

GOVERNMENT CODE
CHAPTER 615. FINANCIAL ASSISTANCE TO SURVIVORS OF CERTAIN LAW
ENFORCEMENT OFFICERS, FIRE FIGHTERS, AND OTHERS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 615.001. DEFINITION. In this chapter, "minor child" means a child who:

(1) on the date of the death of an individual listed under Section 615.003, is younger than 18 years of age; and

(2) if the child is not a biological or adopted child, was claimed as a dependent on the federal income tax return of an individual listed under Section 615.003 for the year preceding the year of the individual's death.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 54, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 36, eff. Sept. 1, 2001.

Sec. 615.002. ADMINISTRATION OF CHAPTER. The board of trustees of the Employees Retirement System of Texas shall administer this chapter under rules adopted by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.003. APPLICABILITY. This chapter applies only to eligible survivors of the following individuals:

(1) an individual elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under Article 2.12, Code of Criminal Procedure, or other law;

(2) a paid probation officer appointed by the director of a community supervision and corrections department who has the duties set out in Section 76.002 and the qualifications set out in Section 76.005, or who was appointed in accordance with prior law;

(3) a parole officer employed by the pardons and paroles division of the Texas Department of Criminal Justice who has the duties set out in Section 508.001 and the qualifications set out in Section 508.113 or in prior law;

(4) a paid jailer;

(5) a member of an organized police reserve or auxiliary unit who regularly assists peace officers in enforcing criminal laws;

(6) a member of the class of employees of the institutional division or the state jail division of the Texas Department of Criminal Justice formally designated as custodial personnel under Section 615.006 by the Texas Board of Criminal Justice or its predecessor in function;

(7) a jailer or guard of a county jail who is appointed by the sheriff and who:

(A) performs a security, custodial, or supervisory function over the admittance, confinement, or discharge of prisoners; and

(B) is certified by the Commission on Law Enforcement Officer Standards and Education;

(8) a juvenile correctional employee of the Texas Youth Commission;

(9) an employee of the Texas Department of Mental Health and Mental Retardation who:

(A) works at the department's maximum security unit; or

(B) performs on-site services for the Texas Department of Criminal Justice;

(10) an individual who is employed by the state or a political or legal subdivision and is subject to certification by the Texas Commission on Fire Protection;

(11) an individual employed by the state or a political or legal subdivision whose principal duties are aircraft crash and rescue fire fighting;

(12) a member of an organized volunteer fire-fighting unit that:

(A) renders fire-fighting services without remuneration; and

(B) conducts a minimum of two drills each month, each two hours long;

(13) an individual who:

(A) performs emergency medical services or operates an ambulance;

(B) is employed by a political subdivision of the state or is an emergency medical services volunteer as defined by Section 773.003, Health and Safety Code; and

(C) is qualified as an emergency care attendant

or at a higher level of training under Section 773.046, 773.047, 773.048, 773.049, or 773.0495, Health and Safety Code; or

(14) an individual who is employed or formally designated as a chaplain for:

(A) an organized volunteer fire-fighting unit or other fire department of this state or of a political subdivision of this state;

(B) a law enforcement agency of this state or of a political subdivision of this state; or

(C) the Texas Department of Criminal Justice.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.12(b), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.17, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1049, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 874, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 842, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1111, Sec. 43, eff. Sept. 1, 2003.

Sec. 615.004. EFFECT OF AWARD. (a) A finding that assistance is payable to an eligible survivor of an individual listed under Section 615.003 is not a declaration of the cause, nature, or effect of a death for any other purpose.

(b) A finding that a death is within the provisions of this chapter does not affect another claim or cause of action arising from or connected to the death.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.005. ASSISTANCE NOT ASSIGNABLE; PAYMENTS EXEMPT. (a) Assistance payable under this chapter is not transferable or assignable at law or in equity.

