

SECOND REGULAR SESSION

# HOUSE BILL NO. 1527

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALKER.

4635H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 173.260 and 287.243, RSMo, and to enact in lieu thereof two new sections relating to survivor benefits.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 173.260 and 287.243, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 173.260 and 287.243, to read as follows:

173.260. 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

- (1) "Board", the coordinating board for higher education;
- (2) "Eligible child", the natural, adopted or stepchild of a public safety officer or employee, as defined in this section, who is less than twenty-four years of age and who is a dependent of a public safety officer or employee or was a dependent at the time of death or permanent and total disability of a public safety officer or employee;
- (3) "Employee", any full-time employee of the department of transportation engaged in the construction or maintenance of the state's highways, roads and bridges;
- (4) "Grant", the public safety officer or employee survivor grant as established by this section;
- (5) "Institution of postsecondary education", any approved public or private institution as defined in section 173.205;
- (6) "Line of duty", any action of a public safety officer, whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires, is authorized or obligated by law, rule, regulation or condition of employment or service to perform;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (7) "Public safety officer", any firefighter, **uniformed employee of the office of the**  
18 **state fire marshal, emergency medical technician as defined in subdivisions (15), (16), (17),**  
19 **(18), and (19) of section 190.100**, police officer, capitol police officer, parole officer, probation  
20 officer, state correctional employee, water safety officer, park ranger, conservation officer or  
21 highway patrolman employed by the state of Missouri or a political subdivision thereof who is  
22 killed or permanently and totally disabled in the line of duty;

23 (8) "Permanent and total disability", a disability which renders a person unable to engage  
24 in any gainful work;

25 (9) "Spouse", the husband, wife, widow or widower of a public safety officer or  
26 employee at the time of death or permanent and total disability of such public safety officer;

27 (10) "Tuition", any tuition or incidental fee or both charged by an institution of  
28 postsecondary education, as defined in this section, for attendance at that institution by a student  
29 as a resident of this state.

30 2. Within the limits of the amounts appropriated therefor, the coordinating board for  
31 higher education shall provide, as defined in this section, a grant for either of the following to  
32 attend an institution of postsecondary education:

33 (1) An eligible child of a public safety officer or employee killed or permanently and  
34 totally disabled in the line of duty; or

35 (2) A spouse of a public safety officer killed or permanently and totally disabled in the  
36 line of duty.

37 3. An eligible child or spouse may receive a grant under this section only so long as the  
38 child or spouse is enrolled in a program leading to a certificate, or an associate or baccalaureate  
39 degree. In no event shall a child or spouse receive a grant beyond the completion of the first  
40 baccalaureate degree or, in the case of a child, age twenty-four years, except that the child may  
41 receive a grant through the completion of the semester or similar grading period in which the  
42 child reaches his twenty-fourth year. No child or spouse shall receive more than one hundred  
43 percent of tuition when combined with similar funds made available to such child or spouse.

44 4. The coordinating board for higher education shall:

45 (1) Promulgate all necessary rules and regulations for the implementation of this section;

46 (2) Determine minimum standards of performance in order for a child or spouse to  
47 remain eligible to receive a grant under this program;

48 (3) Make available on behalf of an eligible child or spouse an amount toward the child's  
49 or spouse's tuition which is equal to the grant to which the child or spouse is entitled under the  
50 provisions of this section;

51 (4) Provide the forms and determine the procedures necessary for an eligible child or  
52 spouse to apply for and receive a grant under this program.

53           5. An eligible child or spouse who is enrolled or has been accepted for enrollment as an  
54 undergraduate postsecondary student at an approved institution of postsecondary education shall  
55 receive a grant in an amount not to exceed the least of the following:

56           (1) The actual tuition, as defined in this section, charged at an approved institution where  
57 the child or spouse is enrolled or accepted for enrollment; or

58           (2) The amount of tuition charged a Missouri resident at the University of Missouri for  
59 attendance as a full-time student, as defined in section 173.205.

60           6. An eligible child or spouse who is a recipient of a grant may transfer from one  
61 approved public or private institution of postsecondary education to another without losing his  
62 entitlement under this section. The board shall make necessary adjustments in the amount of the  
63 grant. If a grant recipient at anytime withdraws from the institution of postsecondary education  
64 so that under the rules and regulations of that institution he is entitled to a refund of any tuition,  
65 fees, or other charges, the institution shall pay the portion of the refund to which he is entitled  
66 attributable to the grant for that semester or similar grading period to the board.

67           7. If an eligible child or spouse is granted financial assistance under any other student  
68 aid program, public or private, the full amount of such aid shall be reported to the board by the  
69 institution and the eligible child or spouse.

