

SECOND REGULAR SESSION

HOUSE BILL NO. 1630

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor), GRILL, ROORDA, COX, DUSENBERG,
PAGE, MOORE AND SCHAD (Co-sponsors).

Read 1st time January 14, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4077L.01I

AN ACT

To amend chapter 287, RSMo, by adding thereto two new sections relating to compensation for public safety workers killed in the line of duty.

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

Section A. Chapter 287, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 287.243 and 287.245, to read as follows:

287.243. 1. Sections 287.243 and 287.245 shall be known and may be cited as the
2 "Line of Duty Compensation Act".

3 2. As used in sections 287.243 and 287.245, unless otherwise provided, the following
4 words shall mean:

5 (1) "Aviation medical crew member", a person serving as a flight paramedic, a
6 flight nurse, or as a pilot in command;

7 (2) "Department of corrections employee" or "juvenile justice employee",
8 supervisors, wardens, superintendents and their assistants, guards and keepers,
9 correctional officers, youth supervisors, parole agents, school teachers, correctional
10 counselors, or any employee having daily contact with inmates in any facility of either the
11 department of corrections or within the juvenile justice system;

12 (3) "Emergency medical technician", a person licensed in emergency medical care
13 in accordance with standards prescribed by sections 190.001 to 190.245, RSMo, and by

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.

14 rules adopted by the department of health and senior services under sections 190.001 to
15 190.245, RSMo;

16 (4) "Firefighter", any person, including a volunteer firefighter, employed by the
17 state or a local governmental entity as, or otherwise serving as, a member or officer of a
18 fire department either for the purpose of the prevention or control of fire or the
19 underwater recovery of drowning victims;

20 (5) "Killed in the line of duty", when any individual defined in this section loses
21 one's life as a result of injury received in the active performance of duties in his or her
22 respective profession, if the death occurs within one year from the date the injury was
23 received and if that injury arose from violence of another or accidental cause subject to the
24 provisions of paragraph (a) and (b) of this subdivision. The term excludes death resulting
25 from the willful misconduct or intoxication of the officer, emergency medical technician,
26 paramedic, firefighter, aviation medical crew member, juvenile justice employee, or
27 department of corrections employee. The division of workers' compensation shall have the
28 burden of proving such willful misconduct or intoxication;

29 (a) For juvenile justice employees and department of corrections employees, the
30 death shall be caused by the direct or indirect willful act of an inmate, work releasee,
31 parolee, parole violator, person under conditional release, or any person sentenced or
32 committed, or otherwise subject to confinement by the department of corrections or
33 juvenile justice employees while the individual is within the facilities under the control of
34 the department of corrections or the juvenile justice system, the individual is in the act of
35 transporting inmates from one location to another, or the individual is performing any
36 other official duty;

37 (b) For firefighters, law enforcement officers, emergency medical technicians,
38 aviation medical crew members, and paramedics, the death shall be caused as a result of
39 a willful act of violence committed by a person other than the officer, firefighter,
40 emergency medical technician, aviation medical crew member, or paramedic, and a
41 relationship exists between the commission of such act and the individual's performance
42 of his or her duties as a law enforcement officer, firefighter, emergency medical technician,
43 aviation medical crew member, or paramedic, regardless of whether the injury is received
44 while the individual is on duty; the injury is received by a law enforcement officer while
45 he or she is attempting to prevent the commission of a criminal act of another person or
46 attempting to apprehend an individual suspected of committing a crime, regardless of
47 whether the injury is received while the individual is on duty as a law enforcement officer;
48 or the injury is received by the individual while traveling to or from his or her employment
49 or during any meal break, or other break, which takes place during the period in which

50 the law enforcement officer, firefighter, emergency medical technician, aviation medical
51 crew member, or paramedic is on duty;

52 (6) "Law enforcement officer" or "officer", any person employed by the state or
53 a local governmental entity as a policeman, peace officer, auxiliary policeman or in some
54 like position involving the enforcement of the law and protection of the public interest at
55 the risk of that person's life;

56 (7) "Local governmental entity", includes counties, municipalities, fire protection
57 districts, and municipal corporations;

58 (8) "Paramedic", an emergency medical technician paramedic certified by the
59 department of health and senior services of the state;

60 (9) "State", the state of Missouri and its departments, divisions, boards, bureaus,
61 commissions, authorities, and colleges and universities;

