

SENATE BILL No. 339

By Committee on Commerce

1-29

1 AN ACT concerning workers compensation death benefits; initial
2 payments; legal heirs; dependents; funeral expenses; conservatorship;
3 adequacy and equivalency with respect to other benefit limits;
4 amending K.S.A. 2017 Supp. 44-510b and repealing the existing
5 section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2017 Supp. 44-510b is hereby amended to read as
9 follows: 44-510b. Where death results from injury, compensation shall be
10 paid as provided in K.S.A. 44-510h and 44-510i, and amendments thereto,
11 and as follows:

12 (a) If an employee leaves any dependents wholly dependent upon the
13 employee's earnings at the time of the accident or injury, all compensation
14 benefits under this section shall be paid to ~~such~~ the dependent persons.
15 There shall be an initial payment of ~~\$40,000~~ \$60,000 to the surviving legal
16 spouse or a wholly dependent child or children or both. The initial
17 payment shall not be subject to the 8% discount as provided in K.S.A. 44-
18 531, and amendments thereto. The initial payment shall be immediately
19 due and payable and apportioned 50% to the surviving legal spouse and
20 50% to the dependent children. Thereafter, ~~such~~ the dependents shall be
21 paid weekly compensation, except as otherwise provided in this section, in
22 a total sum to all ~~such~~ the dependents, equal to 66²/₃% of the average
23 weekly wage of the employee at the time of the accident or injury,
24 computed as provided in K.S.A. 44-511, and amendments thereto, but in
25 no event shall ~~such~~ the weekly benefits exceed the maximum weekly
26 benefits provided in K.S.A. 44-510c, and amendments thereto, nor be less
27 than a minimum weekly benefit of the dollar amount nearest to 50% of the
28 state's average weekly wage as determined pursuant to K.S.A. 44-511, and
29 amendments thereto, subject to the following:

30 (1) If the employee leaves a surviving legal spouse or a wholly
31 dependent child or children, or both, who are eligible for benefits under
32 this section, then all death benefits shall be paid to ~~such~~ the surviving
33 spouse or children, or both, and no benefits shall be paid to any other
34 wholly or partially dependent persons.

35 (2) A surviving legal spouse shall be paid compensation benefits for
36 life, except as otherwise provided in this section.

1 (3) Any wholly dependent child of the employee shall be paid
2 compensation, except as otherwise provided in this section, until ~~such the~~
3 dependent child becomes 18 years of age. A wholly dependent child of the
4 employee shall be paid compensation, except as otherwise provided in this
5 section, until ~~such the~~ dependent child becomes 23 years of age during any
6 period of time that one of the following conditions is met:

7 (A) The wholly dependent child is not physically or mentally capable
8 of earning wages in any type of substantial and gainful employment; or

9 (B) the wholly dependent child is a student enrolled full-time in an
10 accredited institution of higher education or vocational education.

11 (4) If the employee leaves no legal spouse or dependent children
12 eligible for benefits under this section but leaves other dependents wholly
13 dependent upon the employee's earnings, ~~such the~~ other dependents shall
14 receive weekly compensation benefits as provided in this subsection until
15 death, remarriage or so long as ~~such the~~ other dependents do not receive
16 more than 50% of their support from any other earnings or income or from
17 any other source, except that the maximum benefits payable to all ~~such the~~
18 other dependents, regardless of the number of ~~such the~~ other dependents,
19 shall not exceed a maximum amount of ~~\$18,500~~ \$100,000.

20 (b) Where the employee leaves a surviving legal spouse and
21 dependent children who were wholly dependent upon the employee's
22 earnings and are eligible for benefits under this section 50% of the
23 maximum weekly benefits payable shall be apportioned to ~~such the~~ spouse
24 and 50% to ~~such the~~ dependent children.