70           8. Nothing in this section shall be construed as a promise or guarantee that a person will  
71 be admitted to an institution of postsecondary education or to a particular institution of  
72 postsecondary education, will be allowed to continue to attend an institution of postsecondary  
73 education after having been admitted, or will be graduated from an institution of postsecondary  
74 education.

75           9. A public safety officer who is permanently and totally disabled shall be eligible for  
76 a grant pursuant to the provisions of this section.

77           10. An eligible child of a public safety officer or employee, spouse of a public safety  
78 officer or public safety officer shall cease to be eligible for a grant pursuant to this section when  
79 such public safety officer or employee is no longer permanently and totally disabled.

287.243. 1. This section shall be known and may be cited as the "Line of Duty  
2 Compensation Act".

3           2. As used in this section, unless otherwise provided, the following words shall mean:

4           (1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with  
5 sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted  
6 by the department of health and senior services, division of regulation and licensure, 19 CSR 30-  
7 40.005, et seq.;

8           (2) "Air ambulance registered professional nurse", a person licensed as a registered  
9 professional nurse in accordance with sections 335.011 to 335.096 and corresponding regulations

10 adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered  
11 professional nursing services as a flight nurse in conjunction with an air ambulance program that  
12 is certified in accordance with sections 190.001 to 190.245 and the corresponding regulations  
13 applicable to such programs;

14 (3) "Emergency medical technician", a person licensed in emergency medical care in  
15 accordance with standards prescribed by sections 190.001 to 190.245 and by rules adopted by  
16 the department of health and senior services under sections 190.001 to 190.245;

17 (4) "Firefighter", any person, including a volunteer firefighter, employed by the state or  
18 a local governmental entity as an employer defined under subsection 1 of section 287.030, or  
19 otherwise serving as a member or officer of a fire department either for the purpose of the  
20 prevention or control of fire or the underwater recovery of drowning victims, **a uniformed  
21 employee of the office of the state fire marshal, or an emergency medical technician as  
22 defined in subdivisions (15), (16), (17), (18), and (19) of section 190.100;**

23 (5) "Killed in the line of duty", when any person defined in this section loses his or her  
24 life when:

25 (a) Death is caused by an accident or the willful act of violence of another;

26 (b) The law enforcement officer, emergency medical technician, air ambulance pilot, air  
27 ambulance registered professional nurse, or firefighter is in the active performance of his or her  
28 duties in his or her respective profession and there is a relationship between the accident or  
29 commission of the act of violence and the performance of the duty, even if the individual is off  
30 duty; the law enforcement officer, emergency medical technician, air ambulance pilot, air  
31 ambulance registered professional nurse, or firefighter is traveling to or from employment; or the  
32 law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance  
33 registered professional nurse, or firefighter is taking any meal break or other break which takes  
34 place while that individual is on duty;

35 (c) Death is the natural and probable consequence of the injury; and

36 (d) Death occurs within three hundred weeks from the date the injury was received.

37 The term excludes death resulting from the willful misconduct or intoxication of the law  
38 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance  
39 registered professional nurse, or firefighter. The division of workers' compensation shall have  
40 the burden of proving such willful misconduct or intoxication;

41 (6) "Law enforcement officer", any person employed by the state or a local governmental  
42 entity as a police officer, peace officer certified under chapter 590, or serving as an auxiliary  
43 police officer or in some like position involving the enforcement of the law and protection of the  
44 public interest at the risk of that person's life;

45 (7) "Local governmental entity", includes counties, municipalities, townships, board or  
46 other political subdivision, cities under special charter, or under the commission form of  
47 government, fire protection districts, ambulance districts, and municipal corporations;

48 (8) "State", the state of Missouri and its departments, divisions, boards, bureaus,  
49 commissions, authorities, and colleges and universities;

50 (9) "Volunteer firefighter", a person having principal employment other than as a  
51 firefighter, but who is carried on the rolls of a regularly constituted fire department either for the  
52 purpose of the prevention or control of fire or the underwater recovery of drowning victims, the  
53 members of which are under the jurisdiction of the corporate authorities of a city, village,  
54 incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual  
55 who volunteers assistance without being regularly enrolled as a firefighter.

