

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.

Act 1313 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/12/09 S4/3/09

**A Bill**

HOUSE BILL 2105

5 By: Representatives J. Roebuck, Nix, B. Wilkins, *Hobbs, G. Smith, Kerr, Lea, Dale, Betts, Pennartz,*  
6 *Carnine, Stewart, Gaskill, Cook, D. Hutchinson, Powers, Webb, J. Dickinson, Carroll, Breedlove,*  
7 *Harrelson, McLean, McCrary, Wagner, Dunn, Barnett, Cash, Pyle, M. Burris, Glidewell, Slinkard, T.*  
8 *Rogers, Shelby, Abernathy, Everett, Ingram, Baird, Hyde, Rice, J. Edwards, R. Green, House, D.*  
9 *Creekmore, Blount, Adcock, Pierce, Davis, L. Smith, Rainey, J. Brown, Kidd, Perry, Overbey, Lovell, T.*  
10 *Baker, Reynolds*

11 By: Senators Glover, P. Malone  
12  
13

**For An Act To Be Entitled**

14  
15 AN ACT TO INCREASE THE DEATH BENEFITS FOR COVERED  
16 PUBLIC EMPLOYEES KILLED IN THE LINE OF DUTY; TO  
17 ALLOW COVERED PUBLIC EMPLOYEES TO CHOOSE A  
18 DESIGNATED BENEFICIARY FOR DEATH BENEFITS; AND  
19 FOR OTHER PURPOSES.  
20

**Subtitle**

21  
22 CONCERNING DEATH BENEFITS FOR COVERED  
23 PUBLIC EMPLOYEES KILLED IN THE LINE OF  
24 DUTY.  
25  
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 *SECTION 1. Arkansas Code §§ 21-5-704 and 21-5-705 are amended to read*  
30 *as follows:*

31 *21-5-704. Payment of claim to covered public employees, their*  
32 *designated beneficiaries, or their survivors – Funds.*

33 *(a)(1)(A) The state shall pay to the designated beneficiary or, if*  
34 *there is no designated beneficiary, then to the surviving spouse or surviving*  
35 *children under the age of twenty-two (22) or, if there is no surviving spouse*



1 or surviving children under the age of twenty-two (22), then to the surviving  
2 children twenty-two (22) years of age or older or to the surviving parents of  
3 any covered public employee who is killed in the official line of duty, the  
4 sum of ~~twenty-five~~ fifty thousand dollars ~~(\$25,000)~~ (\$50,000).

5 (B) In addition thereto, the municipality ~~which~~ that  
6 employed the police officer or firefighter shall, upon certification of the  
7 amount by the police or fire department, pay to the designated beneficiary  
8 or, if there is no designated beneficiary, then to the surviving spouse or  
9 surviving children under the age of twenty-two (22) or, if there is no  
10 surviving spouse or surviving children under the age of twenty-two (22), then  
11 to the surviving children twenty-two (22) years of age or older or to the  
12 surviving parents of the deceased police officer or firefighter an allowance  
13 for all sick leave, vacation, or other leave time accumulated to the credit  
14 of the police officer or firefighter at the time of his or her death.

15 (2)(A) In the event ~~any~~ a covered public employee shall suffer  
16 ~~any~~ an injury while engaged in the performance of official duties resulting  
17 in his or her total and permanent disability, the disabled covered public  
18 employee shall be entitled to the sum of ten thousand dollars (\$10,000) from  
19 the State of Arkansas upon establishing proof of the total and permanent  
20 disability.

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

27 (b)(1) All allowances as provided for in this section for the  
28 designated beneficiary, surviving spouse, surviving children, or surviving  
29 parents of covered public employees killed while performing official duties,  
30 or allowances provided covered public employees who are totally and  
31 permanently disabled while performing official duties, shall be paid totally  
32 from state funds appropriated therefor.

