

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 1094

INTRODUCER: Senator Martin

SUBJECT: Death Benefits for Active Duty Servicemembers

DATE: March 28, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1094 increases the death benefit paid by the state for a member of the U.S. Armed Forces member *who is not killed while engaged in official duties*. The death benefit is increased from \$25,000 to \$75,000 (identical to the members on active duty and killed while engaged in official duties). The bill maintains the current law exclusion that a servicemember *is not eligible* for the benefit in event of suicide or otherwise intentionally self-inflicted injury.

The bill provides that a servicemember may designate a beneficiary in a process set out by DMA. The bill requires that proof of residency or duty post of the deceased servicemember at the time of the member's death must be provided to DMA, in a manner prescribed by the department, in order to qualify for benefits.

The bill clarifies the payment process for the benefit by requiring DMA to request that the Chief Financial Officer (CFO)<sup>1</sup> draw warrants from the General Revenue Fund for the payment of benefits. The bill grants DMA and the Department of Financial Services rulemaking authority to adopt rules and procedures appropriate and necessary to implement the regulation and distribution of death benefits of active duty servicemembers.

The bill is expected to increase state expenditures by an indeterminate amount.

The bill takes effect July 1, 2023.

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<sup>1</sup> Art. IV, s. 4(c) of the Florida Constitution provides that a CFO shall serve, within the cabinet, as the chief fiscal officer of the state. The CFO settles and approves accounts against the state and keeps all state funds and securities.

## II. Present Situation:

### Constitutional Requirements for Death Benefits for Active Duty Servicemembers

Article X, sec. 31(b) of the Florida Constitution requires a death benefit to be paid to the survivors of active duty servicemembers of the United State Armed Forces. The payments are made from the General Revenue Fund. The state is also required to waive certain education expenses for a child or spouse of the deceased servicemember.

To be eligible for the benefits under the Florida Constitution, a member of the military must have been a resident of the state or his or her duty post must have been within the state, at the time of death.

The constitutional provision took effect July 1, 2019.

### Statutory Requirements for Death Benefits for Active Duty Servicemembers

Current law provides that a servicemember of the United States Armed Forces who is killed or receives a bodily injury that results in the loss of member's life while on active duty:

- And *engaged in performance of his or her official duties* is eligible for death benefit of \$75,000 paid by the state.<sup>2</sup>
- But *not in performance of his or her official duties* is eligible for death benefit of \$25,000 paid by the state.<sup>3</sup>

A servicemember is not eligible for these benefits if the killing or bodily injury is the result of suicide or was otherwise intentionally self-inflicted.

The death benefit is paid to the beneficiary designated by the servicemember in writing and delivered to the Department of Military Affairs (DMA) during the servicemember's lifetime.<sup>4</sup> If no designation is made, then the payments are made to the servicemember's surviving child or children and to the servicemember's surviving spouse in equal portions.<sup>5</sup> If the servicemember does not have a surviving child or spouse, the payment is made to the servicemember's parent or parents. If no designation is made and the servicemember has no surviving child, spouse, or parent, then the sum must be paid to the servicemember's estate.

The spouse or child of an active duty service is also eligible for the waiver of certain educational expenses incurred while obtaining a career certificate, an undergraduate education, or a postgraduate education.<sup>6</sup> The waiver amount is equal to the cost of 120 credit hours of tuition and registration fees. The benefit must be used by a child before turning 25 years of age, while the spousal benefit must be commenced within five years of the death and completed within ten years of the death. These benefits may only be received by students in good standing.

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<sup>2</sup> Section 295.061(2), F.S.

<sup>3</sup> Section 295.061(3), F.S.

<sup>4</sup> Section 295.061(4), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Section 295.061(8), F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s. 295.061, F.S., to increase death benefits paid by the state for a member of the U.S. Armed Forces member *who is not killed while engaged in official duties*. The death benefit is increased from \$25,000 to \$75,000 (identical to the members on active duty and killed while engaged in official duties). The bill maintains the current law exclusion that a servicemember *is not eligible* for the benefit in event of suicide or otherwise intentionally self-inflicted injury.

The bill provides that a servicemember may designate a beneficiary in a process set out by DMA. The bill requires that proof of residency or duty post of the deceased servicemember at the time of the member's death must be provided to DMA, in a manner prescribed by the department, in order to qualify for benefits.

The bill clarifies the payment process for the benefit by requiring DMA to request that the Chief Financial Officer (CFO)<sup>7</sup> draw warrants from the General Revenue Fund for the payment of benefits. The bill grants DMA and the Department of Financial Services rulemaking authority to adopt rules and procedures appropriate and necessary to implement the regulation and distribution of death benefits of active duty servicemembers.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None identified.

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<sup>7</sup> Art. IV, s. 4(c) of the Florida Constitution provides that a CFO shall serve, within the cabinet, as the chief fiscal officer of the state. The CFO settles and approves accounts against the state and keeps all state funds and securities.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The state will incur additional costs for the increased monetary death benefits granted to the surviving family members of a member of the U.S. Armed Forces killed while on active duty. These benefits are paid from the General Revenue Fund.

**VI. Technical Deficiencies:**

Lines 73 through 76 strike the continuing appropriation necessary to draw funds from the State Treasury (in this case, from the General Revenue Fund). Consideration should be given to continue this language so that the CFO has the authority to pay the benefits.

**VII. Related Issues:**

Law enforcement officers, correctional officers, firefighters, emergency medical technicians, and paramedics (first responders) are granted death benefits under the Florida Constitution similar to servicemembers. However, the benefits are payable only if a first responder is killed “while engaged in the performance of his or her official duties.” The current law relating to death benefits for a servicemember makes a similar distinction, with a \$75,000 benefit if the servicemember is on active duty and is killed while in the performance of official duties and a \$25,000 benefit if the servicemember is on active duty and is killed otherwise (not related to official duties, i.e., vacation, off-duty).

**VIII. Statutes Affected:**

This bill substantially amends section 295.061 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.