

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4 By: Senator Dowd

As Engrossed: S1/23/97 H2/27/97

A Bill

ACT 547 OF 1997
SENATE BILL 25

For An Act To Be Entitled

8 "AN ACT TO CLARIFY PROCEDURES IN AWARDING DEATH AND
9 DISABILITY BENEFITS TO COVERED PUBLIC EMPLOYEES UNDER
10 ARKANSAS CODE ANNOTATED § 21-5-701, ET SEQ., AND ARKANSAS
11 CODE ANNOTATED § 6-82-501, ET SEQ.; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "TO CLARIFY PROCEDURES IN AWARDING DEATH
16 AND DISABILITY BENEFITS TO COVERED
17 PUBLIC EMPLOYEES"

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code Annotated § 21-5-701 is amended to read as
22 follows:

23 "21-5-701. Definitions.

24 As used in this subchapter, unless the context otherwise requires, the
25 following words shall have these meanings ascribed to them:

26 (1) Police officer means:

27 (A) Any law enforcement officer, engaged in official duty, who is
28 a member of any regular or auxiliary police force, on a full-time or part-time
29 basis, or the Arkansas State Police, or any member of the law enforcement
30 organization of the Camp Robinson Military Reservation or of Fort Chaffee;

31 (B) A sheriff or deputy sheriff of any ~~city of the first or~~
32 ~~second class~~ county who is engaged in official duty; or

33 (C) Any constable or night marshal of any town of this state
34 engaged in official duty;

35 (2) Fire fighter shall mean any member of a fire department or fire
36 fighting unit of any city of the first or second class, or any town, or any

1 unincorporated rural area of this state, who actively engages in the fighting
2 of fires on either a regular or voluntary basis, or any instructor of the
3 Arkansas Fire Training Academy, or any member of the fire fighting
4 organization of the Camp Robinson Military Reservation or of Fort Chaffee;

5 (3) State highway employee means any employee of the Arkansas State
6 Highway and Transportation Department who actively engages in highway
7 maintenance, construction, or traffic operations on the roadways and bridges
8 of the state highway system while the roadways and bridges are open for use by
9 the traveling public;

10 (4) State correction employee means any employee of the Department of
11 Correction or the Department of Correction School District who becomes subject
12 to injury through contact with inmates or parolees of the department;

13 (5) Qualified emergency services worker means state, local, volunteer,
14 and other emergency services workers as defined in § 12-75-103(13);

15 (6) Wildlife enforcement officer means any employee of the Arkansas
16 State Game and Fish Commission who actively engages, on a full-time or
17 part-time basis, in the enforcement of the boating safety laws and regulations
18 enacted for the protection of game, fish, furbearing animals, and other
19 wildlife of the State of Arkansas; ~~and~~

20 (7) Emergency medical technician means emergency medical technicians
21 as defined in subdivision (6) of § 20-13-202;

22 (8) Child or children means any natural child, adopted child, or
23 stepchild, who is eligible under § 21-5-707; and

24 (9) Covered public employee means police officer, fire fighter, state
25 highway employee, state correction employee, qualified emergency services
26 worker, wildlife enforcement officer, emergency medical technician, Arkansas
27 Forestry Commission employee, commissioned law enforcement personnel, or
28 emergency response personnel of the State Parks Division of the Department of
29 Parks and Tourism."

30

31 SECTION 2. Arkansas Code Annotated § 21-5-702 is amended to read as
32 follows:

33 "21-5-702. Jurisdiction of Arkansas State Claims Commission.

34 (a) The Arkansas State Claims Commission is vested with exclusive
35 jurisdiction ~~to administer~~ of, or authority with respect to, all claims filed
36 against the state under this subchapter.

1 (b) The commission shall make a determination as to whether a death or
2 total and permanent disability was or was not in the official line of duty."

3

4 SECTION 3. Arkansas Code Annotated § 21-5-703 is amended to read as
5 follows:

6 "21-5-703. Procedures for filing claims.

