

Bill No. CS for SB 1208

Amendment No. Barcode 162918

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Geller moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. Section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.--

(1) Whenever used in this section, the term:

(a) "Employer" means a state board, commission, department, division, bureau, or agency, or a county, municipality, or other political subdivision of the state, which employs, appoints, or otherwise engages the services of law enforcement, correctional, or correctional probation officers.

(b) "Law enforcement, correctional, or correctional probation officer" means any officer as defined in s.

943.10(14) or employee of the state or any political subdivision of the state, including any law enforcement

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1 officer, correctional officer, correctional probation officer,
2 state attorney investigator, or public defender investigator,
3 whose duties require such officer or employee to investigate,
4 pursue, apprehend, arrest, transport, or maintain custody of
5 persons who are charged with, suspected of committing, or
6 convicted of a crime; and the term includes any member of a
7 bomb disposal unit whose primary responsibility is the
8 location, handling, and disposal of explosive devices. The
9 term also includes any full-time officer or employee of the
10 state or any political subdivision of the state, certified
11 pursuant to chapter 943, whose duties require such officer to
12 serve process or to attend terms of circuit or county court as
13 bailiff.

14 (c) "Insurance" means insurance procured from a stock
15 company or mutual company or association or exchange
16 authorized to do business as an insurer in this state.

17 (d) "Fresh pursuit" means the pursuit of a person who
18 has committed or is reasonably suspected of having committed a
19 felony, misdemeanor, traffic infraction, or violation of a
20 county or municipal ordinance. The term does not imply
21 instant pursuit, but pursuit without unreasonable delay.

22 (2)(a) The sum of \$50,000, as adjusted pursuant to
23 paragraph (j), ~~\$25,000~~ shall be paid as provided in this
24 section when a law enforcement, correctional, or correctional
25 probation officer, while engaged in the performance of the
26 officer's law enforcement duties, is accidentally killed or
27 receives accidental bodily injury which results in the loss of
28 the officer's life, provided that such killing is not the
29 result of suicide and that such bodily injury is not
30 intentionally self-inflicted. Notwithstanding any other
31 provision of law, in no case shall the amount payable under

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1 this subsection be less than the actual amount stated therein.

2 (b) The sum of \$50,000, as adjusted pursuant to
3 paragraph (j), ~~\$25,000~~ shall be paid as provided in this
4 section if a law enforcement, correctional, or correctional
5 probation officer is accidentally killed as specified in
6 paragraph (a) and the accidental death occurs as a result of
7 the officer's response to fresh pursuit or to the officer's
8 response to what is reasonably believed to be an emergency.
9 This sum is in addition to any sum provided for in paragraph
10 (a). Notwithstanding any other provision of law, in no case
11 shall the amount payable under this subsection be less than
12 the actual amount stated therein.

13 (c) If a law enforcement, correctional, or
14 correctional probation officer, while engaged in the
15 performance of the officer's law enforcement duties, is
16 unlawfully and intentionally killed or dies as a result of
17 such unlawful and intentional act, the sum of \$150,000, as
18 adjusted pursuant to paragraph (j), ~~\$75,000~~ shall be paid as
19 provided in this section. Notwithstanding any other provision
20 of law, in no case shall the amount payable under this
21 subsection be less than the actual amount stated therein.

22 (d) Such payments, pursuant to the provisions of
23 paragraphs (a), (b), and (c), whether secured by insurance or
24 not, shall be made to the beneficiary designated by such law
25 enforcement, correctional, or correctional probation officer
26 in writing, signed by the officer and delivered to the
27 employer during the officer's lifetime. If no such
28 designation is made, then it shall be paid to the officer's
29 surviving child or children and spouse in equal portions, and
30 if there is no surviving child or spouse, then to the
31 officer's parent or parents. If a beneficiary is not

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1 designated and there is no surviving child, spouse, or parent,
2 then it shall be paid to the officer's estate.

