

FIRST REGULAR SESSION

SENATE BILL NO. 282

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Read 1st time January 11, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1265S.011

AN ACT

To repeal section 287.243, RSMo, and to enact in lieu thereof one new section relating to compensation awarded under 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Section A. Section 287.243, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.243, to read as follows: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 this bill is not enacted and is intended to be omitted in the law.

20 enforcement officer's, emergency medical technician's, air ambulance
21 pilot's, air ambulance registered professional nurse's, or firefighter's
22 fatality is:

23 (a) Eighteen years of age or under;

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

26 (c) Over eighteen years of age and incapable of self-support
27 because of physical or mental disability;

28 (4) "Emergency medical technician", a person licensed in emergency
29 medical care in accordance with standards prescribed by sections 190.001 to
30 190.245 and by rules adopted by the department of health and senior services
31 under sections 190.001 to 190.245;

32 [(4)] (5) "Firefighter", any person, including a volunteer firefighter,
33 employed by the state or a local governmental entity as an employer defined
34 under subsection 1 of section 287.030, or otherwise serving as a member or officer
35 of a fire department either for the purpose of the prevention or control of fire or
36 the underwater recovery of drowning victims;

37 [(5)] (6) "Killed in the line of duty", when any person defined in this
38 section loses his or her life when:

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

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

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

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

54 The term excludes death resulting from the willful misconduct or intoxication of
55 the law enforcement officer, emergency medical technician, air ambulance pilot,

56 air ambulance registered professional nurse, or firefighter. The division of
57 workers' compensation shall have the burden of proving such willful misconduct
58 or intoxication;

59 [(6)] (7) "Law enforcement officer", any person employed by the state or
60 a local governmental entity as a police officer, peace officer certified under
61 chapter 590, or serving as an auxiliary police officer or in some like position
62 involving the enforcement of the law and protection of the public interest at the
63 risk of that person's life;

64 [(7)] (8) "Local governmental entity", includes counties, municipalities,
65 townships, board or other political subdivision, cities under special charter, or
66 under the commission form of government, fire protection districts, ambulance
67 districts, and municipal corporations;

68 [(8)] (9) "State", the state of Missouri and its departments, divisions,
69 boards, bureaus, commissions, authorities, and colleges and universities;

70 [(9)] (10) "Volunteer firefighter", a person having principal employment
71 other than as a firefighter, but who is carried on the rolls of a regularly
72 constituted fire department either for the purpose of the prevention or control of
73 fire or the underwater recovery of drowning victims, the members of which are
74 under the jurisdiction of the corporate authorities of a city, village, incorporated
75 town, or fire protection district. Volunteer firefighter shall not mean an
76 individual who volunteers assistance without being regularly enrolled as a
77 firefighter.

78 3. (1) A claim for compensation under this section shall be filed [by the
79 estate of] **by survivors of** the deceased with the division of workers'
80 compensation not later than one year from the date of death of a law enforcement
81 officer, emergency medical technician, air ambulance pilot, air ambulance
82 registered professional nurse, or firefighter. If a claim is made within one year
83 of the date of death of a law enforcement officer, emergency medical technician,
84 air ambulance pilot, air ambulance registered professional nurse, or firefighter
85 killed in the line of duty, compensation shall be paid, if the division finds that the
86 claimant is entitled to compensation under this section.

87 (2) The amount of compensation paid to the claimant shall be twenty-five
88 thousand dollars, subject to appropriation, for death occurring on or after June
89 19, 2009.

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

92 (1) If there is no child who survived the law enforcement officer,
93 emergency medical technician, air ambulance pilot, air ambulance
94 registered professional nurse, or firefighter, to the surviving spouse of
95 the law enforcement officer, emergency medical technician, air
96 ambulance pilot, air ambulance registered professional nurse, or
97 firefighter;

98 (2) If there is at least one child who survived the law
99 enforcement officer, emergency medical technician, air ambulance
100 pilot, air ambulance registered professional nurse, or firefighter, and
101 a surviving spouse of the law enforcement officer, emergency medical
102 technician, air ambulance pilot, air ambulance registered professional
103 nurse, or firefighter, fifty percent to the surviving child, or children, in
104 equal shares, and fifty percent to the surviving spouse;