(b) Money paid or payable under this chapter is not subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any insolvency law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.006. DESIGNATION OF CUSTODIAL PERSONNEL. The Texas Board of Criminal Justice shall adopt and include in its minutes a formal designation identifying the classes of persons who are custodial personnel of the agency so that there is no uncertainty about which persons are custodial personnel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.007. CERTAIN VOLUNTEER FIRE-FIGHTING UNITS CONSIDERED AGENTS OF POLITICAL SUBDIVISION. For the purposes of this chapter, an organized volunteer fire-fighting unit described by Section 615.003(12) is considered an agent of a political subdivision, including a municipality, county, or district, that the unit serves if:

(1) the unit receives any financial aid from the political subdivision for the maintenance, upkeep, or storage of equipment; or

(2) the governing body of the political subdivision designates the unit as an agent of the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.008. CERTAIN POLICE RESERVE OR AUXILIARY UNITS CONSIDERED AGENTS OF POLITICAL SUBDIVISION. For the purposes of this chapter, an organized police reserve or auxiliary unit is considered an agent of a political subdivision, including a municipality, county, or district, that the unit serves if the governing body of the political subdivision designates the unit as an agent of the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. PAYMENTS TO ELIGIBLE SURVIVORS

Sec. 615.021. ELIGIBLE SURVIVORS. (a) A survivor of an individual listed under Section 615.003 is eligible for the payment of assistance under this chapter if:

(1) the listed individual died as a result of a personal injury sustained in the line of duty in the individual's position as described by Section 615.003; and

(2) the survivor is:

(A) the surviving spouse of the listed individual;

(B) a surviving child of the listed individual, if there is no surviving spouse; or

(C) a surviving parent of the listed individual, if there is no surviving spouse or child.

(b) Payment of assistance may not occur under this subchapter unless an individual is eligible under Subsection (a).

(c) An individual employed by the state or a political or

legal subdivision who is subject to certification by the Texas Commission on Fire Protection or whose principal duties are aircraft crash and rescue fire fighting is considered to have died as a result of a personal injury sustained in the line of duty in the individual's position as described by Section 615.003 if the individual died while actually performing an activity that the individual was certified to perform by the Texas Commission on Fire Protection, without regard to whether the individual was actually performing the activity during the individual's compensable hours at work.

(d) In a determination of whether the survivor of an individual listed under Section 615.003 is eligible for the payment of assistance under this chapter, any reasonable doubt arising from the circumstances of the individual's death shall be resolved in favor of the payment of assistance to the survivor.

(e) In this section:

(1) "Personal injury" means an injury resulting from an external force, an activity, or a disease caused by or resulting from:

(A) a line-of-duty accident; or

(B) an illness caused by line-of-duty work under hazardous conditions.

(2) "Line of duty" means an action an individual listed under Section 615.003 is required or authorized by rule, condition of employment, or law to perform. The term includes an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.12(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1049, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1438, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 842, Sec. 2, eff. Sept. 1, 2003.

Sec. 615.022. PAYMENT TO SURVIVORS. (a) If there is an eligible surviving spouse, the state shall pay \$250,000 to the eligible surviving spouse.

(b) If there is no eligible surviving spouse, the state shall pay \$250,000 in equal shares to surviving children.

(c) If there is no eligible surviving spouse or child, the state shall pay \$250,000 in equal shares to surviving parents.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.12(c), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1438, Sec. 2, eff. Sept. 1, 2001.

Sec. 615.0225. EDUCATION BENEFITS FOR CERTAIN SURVIVORS. (a) A person is eligible to receive education benefits under this section if the person is:

(1) a surviving spouse; or

(2) a surviving child, if the child was claimed as a dependent on the income tax return filed with the Internal Revenue Service by the listed individual in the year preceding the year in which the listed individual died.

(b) An eligible person who enrolls as a full-time student at an institution of higher education as defined by Section 61.003, Education Code, is exempt from tuition and fees at that institution of higher education until the student receives a bachelor's degree or 200 hours of course credit, whichever occurs first.

(c) If the student elects to reside in housing provided by the institution of higher education and qualifies to reside in that housing, the institution shall pay from the general revenue appropriated to the institution the cost of the student's contract for food and housing until the student receives a bachelor's degree or 200 hours of course credit, whichever occurs first. If there is no space available in the institution's housing, the institution shall, from the general revenue appropriated to the institution, pay to the student each month the equivalent amount that the institution would have expended had the student lived in the institution's housing. The institution is not required to pay the student the monthly payment if the student would not qualify to live in the institution's housing.

(d) The institution of higher education shall, from the general revenue appropriated to the institution, pay to the student the cost of the student's textbooks until the student receives a bachelor's degree or 200 hours of course credit, whichever occurs first.

(e) A payment under this section is in addition to any

payment made under Section 615.022.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 3, eff. Sept. 1, 2001.

Sec. 615.023. PAYMENT TO SURVIVING MINOR CHILD. (a) The state shall pay to the duly appointed or qualified guardian or other legal representative of an eligible surviving minor child:

- (1) \$200 each month, if there is one surviving child;
- (2) \$300 each month, if there are two surviving children; or
- (3) \$400 each month, if there are three or more surviving children.

