

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3227

By: Nollan

4
5
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending
8 Section 47, Chapter 208, O.S.L. 2013 (85A O.S. Supp.
9 2017, Section 47), which relates to benefits for
10 surviving spouse and children; providing for benefits
11 for certain spouses who remarry and subsequently
12 divorce; and providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY Section 47, Chapter 208, O.S.L.
14 2013 (85A O.S. Supp. 2017, Section 47), is amended to read as
15 follows:

16 Section 47. A. Time of death. If death does not result within
17 one (1) year from the date of the accident or within the first three
18 (3) years of the period for compensation payments fixed by the
19 compensation judgment, a rebuttable presumption shall arise that the
20 death did not result from the injury.

21 B. Common law spouse. A common law spouse shall not be
22 entitled to benefits under this section unless he or she obtains an
23 order from a court with competent jurisdiction ruling that a common
24 law marriage existed between the decedent and the surviving spouse.

1 C. Beneficiaries - Amounts. If an injury or occupational
2 illness causes death, weekly income benefits shall be payable as
3 follows:

4 1. If there is a surviving spouse, a lump-sum payment of One
5 Hundred Thousand Dollars (\$100,000.00) and seventy percent (70%) of
6 the lesser of the deceased employee's average weekly wage and the
7 state average weekly wage. In addition to the benefits theretofore
8 paid or due, two (2) years' indemnity benefit in one lump sum shall
9 be payable to a surviving spouse upon remarriage;

10 2. If there is a surviving spouse and a child or children, a
11 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and
12 fifteen percent (15%) of the lesser of the deceased employee's
13 average weekly wage and the state average weekly wage to each child.
14 If there are more than two children, each child shall receive a pro
15 rata share of Fifty Thousand Dollars (\$50,000.00) and thirty percent
16 (30%) of the deceased employee's average weekly wage;

17 3. If there is a child or children and no surviving spouse, a
18 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and
19 fifty percent (50%) of the lesser of the deceased employee's average
20 weekly wage and the state average weekly wage to each child. If
21 there are more than two children, each child shall receive a pro
22 rata share of one hundred percent (100%) of the lesser of the
23 deceased employee's average weekly wage and the state average weekly
24 wage. With respect to the lump-sum payment, if there are more than

1 six children, each child shall receive a pro rata share of One
2 Hundred Fifty Thousand Dollars (\$150,000.00);

3 4. If there is no surviving spouse or children, each legal
4 guardian, if financially dependent on the employee at the time of
5 death, shall receive twenty-five percent (25%) of the lesser of the
6 deceased employee's average weekly wage and the state average weekly
7 wage until the earlier of death, becoming eligible for social
8 security, obtaining full-time employment, or five (5) years from the
9 date benefits under this section begin; and

10 5. The employer shall pay the actual funeral expenses, not
11 exceeding the sum of Ten Thousand Dollars (\$10,000.00).

12 D. The weekly income benefits payable to the surviving spouse
13 under this section shall continue while the surviving spouse remains
14 unmarried, provided, however, if the surviving spouse of an
15 emergency medical technician licensed in this state remarries and
16 subsequently divorces, the surviving spouse shall be entitled to
17 resume the weekly income benefits as of the date of the finalization
18 of the divorce but shall not be entitled to receive any payments for
19 the time period of the subsequent marriage. In no event shall this
20 spousal weekly income benefit be diminished by the award to other
21 beneficiaries. The weekly income benefits payable to any child
22 under this section shall terminate on the earlier of death,
23 marriage, or reaching the age of eighteen (18). However, if the
24 child turns eighteen (18) and is:

1 1. Enrolled as a full-time student in high school or is being
2 schooled by other means pursuant to the Oklahoma Constitution;

3 2. Enrolled as a full-time student in any accredited
4 institution of higher education or vocational or technology
5 education; or

6 3. Physically or mentally incapable of self-support,
7 then he or she may continue to receive weekly income benefits under
8 this section until the earlier of reaching the age of twenty-three
9 (23) or, with respect to paragraphs 1 and 2 of this subsection, no
10 longer being enrolled as a student, and with respect to paragraph 3
11 of this subsection, becoming capable of self-support.

12 E. If any member of the class of beneficiaries who receive a
13 pro rata share of weekly income benefits becomes ineligible to
14 continue to receive benefits, the remaining members of the class
15 shall receive adjusted weekly income benefits equal to the new class
16 size.

17 F. To receive benefits under this section, a beneficiary or his
18 or her guardian, if applicable, shall file a proof of loss form with
19 the Commission. All questions of dependency shall be determined as
20 of the time of the injury. The employer shall initiate payment of
21 benefits within fifteen (15) days of the Commission's determination
22 of the proper beneficiaries. The Commission shall appoint a
23 guardian ad litem to represent known and unknown minor children and
24

1 the guardian ad litem shall be paid a reasonable fee for his or her
2 services.

3 SECTION 2. This act shall become effective November 1, 2018.

4

5 56-2-8725 SD 01/05/18

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24