

1 SB400  
2 185792-1  
3 By Senator Ward  
4 RFD: Governmental Affairs  
5 First Read: 27-APR-17

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the benefits payable to  
9 the surviving spouse of a law enforcement officer  
10 or firefighter killed in the line of duty cease  
11 upon his or her remarriage or at the expiration of  
12 500 weeks, whichever is earlier.

13 This bill would allow the surviving spouse  
14 to receive benefits after remarriage.

15 Under existing law, the benefits payable to  
16 a surviving dependent child of a law enforcement  
17 officer or firefighter killed in the line of duty  
18 cease upon his or her reaching the age of majority  
19 or upon the expiration of 500 weeks, whichever is  
20 earlier.

21 This bill would allow the surviving  
22 dependent child to continue to receive workers'  
23 compensation benefits until he or she reaches the  
24 age of majority.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To amend Sections 25-5-60, 25-5-66, 25-5-68, and  
4 25-5-69, Code of Alabama 1975, relating to workers'  
5 compensation; to provide that the surviving spouse of a law  
6 enforcement officer or firefighter killed in the line of duty  
7 shall continue to receive workers' compensation benefits after  
8 remarriage; and to provide that a surviving dependent child of  
9 a law enforcement officer or firefighter killed in the line of  
10 duty shall continue to receive workers' compensation benefits  
11 until he or she reaches the age of majority.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 25-5-60, 25-5-66, 25-5-68, and  
14 25-5-69, Code of Alabama 1975, are amended to read as follows:

15 "§25-5-60.

16 "In death cases, where the death results proximately  
17 from the accident within three years, compensation payable to  
18 dependents shall be computed on the following basis and shall  
19 be paid to the persons entitled thereto without  
20 administration, or to a guardian or other person as the court  
21 may direct, for the use and benefit of the person entitled  
22 thereto.

23 "(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF  
24 BENEFITS.

25 "a. If the deceased employee leaves one dependent,  
26 there shall be paid to the dependent 50 percent of the average  
27 weekly earnings of the deceased.

1            "b. If the deceased employee leaves two or more  
2 dependents, there shall be paid to the dependents 66 2/3  
3 percent of the average weekly earnings of the deceased.

4            "c. If one of two or more dependents is a widow or  
5 widower, the compensation may be paid to the widow or widower  
6 for the benefit of herself or himself and the dependent child  
7 or children. In its discretion and when it considers  
8 appropriate to do so, the court shall at any time have the  
9 power to determine, without the appointment of any guardian or  
10 guardians, what portion of the compensation shall be applied  
11 for the benefit of any child or children and may order the  
12 same paid to a guardian or custodian of the child or children.

13           "d. Partial dependents shall be entitled to receive  
14 only that proportion of the benefits provided for total  
15 dependents which the average amount of the earnings regularly  
16 contributed by the deceased employee to the partial dependent,  
17 at and for a reasonable time immediately prior to the injury,  
18 bore to the total income of the dependent during the same  
19 time. If there is one dependent and one or more partial  
20 dependents and the dependent is not entitled to the maximum  
21 amount of compensation provided in Section 25-5-68, there  
22 shall be paid to the partial dependent or partial dependents  
23 that percentage of the benefit paid to a full dependent which  
24 the contribution of the decedent to the partial dependent's  
25 support bears to the total income of the partial dependent.  
26 Notwithstanding the foregoing, the compensation payable to the  
27 partial dependent or dependents shall not exceed the lesser of

1 16 2/3 percent of the decedent's average weekly wage or the  
2 difference between the compensation payable to the full  
3 dependent and the maximum weekly compensation benefit payable  
4 as provided in Section 25-5-68.

5 "e. ~~If~~ Except as provided in subdivision (3), if  
6 compensation is being paid under this article to any  
7 dependent, the compensation shall cease upon the death or  
8 marriage of the dependent, unless otherwise provided in this  
9 article.

10 "f. Upon the cessation of compensation to or for any  
11 dependent, for any cause, the compensation of the remaining  
12 dependents entitled to compensation shall, for the unexpired  
13 period during which their compensation is payable, be that  
14 which would have been payable to them had they been the only  
15 persons entitled to compensation at the time of death of the  
16 deceased employee.

17 "g. If, however, the deceased employee at the time  
18 of his or her death has no dependents as herein defined, then  
19 within 60 days of his or her death, the employer shall pay a  
20 one-time lump sum payment of seven thousand five hundred  
21 dollars (\$7,500) to the deceased worker's estate.

22 "(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. The  
23 compensation payable in case of death to persons wholly  
24 dependent shall be subject to a maximum and minimum weekly  
25 compensation as stated in Section 25-5-68, but if at the time  
26 of injury the employee receives earnings of less than the  
27 minimum stated in Section 25-5-68, then the compensation shall

1 be the full amount of such earnings per week. The compensation  
2 payable to partial dependents shall be subject to a maximum  
3 and minimum weekly compensation as stated in Section 25-5-68,  
4 but if the income loss of the partial dependents by the death  
5 is less than the minimum weekly compensation stated in Section  
6 25-5-68, then the dependents shall receive the full amount of  
7 their income loss. This compensation shall be paid during  
8 dependency, not exceeding 500 weeks, except as provided in  
9 subsection (f) of Section 25-5-68. Payments shall be made at  
10 the intervals when the earnings were payable, as nearly as may  
11 be, unless the parties otherwise agree.

