

SECOND REGULAR SESSION

# HOUSE BILL NO. 2566

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MYERS.

5648H.011

JOSEPH ENGLER, Chief Clerk

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## 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.

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Section A. Section 287.243, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.243, to read as follows: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

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

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.

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

20 (a) Eighteen years of age or under;

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

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

24 (5) "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 (6) "Firefighter", any person, including a volunteer firefighter, employed by the state  
28 or a local governmental entity as an employer defined under subsection 1 of section 287.030,  
29 or otherwise serving as a member or officer of a fire department either for the purpose of the  
30 prevention or control of fire or the underwater recovery of drowning victims;

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

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

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

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

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

44 (d) Death occurs within three hundred weeks from the date the injury was received or  
45 illness was contracted.

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

50 (9) "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 (10) "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 (11) "Public safety officer", any law enforcement officer, firefighter, uniformed  
58 employee of the office of the state fire marshal, emergency medical technician, police officer,  
59 capitol police officer, parole officer, probation officer, state correctional employee, water  
60 safety officer, park ranger, conservation officer, or highway patrolman employed by the state  
61 of Missouri or a political subdivision thereof who is killed in the line of duty or any  
62 emergency medical technician, air ambulance pilot, air ambulance registered professional  
63 nurse, air ambulance registered respiratory therapist, or flight crew member who is killed in  
64 the line of duty;

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

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

73 3. (1) A claim for compensation under this section shall be filed by survivors of the  
74 deceased with the division of workers' compensation not later than two years from the date of  
75 death of a public safety officer. If a claim is made within two years of the date of death of a  
76 public safety officer killed in the line of duty, compensation shall be paid, if the division finds  
77 that the claimant is entitled to compensation under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112

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

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

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

125 8. Any person seeking compensation under this section who is aggrieved by the  
126 decision of the division of workers' compensation regarding his or her compensation claim,

127 may make application for a hearing as provided in section 287.450. The procedures  
128 applicable to the processing of such hearings and determinations shall be those established by  
129 this chapter. Decisions of the administrative law judge under this section shall be binding,  
130 subject to review by either party under the provisions of section 287.480.

131 9. ~~[Pursuant to section 23.253 of the Missouri sunset act:~~

132 ~~(1) The provisions of the new program authorized under this section shall~~  
133 ~~automatically sunset on December 31, 2031, unless reauthorized by an act of the general~~  
134 ~~assembly; and~~

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

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

140 **This section shall not be subject to the provisions of the Missouri sunset act under**  
141 **sections 23.250 to 23.298.**

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

144 11. There is hereby created in the state treasury the "Line of Duty Compensation  
145 Fund", which shall consist of moneys appropriated to the fund and any voluntary  
146 contributions, gifts, or bequests to the fund. The state treasurer shall be custodian of the  
147 fund and shall approve disbursements from the fund in accordance with sections 30.170 and  
148 30.180. Upon appropriation, money in the fund shall be used solely for paying claims under  
149 this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys  
150 remaining in the fund at the end of the biennium shall not revert to the credit of the general  
151 revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other  
152 funds are invested. Any interest and moneys earned on such investments shall be credited to  
153 the fund.

154 12. The division shall promulgate rules to administer this section, including but not  
155 limited to the appointment of claims to multiple claimants, record retention, and procedures  
156 for information requests. Any rule or portion of a rule, as that term is defined in section  
157 536.010, that is created under the authority delegated in this section shall become effective  
158 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
159 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
160 vested with the general assembly under chapter 536 to review, to delay the effective date, or  
161 to disapprove and annul a rule are subsequently held unconstitutional, then the grant of

162 rulemaking authority and any rule proposed or adopted after June 19, 2009, shall be invalid  
163 and void.

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