3 (e) Such payments, pursuant to the provisions of
4 paragraphs (a), (b), and (c), are in addition to any workers'
5 compensation or pension benefits and are exempt from the
6 claims and demands of creditors of such law enforcement,
7 correctional, or correctional probation officer.

8 (f) If a full-time law enforcement, correctional, or
9 correctional probation officer who is employed by a state
10 agency is killed in the line of duty as a result of an act of
11 violence inflicted by another person while the officer is
12 engaged in the performance of law enforcement duties or as a
13 result of an assault against the officer under riot
14 conditions, the sum of \$1,000 shall be paid, as provided for
15 in paragraph (d), toward the funeral and burial expenses of
16 such officer. Such benefits are in addition to any other
17 benefits which employee beneficiaries and dependents are
18 entitled to under the provisions of the Workers' Compensation
19 Law or any other state or federal statutes.

20 (g) Any political subdivision of the state that
21 employs a full-time law enforcement officer as defined in s.
22 943.10(1) or a full-time correctional officer as defined in s.
23 943.10(2) who is killed in the line of duty on or after July
24 1, 1993, as a result of an act of violence inflicted by
25 another person while the officer is engaged in the performance
26 of law enforcement duties or as a result of an assault against
27 the officer under riot conditions shall pay the entire premium
28 of the political subdivision's health insurance plan for the
29 employee's surviving spouse until remarried, and for each
30 dependent child of the employee until the child reaches the
31 age of majority or until the end of the calendar year in which

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1 the child reaches the age of 25 if:

2 1. At the time of the employee's death, the child is
3 dependent upon the employee for support; and

4 2. The surviving child continues to be dependent for
5 support, or the surviving child is a full-time or part-time
6 student and is dependent for support.

7 (h)1. Any employer who employs a full-time law
8 enforcement, correctional, or correctional probation officer
9 who, on or after January 1, 1995, suffers a catastrophic
10 injury, as defined in s. 440.02(37), in the line of duty shall
11 pay the entire premium of the employer's health insurance plan
12 for the injured employee, the injured employee's spouse, and
13 for each dependent child of the injured employee until the
14 child reaches the age of majority or until the end of the
15 calendar year in which the child reaches the age of 25 if the
16 child continues to be dependent for support, or the child is a
17 full-time or part-time student and is dependent for support.
18 The term "health insurance plan" does not include supplemental
19 benefits that are not part of the basic group health insurance
20 plan. If the injured employee subsequently dies, the employer
21 shall continue to pay the entire health insurance premium for
22 the surviving spouse until remarried, and for the dependent
23 children, under the conditions outlined in this paragraph.

24 However:

25 a. Health insurance benefits payable from any other
26 source shall reduce benefits payable under this section.

27 b. It is unlawful for a person to willfully and
28 knowingly make, or cause to be made, or to assist, conspire
29 with, or urge another to make, or cause to be made, any false,
30 fraudulent, or misleading oral or written statement to obtain
31 health insurance coverage as provided under this paragraph. A

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1 person who violates this sub-subparagraph commits a
2 misdemeanor of the first degree, punishable as provided in s.
3 775.082 or s. 775.083.

4 c. In addition to any applicable criminal penalty,
5 upon conviction for a violation as described in
6 sub-subparagraph b., a law enforcement, correctional, or
7 correctional probation officer or other beneficiary who
8 receives or seeks to receive health insurance benefits under
9 this paragraph shall forfeit the right to receive such health
10 insurance benefits, and shall reimburse the employer for all
11 benefits paid due to the fraud or other prohibited activity.
12 For purposes of this sub-subparagraph, "conviction" means a
13 determination of guilt that is the result of a plea or trial,
14 regardless of whether adjudication is withheld.