12 (3) If a dependent is the surviving spouse of a law  
13 enforcement officer or firefighter killed as a result of  
14 injuries received while engaged in the performance of his or  
15 her duties, the compensation does not cease upon remarriage.

16 "§25-5-66.

17 "(a) In case of the remarriage of a ~~widow~~ the  
18 surviving spouse of an employee who has another dependent, the  
19 unpaid balance of compensation, which would otherwise become  
20 due ~~her~~, shall be paid to the dependent or may, on approval by  
21 the court, be paid to some suitable person designated by the  
22 court for the use and benefit of the dependent. Payment to  
23 that person shall discharge the employer from any further  
24 liability.

25 "(b) Subsection (a) does not apply to the surviving  
26 spouse of a law enforcement officer or firefighter who was

1 killed as a result of injuries received while engaged in the  
2 performance of his or her duties.

3 "§25-5-68.

4 "(a) The compensation paid under this article shall  
5 be not less than, except as otherwise provided in this  
6 article, 27 1/2 percent of the average weekly wage of the  
7 state as determined by the secretary, rounded to the nearest  
8 dollar, pursuant to subsection (b) of this section and, in any  
9 event, no more than 100 percent of the average weekly wage.  
10 Notwithstanding the foregoing, the maximum compensation  
11 payable for permanent partial disability shall be no more than  
12 the lesser of \$220.00 per week or 100 percent of the average  
13 weekly wage.

14 "(b) For the purpose of this section, the average  
15 weekly wage of the state shall be determined by the secretary  
16 as follows: On or before June 1 of each year, the total wages  
17 reported on contribution reports to the unemployment  
18 compensation division of the department for the preceding  
19 calendar year shall be divided by the average monthly number  
20 of insured workers, which shall be determined by dividing the  
21 sum of the number of insured workers reported for each month  
22 of the preceding year by 12. The average annual wage thus  
23 obtained shall be divided by 52, and the average weekly wage  
24 thus determined rounded to the nearest cent. The average  
25 weekly wage as so determined shall be applicable for the  
26 12-month period beginning July 1 following the June 1  
27 determination. If the determination shall not be made on or

1 before June 1, the effective date of the average weekly wage  
2 when determined shall be the first day of the month next  
3 following 30 days after the determination is made.

4 "(c) The maximum and minimum weekly benefit shall  
5 not be changed on any July 1 or as a result of any annual  
6 determination, unless the computation provided for in  
7 subsection (b) of this section results in an increase or  
8 decrease of two dollars (\$2) or more in the amount of either  
9 the maximum or minimum benefit.

10 "(d) In no event, except as provided for permanent  
11 total disability in subdivision (a) (4) of Section 25-5-57 or  
12 except for compensation benefits payable for permanent partial  
13 and temporary total disability in connection with a disability  
14 scheduled in subdivisions (1) and (3) of subsection (a) of  
15 Section 25-5-57 or except as provided in subsection (f), shall  
16 the total amount of compensation payable for an accident or an  
17 occupational disease exceed the product of 500 times the  
18 maximum weekly benefit applicable on the date of the accident.

19 "(e) The minimum and maximum benefits that are in  
20 effect on the date of the accident which results in injury or  
21 death shall be applicable for the full period during which  
22 compensation is payable.

23 "(f) Notwithstanding any other provision of this  
24 article, the compensation benefits payable to a surviving  
25 dependent child of a law enforcement officer or firefighter  
26 who was killed as a result of injuries received while engaged



1 in the performance of his or her duties shall continue until  
2 the dependent child reaches the age of majority.

3 "§25-5-69.

4 "~~If~~ Except when the dependent is the surviving  
5 spouse of a law enforcement officer or firefighter who was  
6 killed as a result of injuries received while engaged in the  
7 performance of his or her duties, if compensation is being  
8 paid under this article to any dependent, such compensation  
9 shall cease upon the death or marriage of such dependent.

10 Where compensation is being paid under this chapter to any  
11 dependent, in no event shall such dependent receive more than  
12 the proportion which the amount received of the deceased  
13 employee's income during his or her life bears to the  
14 compensation provided under this article."

15 Section 2. (a) The compensation payable under  
16 Chapter 29A of Title 36, Code of Alabama 1975, to the  
17 surviving spouse of a law enforcement officer or firefighter  
18 who was killed as a result of injuries received while engaged  
19 in the performance of his or her duties shall continue upon  
20 remarriage.

21 (b) The compensation payable under Chapter 29A of  
22 Title 36, Code of Alabama 1975, to a surviving dependent child  
23 of a law enforcement officer or firefighter who was killed as  
24 a result of injuries received while engaged in the performance  
25 of his or her duties shall continue until the minor reaches  
26 the age of majority.

1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.