

CHAPTER 572

S.B. No. 97

AN ACT

relating to continued health care benefits for and death benefits payable to the survivors of certain public servants.

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

SECTION 1. Subdivisions (1), (2), (4), (8), and (9), Subsection (a), Section 2, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) "Violent death in the course of performance of duty" means loss of life resulting from exposure to a risk inherent in the particular duty performed *or a* ~~[and which]~~ risk ~~[is one]~~ to which the general public is not customarily exposed.

(2) "Paid law enforcement officer" means *a person elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under [as defined in] Article 2.12, [Texas] Code of Criminal Procedure, or other law [1965, and includes game wardens who are employees of the State of Texas paid on a full time basis for the enforcement of game laws and regulations, and campus security personnel commissioned as peace officers by authority granted under Section 51.203, Texas Education Code].*

(4) "Custodial personnel of the *institutional division of the Texas Department of Criminal Justice [Corrections]*" means the class of employees of the *institutional division [Department of Corrections]* designated as custodial personnel by a resolution adopted by the Texas Board of *Criminal Justice or its predecessor in function [Corrections]*.

(8) "Paid probation officer" means an officer appointed by the director of a community supervision and corrections department ~~[a district judge or district judges]~~ with the qualifications and duties set out in Sections 2 and 5, Article 42.131 ~~[Section 10, Article 42.12]~~, Code of Criminal Procedure, or an officer performing the duties of a paid probation officer who was appointed by a district judge or district judges under former law ~~[1965, as amended]~~.

(9) "Paid parole officer" means an officer of the *pardons and paroles division [Division of Parole Supervision] of the Texas Department of Criminal Justice [Board of Pardons and Paroles]* who has the qualifications and duties set out in Sections 2 and 19, Article 42.18 ~~[26 through 29, Article 42.12]~~, Code of Criminal Procedure, or in former law ~~[1965, as amended]~~.

SECTION 2. 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 *institutional division of the Texas Department of Criminal Justice [Corrections]*, *Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice*, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the *maximum security unit of the Texas Department of Mental Health and Mental Retardation [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 *institutional division of the Texas Department of Criminal Justice [Corrections]*, *Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice*, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the *maximum security unit of the Texas Department of Mental Health and Mental Retardation [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 *institutional division of the Texas Department of Criminal Justice [Corrections]*, *Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice*, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the *maximum security unit of the Texas Department of Mental Health and Mental Retardation [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 \$50,000 ~~[\$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 *institutional division of the Texas Department of Criminal Justice [Corrections]*, *Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas*

*Department of Criminal Justice*, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the *maximum security unit of the Texas Department of Mental Health and Mental Retardation* [~~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 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 \$50,000 [~~\$20,000~~]. If both parents of a person covered by this Act are surviving dependent parents, the State of Texas shall pay \$25,000 [~~\$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 3. Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended by adding Section 3A to read as follows:

*Sec. 3A. HEALTH INSURANCE COVERAGE FOR SURVIVORS OF CERTAIN STATE EMPLOYEES.* (a) *If a paid law enforcement officer employed by the state or a person designated as custodial personnel of the institutional division of the Texas Department of Criminal Justice suffers violent death in the course of performance of duty, a person who meets the requirements of Subsection (b) of this section is entitled to purchase continued health insurance benefits under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as provided by this section.*

(b) *A person is entitled to purchase benefits as provided by this section if the person, at the time of death of a paid law enforcement officer employed by the state or a person designated as custodial personnel of the institutional division of the Texas Department of Criminal Justice, is the surviving spouse or a dependent of the officer or custodial employee.*

(c) *If the dependent is a surviving minor child, the dependent is entitled to continue health insurance coverage until the dependent reaches the age of 21 years or until the dependent becomes eligible for group health insurance through another employer.*

(d) *If the dependent is not a minor child, the dependent 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.*

(e) *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.*

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

(g) *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, or, if offered, the survivor may elect to continue coverage at a reduced level of benefits.*

(h) *A person who is entitled to continued coverage under this section is entitled to:*

(1) *make payments for the coverage or have payments made on the person'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.*

(i) *The employing entity shall provide written notice to an eligible survivor to whom this section may apply of the person's rights under this section not later than the 10th day after the date of the decedent's death. If an eligible survivor is a minor child, the employing entity shall also contemporaneously provide the notice to the child's parent or guardian, unless, after reasonable effort, the parent or guardian cannot be located.*

(j) *This section 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; or*

(3) *prohibit an employing entity from increasing the cost of group health coverage to its employees and to eligible survivors covered under this section to reflect the increased cost, if any, attributable to compliance with this section.*

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

Sec. 4. **ADMINISTRATION.** This Act shall be administered by the State Board of Trustees of the Employees Retirement System of Texas, under rules and regulations adopted by said Board. Proof of death claimed to be violent death in the course of performance of duty of a 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 *institutional division of the Texas Department of Criminal Justice, Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice [Corrections],* supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the *maximum security unit of the Texas Department of Mental Health and Mental Retardation [Rusk State Hospital for the Criminally Insane],* paid fireman, member of an organized volunteer fire department or park and recreational patrolmen and security officer shall be furnished to said Board of Trustees in such form as it may require, together with such additional evidence and information as it may require.

