

Committee Substitute for House Bill No. 1357

An act prescribing death benefits for dependents and beneficiaries of a law enforcement, correctional, or correctional probation officer or firefighter; amending ss. 112.19, 112.191, F.S.; increasing specified death benefits; providing for periodic adjustments to the amount of such benefits; providing for the state to waive specified educational expenses for spouses and children at certain public educational institutions under specified circumstances; declaring that the act fulfills an important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(1) Whenever used in this section, the term:

(a) “Employer” means a state board, commission, department, division, bureau, or agency, or a county, municipality, or other political subdivision of the state, which employs, appoints, or otherwise engages the services of law enforcement, correctional, or correctional probation officers.

(b) “Law enforcement, correctional, or correctional probation officer” means any officer as defined in s. 943.10(14) or employee of the state or any political subdivision of the state, including any law enforcement officer, correctional officer, correctional probation officer, state attorney investigator, or public defender investigator, whose duties require such officer or employee to investigate, pursue, apprehend, arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime; and the term includes any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices. The term also includes any full-time officer or employee of the state or any political subdivision of the state, certified pursuant to chapter 943, whose duties require such officer to serve process or to attend terms of circuit or county court as bailiff.

(c) “Insurance” means insurance procured from a stock company or mutual company or association or exchange authorized to do business as an insurer in this state.

(d) “Fresh pursuit” means the pursuit of a person who has committed or is reasonably suspected of having committed a felony, misdemeanor, traffic infraction, or violation of a county or municipal ordinance. The term does not imply instant pursuit, but pursuit without unreasonable delay.

(2)(a) The sum of \$50,000, as adjusted pursuant to paragraph (j), \$25,000 shall be paid as provided in this section when a law enforcement, correctional, or correctional probation officer, while engaged in the performance

of the officer's law enforcement duties, is accidentally killed or receives accidental bodily injury which results in the loss of the officer's life, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(b) The sum of \$50,000, as adjusted pursuant to paragraph (j), \$25,000 shall be paid as provided in this section if a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (a) and the accidental death occurs as a result of the officer's response to fresh pursuit or to the officer's response to what is reasonably believed to be an emergency. This sum is in addition to any sum provided for in paragraph (a). Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(c) If a law enforcement, correctional, or correctional probation officer, while engaged in the performance of the officer's law enforcement duties, is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act, the sum of \$150,000, as adjusted pursuant to paragraph (j), \$75,000 shall be paid as provided in this section. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(d) Such payments, pursuant to the provisions of paragraphs (a), (b), and (c), whether secured by insurance or not, shall be made to the beneficiary designated by such law enforcement, correctional, or correctional probation officer in writing, signed by the officer and delivered to the employer during the officer's lifetime. If no such designation is made, then it shall be paid to the officer's surviving child or children and spouse in equal portions, and if there is no surviving child or spouse, then to the officer's parent or parents. If a beneficiary is not designated and there is no surviving child, spouse, or parent, then it shall be paid to the officer's estate.

(e) Such payments, pursuant to the provisions of paragraphs (a), (b), and (c), are in addition to any workers' compensation or pension benefits and are exempt from the claims and demands of creditors of such law enforcement, correctional, or correctional probation officer.

(f) If a full-time law enforcement, correctional, or correctional probation officer who is employed by a state agency is killed in the line of duty as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions, the sum of \$1,000 shall be paid, as provided for in paragraph (d), toward the funeral and burial expenses of such officer. Such benefits are in addition to any other benefits which employee beneficiaries and dependents are entitled to under the provisions of the Workers' Compensation Law or any other state or federal statutes.

(g) Any political subdivision of the state that employs a full-time law enforcement officer as defined in s. 943.10(1) or a full-time correctional

officer as defined in s. 943.10(2) who is killed in the line of duty on or after July 1, 1993, as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions shall pay the entire premium of the political subdivision's health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:

1. At the time of the employee's death, the child is dependent upon the employee for support; and

2. The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

(h)1. Any employer who employs a full-time law enforcement, correctional, or correctional probation officer who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02(37), in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a law enforcement, correctional, or correctional probation officer or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the officer, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of

the officer's response to fresh pursuit, the officer's response to what is reasonably believed to be an emergency, or an unlawful act perpetrated by another. Except as otherwise provided herein, nothing in this paragraph shall be construed to limit health insurance coverage for which the officer, spouse, or dependent children may otherwise be eligible, except that a person who qualifies under this section shall not be eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

(i) The Bureau of Crime Prevention and Training within the Department of Legal Affairs shall adopt rules necessary to implement paragraphs (a), (b), and (c).