33 (2)(A) Except as provided in subdivision (b)(2)(B) of this  
34 section, the ~~The~~ funds shall not be reimbursed by transfer or charging the  
35 funds against any state funds allocated for turnback to cities or counties or  
36 distributed to the State Highway and Transportation Department Fund or

1 distributed to any Department of Correction fund account or any other state  
 2 department agency fund account other than the Arkansas State Claims  
 3 Commission fund accounts and the Miscellaneous Revolving Fund Account, or  
 4 state funds levied for firefighters, police officers, employees of the  
 5 Arkansas State Highway and Transportation Department, and employees of the  
 6 Department of Correction for pension purposes.

7 (B)(i) Twenty-five thousand dollars (\$25,000) of the fifty  
 8 thousand dollars (\$50,000) provided in subdivision (b)(2)(A) of this section  
 9 shall be paid by the appropriate state department agency fund account.

10 (ii) The appropriate state department agency shall  
 11 transfer the necessary funds to the Arkansas State Claims Commission fund  
 12 accounts for payment.

13 (c) It is the intent of this subchapter that twenty-five thousand  
 14 dollars (\$25,000) of the total obligation of providing the benefits provided  
 15 by this subchapter, even though the funds are to be administered by the  
 16 Arkansas State Claims Commission, are to be defrayed from state funds and are  
 17 not to be charged against, or recovered against, any turnback moneys due the  
 18 cities or counties of this state or allocated to the state highway system of  
 19 this state or to the Department of Correction or any other state department  
 20 agency fund account other than the Arkansas State Claims Commission fund  
 21 accounts and the Miscellaneous Revolving Fund Account.

22  
 23 21-5-705. Payment of claim to designated beneficiaries or survivors of  
 24 certain specified public employees killed in the line of duty – Funds.

25 (a) The state shall pay the additional sum of ~~seventy-five~~ one hundred  
 26 fifty thousand dollars (~~\$75,000~~) (\$150,000) to the designated beneficiary,  
 27 surviving spouse, or surviving children under the age of twenty-two (22) of  
 28 any:

29 (1) Police officer, wildlife enforcement officer of the Arkansas  
 30 State Game and Fish Commission, commissioned law enforcement officer or  
 31 emergency response employee of the State Parks Division of the Department of  
 32 Parks and Tourism, Department of Community Correction employee, or employee  
 33 of the Department of Correction whose death occurred:

34 (A) After January 1, 2003; and

35 (B) Either:

36 (i) In the official line of duty as the result of a

1 *criminal or negligent action of another person or persons or as the result of*  
2 *the engagement in exceptionally hazardous duty; or*

3 *(ii) In the line of duty while the officer or*  
4 *employee was performing emergency medical activities; and*

5 *(2) Firefighter, emergency medical technician, or employee of*  
6 *the Arkansas State Forestry Commission killed after July 1, 1987, while*  
7 *responding to, engaging in, or returning from a fire, a rescue incident, a*  
8 *hazardous material or bomb incident, an emergency medical activity, or*  
9 *simulated training thereof.*

10 *(b) In addition to the benefits provided for in subsection (a) of this*  
11 *section, the state shall pay the additional sum of twenty-five thousand*  
12 *dollars (\$25,000) to the designated beneficiary, surviving spouse, or*  
13 *surviving children under the age of twenty-two (22) of any police officer,*  
14 *wildlife enforcement officer of the Arkansas State Game and Fish Commission,*  
15 *commissioned law enforcement officer of the State Parks Division of the*  
16 *Department of Parks and Tourism, Department of Community Correction employee,*  
17 *or employee of the Department of Correction:*

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

20 *(2) Whose death occurred:*

21 *(A) After July 1, 1989; and*

22 *(B) In the official line of duty as the result of a*  
23 *criminal action of another person or persons.*

24 *(c)(1) Except as provided in subdivision (c)(2) of this section the*  
25 *The benefits shall be paid totally from state funds appropriated for these*  
26 *benefits. The funds shall not be reimbursed by a transfer or charging the*  
27 *funds against any state funds allocated for turnback to cities or counties or*  
28 *distributed to any other state department agency fund account other than the*  
29 *Arkansas State Claims Commission fund accounts and the Miscellaneous*  
30 *Revolving Fund Account.*

31 *(2)(A) Seventy-five thousand dollars (\$75,000) of the one*  
32 *hundred fifty thousand dollars (\$150,000) provided in subdivision (c)(1) of*  
33 *this section shall be paid by the appropriate state department agency fund*  
34 *account.*

35 *(B) The appropriate state department agency shall transfer*  
36 *the necessary funds to the Arkansas State Claims Commission fund accounts for*

1 payment.