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

Sec. 7. **EFFECT OF AWARD.** *Except as provided by Article 6228f.1, Revised Statutes, any [Any] finding that any benefit is payable to the surviving spouse, 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 6. Title 109, Revised Statutes, is amended by adding Article 6228f.1 to read as follows:

**Art. 6228f.1. RIGHTS OF SURVIVORS OF CERTAIN PUBLIC SERVANTS**

**Sec. 1. APPLICATION.** *This article applies only to paid law enforcement officers, paid firemen, and supervisory personnel in a county jail, as those persons are defined by Section 2, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), who are employed by a political subdivision of the state and to the political subdivisions that employ those persons.*

**Sec. 2. DEFINITIONS.** *In this article, "minor child" and "violent death in the course of performance of duty" have the meaning assigned by Section 2, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes).*

**Sec. 3. BENEFITS REGARDLESS OF CAUSE OF DEATH.** (a) *If a paid law enforcement officer or a person appointed as supervisory personnel in a county jail dies, the employing political subdivision shall provide, at no cost, the deceased person's duty weapon, if any, and badge to the person's designated beneficiary, or if there is no designated beneficiary, to the person's estate. Each political subdivision of the state that employs paid law enforcement officers or county jail supervisory personnel shall provide them with a form on which they may designate their beneficiaries for purposes of this subsection.*

(b) *A political subdivision is not liable for damages caused by the use or misuse of a duty weapon provided to a designated beneficiary or estate under Subsection (a) of this section.*

(c) *If a paid law enforcement officer, paid fireman, or person appointed as supervisory personnel in a county jail dies and is to be buried in the person's uniform, the employing political subdivision shall provide the uniform at no cost.*

**Sec. 4. HEALTH INSURANCE COVERAGE.** (a) *When a person to whom this article applies suffers violent death in the course of performance of duty and it is determined under Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), that a claim under that Act is valid and justifies payment under that Act, then in addition to any benefits payable by the state under that Act, an eligible survivor is entitled to purchase continued health insurance benefits from the political subdivision that employed the decedent as provided by this section.*

(b) *In this section, "health insurance" includes health coverage provided by or through a political subdivision under a self-insured health benefits plan or under Chapter 172, Local Government Code.*

(c) *An eligible survivor under this section is a person who, on the date of death of the paid law enforcement officer, paid fireman, or person appointed as supervisory personnel in a county jail, is the surviving spouse or a dependent of the officer, fireman, or supervisory employee.*

(d) *If the dependent is a surviving minor child, the dependent is entitled to continue health insurance coverage until the dependent reaches the age of 21 years or until the dependent becomes eligible for group health insurance through another employer.*

(e) *If the dependent is not a minor child, the dependent 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.*

(f) *The surviving spouse is entitled to continue 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.*

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

(h) *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, or, if offered, the survivor may elect to continue coverage at a reduced level of benefits.*

(i) *A person who is entitled to continued coverage under this section is entitled to:*

(1) *make payments for the coverage or have payments made on the person'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.*

(j) *The employing entity shall provide written notice to an eligible survivor to whom this section may apply of the person's rights under this section not later than the 10th day after the date of the decedent's death. If an eligible survivor is a minor child, the employing entity shall also contemporaneously provide the notice to the child's parent or guardian unless, after reasonable effort, the parent or guardian cannot be located.*

(k) *This section does not:*

(1) *prohibit a political subdivision 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 a political subdivision from increasing the cost of group health coverage to its employees and to eligible survivors covered under this section to reflect the increased cost, if any, attributable to compliance with this section; or*

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

SECTION 7. Title 109, Revised Statutes, is amended by adding Article 6228f.2 to read as follows:

Art. 6228f.2. **DEATH BENEFIT FOR PEACE OFFICERS EMPLOYED BY THE STATE.** (a) *If a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or other law and who is employed by the state, including any state agency or any institution of higher education under Section 61.003, Education Code, dies, the state or the appropriate agency or institution of the state shall provide, at no cost, the deceased person's duty weapon, if any, and badge to the person's designated beneficiary or, if there is no designated beneficiary, to the person's estate. The state and each agency or institution of the state that employs peace officers shall provide each officer with a form on which the officer may designate beneficiaries for purposes of this subsection.*

(b) *The state or an agency or institution of the state is not liable for damages caused by the use or misuse of a duty weapon provided to a designated beneficiary or estate under Subsection (a) of this article.*

(c) *If a peace officer covered under Subsection (a) of this article dies and is to be buried in the person's uniform, the state or appropriate employing agency or institution of the state shall provide the uniform at no cost.*

SECTION 8. This Act takes effect September 1, 1993.

SECTION 9. (a) The changes in law made by this Act relating to the death of certain public servants apply only to a death that occurs on or after the effective date of this Act. A death that occurred before the effective date of this Act is governed by the law in effect when the death occurred, and that law is continued in effect for that purpose.

(b) An employing entity that is required by this Act to make continued health benefits available to a survivor of an employee, but that is not allowed to provide the coverage under the terms of the entity's existing group health plan, shall ensure that the required continued health benefits coverage is provided for in any plan that is adopted, amended, or renewed by

the employing entity on or after the effective date of this Act. The period during which a person must inform an employing entity that the person elects to continue health benefits coverage under this Act is extended by the amount of time that occurs after the date that the employee dies and before the date that the survivor receives written notice from the employing entity that the survivor is presently able to purchase the continued health benefits coverage required to be provided under this Act.

**SECTION 10.** 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 the Senate on March 23, 1993, by a viva-voce vote; May 12, 1993, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 19, 1993, House granted request of the Senate; May 29, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendment, on May 7, 1993, by a non-record vote; May 19, 1993, House granted request of the Senate for appointment of Conference Committee; May 28, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 11, 1993.

Effective Sept. 1, 1993.