15 2. In order for the officer, spouse, and dependent
16 children to be eligible for such insurance coverage, the
17 injury must have occurred as the result of the officer's
18 response to fresh pursuit, the officer's response to what is
19 reasonably believed to be an emergency, or an unlawful act
20 perpetrated by another. Except as otherwise provided herein,
21 nothing in this paragraph shall be construed to limit health
22 insurance coverage for which the officer, spouse, or dependent
23 children may otherwise be eligible, except that a person who
24 qualifies under this section shall not be eligible for the
25 health insurance subsidy provided under chapter 121, chapter
26 175, or chapter 185.

27 (i) The Bureau of Crime Prevention and Training within
28 the Department of Legal Affairs shall adopt rules necessary to
29 implement paragraphs (a), (b), and (c).

30 (j) Any payments made pursuant to paragraph (a),
31 paragraph (b), or paragraph (c) shall consist of the statutory

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1 amount adjusted to reflect price level changes since the
2 effective date of this act. The Bureau of Crime Prevention and
3 Training shall by rule adjust the statutory amount based on
4 the Consumer Price Index for all urban consumers published by
5 the United States Department of Labor. Adjustment shall be
6 made July 1 of each year using the most recent month for which
7 data are available at the time of the adjustment.

8 (3) If a law enforcement, correctional, or
9 correctional probation officer is accidentally killed as
10 specified in paragraph (2)(b) on or after June 22, 1990, or
11 unlawfully and intentionally killed as specified in paragraph
12 (2)(c) on or after July 1, 1980, the state shall waive certain
13 educational expenses that the child or spouse ~~which children~~
14 of the deceased officer incurs incur while obtaining a
15 vocational-technical certificate, ~~or~~ an undergraduate
16 education, or a postgraduate education. The amount waived by
17 the state shall be an amount equal to the cost of tuition and
18 matriculation and registration fees for a total of 120 credit
19 hours. The child or spouse may attend a state
20 vocational-technical school, a state community college, or a
21 state university. The child or spouse may attend any or all
22 of the institutions specified in this subsection, on either a
23 full-time or part-time basis. The benefits provided to a child
24 under this subsection shall continue ~~to the child~~ until the
25 child's 25th birthday. The benefits provided to a spouse under
26 this subsection must commence within 5 years after the death
27 occurs, and entitlement thereto shall continue until the 10th
28 anniversary of that death.

29 (a) Upon failure of any child or spouse benefited by
30 the provisions of this subsection ~~section~~ to comply with the
31 ordinary and minimum requirements of the institution attended,

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1 both as to discipline and scholarship, the benefits shall be
2 withdrawn as to the child or spouse and no further moneys may
3 be expended for the child's or spouse's benefits so long as
4 such failure or delinquency continues.

5 (b) Only a student in good standing in his or her
6 respective institution may receive the benefits thereof.

7 (c) A child or spouse receiving benefits under this
8 subsection ~~section~~ must be enrolled according to the customary
9 rules and requirements of the institution attended.

10 (4)(a) The employer of such law enforcement,
11 correctional, or correctional probation officer is liable for
12 the payment of the sums specified in this section and is
13 deemed self-insured, unless it procures and maintains, or has
14 already procured and maintained, insurance to secure such
15 payments. Any such insurance may cover only the risks
16 indicated in this section, in the amounts indicated in this
17 section, or it may cover those risks and additional risks and
18 may be in larger amounts. Any such insurance shall be placed
19 by such employer only after public bid of such insurance
20 coverage which coverage shall be awarded to the carrier making
21 the lowest best bid.

22 (b) Payment of benefits to beneficiaries of state
23 employees, or of the premiums to cover the risk, under the
24 provisions of this section shall be paid from existing funds
25 otherwise appropriated to the department employing the law
26 enforcement, correctional, or correctional probation officers.

27 (5) The Department of Education shall adopt rules and
28 procedures as are necessary to implement the educational
29 benefits provisions of this section.

