

By Senator Geller

29-439B-02

1 A bill to be entitled
2 An act prescribing death benefits for
3 dependents and beneficiaries of a law
4 enforcement, correctional, or correctional
5 probation officer or firefighter; amending ss.
6 112.19, 112.191, F.S.; increasing specified
7 death benefits; providing for periodic
8 adjustments to the amount of such benefits;
9 providing for the state to waive specified
10 educational expenses for spouses and children
11 at certain public educational institutions
12 under specified circumstances; declaring that
13 the act fulfills an important state interest;
14 providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 112.19, Florida Statutes, is
19 amended to read:
20 112.19 Law enforcement, correctional, and correctional
21 probation officers; death benefits.--

22 (1) Whenever used in this section, the term:
23 (a) "Employer" means a state board, commission,
24 department, division, bureau, or agency, or a county,
25 municipality, or other political subdivision of the state,
26 which employs, appoints, or otherwise engages the services of
27 law enforcement, correctional, or correctional probation
28 officers.

29 (b) "Law enforcement, correctional, or correctional
30 probation officer" means any officer as defined in s.
31 943.10(14) or employee of the state or any political

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

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

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

23 (2)(a) The sum of \$36,000, as adjusted pursuant to
24 paragraph (j),~~\$25,000~~ shall be paid as provided in this
25 section when a law enforcement, correctional, or correctional
26 probation officer, while engaged in the performance of the
27 officer's law enforcement duties, is accidentally killed or
28 receives accidental bodily injury which results in the loss of
29 the officer's life, provided that such killing is not the
30 result of suicide and that such bodily injury is not
31 intentionally self-inflicted.

1 (b) The sum of \$36,000, as adjusted pursuant to
2 paragraph (j), ~~\$25,000~~ shall be paid as provided in this
3 section if a law enforcement, correctional, or correctional
4 probation officer is accidentally killed as specified in
5 paragraph (a) and the accidental death occurs as a result of
6 the officer's response to fresh pursuit or to the officer's
7 response to what is reasonably believed to be an emergency.
8 This sum is in addition to any sum provided for in paragraph
9 (a).

10 (c) If a law enforcement, correctional, or
11 correctional probation officer, while engaged in the
12 performance of the officer's law enforcement duties, is
13 unlawfully and intentionally killed or dies as a result of
14 such unlawful and intentional act, the sum of \$107,000, as
15 adjusted pursuant to paragraph (j), ~~\$75,000~~ shall be paid as
16 provided in this section.

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

29 (e) Such payments, pursuant to the provisions of
30 paragraphs (a), (b), and (c), are in addition to any workers'
31 compensation or pension benefits and are exempt from the

1 claims and demands of creditors of such law enforcement,
2 correctional, or correctional probation officer.

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

15 (g) Any political subdivision of the state that
16 employs a full-time law enforcement officer as defined in s.
17 943.10(1) or a full-time correctional officer as defined in s.
18 943.10(2) who is killed in the line of duty on or after July
19 1, 1993, as a result of an act of violence inflicted by
20 another person while the officer is engaged in the performance
21 of law enforcement duties or as a result of an assault against
22 the officer 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
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1 2. The surviving child continues to be dependent for
2 support, or the surviving child is a full-time or part-time
3 student and is dependent for support.

4 (h)1. Any employer who employs a full-time law
5 enforcement, correctional, or correctional probation officer
6 who, on or after January 1, 1995, suffers a catastrophic
7 injury, as defined in s. 440.02(37), in the line of duty shall
8 pay the entire premium of the employer's health insurance plan
9 for the injured employee, the injured employee's spouse, and
10 for each dependent child of the injured employee until the
11 child reaches the age of majority or until the end of the
12 calendar year in which the child reaches the age of 25 if the
13 child continues to be dependent for support, or the child is a
14 full-time or part-time student and is dependent for support.

15 The term "health insurance plan" does not include supplemental
16 benefits that are not part of the basic group health insurance
17 plan. If the injured employee subsequently dies, the employer
18 shall continue to pay the entire health insurance premium for
19 the surviving spouse until remarried, and for the dependent
20 children, under the conditions outlined in this paragraph.

21 However:

22 a. Health insurance benefits payable from any other
23 source shall reduce benefits payable under this section.

24 b. It is unlawful for a person to willfully and
25 knowingly make, or cause to be made, or to assist, conspire
26 with, or urge another to make, or cause to be made, any false,
27 fraudulent, or misleading oral or written statement to obtain
28 health insurance coverage as provided under this paragraph. A
29 person who violates this sub-subparagraph commits a
30 misdemeanor of the first degree, punishable as provided in s.
31 775.082 or s. 775.083.

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

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

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

27 (j) Beginning July 1, 2003, the Bureau of Crime
28 Prevention and Training shall by rule adjust, on July 1 of
29 each year, the amount payable under paragraphs (a), (b), and
30 (c) by the percentage by which the Consumer Price Index, as
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1 reported by the United States Department of Labor, Bureau of
2 Labor Statistics, increased since July 1, 2002.