25 (c) If an employee does not leave any dependents who were wholly
26 dependent upon the employee's earnings at the time of the injury but
27 leaves dependents, other than a spouse or children, in part dependent on
28 the employee's earnings, ~~such the~~ percentage of a sum equal to three times
29 the employee's average yearly earnings but not exceeding ~~\$18,500~~
30 \$100,000 but not less than ~~\$2,500~~ \$25,000, as ~~such the~~ employee's average
31 annual contributions which the employee made to the support of ~~such the~~
32 dependents during the two years preceding the date of the injury, bears to
33 the employee's average yearly earnings during the contemporaneous two-
34 year period, shall be paid in compensation to ~~such the~~ dependents, in
35 weekly payments as provided in subsection (a), not to exceed ~~\$18,500~~
36 \$100,000 to all ~~such the~~ dependents.

37 (d) If an employee does not leave any dependents, either wholly or
38 partially dependent upon the employee, a lump-sum payment of ~~\$25,000~~
39 \$100,000 shall be made to the legal heirs of ~~such the~~ employee in
40 accordance with Kansas law. However under no circumstances shall ~~such~~
41 ~~the~~ payment escheat to the state. ~~Notwithstanding the provisions of this~~
42 ~~subsection, no such payment shall be required if the employer has~~
43 ~~procured a life insurance policy, with beneficiaries designated by the~~

1 employee, providing coverage in an amount not less than \$18,500.

2 (e) The administrative law judge, except as otherwise provided in this
3 section, shall have the power and authority to apportion and reapportion
4 the compensation allowed under this section, either to wholly dependent
5 persons or partially dependent persons, in accordance with the degree of
6 dependency as of the date of the injury, except that the weekly payment of
7 compensation to any and all dependents shall not exceed the maximum nor
8 be less than the minimum weekly benefits provided in subsection (a).

9 (f) In all cases of death compensable under this section, the employer
10 shall pay the reasonable expense of burial not exceeding ~~\$5,000~~ \$15,000.
11 Where required, the employer shall pay the costs of a court-appointed
12 conservator not to exceed ~~\$1,000~~ \$5,000.

13 (g) The marriage or death of any dependent shall terminate all
14 compensation, under this section, to ~~such~~ the dependent except the
15 marriage of the surviving legal spouse shall not terminate benefits to ~~such~~
16 the spouse. Upon the death of the surviving legal spouse or the marriage or
17 death of a dependent child, the compensation payable to ~~such~~ the spouse or
18 child shall be reapportioned to those, among the surviving legal spouse
19 and dependent children, who remain eligible to receive compensation
20 under this section.

21 (h) Notwithstanding any other provision in this section to the
22 contrary, the maximum amount of compensation benefits payable under
23 this section, including the initial payment in subsection (a) to any and all
24 dependents by the employer shall not exceed a total amount of \$300,000
25 and when ~~such~~ the total amount has been paid the liability of the employer
26 for any further compensation under this section to dependents, other than
27 minor children of the employee, shall cease except that the payment of
28 compensation under this section to any minor child of the employee shall
29 continue for the period of the child's minority at the weekly rate in effect
30 when the employer's liability is otherwise terminated under this subsection
31 and shall not be subject to termination under this subsection until ~~such~~ the
32 child becomes 18 years of age.

33 (i) Persons receiving benefits under this section shall submit an
34 annual statement to the insurance carrier, self-insured employer or group-
35 funded workers compensation pool paying the benefits, in ~~such~~ the form
36 and containing ~~such~~ the information relating to eligibility for
37 compensation under this section as may be required by rules and
38 regulations of the director. If the person receiving benefits under this
39 section is a surviving spouse or a dependent child who has reached the age
40 of majority, ~~such~~ the person shall personally submit an annual statement. If
41 the person receiving benefits under this section is a dependent child
42 subject to a conservator, the conservator of ~~such~~ the child shall submit the
43 annual statement. If ~~such~~ the person fails to submit an annual statement,

1 the payer of benefits may notify the director of ~~such~~ *the* failure and the
2 director shall notify the person of the failure by certified mail with return
3 receipt. If ~~such~~ *the* person fails to submit the annual statement or fails to
4 reasonably provide the required information within 30 days after receipt of
5 the notice from the director, all compensation benefits paid under this
6 section to ~~such~~ *the* person shall be suspended until the annual statement is
7 submitted in proper form to the payer of benefits.

8 Sec. 2. K.S.A. 2017 Supp. 44-510b is hereby repealed.

9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.