7 (a) All claimants shall be subject to the same rules and regulations as
8 are provided by the law governing procedure before the Arkansas State Claims
9 Commission.

10 (b) Except as provided in subsection (d), all claims asserted under
11 this subchapter shall be filed within ~~the period allowed by law for the~~
12 ~~enforcement of a wrongful death action against a private person~~ five (5) years
13 of the following:

14 (1) the date of the covered public employees death;

15 (2) the date of the incident causing the covered public
16 employee's total and permanent disability; or

17 (3) the date the covered public employee permanently leaves the
18 employment position covered by this subchapter.

19 (c) The Arkansas State Claims Commission shall, unless Arkansas Code
20 Annotated 6-82-504(e) is applicable, award any scholarship benefit provided by
21 the provisions of Arkansas Code Annotated § 6-82-501, et seq., at the same
22 time any death benefit or total and permanent disability benefit is awarded
23 under this subchapter.

24 (d) The surviving child of any State Police employee or State Highway
25 and Transportation Department employee who died or became totally disabled as
26 described in Arkansas Code 6-82-503 prior to January 1, 1997, is entitled to
27 educational benefits under Arkansas Code 6-82-501, et seq., if (1) the claim
28 is filed prior to the child's twenty-first birthday; (2) the child would have
29 been entitled to the benefits had the parent's death or disability occurred
30 after the effective date of this act; and (3) the claim is filed within thirty
31 (30) calendar days after the effective date of this act.

32 SECTION 4. Arkansas Code Annotated § 21-5-704 is amended to read as
33 follows:

34 "21-5-704. Payment of claim to ~~certain injured workers~~ covered public
35 employees or their survivors - Funds.

36 (a)(1)(A) The state shall pay to the surviving spouse, ~~surviving~~

1 ~~children, or surviving parents~~ or surviving children under the age of
2 twenty-two (22) or, if there is no surviving spouse or surviving children
3 under the age of twenty-two (22), then to the surviving children twenty-two
4 (22) years of age or older or to the surviving parents of any ~~police officer,~~
5 ~~fire fighter, employee of the Arkansas State Highway and Transportation~~
6 ~~Department, employee of the Department of Correction, emergency services~~
7 ~~worker, employee of the Arkansas Forestry Commission, commissioned law~~
8 ~~enforcement personnel or emergency response personnel of the State Parks~~
9 ~~Division of the Department of Parks and Tourism, wildlife enforcement officer~~
10 ~~of the Arkansas State Game and Fish Commission, or emergency medical~~
11 ~~technician, as defined in § 21-5-701~~ covered public employee, who is killed in
12 the official line of duty, the sum of twenty-five thousand dollars (\$25,000).

13 (B) In addition thereto, the municipality which employed
14 the police officer or fire fighter shall, upon certification of the amount by
15 the police or fire department, pay to the surviving spouse, ~~surviving~~
16 ~~children, or surviving parents~~ or surviving children under the age of
17 twenty-two (22) or, if there is no surviving spouse or surviving children
18 under the age of twenty-two (22), then to the surviving children twenty-two
19 (22) years of age or older or to the surviving parents of the deceased police
20 officer or fire fighter an allowance for all sick leave, vacation, or other
21 leave time accumulated to the credit of the police officer or fire fighter at
22 the time of his death.

23 (2) In the event any ~~police officer, fire fighter, employee of~~
24 ~~the Arkansas State Highway and Transportation Department, employee of the~~
25 ~~Department of Correction, emergency services worker, employee of the Arkansas~~
26 ~~Forestry Commission, commissioned law enforcement personnel or emergency~~
27 ~~response personnel of the State Parks Division of the Department of Parks and~~
28 ~~Tourism, wildlife enforcement officer of the Arkansas State Game and Fish~~
29 ~~Commission, or emergency medical technician, as defined in § 21-5-701,~~ covered
30 public employee shall suffer any injury while engaged in the performance of
31 official duties resulting in his total and permanent disability, the disabled
32 ~~police officer, fire fighter, employee of the Arkansas State Highway and~~
33 ~~Transportation Department, employee of the Department of Correction, emergency~~
34 ~~services worker, or employee of the Arkansas Forestry Commission, commissioned~~
35 ~~law enforcement personnel or emergency response personnel of the State Parks~~
36 ~~Division of the Department of Parks and Tourism, wildlife enforcement officer~~