(b) A child's entitlement to assistance payable under this section ends on the child's 18th birthday. At that time, payments to any other surviving minor children shall be adjusted, as necessary, to conform to the amounts payable under Subsection (a).

(c) A payment under this section is in addition to any payment made under Section 615.022.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 37, eff. Sept. 1, 2001. Reenacted by Acts 2003, 78th Leg., ch. 1111, Sec. 7, eff. Sept. 1, 2003.

SUBCHAPTER C. ADMINISTRATION AND PROCEDURE

Sec. 615.041. PROOF OF CLAIM. Proof of the death of an individual listed under Section 615.003 that is claimed to meet the requirements of Section 615.021(1) shall be furnished to the board of trustees of the Employees Retirement System of Texas in the form and with additional evidence and information required by the board. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.042. AWARD AND PAYMENT OF ASSISTANCE. (a) The Employees Retirement System of Texas shall notify the comptroller of the retirement system's determination that a claim under this chapter is valid and justifies payment.

(b) On receipt of the notice, the comptroller shall issue a warrant to each claimant in the proper amount from the fund appropriated for that purpose.

(c) Payments under this chapter on behalf of a surviving child are payable beginning on the first day of the first month after the death of the individual listed in Section 615.003.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 38, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1438, Sec. 4, eff. Sept. 1, 2001.

Sec. 615.043. DENIAL OF CLAIM. If the Employees Retirement System of Texas denies a claim, the retirement system shall send a notice of the denial to:

- (1) the person making the claim; or
- (2) the duly qualified guardian or legal representative of a surviving minor child, if a claim is being made on behalf of the child.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 39, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1438, Sec. 5, eff. Sept. 1, 2001.

Sec. 615.044. APPEALS. (a) An eligible survivor or the eligible survivor's legal representative whose claim for payment is denied may appeal the denial to the board of trustees of the Employees Retirement System of Texas.

(b) An appeal under this section is considered to be an appeal of a contested case under Chapter 2001 and shall be conducted as provided by Section 815.511.

(c) Judicial review of a decision under this section is under the substantial evidence rule as provided by Chapter 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 40, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1438, Sec. 6, eff. Sept. 1, 2001.

Sec. 615.045. RECORDS. (a) Records of individuals listed by Section 615.003 and of survivors eligible for benefits under this chapter that are in the custody of the Employees Retirement System of Texas or an administering firm as defined by Section 1551.003, Insurance Code, or another governmental agency acting with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the public information provisions of Chapter 552, except as otherwise provided by this section.

(b) Records may be released to an eligible survivor or to an authorized attorney, family member, or representative acting on

behalf of the eligible survivor. The Employees Retirement System of Texas may release the records to an administering firm, carrier, agent, or attorney acting on behalf of the retirement system, to another governmental entity having a legitimate need for the information to perform the purposes of the retirement system, or to a party in response to a subpoena issued under applicable law.

(c) The records of individuals listed by Section 615.003 and of eligible survivors remain confidential after release to a person as authorized by this section. The records of individuals listed by Section 615.003 and of eligible survivors may become part of the public record of an administrative or judicial proceeding related to an appeal filed under this chapter, unless the records are closed to public access by a protective order issued under applicable law. Added by Acts 2001, 77th Leg., ch. 1231, Sec. 41, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 8, eff. Sept. 1, 2003.

SUBCHAPTER D. HEALTH INSURANCE COVERAGE FOR ELIGIBLE SURVIVORS

Sec. 615.071. APPLICABILITY. This subchapter applies only to eligible survivors of:

- (1) an individual listed in Section 615.003(1), (6), or (7); or
 - (2) an individual listed in Section 615.003(10) or (11) who is employed by a political subdivision of the state.
- Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.072. ELIGIBLE SURVIVORS. (a) A survivor of an individual listed under Section 615.071 is eligible for the health insurance benefits provided under this subchapter if:

- (1) the listed individual died as a result of a personal injury sustained in the line of duty in the individual's position as described by Section 615.071; and
- (2) the survivor is:
 - (A) the surviving spouse of the listed individual; or
 - (B) a dependent of the listed individual.

(b) In a determination of whether the survivor of an individual listed under Section 615.071 is eligible for the payment of assistance under this subchapter, any reasonable doubt arising from the circumstances of the individual's death shall be resolved in favor of the payment of assistance to the survivor.

