

FIRST REGULAR SESSION

HOUSE BILL NO. 426

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORNEJO.

0388H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 287.243, RSMo, and to enact in lieu thereof one new section relating to the Line of Duty Compensation Act.

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

Section A. Section 287.243, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.243, to read as follows:

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

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

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

(2) "Air ambulance registered professional nurse", a person licensed as a registered professional nurse in accordance with sections 335.011 to 335.096 and corresponding regulations adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered professional nursing services as a flight nurse in conjunction with an air ambulance program that is certified in accordance with sections 190.001 to 190.245 and the corresponding regulations applicable to such programs;

(3) **"Child", any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter who, at the time of the law**

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 **enforcement officer's, emergency medical technician's, air ambulance pilot's, air**
18 **ambulance registered professional nurse's, or firefighter's fatality is:**

19 **(a) Eighteen years of age or under;**

20 **(b) Over eighteen years of age and a student as defined in section 8101 of title 5,**
21 **United States Code; or**

22 **(c) Over eighteen years of age and incapable of self-support because of physical or**
23 **mental disability;**

24 **(4) "Emergency medical technician", a person licensed in emergency medical care in**
25 **accordance with standards prescribed by sections 190.001 to 190.245 and by rules adopted by**
26 **the department of health and senior services under sections 190.001 to 190.245;**

27 ~~[(4)]~~ **(5) "Firefighter", any person, including a volunteer firefighter, employed by the**
28 **state or a local governmental entity as an employer defined under subsection 1 of section**
29 **287.030, or otherwise serving as a member or officer of a fire department either for the purpose**
30 **of the prevention or control of fire or the underwater recovery of drowning victims;**

31 ~~[(5)]~~ **(6) "Killed in the line of duty", when any person defined in this section loses his**
32 **or her life when:**

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

34 **(b) The law enforcement officer, emergency medical technician, air ambulance pilot, air**
35 **ambulance registered professional nurse, or firefighter is in the active performance of his or her**
36 **duties in his or her respective profession and there is a relationship between the accident or**
37 **commission of the act of violence and the performance of the duty, even if the individual is off**
38 **duty; the law enforcement officer, emergency medical technician, air ambulance pilot, air**
39 **ambulance registered professional nurse, or firefighter is traveling to or from employment; or**
40 **the law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance**
41 **registered professional nurse, or firefighter is taking any meal break or other break which takes**
42 **place while that individual is on duty;**

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

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

45

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

50 ~~[(6)]~~ **(7) "Law enforcement officer", any person employed by the state or a local**
51 **governmental entity as a police officer, peace officer certified under chapter 590, or serving as**

52 an auxiliary police officer or in some like position involving the enforcement of the law and
53 protection of the public interest at the risk of that person's life;

54 ~~[(7)]~~ **(8)** "Local governmental entity", includes counties, municipalities, townships, board
55 or other political subdivision, cities under special charter, or under the commission form of
56 government, fire protection districts, ambulance districts, and municipal corporations;

57 ~~[(8)]~~ **(9)** "State", the state of Missouri and its departments, divisions, boards, bureaus,
58 commissions, authorities, and colleges and universities;

59 ~~[(9)]~~ **(10)** "Volunteer firefighter", a person having principal employment other than as
60 a firefighter, but who is carried on the rolls of a regularly constituted fire department either for
61 the purpose of the prevention or control of fire or the underwater recovery of drowning victims,
62 the members of which are under the jurisdiction of the corporate authorities of a city, village,
63 incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual
64 who volunteers assistance without being regularly enrolled as a firefighter.

65 3. (1) A claim for compensation under this section shall be filed ~~[by the estate of]~~ **by**
66 **survivors of** the deceased with the division of workers' compensation not later than one year
67 from the date of death of a law enforcement officer, emergency medical technician, air
68 ambulance pilot, air ambulance registered professional nurse, or firefighter. If a claim is made
69 within one year of the date of death of a law enforcement officer, emergency medical technician,
70 air ambulance pilot, air ambulance registered professional nurse, or firefighter killed in the line
71 of duty, compensation shall be paid, if the division finds that the claimant is entitled to
72 compensation under this section.