1 ~~of the Arkansas State Game and Fish Commission, or emergency medical~~
2 ~~technician~~ covered public employee shall be entitled to the sum of ten
3 thousand dollars (\$10,000) from the State of Arkansas upon establishing proof
4 of the total and permanent disability. Proof of total and permanent
5 disability shall be established by offering evidence that the covered public
6 employee was unable to work in the employment position covered by this
7 subchapter for a period of more than one (1) year or that the covered public
8 employee received a disability rating in excess of twenty-five percent (25%)
9 from the Arkansas Workers Compensation Commission.

10 (b) All allowances as provided for in this section for the surviving
11 spouse, surviving children, or surviving parents of ~~police officers, fire~~
12 ~~fighters, employees of the Arkansas State Highway and Transportation~~
13 ~~Department, employees of the Department of Correction, emergency services~~
14 ~~workers, employees of the Arkansas Forestry Commission, commissioned law~~
15 ~~enforcement personnel or emergency response personnel of the State Parks~~
16 ~~Division of the Department of Parks and Tourism, wildlife enforcement officers~~
17 ~~of the Arkansas State Game and Fish Commission, and emergency medical~~
18 ~~technicians~~ covered public employees killed while performing official duties,
19 or allowances provided ~~police officers, fire fighters, employees of the State~~
20 ~~Highway and Transportation Department, employees of the Department of~~
21 ~~Correction, emergency services workers, employees of the Arkansas Forestry~~
22 ~~Commission, commissioned law enforcement personnel or emergency response~~
23 ~~personnel of the State Parks Division of the Department of Parks and Tourism,~~
24 ~~wildlife enforcement officers of the Arkansas State Game and Fish Commission,~~
25 ~~and emergency medical technicians~~ covered public employees who are totally and
26 permanently disabled while performing official duties, shall be paid totally
27 from state funds appropriated therefor and the funds shall not be reimbursed
28 by transfer or charging the funds against any state funds allocated for
29 turnback to cities or counties or distributed to the State Highway Department
30 Fund or distributed to any Department of Correction Fund account or any other
31 state department agency fund account other than the Arkansas State Claims
32 Commission fund accounts and the Miscellaneous Revolving Fund Account, or
33 state funds levied for fire fighters, police officers, employees of the
34 Arkansas State Highway and Transportation Department, and employees of the
35 Department of Correction pension purposes.

36 (c) It is the intent of this subchapter that the total obligation of

1 providing the benefits provided by this subchapter, even though the funds are
2 to be administered by the Arkansas State Claims Commission, are to be defrayed
3 from state funds and are not to be charged against, or recovered against, any
4 turnback moneys due the cities or counties of this state or allocated to the
5 state highway system of this state or to the Department of Correction or any
6 other state department agency fund account other than the Arkansas State
7 Claims Commission fund accounts and the Miscellaneous Revolving Fund Account."

8

9 SECTION 5. Arkansas Code Annotated § 21-5-705 is amended to read as
10 follows:

11 "21-5-705. Payment of claim to survivors of certain officers killed on
12 duty - Funds.

13 (a) The state shall pay to the surviving spouse, ~~surviving children, or~~
14 ~~surviving parents~~ or surviving children under the age of twenty-two (22) of
15 any police officer, wildlife enforcement officer of the Arkansas State Game
16 and Fish Commission, commissioned law enforcement officer or emergency
17 response employee of the State Parks Division of the Department of Parks and
18 Tourism, or employee of the Department of Correction whose death occurred in
19 the official line of duty and was the result of a criminal action of another
20 person or persons or whose death occurred in the line of duty while the
21 officer or employee was performing emergency medical activities and to the
22 surviving spouse, ~~surviving children, or surviving parents~~ or surviving
23 children under the age of twenty-two (22) of any fire fighter killed while ~~in~~
24 ~~the official performance of his duties or whose death occurred in the line of~~
25 ~~duty while the fire fighter was performing emergency medical activities~~
26 responding to, engaging in, or returning from a fire, a rescue incident, a
27 hazardous material or bomb incident, an emergency medical activity, or
28 simulated training thereof, the additional sum of seventy-five thousand
29 dollars (\$75,000), provided that the death occurs after July 1, 1987.