(j) Any payments made pursuant to paragraph (a), paragraph (b), or paragraph (c) shall consist of the statutory amount adjusted to reflect price level changes since the effective date of this act. The Bureau of Crime Prevention and Training shall by rule adjust the statutory amount based on the Consumer Price Index for all urban consumers published by the United States Department of Labor. Adjustment shall be made July 1 of each year using the most recent month for which data are available at the time of the adjustment.

(3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or after July 1, 1980, the state shall waive certain educational expenses that the child or spouse which children of the deceased officer incurs incur while obtaining a vocational-technical certificate, ~~or~~ an undergraduate education, or a postgraduate education. The amount waived by the state shall be an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours. The child or spouse may attend a state vocational-technical school, a state community college, or a state university. The child or spouse may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. The benefits provided to a child under this subsection shall continue ~~to the child~~ until the child's 25th birthday. The benefits provided to a spouse under this subsection must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death.

(a) Upon failure of any child or spouse benefited by the provisions of this subsection ~~section~~ to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child or spouse and no further moneys may be expended for the child's or spouse's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits thereof.

(c) A child or spouse receiving benefits under this subsection ~~section~~ must be enrolled according to the customary rules and requirements of the institution attended.

(4)(a) The employer of such law enforcement, correctional, or correctional probation officer is liable for the payment of the sums specified in this section and is deemed self-insured, unless it procures and maintains, or has already procured and maintained, insurance to secure such payments. Any such insurance may cover only the risks indicated in this section, in the amounts indicated in this section, or it may cover those risks and additional risks and may be in larger amounts. Any such insurance shall be placed by such employer only after public bid of such insurance coverage which coverage shall be awarded to the carrier making the lowest best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under the provisions of this section shall be paid from existing funds otherwise appropriated to the department employing the law enforcement, correctional, or correctional probation officers.

(5) The Department of Education shall adopt rules and procedures as are necessary to implement the educational benefits provisions of this section.

(6) Notwithstanding any provision of this section to the contrary, the death benefits provided in paragraphs (2)(c) and (g) shall also be applicable and paid in cases where an officer received bodily injury prior to July 1, 1993, and subsequently died on or after July 1, 1993, as a result of such in-line-of-duty injury attributable to an unlawful and intentional act, or an act of violence inflicted by another, or an assault on the officer under riot conditions. Payment of such benefits shall be in accordance with provisions of this section. Nothing in this provision shall be construed to limit death benefits for which those individuals listed in paragraph (2)(d) may otherwise be eligible.

Section 2. Section 112.191, Florida Statutes, is amended to read:

112.191 Firefighters; death benefits.—

(1) Whenever used in this act:

(a) The term “employer” means a state board, commission, department, division, bureau or agency, or a county, municipality, or other political subdivision of the state.

(b) The term “firefighter” means any full-time duly employed uniformed firefighter employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of municipal, county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is certified pursuant to s. 633.35, and who is a member of a duly constituted fire department of such employer or who is a volunteer firefighter.

(c) The term “insurance” means insurance procured from a stock company or mutual company or association or exchange authorized to do business as an insurer in this state.

(2)(a) The sum of \$50,000, as adjusted pursuant to paragraph (i), \$25,000 shall be paid as ~~hereinafter~~ provided in this section when a firefighter, while

engaged in the performance of his or her firefighter duties, is accidentally killed or receives accidental bodily injury which subsequently results in the loss of the firefighter's life, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(b) ~~The sum of \$50,000, as adjusted pursuant to paragraph (i), \$25,000 shall be paid as hereinafter provided in this section~~ if a firefighter is accidentally killed as specified in paragraph (a) and the accidental death occurs as a result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property. This sum shall be in addition to any sum provided for in paragraph (a). Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(c) If a firefighter, while engaged in the performance of his or her firefighter duties, is unlawfully and intentionally killed, dies as a result of a fire which has been determined to have been caused by an act of arson, or subsequently dies as a result of injuries sustained therefrom, the sum of \$150,000, as adjusted pursuant to paragraph (i), \$75,000 shall be paid as ~~hereinafter provided in this section.~~ Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(d) Such payments, pursuant to paragraphs (a), (b), and (c), whether secured by insurance or not, shall be made to the beneficiary designated by such firefighter in writing, signed by the firefighter and delivered to the employer during the firefighter's lifetime. If no such designation is made, then it shall be paid to the firefighter's surviving child or children and spouse in equal portions, and if there be no surviving child or spouse, then to the firefighter's parent or parents. If a beneficiary designation is not made and there is no surviving child, spouse, or parent, then it shall be paid to the firefighter's estate.

