

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 1266

4  
5 By: Representatives G. Smith, Harrelson, Wells, Nix, Greenberg, Lea  
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## For An Act To Be Entitled

9 AN ACT CONCERNING DEATH AND DISABILITY BENEFITS  
10 FOR POLICE OFFICERS KILLED OR INJURED IN THE LINE  
11 OF DUTY; TO PLACE AN ASSESSMENT ON ALL CITATIONS  
12 ISSUED BY POLICE OFFICERS AND ALL CRIMINAL FINES;  
13 TO CREATE THE POLICE OFFICER DEATH BENEFITS TRUST  
14 FUND; TO CREATE THE POLICE OFFICER DISABILITY  
15 BENEFITS TRUST FUND; AND FOR OTHER PURPOSES.  
16

## Subtitle

17 AN ACT CONCERNING DEATH AND DISABILITY  
18 BENEFITS FOR POLICE OFFICERS KILLED OR  
19 INJURED IN THE LINE OF DUTY.  
20  
21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 11 is amended  
26 to add two (2) additional sections to read as follows:

27 19-5-1136. Police Officer Death Benefits Trust Fund.

28 (a) There is created on the books of the Treasurer of State, the  
29 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
30 known as the "Police Officer Death Benefits Trust Fund".

31 (b) The fund shall consist of:

32 (1) Funds generated by assessments levied under § 21-5-  
33 708(f);

34 (2) Any gifts, grants, bequests, devises, and donations; and

35 (3) Any other revenues as authorized by law.

36 (c) The fund shall be used to pay the death benefits for police



1 officers killed in the official line of duty as set out in § 21-5-708.

2  
 3 19-5-1137. Police Officer Disability Benefits Trust Fund.

4 (a) There is created on the books of the Treasurer of State, the  
 5 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
 6 known as the "Police Officer Disability Benefits Trust Fund".

7 (b) The fund shall consist of:

8 (1) Funds generated by assessments levied under § 21-5-  
 9 708(f);

10 (2) Any gifts, grants, bequests, devises, and donations; and

11 (3) Any other revenues as authorized by law.

12 (c) The fund shall be used as set out in § 21-5-708 to pay the  
 13 disability benefits for police officers who suffer an injury while performing  
 14 official duties that results in either permanent or temporary disability.

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 16 SECTION 2. Arkansas Code § 21-5-701(2), concerning the definition of  
 17 covered public employee, is amended to read as follows:

18 (2) "Covered public employee" means ~~police officer~~, firefighter,  
 19 state highway employee, state correction employee, Department of Community  
 20 Correction employee, qualified emergency services worker, wildlife  
 21 enforcement officer, emergency medical technician, ~~State~~ Arkansas Forestry  
 22 Commission employee, commissioned law enforcement personnel, or emergency  
 23 response personnel of the State Parks Division of the Department of Parks and  
 24 Tourism;

25  
 26 SECTION 3. Arkansas Code § 21-5-703(b), concerning the deadline for  
 27 filing claims for death or disability benefits, is amended to read as  
 28 follows:

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

31 (1) The date of the covered public employee's or police  
 32 officer's death;

33 (2) The date of the incident causing the covered public  
 34 employee's total and permanent disability; ~~or~~

35 (3) The date of the incident causing the police officer's  
 36 disability, either temporary or permanent; or

1 ~~(3)~~(4) The date the covered public employee or police officer  
2 permanently leaves the employment position covered by this subchapter.

3  
4 SECTION 4. Arkansas Code § 21-5-704 is amended to read as follows:

5 21-5-704. Payment of claim to covered public employees or their  
6 survivors – Funds.

7 (a)(1)(A) The state shall pay to the surviving spouse or surviving  
8 children under the age of twenty-two (22) or, if there is no surviving spouse  
9 or surviving children ~~under the age of twenty-two (22)~~ twenty-two (22) years  
10 of age or under, then to the surviving children twenty-two (22) years of age  
11 or older or to the surviving parents of any covered public employee who is  
12 killed in the official line of duty, the sum of twenty-five thousand dollars  
13 (\$25,000).