30 (b) In addition to the benefits provided for in subsection (a) of this
31 section, the state shall pay to the spouse or surviving children under the age
32 of twenty-two (22) of any police officer, wildlife enforcement officer of the
33 Arkansas State Game and Fish Commission, commissioned law enforcement officer
34 of the State Parks Division of the Department of Parks and Tourism, or
35 employee of the Department of Correction who was wearing a bulletproof vest
36 approved by the Director of the Department of Arkansas State Police and whose

1 death occurred in the official line of duty and was the result of a criminal
2 action of another person or persons, the additional sum of twenty-five
3 thousand dollars (\$25,000), provided that the death occurs after July 1, 1989.

4 (c) The benefits shall be paid totally from state funds appropriated
5 therefor. The funds shall not be reimbursed by a transfer or charging the
6 funds against any state funds allocated for turnback to cities or counties or
7 distributed to any other state department agency fund account other than the
8 Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving
9 Fund Account.

10 (d) The additional benefits provided in this section shall be paid to
11 the surviving spouse, surviving children, or surviving parents in three (3)
12 equal annual payments, the first of which shall be paid in July of the next
13 fiscal year after the date of the original order of the Arkansas State Claims
14 Commission establishing entitlement to additional payments and annually
15 thereafter.

16 (e) Determination of eligibility for the additional payments provided
17 in this section shall be made by the Arkansas State Claims Commission in
18 accordance with commission rules and procedures."

19

20 SECTION 6. Arkansas Code Annotated § 21-5-706 is amended to read as
21 follows:

22 "21-5-706. Funds for payment of claims generally.

23 (a) All claims allowed under the provisions of this subchapter shall be
24 paid upon award thereof by the Arkansas State Claims Commission from funds
25 appropriated therefor.

26 (b) The Commission may impose reasonable requirements for protecting
27 funds paid under this subchapter to children under the age of eighteen (18),
28 including but not limited to a guardianship of the estate."

29

30 SECTION 7. Subchapter 7 of Chapter 5 of Title 21 of the Arkansas Code
31 is amended by adding the following section:

32 "21-5-707. (a) In order for a natural child to be eligible to receive
33 benefits under this subchapter:

34 (1) the child must have been born prior to the date of the
35 covered public employees death or total and permanent disability; or

36 (2) the covered public employee or the covered public employees

1 spouse must have been pregnant with the child at the time of the covered
2 public employees death or total and permanent disability.

3 (b) In order for an adopted child to be eligible to receive benefits
4 under this subchapter:

5 (1) the child must have been adopted prior to the date of the
6 covered public employees death or total and permanent disability; or

7 (2) the child's adoption process must have begun prior to the
8 date of the covered public employees death or total and permanent disability.

9 (c) In order for a stepchild under the age of nineteen (19) to be
10 eligible to receive benefits under this subchapter:

11 (1) the stepchild must have been listed as a dependent on the
12 covered public employee's federal and state income tax returns for each of
13 the five (5) income years immediately prior to the date of the covered public
14 employees death or total and permanent disability; and

15 (2) the stepchild must have received more than one-half of his or
16 her financial support from the covered public employee in each of the five (5)
17 income years immediately prior to the date of the covered public employees
18 death or total and permanent disability.

19 (d) In order for a stepchild nineteen (19) years of age or older to be
20 eligible to receive benefits under this subchapter:

21 (1) the stepchild must have been listed as a dependent on the
22 covered public employees federal and state income tax returns in each of
23 five (5) previous income years; and

24 (2) the stepchild must have received more than one-half of his or
25 her financial support from the covered public employee in each of five (5)
26 previous income years."

