

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, Reynolds*
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.
24
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*
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)(A) Except as provided in subdivision (b)(2)(B) of this
33 section, the ~~The~~ funds shall not be reimbursed by transfer or charging the
34 funds against any state funds allocated for turnback to cities or counties or
35 distributed to the State Highway and Transportation Department Fund or
36 distributed to any Department of Correction fund account or any other state

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

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

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

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

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

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

28 (1) Police officer, wildlife enforcement officer of the Arkansas
 29 State Game and Fish Commission, commissioned law enforcement officer or
 30 emergency response employee of the State Parks Division of the Department of
 31 Parks and Tourism, Department of Community Correction employee, or employee
 32 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 (2) Firefighter, emergency medical technician, or employee of
5 the Arkansas State Forestry Commission killed after July 1, 1987, while
6 responding to, engaging in, or returning from a fire, a rescue incident, a
7 hazardous material or bomb incident, an emergency medical activity, or
8 simulated training thereof.

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

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

19 (2) Whose death occurred:

20 (A) After July 1, 1989; and

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

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

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

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

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

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

10
11 SECTION 2. *Arkansas Code § 21-5-707 is amended to read as follows:*
12 *21-5-707. Children.*

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

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

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

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

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

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

29 (c) *Unless designated as the beneficiary of a covered public employee*
30 *under § 21-5-708, ~~It~~ in order for a stepchild under nineteen (19) years of*
31 *age 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 for each of*
34 *the five (5) income years immediately prior to the date of the covered public*
35 *employee's death or total and permanent disability; and*

36 (2) *The stepchild must have received more than one-half ($\frac{1}{2}$) of*

1 his or her financial support from the covered public employee in each of the
2 five (5) income years immediately prior to the date of the covered public
3 employee's death or total and permanent disability.

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

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

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

13
14 SECTION 3. Arkansas Code Title 21, Chapter 5, Subchapter 7 is amended
15 to add an additional section to read as follows:

16 21-5-708. Designated beneficiary.

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

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

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

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

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

32
33 SECTION 4. NOT TO BE CODIFIED. The provisions of this act are
34 retroactive to July 1, 2008.

35
36 /s/ J. Roebuck