(e) Such payments, pursuant to the provisions of paragraphs (a), (b), and (c), shall be in addition to any workers' compensation or pension benefits and shall be exempt from the claims and demands of creditors of such firefighter.

(f) Any political subdivision of the state that employs a full-time firefighter who is killed in the line of duty on or after July 1, 1993, as a result of an act of violence inflicted by another person while the firefighter is engaged in the performance of firefighter duties, as a result of a fire which has been determined to have been caused by an act of arson, or as a result of an assault against the firefighter under riot conditions shall pay the entire premium of the political subdivision's health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:

1. At the time of the employee's death, the child is dependent upon the employee for support; and

2. The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

(g)1. Any employer who employs a full-time firefighter who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02(37), in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a firefighter or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the firefighter, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property, or an unlawful act perpetrated by another. Except as otherwise provided herein, nothing in this paragraph shall be construed to limit health insurance coverage for which the firefighter, spouse, or dependent children may otherwise be eligible, except that a person who qualifies for benefits under this section shall not be eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

Notwithstanding any provision of this section to the contrary, the death benefits provided in paragraphs (b), (c), and (f) shall also be applicable and paid in cases where a firefighter received bodily injury prior to July 1, 1993,

and subsequently died on or after July 1, 1993, as a result of such in-line-of-duty injury.

(h) The Division of the State Fire Marshal within the Department of Insurance ~~shall adopt is directed to promulgate rules as are necessary to implement the provisions of this section.~~

(i) Any payments made pursuant to paragraph (a), paragraph (b), or paragraph (c) shall consist of the statutory amount adjusted to reflect price level changes since the effective date of the act. The Division of State Fire Marshal shall by rule adjust the statutory amount based on the Consumer Price Index for all urban consumers published by the United States Department of Labor. Adjustment shall be made July 1 of each year using the most recent month for which data are available at the time of the adjustment.

(3) If a firefighter is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c), on or after July 1, 1980, the state shall waive certain educational expenses ~~that the child or spouse which children~~ of the deceased firefighter ~~incurs incur~~ while obtaining a vocational-technical certificate, ~~or an undergraduate education, or a postgraduate education.~~ The amount waived by the state shall be an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours. The child ~~or spouse~~ may attend a state vocational-technical school, a state community college, or a state university. The child ~~or spouse~~ may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. The benefits provided to a child under this subsection shall continue ~~to such a child~~ until the child's 25th birthday. The benefits provided to a spouse under this subsection must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death.

(a) Upon failure of any child ~~or spouse~~ benefited by the provisions of this ~~subsection section~~ to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits thereof shall be withdrawn as to the child ~~or spouse~~ and no further moneys expended for the child's ~~or spouse's~~ benefits so long as such failure or delinquency continues.

(b) Only students in good standing in their respective institutions shall receive the benefits thereof.

(c) A child or spouse ~~All children~~ receiving benefits under this ~~subsection must section shall~~ be enrolled according to the customary rules and requirements of the institution attended.

(4)(a) The employer of such firefighter shall be liable for the payment of said sums specified in this section and shall be deemed self-insured, unless it procures and maintains, or has already procured and maintained, insurance to secure such payments. Any such insurance may cover only the risks indicated in this section, in the amounts indicated in this section, or it may cover those risks and additional risks and may be in larger amounts. Any such insurance shall be placed by such employer only after public bid of such

insurance coverage which coverage shall be awarded to the carrier making the lowest best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under the provisions of this section, shall be paid from existing funds otherwise appropriated for the department.

(5) The Department of Education is directed to promulgate rules and procedures as are necessary to implement the educational benefits provisions of this section.

Section 3. This act fulfills an important state interest.

Section 4. This act shall take effect July 1, 2002.

Approved by the Governor April 25, 2002.

Filed in Office Secretary of State April 25, 2002.