27

28 SECTION 8. Arkansas Code Annotated § 6-82-501 is amended to read as
29 follows:

30 "6-82-501. Definitions.

31 As used in this subchapter, unless the context otherwise requires:

32 (1) Law enforcement officer means:

33 (A) State highway patrolmen, which includes any law enforcement
34 officers, regardless of department or bureau, of the Department of Arkansas
35 State Police;

36 (B) Municipal and college or university police officers, which

1 includes all law enforcement officers of any municipality, college, or
2 university who are regular duty personnel on full-time status and does not
3 include auxiliary officers or those serving on a temporary or part-time
4 status;

5 (C) Sheriffs and deputy sheriffs, which includes all law
6 enforcement officers of full-time status on a regular basis serving the
7 sheriffs department of any county, but does not include deputy sheriffs who
8 are engaged in administrative or civil duty or deputy sheriffs serving in a
9 temporary capacity or part-time basis;

10 (D) Constables, which includes all duly elected constables of any
11 beat of any county within the state while actually engaged in the performance
12 of their duties concerning the criminal laws of the county and state; and

13 (E) Game wardens, which includes all appointed game wardens
14 employed by the State of Arkansas on a full-time duty status while actually
15 engaged in their duties concerning the game laws of this state;

16 (2) Municipal fireman means any municipal fireman employed on a
17 full-time or volunteer duty status while actually engaged in the performance
18 of his or her duties.

19 (3) Child or children means any natural child, adopted child, or
20 stepchild, who is eligible under § 6-82-504.

21 (4) State highway employee means any employee of the Arkansas State
22 Highway and Transportation Department who actively engages in highway
23 maintenance, construction, or traffic operations on the roadways and bridges
24 of the state highway system while the roadways and bridges are open for use by
25 the traveling public."

26

27 SECTION 9. Arkansas Code Annotated § 6-82-502 is amended to read as
28 follows:

29 "6-82-502. Rules and regulations.

30 The State Board of Higher Education is directed and empowered to
31 promulgate rules and regulations as are necessary to ~~implement the provisions~~
32 ~~of this subchapter~~ administer benefits awarded under this subchapter by the
33 Arkansas State Claims Commission."

34

35 SECTION 10. Arkansas Code Annotated § 6-82-503 is amended to read as
36 follows:

1 "6-82-503. Entitlement.

2 (a) If any Arkansas law enforcement officer or full-time or volunteer
3 fireman or state highway employee suffers fatal injuries or wounds or becomes
4 permanently and totally disabled as a result of injuries or wounds which
5 occurred in the performance of a hazardous duty within the scope of his
6 employment or which occurred en route to a location where a hazardous
7 situation existed, his children and spouse shall be entitled to an
8 eight-semester, or the equivalent thereof, scholarship without cost, exclusive
9 of books, food, school supplies, materials, and dues or fees for
10 extracurricular activities, at any state-supported college or university of
11 his choice within this state.

12 (b) Scholarship benefits shall not accrue under this subchapter to any
13 person if the wounds or injuries suffered by any law enforcement officer,
14 fireman, or state highway employee are self-inflicted or whose death is
15 self-induced.

16 (c) The Arkansas State Claims Commission shall, unless Arkansas Code
17 Annotated 6-82-504(e) is applicable, award any scholarship benefit provided by
18 the provisions of this subchapter at the same time any death benefit or total
19 and permanent disability benefit is awarded by the Claims Commission under the
20 provisions of § 21-5-701, et seq."

21

22 SECTION 11. Arkansas Code Annotated § 6-82-504 is amended to read as
23 follows:

24 "6-82-504. ~~Claims for permanent and total disability.~~ Awards to
25 children.