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

24 (a) Upon failure of any child or spouse benefited by
25 the provisions of this subsection ~~section~~ to comply with the
26 ordinary and minimum requirements of the institution attended,
27 both as to discipline and scholarship, the benefits shall be
28 withdrawn as to the child or spouse and no further moneys may
29 be expended for the child's or spouse's benefits so long as
30 such failure or delinquency continues.

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

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

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

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

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

26 (6) Notwithstanding any provision of this section to
27 the contrary, the death benefits provided in paragraphs (2)(c)
28 and (g) shall also be applicable and paid in cases where an
29 officer received bodily injury prior to July 1, 1993, and
30 subsequently died on or after July 1, 1993, as a result of
31 such in-line-of-duty injury attributable to an unlawful and

1 intentional act, or an act of violence inflicted by another,
2 or an assault on the officer under riot conditions. Payment
3 of such benefits shall be in accordance with provisions of
4 this section. Nothing in this provision shall be construed to
5 limit death benefits for which those individuals listed in
6 paragraph (2)(d) may otherwise be eligible.

7 Section 2. Section 112.191, Florida Statutes, is
8 amended to read:

9 112.191 Firefighters; death benefits.--

10 (1) Whenever used in this act:

11 (a) The term "employer" means a state board,
12 commission, department, division, bureau or agency, or a
13 county, municipality, or other political subdivision of the
14 state.

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

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

27 (2)(a) The sum of \$36,000, as adjusted pursuant to
28 paragraph (i), ~~\$25,000~~ shall be paid as ~~hereinafter~~ provided
29 in this section when a firefighter, while engaged in the
30 performance of his or her firefighter duties, is accidentally
31 killed or receives accidental bodily injury which subsequently

1 results in the loss of the firefighter's life, provided that
2 such killing is not the result of suicide and that such bodily
3 injury is not intentionally self-inflicted.

4 (b) The sum of \$36,000, as adjusted pursuant to
5 paragraph (i), ~~\$25,000~~ shall be paid as ~~hereinafter~~ provided
6 in this section if a firefighter is accidentally killed as
7 specified in paragraph (a) and the accidental death occurs as
8 a result of the firefighter's response to what is reasonably
9 believed to be an emergency involving the protection of life
10 or property. This sum shall be in addition to any sum
11 provided for in paragraph (a).

12 (c) If a firefighter, while engaged in the performance
13 of his or her firefighter duties, is unlawfully and
14 intentionally killed, dies as a result of a fire which has
15 been determined to have been caused by an act of arson, or
16 subsequently dies as a result of injuries sustained therefrom,
17 the sum of \$107,000, as adjusted pursuant to paragraph (i),
18 ~~\$75,000~~ shall be paid as ~~hereinafter~~ provided in this section.

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

30 (e) Such payments, pursuant to the provisions of
31 paragraphs (a), (b), and (c), shall be in addition to any

1 workers' compensation or pension benefits and shall be exempt
2 from the claims and demands of creditors of such firefighter.

3 (f) Any political subdivision of the state that
4 employs a full-time firefighter who is killed in the line of
5 duty on or after July 1, 1993, as a result of an act of
6 violence inflicted by another person while the firefighter is
7 engaged in the performance of firefighter duties, as a result
8 of a fire which has been determined to have been caused by an
9 act of arson, or as a result of an assault against the
10 firefighter under riot conditions shall pay the entire premium
11 of the political subdivision's health insurance plan for the
12 employee's surviving spouse until remarried, and for each
13 dependent child of the employee until the child reaches the
14 age of majority or until the end of the calendar year in which
15 the child reaches the age of 25 if:

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

18 2. The surviving child continues to be dependent for
19 support, or the surviving child is a full-time or part-time
20 student and is dependent for support.

21 (g)1. Any employer who employs a full-time firefighter
22 who, on or after January 1, 1995, suffers a catastrophic
23 injury, as defined in s. 440.02(37), in the line of duty shall
24 pay the entire premium of the employer's health insurance plan
25 for the injured employee, the injured employee's spouse, and
26 for each dependent child of the injured employee until the
27 child reaches the age of majority or until the end of the
28 calendar year in which the child reaches the age of 25 if the
29 child continues to be dependent for support, or the child is a
30 full-time or part-time student and is dependent for support.
31 The term "health insurance plan" does not include supplemental

1 benefits that are not part of the basic group health insurance
2 plan. If the injured employee subsequently dies, the employer
3 shall continue to pay the entire health insurance premium for
4 the surviving spouse until remarried, and for the dependent
5 children, under the conditions outlined in this paragraph.

6 However:

7 a. Health insurance benefits payable from any other
8 source shall reduce benefits payable under this section.