30 (6) Notwithstanding any provision of this section to
31 the contrary, the death benefits provided in paragraphs (2)(c)

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1 and (g) shall also be applicable and paid in cases where an
2 officer received bodily injury prior to July 1, 1993, and
3 subsequently died on or after July 1, 1993, as a result of
4 such in-line-of-duty injury attributable to an unlawful and
5 intentional act, or an act of violence inflicted by another,
6 or an assault on the officer under riot conditions. Payment
7 of such benefits shall be in accordance with provisions of
8 this section. Nothing in this provision shall be construed to
9 limit death benefits for which those individuals listed in
10 paragraph (2)(d) may otherwise be eligible.

11 Section 2. Section 112.191, Florida Statutes, is
12 amended to read:

13 112.191 Firefighters; death benefits.--

14 (1) Whenever used in this act:

15 (a) The term "employer" means a state board,
16 commission, department, division, bureau or agency, or a
17 county, municipality, or other political subdivision of the
18 state.

19 (b) The term "firefighter" means any full-time duly
20 employed uniformed firefighter employed by an employer, whose
21 primary duty is the prevention and extinguishing of fires, the
22 protection of life and property therefrom, the enforcement of
23 municipal, county, and state fire prevention codes, as well as
24 the enforcement of any law pertaining to the prevention and
25 control of fires, who is certified pursuant to s. 633.35, and
26 who is a member of a duly constituted fire department of such
27 employer or who is a volunteer firefighter.

28 (c) The term "insurance" means insurance procured from
29 a stock company or mutual company or association or exchange
30 authorized to do business as an insurer in this state.

31 (2)(a) The sum of \$50,000, as adjusted pursuant to

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1 paragraph (i), \$25,000 shall be paid as hereinafter provided
2 in this section when a firefighter, while engaged in the
3 performance of his or her firefighter duties, is accidentally
4 killed or receives accidental bodily injury which subsequently
5 results in the loss of the firefighter's life, provided that
6 such killing is not the result of suicide and that such bodily
7 injury is not intentionally self-inflicted. Notwithstanding
8 any other provision of law, in no case shall the amount
9 payable under this subsection be less than the actual amount
10 stated therein.

11 (b) The sum of \$50,000, as adjusted pursuant to
12 paragraph (i), \$25,000 shall be paid as hereinafter provided
13 in this section if a firefighter is accidentally killed as
14 specified in paragraph (a) and the accidental death occurs as
15 a result of the firefighter's response to what is reasonably
16 believed to be an emergency involving the protection of life
17 or property. This sum shall be in addition to any sum
18 provided for in paragraph (a). Notwithstanding any other
19 provision of law, in no case shall the amount payable under
20 this subsection be less than the actual amount stated therein.

21 (c) If a firefighter, while engaged in the performance
22 of his or her firefighter duties, is unlawfully and
23 intentionally killed, dies as a result of a fire which has
24 been determined to have been caused by an act of arson, or
25 subsequently dies as a result of injuries sustained therefrom,
26 the sum of \$150,000, as adjusted pursuant to paragraph (i),
27 \$75,000 shall be paid as hereinafter provided in this section.
28 Notwithstanding any other provision of law, in no case shall
29 the amount payable under this subsection be less than the
30 actual amount stated therein.

31 (d) Such payments, pursuant to paragraphs (a), (b),

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1 and (c), whether secured by insurance or not, shall be made to
2 the beneficiary designated by such firefighter in writing,
3 signed by the firefighter and delivered to the employer during
4 the firefighter's lifetime. If no such designation is made,
5 then it shall be paid to the firefighter's surviving child or
6 children and spouse in equal portions, and if there be no
7 surviving child or spouse, then to the firefighter's parent or
8 parents. If a beneficiary designation is not made and there
9 is no surviving child, spouse, or parent, then it shall be
10 paid to the firefighter's estate.