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

69 3. (1) A claim for compensation under this section shall be filed with the division
70 of workers' compensation not later than one year from the date of death of a law
71 enforcement officer, emergency medical technician, paramedic, aviation medical crew
72 member, firefighter, juvenile justice employee, or department of corrections employee
73 killed in the line of duty. A claim may be filed by a dependent or spouse of the deceased,
74 or if such person is an incapacitated or disabled person, or a minor, by the person's parent,
75 conservator, or guardian on behalf of the eligible claimant. If a claim is made within one
76 year of the date of death of a law enforcement officer, emergency medical technician,
77 paramedic, aviation medical crew member, firefighter, juvenile justice employee, or
78 department of corrections employee killed in the line of duty, compensation shall be paid,
79 if the claim is found to be valid, by the division of workers' compensation from the line of
80 duty compensation fund established in section 287.245 to the person designated by the law
81 enforcement officer, emergency medical technician, paramedic, aviation medical crew
82 member, firefighter, juvenile justice employee, or department of corrections employee.

83 (2) The amount of compensation paid to the spouse or dependent shall be one
84 hundred thousand dollars, subject to appropriations, paid from the line of duty

85 compensation fund established in section 287.245 for death occurring on or after January
86 1, 2010.

87 4. A burial benefit of up to a maximum of ten thousand dollars, subject to
88 appropriations paid from the line of duty compensation fund established under section
89 287.245, shall be payable to the surviving spouse, dependent, or estate of a law enforcement
90 officer, firefighter, emergency medical technician, paramedic, aviation medical crew
91 member, juvenile justice employee, or department of corrections employee, who is killed
92 in the line of duty on or after the effective date of this section.

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

95 (1) The name, address, and title or designation of the position in which the officer,
96 emergency medical technician, paramedic, aviation medical crew member, firefighter,
97 juvenile justice employee, or department of corrections employee was serving at the time
98 of his or her death;

99 (2) The names and addresses of the dependents or spouse making a claim to receive
100 the compensation, or if there has been no such designation, the name and address of the
101 personal representative of the deceased;

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

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

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

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

110 7. Any person seeking compensation under the provisions of sections 287.243 and
111 287.245, who is aggrieved by the decision of the division of workers' compensation
112 regarding his or her compensation claim, may make application for a hearing as provided
113 in section 287.450. The procedures applicable to the processing of such hearings and
114 determinations shall be those established by this chapter. Decisions of the administrative
115 law judge under this section shall be binding, subject to review by either party under the
116 provisions of section 287.480.

117 8. Under section 23.253, RSMo, of the Missouri Sunset Act:

118 (1) The provisions of the new program authorized under this section shall
119 automatically sunset six years after the effective date of this section unless reauthorized by
120 an act of the general assembly; and

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

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

287.245. 1. There is hereby established in the state treasury, the "Line of Duty
2 Compensation Fund". Funds transferred to the line of duty compensation fund shall be
3 made from general revenue and appropriated solely for the purpose set out in section
4 287.243. The state treasurer shall be custodian of the fund and may approve
5 disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The
6 state treasurer shall invest moneys in the fund in the same manner as other funds are
7 invested. Any interest and moneys earned on such investments shall be credited to the
8 fund.

9 2. The division of workers' compensation shall annually submit to the governor and
10 members of the general assembly by February first of each year, a report containing a full
11 and complete account of compensation payments made from the line of duty compensation
12 fund.

13 3. All compensation paid under sections 287.243 and 287.245 and all appropriations
14 for administration of sections 287.243 and 287.245 shall be made from the line of duty
15 compensation fund. Any unexpended balance remaining in the line of duty compensation
16 fund at the end of each biennium shall not be subject to the provisions of section 33.080,
17 RSMo, requiring the transfer of such unexpended balance to the general revenue fund of
18 the state, but shall remain in the line of duty compensation fund. In the event that there
19 are insufficient funds in the line of duty compensation fund to pay all claims in full, all
20 claims shall be paid on a pro rata basis. If there are no funds in the line of duty
21 compensation fund, then no claim shall be paid until funds have again accumulated in the
22 line of duty compensation fund. When sufficient funds become available from the fund,
23 compensation which has not been paid shall be paid in chronological order with the oldest
24 paid first. In the event compensation was to be paid in installments and some remaining
25 installments have not been paid due to a lack of funds, then when funds do become
26 available, that compensation shall be paid in full. All such compensation on which
27 installments remain due shall be paid in full in chronological order before any other
28 postdated compensation shall be paid. Any compensation pursuant to this subsection is
29 specifically not a claim against the state if it cannot be paid due to a lack of funds in the
30 line of duty compensation fund.

31 **4. Any gifts, contributions, grants, or federal funds specifically given to the division**
32 **of workers' compensation for the benefit of claimants under sections 287.243 and 287.245**
33 **shall be credited to the line of duty compensation fund.**

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