

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 497, Page 10, Section 287.140, Line 149,
2 by inserting after all of said section and line the following:

3
4 "287.243. 1. This section shall be known and may be cited as the "Line of Duty
5 Compensation Act".

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

7 (1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with
8 sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted by
9 the department of health and senior services;

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

16 (3) "Air ambulance registered respiratory therapist", a person licensed as a registered
17 respiratory therapist in accordance with sections 334.800 to 334.930 and corresponding regulations
18 adopted by the state board for respiratory care, who provides respiratory therapy services in
19 conjunction with an air ambulance program that is certified in accordance with sections 190.001 to
20 190.245 and corresponding regulations applicable to such programs;

21 (4) "Child", any natural, illegitimate, adopted, or posthumous child or stepchild of a
22 deceased public safety officer who, at the time of the public safety officer's fatality is:

23 (a) Eighteen years of age or under;

24 (b) Over eighteen years of age and a student, as defined in 5 U.S.C. Section 8101; or

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

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

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

5 (7) "Flight crew member", an individual engaged in flight responsibilities with an air
6 ambulance licensed in accordance with sections 190.001 to 190.245 and corresponding regulations
7 applicable to such programs;

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

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

11 (b) The public safety officer is in the active performance of his or her duties in his or her
12 respective profession and there is a relationship between the accident or commission of the act of
13 violence and the performance of the duty, even if the individual is off duty; the public safety officer
14 is traveling to or from employment; or the public safety officer is taking any meal break or other
15 break which takes place while that individual is on duty;

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

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

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19 The term excludes death resulting from the willful misconduct or intoxication of the public safety
20 officer. The division of workers' compensation shall have the burden of proving such willful
21 misconduct or intoxication;

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

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

29 (11) "Public safety officer", any law enforcement officer, firefighter, uniformed employee of
30 the office of the state fire marshal, emergency medical technician, police officer, capitol police
31 officer, parole officer, probation officer, state correctional employee, water safety officer, park
32 ranger, conservation officer, or highway patrolman employed by the state of Missouri or a political
33 subdivision thereof who is killed in the line of duty or any emergency medical technician, air
34 ambulance pilot, air ambulance registered professional nurse, air ambulance registered respiratory
35 therapist, or flight crew member who is killed in the line of duty;

36 (12) "State", the state of Missouri and its departments, divisions, boards, bureaus,
37 commissions, authorities, and colleges and universities;

38 (13) "Volunteer firefighter", a person having principal employment other than as a
39 firefighter, but who is carried on the rolls of a regularly constituted fire department either for the

purpose of the prevention or control of fire or the underwater recovery of drowning victims, the members of which are under the jurisdiction of the corporate authorities of a city, village, incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual who volunteers assistance without being regularly enrolled as a firefighter.

3. (1) A claim for compensation under this section shall be filed by survivors of the deceased with the division of workers' compensation not later than one year from the date of death of a public safety officer. If a claim is made within one year of the date of death of a public safety officer killed in the line of duty, compensation shall be paid, if the division finds that the claimant is entitled to compensation under this section.

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

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

(1) To the surviving spouse of the public safety officer if there is no child who survived the public safety officer;

(2) Fifty percent to the surviving child, or children, in equal shares, and fifty percent to the surviving spouse if there is at least one child who survived the public safety officer, and a surviving spouse of the public safety officer;

(3) To the surviving child, or children, in equal shares, if there is no surviving spouse of the public safety officer;

(4) If there is no surviving spouse of the public safety officer and no surviving child:

(a) To the surviving individual, or individuals, in shares per the designation or, otherwise, in equal shares, designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

(b) To the surviving individual, or individuals, in equal shares, designated by the public safety officer to receive benefits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit if there is no individual qualifying under paragraph (a);

(5) To the surviving parent, or parents, in equal shares, of the public safety officer if there is no individual qualifying under subdivision (1), (2), (3), or (4) of this subsection; or

(6) To the surviving individual, or individuals, in equal shares, who would qualify under the definition of the term "child" but for age if there is no individual qualifying under subdivision (1), (2), (3), (4), or (5) of this subsection.

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

(1) The name, address, and title or designation of the position in which the public safety officer was serving at the time of his or her death;

(2) The name and address of the claimant;

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

3 (4) Such other information that is reasonably required by the division.
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5 When a claim is filed, the division of workers' compensation shall make an investigation for
6 substantiation of matters set forth in the application.

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

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

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

23 9. Pursuant to section 23.253 of the Missouri sunset act:

24 (1) The provisions of the ~~[new]~~ program authorized under this section shall automatically
25 sunset ~~[six]~~ twelve years after ~~[June 19, 2019]~~ June 30, 2025, unless reauthorized by an act of the
26 general assembly; and

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

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

31 10. The provisions of this section, unless specified, shall not be subject to other provisions
32 of this chapter.

33 11. There is hereby created in the state treasury the "Line of Duty Compensation Fund",
34 which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts, or
35 bequests to the fund. The state treasurer shall be custodian of the fund and shall approve
36 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation,
37 money in the fund shall be used solely for paying claims under this section. Notwithstanding the
38 provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the
39 biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest

1 moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned
2 on such investments shall be credited to the fund.

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

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13 Further amend said bill by amending the title, enacting clause, and intersectional references
14 accordingly.