11 (e) Such payments, pursuant to the provisions of
12 paragraphs (a), (b), and (c), shall be in addition to any
13 workers' compensation or pension benefits and shall be exempt
14 from the claims and demands of creditors of such firefighter.

15 (f) Any political subdivision of the state that
16 employs a full-time firefighter who is killed in the line of
17 duty on or after July 1, 1993, as a result of an act of
18 violence inflicted by another person while the firefighter is
19 engaged in the performance of firefighter duties, as a result
20 of a fire which has been determined to have been caused by an
21 act of arson, or as a result of an assault against the
22 firefighter under riot conditions shall pay the entire premium
23 of the political subdivision's health insurance plan for the
24 employee's surviving spouse until remarried, and for each
25 dependent child of the employee until the child reaches the
26 age of majority or until the end of the calendar year in which
27 the child reaches the age of 25 if:

28 1. At the time of the employee's death, the child is
29 dependent upon the employee for support; and

30 2. The surviving child continues to be dependent for
31 support, or the surviving child is a full-time or part-time

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1 student and is dependent for support.

2 (g)1. Any employer who employs a full-time firefighter
3 who, on or after January 1, 1995, suffers a catastrophic
4 injury, as defined in s. 440.02(37), in the line of duty shall
5 pay the entire premium of the employer's health insurance plan
6 for the injured employee, the injured employee's spouse, and
7 for each dependent child of the injured employee until the
8 child reaches the age of majority or until the end of the
9 calendar year in which the child reaches the age of 25 if the
10 child continues to be dependent for support, or the child is a
11 full-time or part-time student and is dependent for support.
12 The term "health insurance plan" does not include supplemental
13 benefits that are not part of the basic group health insurance
14 plan. If the injured employee subsequently dies, the employer
15 shall continue to pay the entire health insurance premium for
16 the surviving spouse until remarried, and for the dependent
17 children, under the conditions outlined in this paragraph.

18 However:

19 a. Health insurance benefits payable from any other
20 source shall reduce benefits payable under this section.

21 b. It is unlawful for a person to willfully and
22 knowingly make, or cause to be made, or to assist, conspire
23 with, or urge another to make, or cause to be made, any false,
24 fraudulent, or misleading oral or written statement to obtain
25 health insurance coverage as provided under this paragraph. A
26 person who violates this sub-subparagraph commits a
27 misdemeanor of the first degree, punishable as provided in s.
28 775.082 or s. 775.083.

29 c. In addition to any applicable criminal penalty,
30 upon conviction for a violation as described in
31 sub-subparagraph b., a firefighter or other beneficiary who

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1 receives or seeks to receive health insurance benefits under
2 this paragraph shall forfeit the right to receive such health
3 insurance benefits, and shall reimburse the employer for all
4 benefits paid due to the fraud or other prohibited activity.
5 For purposes of this sub-subparagraph, "conviction" means a
6 determination of guilt that is the result of a plea or trial,
7 regardless of whether adjudication is withheld.

8 2. In order for the firefighter, spouse, and dependent
9 children to be eligible for such insurance coverage, the
10 injury must have occurred as the result of the firefighter's
11 response to what is reasonably believed to be an emergency
12 involving the protection of life or property, or an unlawful
13 act perpetrated by another. Except as otherwise provided
14 herein, nothing in this paragraph shall be construed to limit
15 health insurance coverage for which the firefighter, spouse,
16 or dependent children may otherwise be eligible, except that a
17 person who qualifies for benefits under this section shall not
18 be eligible for the health insurance subsidy provided under
19 chapter 121, chapter 175, or chapter 185.

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21 Notwithstanding any provision of this section to the contrary,
22 the death benefits provided in paragraphs (b), (c), and (f)
23 shall also be applicable and paid in cases where a firefighter
24 received bodily injury prior to July 1, 1993, and subsequently
25 died on or after July 1, 1993, as a result of such
26 in-line-of-duty injury.