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

75 4. **Any compensation awarded under the provisions of this section shall be**
76 **distributed as follows:**

77 **(1) If there is no child who survived the law enforcement officer, emergency**
78 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
79 **firefighter, to the surviving spouse of the law enforcement officer, emergency medical**
80 **technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter;**

81 **(2) If there is at least one child who survived the law enforcement officer,**
82 **emergency medical technician, air ambulance pilot, air ambulance registered professional**
83 **nurse, or firefighter, and a surviving spouse of the law enforcement officer, emergency**
84 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
85 **firefighter, fifty percent to the surviving child (or children, in equal shares) and fifty**
86 **percent to the surviving spouse;**

87 **(3) If there is no surviving spouse of the law enforcement officer, emergency**
88 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
89 **firefighter, to the surviving child (or children, in equal shares);**

90 **(4) If there is no surviving spouse of the law enforcement officer, emergency**
91 **medical technician, air ambulance pilot, air ambulance registered professional nurse, or**
92 **firefighter and no surviving child:**

93 **(a) To the surviving individual (or individuals, in shares per the designation or,**
94 **otherwise, in equal shares) designated by the law enforcement officer, emergency medical**
95 **technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter**
96 **to receive benefits under this subsection in the most recently executed designation of**
97 **beneficiary of the law enforcement officer, emergency medical technician, air ambulance**
98 **pilot, air ambulance registered professional nurse, or firefighter on file at the time of death**
99 **with the public safety agency, organization, or unit; or**

100 **(b) If there is no individual qualifying under paragraph (a), to the surviving**
101 **individual (or individuals, in equal shares) designated by the law enforcement officer,**
102 **emergency medical technician, air ambulance pilot, air ambulance registered professional**
103 **nurse, or firefighter to receive benefits under the most recently executed life insurance**
104 **policy of the law enforcement officer, emergency medical technician, air ambulance pilot,**
105 **air ambulance registered professional nurse, or firefighter on file at the time of death with**
106 **the public safety agency, organization, or unit;**

107 **(5) If there is no individual qualifying under subdivisions (1), (2), (3), or (4) of this**
108 **subsection, to the surviving parent (or parents, in equal shares) of the law enforcement**
109 **officer, emergency medical technician, air ambulance pilot, air ambulance registered**
110 **professional nurse, or firefighter; or**

111 **(6) If there is no individual qualifying under subdivisions (1), (2), (3), (4), or (5) of**
112 **this subsection, to the surviving individual (or individuals, in equal shares) who would**
113 **qualify under the definition of the term "child" but for age.**

114 **5. Notwithstanding subsection 3 of this section, no compensation is payable under this**
115 **section unless a claim is filed within the time specified under this section setting forth:**

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

119 **(2) The name and address of the claimant;**

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

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

123

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

126 ~~[5-]~~ **6.** The compensation provided for under this section is in addition to, and not
127 exclusive of, any pension rights, death benefits, or other compensation the claimant may
128 otherwise be entitled to by law.

129 ~~[6-]~~ **7.** Neither employers nor workers' compensation insurers shall have subrogation
130 rights against any compensation awarded for claims under this section. Such compensation shall
131 not be assignable, shall be exempt from attachment, garnishment, and execution, and shall not
132 be subject to setoff or counterclaim, or be in any way liable for any debt, except that the division
133 or commission may allow as lien on the compensation, reasonable attorney's fees for services in
134 connection with the proceedings for compensation if the services are found to be necessary.
135 Such fees are subject to regulation as set forth in section 287.260.

136 ~~[7-]~~ **8.** Any person seeking compensation under this section who is aggrieved by the
137 decision of the division of workers' compensation regarding his or her compensation claim, may
138 make application for a hearing as provided in section 287.450. The procedures applicable to the
139 processing of such hearings and determinations shall be those established by this chapter.
140 Decisions of the administrative law judge under this section shall be binding, subject to review
141 by either party under the provisions of section 287.480.

142 ~~[8-]~~ **9.** Pursuant to section 23.253 of the Missouri sunset act:

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

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

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

150 ~~[9-]~~ **10.** The provisions of this section, unless specified, shall not be subject to other
151 provisions of this chapter.

152 ~~[10-]~~ **11.** There is hereby created in the state treasury the "Line of Duty Compensation
153 Fund", which shall consist of moneys appropriated to the fund and any voluntary contributions,
154 gifts, or bequests to the fund. The state treasurer shall be custodian of the fund and shall approve
155 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon
156 appropriation, money in the fund shall be used solely for paying claims under this section.
157 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the
158 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The

159 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.
160 Any interest and moneys earned on such investments shall be credited to the fund.

161 ~~[11.]~~ **12.** The division shall promulgate rules to administer this section, including but not
162 limited to the appointment of claims to multiple claimants, record retention, and procedures for
163 information requests. Any rule or portion of a rule, as that term is defined in section 536.010,
164 that is created under the authority delegated in this section shall become effective only if it
165 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
166 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
167 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
168 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
169 any rule proposed or adopted after June 19, 2009, shall be invalid and void.

✓