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

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

112 (a) To the surviving individual, or individuals, in shares per the
113 designation or, otherwise, in equal shares, designated by the law
114 enforcement officer, emergency medical technician, air ambulance
115 pilot, air ambulance registered professional nurse, or firefighter to
116 receive benefits under this subsection in the most recently executed
117 designation of beneficiary of the law enforcement officer, emergency
118 medical technician, air ambulance pilot, air ambulance registered
119 professional nurse, or firefighter on file at the time of death with the
120 public safety agency, organization, or unit; or

121 (b) If there is no individual qualifying under paragraph (a), to
122 the surviving individual, or individuals, in equal shares, designated by
123 the law enforcement officer, emergency medical technician, air
124 ambulance pilot, air ambulance registered professional nurse, or
125 firefighter to receive benefits under the most recently executed life
126 insurance policy of the law enforcement officer, emergency medical
127 technician, air ambulance pilot, air ambulance registered professional
128 nurse, or firefighter on file at the time of death with the public safety

129 **agency, organization, or unit;**

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

135 **(6) If there is no individual qualifying under subdivisions (1), (2),**
136 **(3), (4), or (5) of this subsection, to the surviving individual, or**
137 **individuals, in equal shares, who would otherwise qualify under the**
138 **definition of the term "child" but for his or her age.**

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

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

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

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

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

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

152 [5.] **6.** The compensation provided for under this section is in addition to,
153 and not exclusive of, any pension rights, death benefits, or other compensation
154 the claimant may otherwise be entitled to by law.

155 [6.] **7.** Neither employers nor workers' compensation insurers shall have
156 subrogation rights against any compensation awarded for claims under this
157 section. Such compensation shall not be assignable, shall be exempt from
158 attachment, garnishment, and execution, and shall not be subject to setoff or
159 counterclaim, or be in any way liable for any debt, except that the division or
160 commission may allow as lien on the compensation, reasonable attorney's fees for
161 services in connection with the proceedings for compensation if the services are
162 found to be necessary. Such fees are subject to regulation as set forth in section
163 287.260.

164 [7.] **8.** Any person seeking compensation under this section who is

165 aggrieved by the decision of the division of workers' compensation regarding his
166 or her compensation claim, may make application for a hearing as provided in
167 section 287.450. The procedures applicable to the processing of such hearings
168 and determinations shall be those established by this chapter. Decisions of the
169 administrative law judge under this section shall be binding, subject to review by
170 either party under the provisions of section 287.480.

171 [8.] 9. Pursuant to section 23.253 of the Missouri sunset act:

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

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

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

181 [9.] 10. The provisions of this section, unless specified, shall not be
182 subject to other provisions of this chapter.

183 [10.] 11. There is hereby created in the state treasury the "Line of Duty
184 Compensation Fund", which shall consist of moneys appropriated to the fund and
185 any voluntary contributions, gifts, or bequests to the fund. The state treasurer
186 shall be custodian of the fund and shall approve disbursements from the fund in
187 accordance with sections 30.170 and 30.180. Upon appropriation, money in the
188 fund shall be used solely for paying claims under this section. Notwithstanding
189 the provisions of section 33.080 to the contrary, any moneys remaining in the
190 fund at the end of the biennium shall not revert to the credit of the general
191 revenue fund. The state treasurer shall invest moneys in the fund in the same
192 manner as other funds are invested. Any interest and moneys earned on such
193 investments shall be credited to the fund.

194 [11.] 12. The division shall promulgate rules to administer this section,
195 including but not limited to the appointment of claims to multiple claimants,
196 record retention, and procedures for information requests. Any rule or portion
197 of a rule, as that term is defined in section 536.010, that is created under the
198 authority delegated in this section shall become effective only if it complies with
199 and is subject to all of the provisions of chapter 536 and, if applicable, section
200 536.028. This section and chapter 536 are nonseverable and if any of the powers

201 vested with the general assembly under chapter 536 to review, to delay the
202 effective date, or to disapprove and annul a rule are subsequently held
203 unconstitutional, then the grant of rulemaking authority and any rule proposed
204 or adopted after June 19, 2009, shall be invalid and void.

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Unofficial

Bill

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