9 b. It is unlawful for a person to willfully and
10 knowingly make, or cause to be made, or to assist, conspire
11 with, or urge another to make, or cause to be made, any false,
12 fraudulent, or misleading oral or written statement to obtain
13 health insurance coverage as provided under this paragraph. A
14 person who violates this sub-subparagraph commits a
15 misdemeanor of the first degree, punishable as provided in s.
16 775.082 or s. 775.083.

17 c. In addition to any applicable criminal penalty,
18 upon conviction for a violation as described in
19 sub-subparagraph b., a firefighter or other beneficiary who
20 receives or seeks to receive health insurance benefits under
21 this paragraph shall forfeit the right to receive such health
22 insurance benefits, and shall reimburse the employer for all
23 benefits paid due to the fraud or other prohibited activity.
24 For purposes of this sub-subparagraph, "conviction" means a
25 determination of guilt that is the result of a plea or trial,
26 regardless of whether adjudication is withheld.

27 2. In order for the firefighter, spouse, and dependent
28 children to be eligible for such insurance coverage, the
29 injury must have occurred as the result of the firefighter's
30 response to what is reasonably believed to be an emergency
31 involving the protection of life or property, or an unlawful

1 act perpetrated by another. Except as otherwise provided
2 herein, nothing in this paragraph shall be construed to limit
3 health insurance coverage for which the firefighter, spouse,
4 or dependent children may otherwise be eligible, except that a
5 person who qualifies for benefits under this section shall not
6 be eligible for the health insurance subsidy provided under
7 chapter 121, chapter 175, or chapter 185.

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

15 (h) The Division of the State Fire Marshal within the
16 Department of Insurance shall adopt ~~is directed to promulgate~~
17 ~~rules as are~~ necessary to implement ~~the provisions of~~ this
18 section.

19 (i) Beginning July 1, 2003, the Division of the State
20 Fire Marshal shall by rule adjust, on July 1 of each year, the
21 amount payable under paragraphs (a), (b), and (c) by the
22 percentage by which the Consumer Price Index, as reported by
23 the United States Department of Labor, Bureau of Labor
24 Statistics, increased since July 1, 2002.

25 (3) If a firefighter is accidentally killed as
26 specified in paragraph (2)(b) on or after June 22, 1990, or
27 unlawfully and intentionally killed as specified in paragraph
28 (2)(c), on or after July 1, 1980, the state shall waive
29 certain educational expenses that the child or spouse ~~which~~
30 ~~children~~ of the deceased firefighter incurs ~~incur~~ while
31 obtaining a vocational-technical certificate, ~~or~~ an

1 undergraduate education, or a postgraduate education. The
2 amount waived by the state shall be an amount equal to the
3 cost of tuition and matriculation and registration fees for a
4 total of 120 credit hours. The child or spouse may attend a
5 state vocational-technical school, a state community college,
6 or a state university. The child or spouse may attend any or
7 all of the institutions specified in this subsection, on
8 either a full-time or part-time basis. The benefits provided
9 to a child under this subsection shall continue ~~to such a~~
10 ~~child~~ until the child's 25th birthday. The benefits provided
11 to a spouse under this subsection must commence within 5 years
12 after the death occurs, and entitlement thereto shall continue
13 until the 10th anniversary of that death.

14 (a) Upon failure of any child or spouse benefited by
15 the provisions of this subsection ~~section~~ to comply with the
16 ordinary and minimum requirements of the institution attended,
17 both as to discipline and scholarship, the benefits thereof
18 shall be withdrawn as to the child or spouse and no further
19 moneys expended for the child's or spouse's benefits so long
20 as such failure or delinquency continues.

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

23 (c) A child or spouse ~~All children~~ receiving benefits
24 under this subsection must ~~section shall~~ be enrolled according
25 to the customary rules and requirements of the institution
26 attended.

27 (4)(a) The employer of such firefighter shall be
28 liable for the payment of said sums specified in this section
29 and shall be deemed self-insured, unless it procures and
30 maintains, or has already procured and maintained, insurance
31 to secure such payments. Any such insurance may cover only the

1 risks indicated in this section, in the amounts indicated in
2 this section, or it may cover those risks and additional risks
3 and may be in larger amounts. Any such insurance shall be
4 placed by such employer only after public bid of such
5 insurance coverage which coverage shall be awarded to the
6 carrier making the lowest best bid.

7 (b) Payment of benefits to beneficiaries of state
8 employees, or of the premiums to cover the risk, under the
9 provisions of this section, shall be paid from existing funds
10 otherwise appropriated for the department.

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

14 Section 3. This act fulfills an important state
15 interest.

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

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19 SENATE SUMMARY

20 Increases the amounts paid to beneficiaries of certain
21 law enforcement, correctional, and correctional probation
22 officers and firefighters killed in the performance of
23 their duties and provides for an annual adjustment in the
24 amount of the benefits that are payable. Provides for a
25 tuition waiver from specified public educational
26 institutions for the children and spouse of certain law
27 enforcement, correctional, and correctional probation
28 officers and firefighters who are killed in the
29 performance of their duties. (See bill for details.)
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