(c) In this section:

(1) "Personal injury" means an injury resulting from an external force, an activity, or a disease caused by or resulting from:

- (A) a line-of-duty accident; or
- (B) an illness caused by line-of-duty work under hazardous conditions.

(2) "Line of duty" means an action an individual listed under Section 615.071 is required or authorized by rule, condition of employment, or law to perform. The term includes an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 842, Sec. 3, eff. Sept. 1, 2003.

Sec. 615.073. BENEFIT TO SURVIVING SPOUSE. (a) An eligible surviving spouse of a deceased individual listed in Section 615.071 who was employed by the state is entitled to purchase continued health insurance benefits under Chapter 1551, Insurance Code, as provided by this subchapter.

(b) An eligible surviving spouse of a deceased individual listed in Section 615.071 who was employed by a political subdivision of the state is entitled to purchase continued health insurance benefits from the political subdivision that employed the deceased individual, including health coverage:

- (1) provided by or through a political subdivision under:
 - (A) a health insurance policy or health benefit plan written by a health insurer; or
 - (B) a self-insured health benefits plan; or
- (2) under Chapter 172, Local Government Code.

(c) The surviving spouse is entitled to continue to purchase health insurance coverage until the earlier of:

- (1) the date the surviving spouse remarries;

(2) the date the surviving spouse becomes eligible for group health insurance through another employer; or

(3) the date the surviving spouse becomes eligible for federal Medicare benefits.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 103, Sec. 1, eff. May 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.518, eff. Sept. 1, 2003.

Sec. 615.074. BENEFIT TO DEPENDENT. (a) An eligible surviving dependent who is a minor child is entitled to continue health insurance coverage until the earlier of:

(1) the date the dependent reaches the age of 18 years; or

(2) the date the dependent becomes eligible for group health insurance through another employer.

(b) An eligible surviving dependent who is not a minor child is entitled to continue health insurance coverage until the earlier of:

(1) the date the dependent marries;

(2) the date the dependent becomes eligible for group health insurance through another employer; or

(3) the date the dependent becomes eligible for federal Medicare benefits.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 42, eff. Sept. 1, 2001.

Sec. 615.075. NOTICE. (a) An employing entity shall provide written notice to an eligible survivor to whom this subchapter may apply of the survivor's rights under this subchapter not later than the 10th day after the date of the decedent's death.

(b) If an eligible survivor is a minor child, the employing entity shall also, at the same time, provide the notice to the child's parent or guardian, unless, after reasonable effort, the parent or guardian cannot be located.

(c) To receive continued coverage under this subchapter, the employing entity must be informed not later than the 90th day after the date the decedent died that the eligible survivor elects to continue coverage.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.076. LEVEL OF COVERAGE. (a) An eligible survivor may elect to continue coverage at any level of benefits currently offered by the employing entity to dependents of an active employee.

(b) An eligible survivor may elect to continue coverage at a reduced level of benefits if the employing entity offers that option.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.077. PAYMENTS; RATE. An eligible survivor who is entitled to continued coverage under this subchapter is entitled to:

(1) make payments for the coverage or have payments made on the survivor's behalf at the same time and to the same entity that payments for coverage are made by current employees of the employing entity; and

(2) purchase the coverage at the group rate for that coverage that exists at the time of payment.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.078. CERTAIN PRACTICES NOT PROHIBITED OR AFFECTED. This subchapter does not:

(1) prohibit an employing entity from uniformly changing the group health insurance plan or group health coverage plan provided for its employees and employees' dependents;

(2) affect the definition of a dependent or the eligibility requirements for a dependent under a plan;

(3) prohibit an employing entity from increasing the cost of group health coverage to its employees and to eligible survivors covered under this subchapter to reflect any increased cost attributable to compliance with this subchapter; or

(4) affect the right of a political subdivision to self-insure or provide coverage under Chapter 172, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1,

1995.

Sec. 615.079. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

SUBCHAPTER E. ADDITIONAL BENEFITS FOR ELIGIBLE SURVIVORS

Sec. 615.101. DEFINITION. In this subchapter, "governmental entity" includes the state, an agency or institution of the state, or a political subdivision of the state.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.102. DUTY WEAPON AND BADGE. (a) This section applies only to:

(1) an individual listed in Section 615.003(1) who is employed by a political subdivision of the state;

(2) a peace officer under Article 2.12, Code of Criminal Procedure, or other law who is employed by the state, including any state agency or any institution of higher education under Section 61.003, Education Code; or

(3) an individual listed in Section 615.003(7).

