a), ~~In~~ in order for a natural child to be eligible to  
 2 receive benefits under this subchapter:

3 (1) The natural child must have been born ~~prior to~~ before the  
 4 date of the covered public employee's death or total and permanent  
 5 disability; or

6 (2) The covered public employee or the covered public employee's  
 7 spouse must have been pregnant with the natural child at the time of the  
 8 covered public employee's death or total and permanent disability.

9 (b) Unless designated as the beneficiary of a law enforcement officer  
 10 under § 21-5-708(a), ~~In~~ in order for an adopted child to be eligible to  
 11 receive benefits under this subchapter:

12 (1) The adopted child must have been adopted ~~prior to~~ before the  
 13 date of the covered public employee's death or total and permanent  
 14 disability; or

15 (2) The adopted child's adoption process must have begun ~~prior~~  
 16 ~~to~~ before the date of the covered public employee's death or total and  
 17 permanent disability.

18 (c) Unless designated as the beneficiary of a law enforcement officer  
 19 under § 21-5-708(a), ~~In~~ in order for a stepchild under nineteen (19) years of  
 20 age to be eligible to receive benefits under this subchapter:

21 (1) The stepchild must have been listed as a dependent on the  
 22 covered public employee's federal and state income tax returns for each of  
 23 the five (5) income years immediately ~~prior to~~ before the date of the covered  
 24 public employee's death or total and permanent disability; and

25 (2) The stepchild must have received more than one-half ( $\frac{1}{2}$ ) of  
 26 his or her financial support from the covered public employee in each of the  
 27 five (5) income years immediately ~~prior to~~ before the date of the covered  
 28 public employee's death or total and permanent disability.

29 (d) Unless designated as the beneficiary of a law enforcement officer  
 30 under § 21-5-708(a), ~~In~~ in order for a stepchild nineteen (19) years of age  
 31 or older to be eligible to receive benefits under this subchapter:

32 (1) The stepchild must have been listed as a dependent on the  
 33 covered public employee's federal and state income tax returns in each of the  
 34 five (5) previous income years; and

35 (2) The stepchild must have received more than one-half ( $\frac{1}{2}$ ) of  
 36 his or her financial support from the covered public employee in each of the

1 five (5) previous income years.

2  
3 SECTION 7. Arkansas Code Title 21, Chapter 5, Subchapter 7 is amended  
4 to add an additional section to read as follows:

5 21-5-708. Payment of claim to law enforcement officers or their  
6 survivors – Funds.

7 (a)(1)(A) The state shall pay to the designated beneficiary of a law  
8 enforcement officer who is killed in the official line of duty the sum of two  
9 hundred fifty thousand dollars (\$250,000).

10 (B)(i) A law enforcement officer may designate a  
11 beneficiary on a form provided by his or her employer.

12 (ii) The form to designate a beneficiary shall be  
13 completed by the law enforcement officer, notarized, and submitted to his or  
14 her employer to be kept in the law enforcement officer's personnel file.

15 (iii) If the law enforcement officer does not  
16 designate a beneficiary, the benefits shall be paid to the surviving spouse  
17 or surviving children under the age of twenty-two (22) or, if there is no  
18 surviving spouse or surviving children under the age of twenty-two (22), then  
19 to the surviving children twenty-two (22) years of age or older or to the  
20 surviving parents.

21 (2) The benefit shall be paid by the state in equal payments  
22 over a period of five (5) years.

23 (b) In addition thereto, the employer of the law enforcement officer,  
24 upon certification of the amount by the employer, shall pay to the designated  
25 beneficiary, or if there is no designated beneficiary to the surviving spouse  
26 or surviving children under the age of twenty-two (22) or, if there is no  
27 surviving spouse or surviving children under the age of twenty-two (22), then  
28 to the surviving children twenty-two (22) years of age or older or to the  
29 surviving parents of the deceased law enforcement officer an allowance for  
30 all sick leave, vacation, or other leave time accumulated to the credit of  
31 the law enforcement officer at the time of his or her death.

32 (c)(1) In the event a law enforcement officer suffers an injury while  
33 engaged in the performance of official duties resulting in his or her total  
34 and permanent disability, the disabled law enforcement officer is entitled to  
35 the sum of ten thousand dollars (\$10,000) from the State of Arkansas upon  
36 establishing proof of the total and permanent disability.

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

7           (d)(1) All allowances as provided for in this section for the  
 8 designated beneficiary, surviving spouse, surviving children, or surviving  
 9 parents of law enforcement officers killed while performing official duties  
 10 or allowances provided law enforcement officers who are totally and  
 11 permanently disabled while performing official duties shall be paid totally  
 12 from state funds appropriated therefor.

13           (2) The funds shall not be reimbursed by transfer or charging  
 14 the funds against any state funds allocated for turnback to cities or  
 15 counties or distributed to the State Highway and Transportation Department  
 16 Fund or distributed to any Department of Correction fund account or any other  
 17 state department agency fund account other than the Arkansas State Claims  
 18 Commission fund accounts and the Miscellaneous Revolving Fund Account, or  
 19 state funds levied for law enforcement officers.

20           (e) It is the intent of this subchapter that the total obligation of  
 21 providing the benefits provided by this subchapter, even though the funds are  
 22 to be administered by the Arkansas State Claims Commission, are to be  
 23 defrayed from state funds and are not to be charged against or recovered  
 24 against any turnback moneys due the cities or counties of this state or  
 25 allocated to the state highway system of this state or to the Department of  
 26 Correction or any other state department agency fund account other than the  
 27 Arkansas State Claims Commission fund accounts and the Miscellaneous  
 28 Revolving Fund Account.