56 3. (1) A claim for compensation under this section shall be filed by the **spouse, child,**  
57 **or personal representative of the** estate of the deceased with the division of workers'  
58 compensation not later than one year from the date of death of a law enforcement officer,  
59 emergency medical technician, air ambulance pilot, air ambulance registered professional nurse,  
60 or firefighter. If a claim is made within one year of the date of death of a law enforcement  
61 officer, emergency medical technician, air ambulance pilot, air ambulance registered professional  
62 nurse, or firefighter killed in the line of duty, compensation shall be paid, if the division finds  
63 that the claimant is entitled to compensation under this section, **as follows:**

64 (a) **If there is a surviving spouse but no surviving child of the law enforcement**  
65 **officer, emergency medical technician, air ambulance pilot, air ambulance registered**  
66 **professional nurse, or firefighter, then to such person's surviving spouse;**

67 (b) **If there is a surviving spouse and at least one surviving child of the law**  
68 **enforcement officer, emergency medical technician, air ambulance pilot, air ambulance**  
69 **registered professional nurse, or firefighter, then fifty percent to the surviving spouse and**  
70 **fifty percent in equal shares to the surviving child or children;**

71 (c) **If there is no surviving spouse and at least one surviving child of the law**  
72 **enforcement officer, emergency medical technician, air ambulance pilot, air ambulance**  
73 **registered professional nurse, or firefighter, then to the surviving child or children in equal**  
74 **shares;**

75 (d) **If there is no surviving spouse and no surviving child of the law enforcement**  
76 **officer, emergency medical technician, air ambulance pilot, air ambulance registered**  
77 **professional nurse, or firefighter, then to the decedent's estate.**

78 (2) The amount of compensation paid to the claimant shall be twenty-five thousand  
79 dollars, subject to appropriation, for death occurring on or after June 19, 2009.

80 4. Notwithstanding subsection 3 of this section, no compensation is payable under this  
81 section unless a claim is filed within the time specified under this section setting forth:

82 (1) The name, address, and title or designation of the position in which the law  
83 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance  
84 registered professional nurse, or firefighter was serving at the time of his or her death;

85 (2) The name and address of the claimant;

86 (3) A full, factual account of the circumstances resulting in or the course of events  
87 causing the death at issue; and

88 (4) Such other information that is reasonably required by the division.

89 When a claim is filed, the division of workers' compensation shall make an investigation for  
90 substantiation of matters set forth in the application.

91 5. The compensation provided for under this section is in addition to, and not exclusive  
92 of, any pension rights, death benefits, or other compensation the claimant may otherwise be  
93 entitled to by law.

94 6. Neither employers nor workers' compensation insurers shall have subrogation rights  
95 against any compensation awarded for claims under this section. Such compensation shall not  
96 be assignable, shall be exempt from attachment, garnishment, and execution, and shall not be  
97 subject to setoff or counterclaim, or be in any way liable for any debt, except that the division  
98 or commission may allow as lien on the compensation, reasonable attorney's fees for services in  
99 connection with the proceedings for compensation if the services are found to be necessary.  
100 Such fees are subject to regulation as set forth in section 287.260.

101 7. Any person seeking compensation under this section who is aggrieved by the decision  
102 of the division of workers' compensation regarding his or her compensation claim, may make  
103 application for a hearing as provided in section 287.450. The procedures applicable to the  
104 processing of such hearings and determinations shall be those established by this chapter.  
105 Decisions of the administrative law judge under this section shall be binding, subject to review  
106 by either party under the provisions of section 287.480.

107 8. Pursuant to section 23.253 of the Missouri sunset act:

108 (1) The provisions of the new program authorized under this section shall automatically  
109 sunset six years after June 19, 2019, unless reauthorized by an act of the general assembly; and

110 (2) If such program is reauthorized, the program authorized under this section shall  
111 automatically sunset twelve years after the effective date of the reauthorization of this section;  
112 and

113 (3) This section shall terminate on September first of the calendar year immediately  
114 following the calendar year in which the program authorized under this section is sunset.

115           9. The provisions of this section, unless specified, shall not be subject to other provisions  
116 of this chapter.

117           10. There is hereby created in the state treasury the "Line of Duty Compensation Fund",  
118 which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts,  
119 or bequests to the fund. The state treasurer shall be custodian of the fund and shall approve  
120 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon  
121 appropriation, money in the fund shall be used solely for paying claims under this section.  
122 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the  
123 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The  
124 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.  
125 Any interest and moneys earned on such investments shall be credited to the fund.

126           11. The division shall promulgate rules to administer this section, including but not  
127 limited to the appointment of claims to multiple claimants, record retention, and procedures for  
128 information requests. Any rule or portion of a rule, as that term is defined in section 536.010,  
129 that is created under the authority delegated in this section shall become effective only if it  
130 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
131 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
132 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and  
133 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
134 any rule proposed or adopted after June 19, 2009, shall be invalid and void.

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