(b) On the death of an individual listed in Subsection (a), the employing governmental entity shall provide, at no cost, the deceased individual's duty weapon, if any, and badge to the individual's:

(1) designated beneficiary; or

(2) estate if the individual did not designate a beneficiary.

(c) A governmental entity that employs an individual listed in Subsection (a) shall provide the individual a form on which the individual may designate the individual's beneficiaries for purposes of this section.

(d) A governmental entity is not liable for damages caused by the use or misuse of a duty weapon provided to a designated beneficiary or estate under this section.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.103. BURIAL WITH UNIFORM. (a) This section applies only to:

(1) an individual listed in Section 615.003(1) who is employed by a political subdivision of the state;

(2) a peace officer under Article 2.12, Code of Criminal Procedure, or other law who is employed by the state, including any state agency or any institution of higher education under Section 61.003, Education Code;

(3) an individual listed in Section 615.003(7); or

(4) an individual listed in Section 615.003(10) or (11) who is employed by a political subdivision of the state.

(b) If an individual listed in Subsection (a) dies and is to be buried in the individual's uniform, the employing governmental entity shall provide the uniform at no cost.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.104. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.105. PROVISION OF STATE FLAG. (a) This section applies only to:

(1) an individual elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under Article 2.12, Code of Criminal Procedure, or other law; or

(2) an honorably retired peace officer who formerly held a position described by Subdivision (1) and voluntarily terminated employment with a law enforcement agency of this state or a political subdivision of this state.

(b) On the death of an individual listed in Subsection (a), regardless of whether the individual died as a result of a personal injury sustained in the line of duty as a peace officer, the individual's next of kin may receive on request a state flag from the Commission on Law Enforcement Officer Standards and Education.

(c) If the office of the governor is notified of the death of an individual listed in Subsection (a) by the Commission on Law Enforcement Officer Standards and Education under Section

1701.161, Occupations Code, the office of the governor shall send to the individual's next of kin a certificate that expresses condolences and gratitude on behalf of the governor and the people of Texas for the individual's service as a Texas peace officer.

Added by Acts 2001, 77th Leg., ch. 476, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 842, Sec. 4, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 744, Sec. 1, eff. Sept. 1, 2005.

SUBCHAPTER F. ADDITIONAL BENEFITS FOR SURVIVOR OF PEACE OFFICER

Sec. 615.121. PAYMENT TO SURVIVING SPOUSE. (a) The state shall pay the following benefits to an eligible surviving spouse of a peace officer or an employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), who was killed in the line of duty and who had not qualified for an annuity under an employees' retirement plan:

(1) funeral expenses related to the deceased officer or employee; and

(2) monthly payments that equal the greater of:

(A) the monthly annuity payment the deceased officer or employee would have received if the officer or employee had survived, had retired on the last day of the month in which the officer or employee died, and had been eligible to receive an annuity under an employees' retirement plan; or

(B) the minimum monthly annuity payment the deceased officer or employee would have received if the officer or employee had been employed by the state for 10 years, had been paid a salary at the lowest amount provided by the General Appropriations Act for a position of peace officer or employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), and had been eligible to retire under the Employees Retirement System of Texas.

(b) The surviving spouse is entitled to continue to receive monthly payments under Subsection (a) until the earlier of:

(1) the date the surviving spouse remarries;

(2) the date the surviving spouse becomes eligible for retirement under an employees' retirement plan; or

(3) the date the surviving spouse becomes eligible for Social Security benefits.

(c) The Employees Retirement System of Texas may require the surviving spouse to provide information as necessary to administer this section.

(d) The Employees Retirement System of Texas may adopt rules necessary to administer this section including rules:

(1) setting the maximum amount of funeral expenses payable under this subchapter; and

(2) calculating the survivor benefits payable under this subchapter.

(e) The Employees Retirement System of Texas shall apply reduction factors, as applicable to an annuity payable under this section, in the same manner the factors are applied to a death benefit plan administered by the system.

(f) In this section, "line of duty" has the meaning assigned by Section 615.021.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 842, Sec. 5, eff. Sept. 1, 2003.

Sec. 615.122. PAYMENT TO SURVIVING MINOR CHILDREN. If an eligible surviving spouse who would be entitled to benefits under Section 615.121 does not exist but one or more eligible surviving minor children of the deceased peace officer or employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), do exist, the state shall pay to the guardian or other legal representative of those children the funeral expenses of the deceased officer or employee.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 2001.

Sec. 615.123. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 2001.