

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
4

As Engrossed: H3/12/09

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*
11 *By: Senators Glover, P. Malone*
12
13

For An Act To Be Entitled

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 CONCERNING DEATH BENEFITS FOR COVERED
22 PUBLIC EMPLOYEES KILLED IN THE LINE OF
23 DUTY.
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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*
36 *or surviving children under the age of twenty-two (22), then to the surviving*



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

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

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

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

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

32 (2) The funds shall not be reimbursed by transfer or charging
33 the funds against any state funds allocated for turnback to cities or
34 counties or distributed to the State Highway and Transportation Department
35 Fund or distributed to any Department of Correction fund account or any other
36 state department agency fund account other than the Arkansas State Claims

1 Commission fund accounts and the Miscellaneous Revolving Fund Account, or
2 state funds levied for firefighters, police officers, employees of the
3 Arkansas State Highway and Transportation Department, and employees of the
4 Department of Correction for pension purposes.

5 (c) It is the intent of this subchapter that the total obligation of
6 providing the benefits provided by this subchapter, even though the funds are
7 to be administered by the Arkansas State Claims Commission, are to be
8 defrayed from state funds and are not to be charged against, or recovered
9 against, any turnback moneys due the cities or counties of this state or
10 allocated to the state highway system of this state or to the Department of
11 Correction or any other state department agency fund account other than the
12 Arkansas State Claims Commission fund accounts and the Miscellaneous
13 Revolving Fund Account.

14
15 21-5-705. Payment of claim to designated beneficiaries or survivors of
16 certain specified public employees killed in the line of duty – Funds.

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

21 (1) Police officer, wildlife enforcement officer of the Arkansas
22 State Game and Fish Commission, commissioned law enforcement officer or
23 emergency response employee of the State Parks Division of the Department of
24 Parks and Tourism, Department of Community Correction employee, or employee
25 of the Department of Correction whose death occurred:

26 (A) After January 1, 2003; and

27 (B) Either:

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

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

33 (2) Firefighter, emergency medical technician, or employee of
34 the Arkansas State Forestry Commission killed after July 1, 1987, while
35 responding to, engaging in, or returning from a fire, a rescue incident, a
36 hazardous material or bomb incident, an emergency medical activity, or

1 simulated training thereof.

2 (b) In addition to the benefits provided for in subsection (a) of this
3 section, the state shall pay the additional sum of twenty-five thousand
4 dollars (\$25,000) to the designated beneficiary, surviving spouse, or
5 surviving children under the age of twenty-two (22) of any police officer,
6 wildlife enforcement officer of the Arkansas State Game and Fish Commission,
7 commissioned law enforcement officer of the State Parks Division of the
8 Department of Parks and Tourism, Department of Community Correction employee,
9 or employee of the Department of Correction:

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

12 (2) Whose death occurred:

13 (A) After July 1, 1989; and

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

16 (c) The benefits shall be paid totally from state funds appropriated
17 for these benefits. The funds shall not be reimbursed by a transfer or
18 charging the funds against any state funds allocated for turnback to cities
19 or counties or distributed to any other state department agency fund account
20 other than the Arkansas State Claims Commission fund accounts and the
21 Miscellaneous Revolving Fund Account.

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

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

31

32 SECTION 2. Arkansas Code § 21-5-707 is amended to read as follows:
33 21-5-707. Children.

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

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

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

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

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

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

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

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

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

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

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

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

34
35 SECTION 3. Arkansas Code Title 21, Chapter 5, Subchapter 7 is amended
36 to add an additional section to read as follows:

1 21-5-708. Designated beneficiary.

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

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

7 (3) If a covered public employee designates a beneficiary, he or
8 she shall review and resubmit the designation form annually.

9 (b) If the covered public employee does not designate a beneficiary,
10 the benefits shall be paid to the surviving spouse or surviving children
11 under the age of twenty-two (22) or, if there is no surviving spouse or
12 surviving children under the age of twenty-two (22), then to the surviving
13 children twenty-two (22) years of age or older or to the surviving parents.

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15 /s/ J. Roebuck
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