2 (d) The additional benefits provided in this section shall be paid to  
3 the designated beneficiary, surviving spouse, surviving children, or  
4 surviving parents in three (3) equal annual payments, the first of which  
5 shall be paid in July of the next fiscal year after the date of the original  
6 order of the Arkansas State Claims Commission establishing entitlement to  
7 additional payments and annually thereafter.

8 (e) Determination of eligibility for the additional payments provided  
9 in this section shall be made by the Arkansas State Claims Commission in  
10 accordance with Arkansas State Claims Commission rules and procedures.

11  
12 SECTION 2. Arkansas Code § 21-5-707 is amended to read as follows:  
13 21-5-707. Children.

14 (a) Unless designated as the beneficiary of a covered public employee  
15 under § 21-5-708, ~~In~~ in order for a natural child to be eligible to receive  
16 benefits under this subchapter:

17 (1) The natural child must have been born prior to the date of  
18 the covered public employee's death or total and permanent disability; or

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

22 (b) Unless designated as the beneficiary of a covered public employe  
23 under § 21-5-708, ~~In~~ in order for an adopted child to be eligible to receive  
24 benefits under this subchapter:

25 (1) The adopted child must have been adopted prior to the date  
26 of the covered public employee's death or total and permanent disability; or

27 (2) The adopted child's adoption process must have begun prior  
28 to the date of the covered public employee's death or total and permanent  
29 disability.

30 (c) Unless designated as the beneficiary of a covered public employee  
31 under § 21-5-708, ~~In~~ in order for a stepchild under nineteen (19) years of  
32 age to be eligible to receive benefits under this subchapter:

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

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

5           (d) *Unless designated as the beneficiary of a covered public employee*  
6 *under § 21-5-708, ~~It~~ in order for a stepchild nineteen (19) years of age or*  
7 *older to be eligible to receive benefits under this subchapter:*

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

11           (2) *The stepchild must have received more than one-half ( $\frac{1}{2}$ ) of*  
12 *his or her financial support from the covered public employee in each of the*  
13 *five (5) previous income years.*

14  
15           SECTION 3. *Arkansas Code Title 21, Chapter 5, Subchapter 7 is amended*  
16 *to add an additional section to read as follows:*

17           *21-5-708. Designated beneficiary.*

18           *(a)(1) A covered public employee may designate a beneficiary on a form*  
19 *provided by his or her employer.*

20           *(2) The form to designate a beneficiary shall be completed by*  
21 *the covered public employee, notarized, and submitted to his or her employer*  
22 *to be kept in the covered public employee's personnel file.*

23           *(3)(A) If a covered public employee designates a beneficiary, he*  
24 *or she shall review and resubmit the designation form annually.*

25           *(B) Upon a change of beneficiary, the employer shall*  
26 *notify the previous beneficiary within thirty (30) days after the change of*  
27 *beneficiary occurred.*

28           *(b) If the covered public employee does not designate a beneficiary,*  
29 *the benefits shall be paid to the surviving spouse or surviving children*  
30 *under the age of twenty-two (22) or, if there is no surviving spouse or*  
31 *surviving children under the age of twenty-two (22), then to the surviving*  
32 *children twenty-two (22) years of age or older or to the surviving parents.*

33  
34           SECTION 4. *NOT TO BE CODIFIED. The provisions of this act are*  
35 *retroactive to July 1, 2008.*

36

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*/s/ J. Roebu*

**APPROVED: 4/9/2009k**