



A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS
ATTORNEYS AT LAW

MEMORANDUM

TO: Board of Trustees

FROM: Bonni S. Jensen
Anna K. Parish

RE: Federal, State, and Local Death Benefits

DATE: September 2021

As we are all painfully aware, first responders work in a dangerous profession. This memo provides a summary of the federal, state, and local benefits that are provided to support the families of first responders killed in the line of duty.

Federal Public Safety Officer Benefits (PSOB)

The PSOB Program provides death benefits in the form of a one-time lump sum payment to eligible survivors of public safety officers whose deaths are the direct and proximate result of a traumatic injury sustained in the line of duty. For deaths occurring on or after October 1, 2020, the PSOB benefit is approximately \$370,000. Certain educational benefits are also available for eligible survivors if they meet a very fact specific set of criteria. The application process for these benefits is lengthy and requires the submission of a number of documents as well as personal information. The application and review process can span many months. These benefits can be applied for at www.psob.gov.

Additionally, the federal government offers the Public Safety Officers' Education Assistance (PSOEA) Program. This program provides financial assistance for the spouses and eligible children of local police, fire, and emergency public safety officers who have been killed or permanently disabled in the line of duty seeking higher education. The PSOEA benefit is available after the PSOB death or disability claim has been approved.

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State of Florida Death Benefits

1. Lump Sum

Section 112.19(2) & Section 112.191(2), Florida Statutes

The following benefit(s) is payable to the first responder's named beneficiary for their life:

- a. \$75,000 if the death is accidental.
- b. \$150,000 if:
 - (i) the death is accidental and the officer was in "fresh pursuit" or responding to an emergency; or
 - (ii) the death is accidental and the firefighter was responding to an emergency involving the protection of life or property, or participation in a training exercise.
- c. \$225,000 if unlawfully and intentionally killed.

Effective July 1, 2019, twenty-one forms of cancer are presumed to be job related for firefighters under §112.1816, Fla. Stat. As a result of this amendment, the eligible firefighter's beneficiary is entitled to a \$75,000 accidental death benefit, payable as a lump sum by the employing agency.

Employers are solely responsible for paying the cost of benefits under §112.1816, but are permitted to purchase an insurance policy to cover some or all of these statutory benefits.

Lump sum death benefits were lower prior to July 1, 2019, but were subject to adjustment based on the cost of living. Effective July 1, 2019, the higher lump sum death benefit is no longer subject to adjustment for inflation.

2. Funeral Benefits (Police Only)

Section 112.19(f), Florida Statutes

The following benefit(s) are payable if a law enforcement, correctional or correctional probation officer is killed in the line of duty while engaged in the performance of law enforcement duties or as the result of an assault under riot conditions:

1. \$1,000 toward the funeral expenses of the deceased officer.
2. Up to \$5,000 may be paid by the officer's employing agency toward

venue expenses associated with the funeral and burial of the officer.

3. Health Insurance

Section 112.19(2)(g) & Section 112.191(f), Florida Statutes

Any political subdivision of the state that employs a full-time law enforcement officer, corrections officer, or firefighter who is killed in the line of duty on or after July 1, 1993, as a result of:

- (i) an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties, or as a result of an assault against the officer under riot conditions; or
- (ii) an act of violence inflicted by another person while the firefighter is engaged in the performance of firefighter duties, or as a result of a fire which has been determined to have been caused by an act of arson, or as a result of an assault of the firefighter under riot conditions

shall pay the entire health insurance premium for the employee's surviving spouse, until they remarry, and for each dependent child of the employee until the child reaches the age of majority or until the end of the calendar year in which the child turns 25 if: at the time of the employee's death, the child is dependent upon the employee for support; and the surviving child continues to be dependent for support, of the surviving child is a full-time or part-time student and is dependent for support.

4. Educational Benefits

Section 112.19(3) & Section 112.191(3), Florida Statutes

Benefits provide for waiver of certain educational expenses that the surviving spouse or child of the deceased first responder would incur while obtaining a career certificate, undergraduate or post graduate degree from a Florida public college or university. This benefit applies to first responders who were accidentally killed on or after June 22, 1990 or unlawfully and intentionally killed on or after July 1, 1980. Benefits under this section will continue until the child reaches age 25. Benefits for a surviving spouse must commence within 5 years after the death occurs, and the opportunity will remain available until the 10th anniversary of the death.

5. Pre-filed State Legislation

HB 53 was filed on August 27, 2021. This bill proposes to extend the communicable disease provision to include a line of duty presumption for COVID 19 or an infectious disease (a condition or impairment of health caused by a disease that has been declared a public health emergency).

- (d) In the case of COVID-19, in the 14 days immediately preceding diagnosis he or she was not exposed, outside the scope of his or her employment, to any person known to have COVID-19.
- (e) In the case of an infectious disease, he or she contracted the infectious disease during a public health emergency declared in accordance with s. 381.00315 and was not exposed, outside of the scope of his or her employment, to any person known to have the infectious disease.

Like the other communicable diseases in that section of the law, in order to be entitled to the presumption, the emergency rescue or public safety officer must take an available “vaccine, immunization, or prophylaxis” as “established by the Advisory Committee on Immunization Practices of the United States Public Health Service and if the vaccine, immunization, or prophylaxis has been approved by the United States Food and Drug Administration.”

Workers Compensation Benefits

Section 440.16, Florida Statutes

Workers' Compensation Benefits are payable to law enforcement officers, firefighters, emergency medical technicians and paramedics who die while acting in the line of duty or as the result of an accident occurring in the line of duty.

Benefits are payable if death results from the accident within 1 year or follows continuous disability and results in death within 5 years of the accident. Under this section, the following amounts shall be paid:

- a. Within 14 days of receiving a bill, the cost of actual funeral expenses not to exceed \$7,500.00.
- b. Compensation not to exceed \$150,000 or 66 2/3% of average wage payable to the following order of preference:
 - 1) To the spouse, if no child, 50% of average weekly wage until the spouse's death.
 - 2) To the spouse, if there is a child, compensation under (1), plus an

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additional 16 2/3%.

- 3) To the child(ren), if no spouse, 33 1/3% for each child to age 18 or remarriage.
- 4) To the parents, 25% each, during continuance of dependency.
- 5) To siblings and grandchildren, 15% for each brother, sister, or grandchild.

c. Full waiver of Postsecondary student fees for instruction at any career center for up to 1,800 classroom hours or payment of student fees at any community college for up to 80 semester hours. The benefits are in addition to other benefits provided and shall terminate 7 years after the death of the deceased employee, or when the total payment in eligible compensation under paragraph b has been received.

NOTE: Under Worker's Compensation Law, COVID claims are extremely difficult to prove. Absent a presumptive disease statute like that proposed, public safety officers are unlikely to be granted Workers' Compensation benefits. There was a state employee presumption regarding COVID, but it expired with the expiration of the declaration of emergency in Florida due to COVID in June of 2021.

Pension Plan Benefits

Please be sure to look at your local pension plan to determine the death benefits available from your jurisdiction's pension plan.