

## CHAPTER 884

## H.B. No. 802

An Act providing for payment of assistance to surviving dependent parents, brothers, and sisters of certain public servants killed while on duty.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Section 1, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 1. DECLARATION OF POLICY.** It is hereby declared to be the public policy of this State, under its police power, to provide financial assistance to the surviving spouse and minor children, *if any, or to the surviving dependent parents, brothers, and sisters* of paid law enforcement officers, paid probation officers, paid parole officers, paid jailers, campus security personnel, members of organized police reserve or auxiliary units, custodial personnel of the Texas Department of Corrections, supervisory personnel in a county jail, juvenile correctional employees of the Texas Youth Commission, employees of the Rusk State Hospital for the Criminally Insane, paid firemen, members of organized volunteer fire departments and park and recreational patrolmen and security officers where such paid law enforcement officers, paid probation officers, paid parole officers, paid jailers, campus security personnel, members of organized police reserve or auxiliary units, custodial personnel, juvenile correctional employees of the Texas Youth Commission, employees of the Rusk State Hospital for the Criminally Insane, paid firemen, members of organized volunteer fire departments, or park and recreational patrolmen and security officers suffer violent death in the course of the performance of their duties as paid law enforcement officers, paid probation officers, paid parole officers, paid jailers, campus security personnel, members of organized police reserve or auxiliary units, custodial personnel of the Texas Department of Corrections, employees of the Texas Youth Commission and the Rusk State Hospital for the Criminally Insane, paid firemen and members of organized volunteer fire departments, capitol security commissioned officers, campus security personnel commissioned as peace officers by authority granted under *Section 51.203, Education Code [Section 3, Chapter 80, Acts of the 60th Legislature, Regular Session, 1967 (Article 2010), Vernon's Texas Civil Statutes]*, or park and recreational patrolmen and security officers.

**SECTION 2.** Section 2(a), Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (11) and (12) to read as follows:

(11) "Surviving dependent parent" means a surviving parent of a person covered by this Act if the parent was claimed as a dependent on the income tax return filed with the Internal Revenue Service by the person covered by this Act in the year preceding the year in which that person died.

(12) "Surviving dependent brother or sister" means a surviving brother or sister of a person covered by this Act if the brother or sister:

(A) was claimed as a dependent on the income tax return filed with the Internal Revenue Service by the person covered by this Act in the year preceding the year in which that person died; and

(B) is less than 18 years old.

**SECTION 3.** Section 3, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 3. ASSISTANCE PAYABLE.** (a) In any case in which a paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, capitol security commissioned officers, campus security personnel, a member of an organized police reserve or auxiliary unit, custodial personnel of the Texas Department of Corrections, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, and/or member of an organized volunteer fire department and/or park and recreational patrolmen and security officers suffers violent death in

the course of his duty as such paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the Texas Department of Corrections, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, member of an organized volunteer fire department, or park and recreational patrolmen and security officers, the State of Texas shall pay to the surviving spouse of such paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the Texas Department of Corrections, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, or member of an organized volunteer fire department, or park and recreational patrolmen and security officers the sum of \$20,000 and in addition thereto, if such paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the Texas Department of Corrections, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, or member of an organized volunteer fire department, or park and recreational patrolmen and security officers shall be survived by a minor child or minor children, the State of Texas shall pay to the duly appointed or qualified guardian or other legal representative of each minor child the following assistance:

If one minor child--\$200 per month;

If two minor children--\$300 per month; and

If three [Three] or more minor children--\$400 per month.

Provided, that when any child entitled to benefits under this Act ceases to be a minor child as that term is defined herein, his entitlement to benefits shall terminate and any benefits payable under this Act on behalf of his minor brothers and sisters, if any, shall be adjusted to conform with the foregoing schedule if necessary.

*(b) If a person covered by this Act suffers violent death in the course of duty, and only if that person is not survived by a spouse or minor child, the State of Texas shall pay to the surviving dependent parent of the person covered by this Act the sum of \$20,000. If both parents of a person covered by this Act are surviving dependent parents, the State of Texas shall pay \$10,000 to each parent.*

*In addition to the payment to surviving dependent parents, and only if a person covered by this Act is not survived by a spouse or minor child, the State of Texas shall pay to the surviving dependent brothers and sisters, or to the duly appointed or qualified guardian or other legal representative of each surviving dependent brother or sister, the following assistance:*

*If one surviving dependent brother or sister--\$200 per month;*

*If two surviving dependent brothers or sisters--\$300 per month; and*

*If three or more surviving dependent brothers or sisters--\$400 per month.*

*Provided, that when any surviving dependent brother or sister becomes 18 years old, that person's entitlement to benefits shall terminate and any benefits payable under this Act on behalf of other surviving dependent brothers and sisters shall be adjusted to conform with the foregoing schedule if necessary.*

**SECTION 4.** Sections 5 through 7, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), are amended to read as follows:

**Sec. 5. PAYMENT.** If it is determined that a claim under this Act is valid and justifies a payment or payments hereunder, it shall be the duty of the State Board of Trustees of the Employees Retirement System of Texas to cause the comptroller of public accounts to be notified of such determination and the comptroller upon receipt of the notification shall issue a warrant or warrants to the claimants in the proper amount from the fund appropriated for that purpose. Payments on behalf of children or surviving dependent brothers and sisters shall be deemed to be payable dating from the first day of the first month following the death of the [a] person covered by this Act [to whose children payments may be made]. If a claim is denied, the fact of such denial shall be sent to the person making the claim, or if a claim is being made on behalf of a minor child or children or a surviving dependent brother or sister, the fact of the denial [;] shall be sent to the duly qualified guardian or legal representative of the child or children or the brother or sister.

**Sec. 6. APPEALS.** If a claim for payment to a surviving spouse or a surviving dependent parent or on behalf of a minor child or children or surviving dependent brother or sister is denied, the person whose claim is denied [such spouse] or the legal representative of the person [a minor child or children] shall have the right to appeal such denial to a district court of the residence of the surviving spouse or surviving dependent parent or minor child or children or surviving

*dependent brother or sister*, or to a district court in Travis County, Texas. Any appeal made pursuant to this section shall be made within 20 days after the date the *claimant or legal representative* [~~surviving spouse or the person making the claim for the minor child or children~~] receives notice of the denial of the claim. Proceedings on appeal shall be by trial de novo as in the appeals from the justice court to the county court.

Sec. 7. EFFECT OF AWARD. Any finding that any benefit is payable to the surviving spouse, [~~and/or~~] minor child or children, *or surviving dependent parent, brother, or sister* of a person to whom this Act applies shall not be declaratory of the cause, nature or effect of such death for any other purpose whatsoever, and a finding that a particular loss of life is within the provisions of this Act shall not affect in any manner any other claim or cause of action whatsoever arising from or connected with such loss of life.

SECTION 5. The extension of state payments under this Act to surviving dependent parents, brothers, and sisters only applies to the surviving dependent parents, brothers, and sisters of persons covered by this Act who are killed while on duty on or after the effective date of this Act.

SECTION 6. This Act takes effect September 1, 1985.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 9, 1985, by a non-record vote; passed by the Senate on May 25, 1985, by a viva-voce vote.

Approved: June 15, 1985

Effective: September 1, 1985