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

24 (2)(A) ~~In the event any~~ If a covered public employee shall  
25 suffer ~~any~~ an injury while engaged in the performance of official duties  
26 resulting in his or her total and permanent disability, the disabled covered  
27 public employee shall be entitled to the sum of ten thousand dollars  
28 (\$10,000) from the State of Arkansas upon establishing proof of the total and  
29 permanent disability.

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

36 (b)(1) All allowances as provided for in this section for the

1 surviving spouse, surviving children, or surviving parents of covered public  
 2 employees killed ~~while performing official duties~~ in the official line of  
 3 duty, or allowances provided covered public employees who are totally and  
 4 permanently disabled while performing official duties, shall be paid totally  
 5 from state funds appropriated ~~therefore~~ for that purpose.

6 (2) The funds shall not be reimbursed by transfer or charging  
 7 the funds against any state funds allocated for turnback to cities or  
 8 counties or distributed to the State Highway and Transportation Department  
 9 Fund or distributed to any Department of Correction fund account or any other  
 10 state department agency fund account other than the Arkansas State Claims  
 11 Commission fund accounts and the Miscellaneous Revolving Fund Account, or  
 12 state funds levied for firefighters, ~~police officers~~, employees of the  
 13 Arkansas State Highway and Transportation Department, and employees of the  
 14 Department of Correction for pension purposes.

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

24  
 25 SECTION 5. Arkansas Code § 21-5-705(a)(1), concerning persons eligible  
 26 for additional funds if killed in the line of duty under specific  
 27 circumstances, is amended to read as follows:

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

- 33 (A) After January 1, 2003; and
- 34 (B) Either:

35 (i) In the official line of duty as the result of a  
 36 criminal or negligent action of another person or persons or as the result of

1 the engagement in exceptionally hazardous duty; or

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

4  
5 SECTION 6. Arkansas Code § 21-5-705(b), concerning persons eligible  
6 for additional funds if killed in the line of duty under certain  
7 circumstances, is amended to read as follows:

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

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

18 (2) Whose death occurred:

19 (A) After July 1, 1989; and

20 (B) In the official line of duty as the result of a  
21 criminal action of another person or persons.

22  
23 SECTION 7. Arkansas Code § 21-5-707 is amended to read as follows:  
24 21-5-707. Children.

25 (a) A child of a covered public employee shall receive benefits under  
26 this subchapter as follows:

27 (1) In order for a natural child to be eligible to receive  
28 benefits under this subchapter:

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

32 ~~(2)(B)~~ The covered public employee or the covered public  
33 employee's spouse must have been pregnant with the natural child at the time  
34 of the covered public employee's death or total and permanent disability;

35 ~~(b)(2)~~ In order for an adopted child to be eligible to receive  
36 benefits under this subchapter:

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

4           ~~(2)~~(B) The adopted child's adoption process must have begun  
 5 ~~prior to~~ before the date of the covered public employee's death or total and  
 6 permanent disability;

7           ~~(e)~~(3) In order for a stepchild under nineteen (19) years of age to be  
 8 eligible to receive benefits under this subchapter:

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

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

17           ~~(d)~~(4) In order for a stepchild nineteen (19) years of age or older to  
 18 be eligible to receive benefits under this subchapter:

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

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

25           (b) A child of a police officer shall receive benefits under this  
 26 subchapter as follows:

27           (1) In order for a natural child to be eligible to receive  
 28 benefits under this chapter:

29                   (A) The natural child must have been born before the date  
 30 of the police officer's death or disability; or

31                   (B) The police officer or the police officer's spouse must  
 32 have been pregnant with the natural child at the time of the police officer's  
 33 death or disability;

34           (2) In order for an adopted child to be eligible to receive  
 35 benefits under this subchapter:

36                   (A) The adopted child must have been adopted before the

1 date of the police officer's death or disability; or

2 (B) The adopted child's adoption process must have begun  
 3 before the date of the police officer's death or disability;

4 (3) In order for a stepchild under nineteen (19) years of age to  
 5 be eligible to receive benefits under this subchapter:

6 (A) The stepchild must have been listed as a dependent on  
 7 the police officer's federal and state income tax returns for each of the  
 8 five (5) income years immediately before the date of the police officer's  
 9 death or disability; and

10 (B) The stepchild must have received more than one-half  
 11 (1/2) of his or her financial support from the police officer in each of the  
 12 five (5) income years immediately before the date of the police officer's  
 13 death or disability; and

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

16 (A) The stepchild must have been listed as a dependent on  
 17 the police officer's federal and state income tax returns each of the five  
 18 (5) previous income years; and

19 (B) The stepchild must have received more than one-half  
 20 (1/2) of his or her financial support from the police officer in each of the  
 21 five (5) previous income years.

22  
 23 SECTION 8. Arkansas Code Title 21, Chapter 5, Subchapter 7 is amended  
 24 to add an additional section to read as follows:

25 21-5-708. Payment of claim to police officers or their survivors -  
 26 Funds.

27 (a)(1)(A) The state shall pay to the surviving spouse or surviving  
 28 children twenty-two (22) years of age or under or, if there is no surviving  
 29 spouse or surviving children under the age of twenty-two, then to the  
 30 surviving children twenty-two (22) years of age or older or to the surviving  
 31 parents of any police officer who is killed in the official line of duty, the  
 32 sum of one hundred thousand dollars (\$100,000).

33 (B) The benefit shall be paid by the state within one  
 34 hundred twenty (120) days of the date of the determination of eligibility by  
 35 the Arkansas State Claims Commission.

36 (2) In addition thereto, the municipality that employed the

1 police officer, upon certification of the amount by the police department,  
 2 shall pay to the surviving spouse or surviving children twenty-two (22) years  
 3 of age or under or, if there is no surviving spouse or surviving children  
 4 twenty-two (22) years of age or under, then to the surviving children twenty-  
 5 two (22) years of age or older or to the surviving parents of the deceased  
 6 police officer an allowance for all sick leave, vacation, or other leave time  
 7 accumulated to the credit of the police officer at the time of his or her  
 8 death.

9 (b)(1) If a police officer suffers an injury while engaged in the  
 10 performance of his or her official duties resulting in his or her disability,  
 11 either permanent or temporary, the disabled police officer shall be entitled  
 12 to the difference between the police officer's worker's compensation benefit  
 13 and his or her base salary.

14 (2) The disability benefit is payable only for the period that  
 15 the police officer remains disabled and unable to work, but shall not exceed  
 16 a period of twelve (12) months.

17 (c) The benefits paid to the surviving spouse, surviving children, or  
 18 surviving parents of a police officer killed in the official line of duty  
 19 shall be paid from the Law Enforcement Officer Death Benefits Trust Fund, §  
 20 19-5-1136.

21 (d) The benefits paid to a police officer who suffers an injury while  
 22 performing official duties, resulting in his or her disability, either  
 23 permanent or temporary, shall be paid from the Law Enforcement Officer  
 24 Disability Benefits Trust Fund, § 19-5-1137.

25 (e)(1) The benefits paid under this section shall not cause the state  
 26 worker's compensation funds to be entitled to a credit against liability for  
 27 payment of worker's compensation benefits under § 21-5-610.

28 (2) All benefits paid under this section are in addition to any  
 29 worker's compensation funds received by the police officer or the police  
 30 officer's survivors.

31 (f)(1) An assessment of one dollar (\$1.00) shall be added to the  
 32 amount of each citation issued by a police officer in the State of Arkansas.

33 (2) An assessment of one dollar (\$1.00) shall be added to the  
 34 amount of each fine paid by a person who pleads guilty or nolo contendere to  
 35 or is found guilty of a criminal offense in the State of Arkansas.

36 (3) The moneys generated by the assessments shall be deposited



1 as follows:

2 (A) Fifty percent (50%) into the Police Officer Death  
3 Benefits Trust Fund; and

4 (B) Fifty percent (50%) into the Police Officer Disability  
5 Benefits Trust Fund.

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