26 ~~Any law enforcement officer or municipal fireman or state highway~~
27 ~~employee claiming permanent and total disability under this subchapter shall~~
28 ~~be qualified or disqualified for such claim by the Arkansas State Claims~~
29 ~~Commission, which shall have such jurisdiction and authority as is granted to~~
30 ~~the commission under § 19-10-201.~~

31 (a) In order for a natural child to be eligible to receive a
32 scholarship benefit:

33 (1) the child must have been born prior to the date of the death
34 or total and permanent disability of the law enforcement officer, municipal
35 fireman, or State Highway employee; or

36 (2) the law enforcement officer, municipal fireman, or State

1 Highway employee or the spouse of the law enforcement officer, municipal
2 fireman, or State Highway employee must have been pregnant with the child at
3 the time of the death or total and permanent disability of the law enforcement
4 officer, municipal fireman, or State Highway employee.

5 (b) In order for an adopted child to be eligible to receive a
6 scholarship benefit:

7 (1) the child must have been adopted prior to the date of the
8 death or total and permanent disability of the law enforcement officer,
9 municipal fireman, or State Highway employee; or

10 (2) the child's adoption process must have begun prior to the
11 date of the death or total and permanent disability of the law enforcement
12 officer, municipal fireman, or State Highway employee.

13 (c) In order for a stepchild under the age of nineteen (19) to be
14 eligible to receive a scholarship benefit:

15 (1) the stepchild must have been listed as a dependent on the
16 federal and state income tax returns of the law enforcement officer, municipal
17 fireman, or State Highway employee in each of the five (5) income years
18 immediately prior to the date of the death or total and permanent disability
19 of the law enforcement officer, municipal fireman, or State Highway employee;
20 and

21 (2) the stepchild must have received more than one-half of his or
22 her financial support from the law enforcement officer, municipal fireman, or
23 State Highway employee in each of the five (5) income years immediately prior
24 to the date of the death or total and permanent disability of the law
25 enforcement officer, municipal fireman, or State Highway employee.

26 (d) In order for a stepchild nineteen (19) years of age or older to be
27 eligible to receive a scholarship benefit:

28 (1) the stepchild must have been listed as a dependent on the
29 federal and state income tax returns of the law enforcement officer, municipal
30 fireman, or State Highway employee in each of five (5) income years during the
31 eight (8) years immediately prior to the date of the death or total and
32 permanent disability of the law enforcement officer, municipal fireman, or
33 State Highway employee; and

34 (2) the stepchild must have received more than one-half of his or
35 her financial support from the law enforcement officer, municipal fireman, or
36 State Highway employee in each of five (5) income years during the eight (8)

1 years immediately prior to the date of the death or total and permanent
2 disability of the law enforcement officer, municipal fireman, or State Highway
3 employee.

4 (e) If the covered public employee or his/her heirs did not file for
5 the available death or disability benefit, but was otherwise eligible to
6 receive, within the time frame provided in Arkansas Code Annotated 21-5-703,
7 then the covered public employees child or children, who would have otherwise
8 been eligible to receive the provided educational scholarship benefit under
9 Arkansas Code Annotated 6-82-504, may individually file, prior to their
10 twenty-first (21st) birthday, a claim to receive the provided educational
11 scholarship benefit."

12

13 SECTION 12. Arkansas Code Annotated § 6-82-506 is amended to read as
14 follows:

15 "6-82-506. Written application for benefits.

16 Any person claiming benefits awarded by the Arkansas State Claims
17 Commission under the provisions of this subchapter shall make written
18 application with the Department of Higher Education on forms provided by the
19 department."

20

21 SECTION 13. All provisions of this act of a general and permanent
22 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
23 Code Revision Commission shall incorporate the same in the Code.

24

25 SECTION 14. If any provision of this act or the application thereof to
26 any person or circumstance is held invalid, such invalidity shall not affect
27 other provisions or applications of the act which can be given effect without
28 the invalid provision or application, and to this end the provisions of this
29 act are declared to be severable.

30

31 SECTION 15. All laws and parts of laws in conflict with this act are
32 hereby repealed.

33

34 /s/Dowd

35

36 APPROVED: 3-17-97