27 (h) The Division of the State Fire Marshal within the
28 Department of Insurance shall adopt ~~is directed to promulgate~~
29 rules ~~as are~~ necessary to implement ~~the provisions of~~ this
30 section.

31 (i) Any payments made pursuant to paragraph (a),

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1 paragraph (b), or paragraph (c) shall consist of the statutory
2 amount adjusted to reflect price level changes since the
3 effective date of the act. The Division of State Fire Marshal
4 shall by rule adjust the statutory amount based on the
5 Consumer Price Index for all urban consumers published by the
6 United States Department of Labor. Adjustment shall be made
7 July 1 of each year using the most recent month for which data
8 are available at the time of the adjustment.

9 (3) If a firefighter is accidentally killed as
10 specified in paragraph (2)(b) on or after June 22, 1990, or
11 unlawfully and intentionally killed as specified in paragraph
12 (2)(c), on or after July 1, 1980, the state shall waive
13 certain educational expenses that the child or spouse which
14 children of the deceased firefighter incurs incur while
15 obtaining a vocational-technical certificate, or an
16 undergraduate education, or a postgraduate education. The
17 amount waived by the state shall be an amount equal to the
18 cost of tuition and matriculation and registration fees for a
19 total of 120 credit hours. The child or spouse may attend a
20 state vocational-technical school, a state community college,
21 or a state university. The child or spouse may attend any or
22 all of the institutions specified in this subsection, on
23 either a full-time or part-time basis. The benefits provided
24 to a child under this subsection shall continue to such a
25 child until the child's 25th birthday. The benefits provided
26 to a spouse under this subsection must commence within 5 years
27 after the death occurs, and entitlement thereto shall continue
28 until the 10th anniversary of that death.

29 (a) Upon failure of any child or spouse benefited by
30 the provisions of this subsection ~~section~~ to comply with the
31 ordinary and minimum requirements of the institution attended,

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1 both as to discipline and scholarship, the benefits thereof
2 shall be withdrawn as to the child or spouse and no further
3 moneys expended for the child's or spouse's benefits so long
4 as such failure or delinquency continues.

5 (b) Only students in good standing in their respective
6 institutions shall receive the benefits thereof.

7 (c) A child or spouse ~~All children~~ receiving benefits
8 under this subsection must ~~section shall~~ be enrolled according
9 to the customary rules and requirements of the institution
10 attended.

11 (4)(a) The employer of such firefighter shall be
12 liable for the payment of said sums specified in this section
13 and shall be deemed self-insured, unless it procures and
14 maintains, or has already procured and maintained, insurance
15 to secure such payments. Any such insurance may cover only the
16 risks indicated in this section, in the amounts indicated in
17 this section, or it may cover those risks and additional risks
18 and may be in larger amounts. Any such insurance shall be
19 placed by such employer only after public bid of such
20 insurance coverage which coverage shall be awarded to the
21 carrier making the lowest best bid.

22 (b) Payment of benefits to beneficiaries of state
23 employees, or of the premiums to cover the risk, under the
24 provisions of this section, shall be paid from existing funds
25 otherwise appropriated for the department.

26 (5) The Department of Education is directed to
27 promulgate rules and procedures as are necessary to implement
28 the educational benefits provisions of this section.

29 Section 3. This act fulfills an important state
30 interest.

31 Section 4. This act shall take effect July 1, 2002.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

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5 and insert:

6 A bill to be entitled

7 An act prescribing death benefits for

8 dependents and beneficiaries of a law

9 enforcement, correctional, or correctional

10 probation officer or firefighter; amending ss.

11 112.19, 112.191, F.S.; increasing specified

12 death benefits; providing for periodic

13 adjustments to the amount of such benefits;

14 providing for the state to waive specified

15 educational expenses for spouses and children

16 at certain public educational institutions

17 under specified circumstances; declaring that

18 the act fulfills an important state interest;

19 providing an effective date.

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