

1 HB488
2 218655-2
3 By Representatives Shaver, Wood (D), Pettus, Oliver, Lipscomb,
4 Hurst, Paschal, Bedsole, Ball, Sorrell, Kitchens, Faulkner,
5 Treadaway, Farley, Ledbetter, Standridge, Clouse, Drake,
6 Carns, Isbell, Simpson and Lovvorn
7 RFD: Ways and Means General Fund
8 First Read: 10-MAR-22

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8 SYNOPSIS: Under existing law, a death benefit is
9 provided to law enforcement officers, volunteer and
10 professional firefighters, and rescue squad members
11 when those individuals are killed in the line of
12 duty or under other specific circumstances.

13 This bill would further provide for the
14 circumstances under which an individual qualifies
15 for the death benefit by including deaths caused by
16 COVID-19.

17 This bill would authorize the beneficiaries
18 or dependents of deceased emergency medical
19 services personnel to receive the death benefit.

20 This bill would also make nonsubstantive,
21 technical revisions to update the exiting code
22 language to current style.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to state death benefits; to amend Sections
2 36-30-1 and 36-30-2, as amended by Act 2021-488, 2021 Regular
3 Session, and Sections 36-30-3, 36-30-4, 36-30-5, and 36-30-7,
4 Code of Alabama 1975, to provide a COVID-19 death benefit for
5 first responders; to include emergency medical services
6 personnel within the state death benefit; to provide
7 retroactive effect; and to make nonsubstantive, technical
8 revisions to update the exiting code language to current
9 style.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 36-30-1 and 36-30-2, as amended
12 by Act 2021-488, 2021 Regular Session, and Sections 36-30-3,
13 36-30-4, 36-30-5, and 36-30-7, Code of Alabama 1975, are
14 amended to read as follows:

15 "§36-30-1.

16 "(a) For the purposes of this chapter, the following
17 words and phrases shall have the following meanings:

18 "(1) AWARDING AUTHORITY. The State Board of
19 Adjustment, created and existing pursuant to Article 4,
20 Chapter 9 of Title 41.

21 "(2) COMPENSATION. The money benefits paid on
22 account of injury or death that occurred during the course of
23 employment or activity as a peace officer or firefighter and
24 is in the nature of workers' compensation.

25 "(3) COVID-19. Coronavirus disease 2019, for which
26 the Governor declared a public health emergency on March 13,

1 2020, or any mutation or variant thereof that is declared a
2 public health emergency under the Emergency Management Act.

3 "(3)(4) DEPENDENT CHILD. An unmarried child under
4 the age of 18 years, or one over the age of 18 who is
5 physically or mentally incapacitated from earning.

6 "(4)(5) DIRECT AND PROXIMATE RESULT OF A HEART
7 ATTACK OR STROKE. Death resulting from a heart attack or
8 stroke caused by engaging or participating in a situation
9 while on duty involving nonroutine stressful or strenuous
10 physical law enforcement, fire suppression, rescue, hazardous
11 material response, emergency medical service, prison security,
12 disaster relief, other emergency medical response activity, or
13 participation in a training exercise that involved nonroutine
14 stressful or strenuous physical activity; and the heart attack
15 or stroke is suffered while still on that duty after so
16 engaging or participating or not more than 24 hours after so
17 engaging or participating.

18 "(6) EMERGENCY MEDICAL SERVICES PERSONNEL (EMSP).
19 ~~The term as defined under Section 22-18-1.~~

20 Emergency medical services personnel, as defined
21 under Section 22-18-1, that are employed by the state or a
22 county or municipality thereof.

23 "(5)(7) FIREFIGHTER or FIREFIGHTERS. A member or
24 members of a paid or volunteer fire department of a city,
25 town, county, or other subdivision of the state or of a public
26 corporation organized for the purpose of providing water,
27 water systems, fire protection services, or fire protection

1 facilities in the state; and shall include the chief,
2 assistant chief, wardens, engineers, captains, firefighters,
3 and all other officers and employees of such departments who
4 actually engage in fire fighting or in rendering first aid in
5 case of drownings or asphyxiation at the scene of action. The
6 term also includes a firefighter who is employed by the
7 Alabama Forestry Commission and who has been certified by the
8 State Forester as having met the wildland firefighter training
9 standards of the National Wildfire Coordinating Group.

10 "(8) FIRST RESPONDER. The term includes
11 firefighters, peace officers, rescue squad members, and
12 emergency medical services personnel.

13 "(6)(9) PEACE OFFICER. All sheriffs, deputy
14 sheriffs, constables, municipal police officers, municipal
15 policemen, state and town marshals, members of the highway
16 patrol, state troopers, Alcoholic Beverage Control Board
17 Enforcement Division agents, enforcement officers of the
18 Public Service Commission, revenue agents, and persons who are
19 required by law to comply with the provisions of the Peace
20 Officers' Minimum Standards, employees of the Board of
21 Corrections, highway camp guards, law enforcement officers of
22 the Department of Conservation and Natural Resources, all law
23 enforcement officers of the Alabama Forestry Commission,
24 livestock theft investigators of the Department of Agriculture
25 and Industries, Capitol security guards, narcotic agents and
26 inspectors of the State Board of Health, any other state,

1 county, or municipal officer engaged in quelling a riot, or
2 civil disturbance, and university police officers.

3 "~~(7)~~ (10) RESCUE SQUAD MEMBER. A member of an
4 organized rescue squad of a city, town, county, or other
5 subdivision of the state or of a public corporation, organized
6 for the purpose of providing, within the scope of his or her
7 practice: First aid, treatment, or transport of the sick or
8 injured; rescue or recovery operations at incidents of
9 drowning; search and rescue of individuals lost or incapable
10 of self rescue; or any other emergency or non-emergency
11 incident where the services provided by the rescue squad are
12 deemed necessary for incident stabilization. The term includes
13 all commanders, officers, and members of organized rescue
14 squads that are members of the Alabama Association of Rescue
15 Squads.

16 "(b) For the purposes of this chapter, the following
17 described individuals shall be conclusively presumed to be
18 wholly dependent:

19 "(1) Spouse, unless it be shown that the spouse was
20 voluntarily living apart from the ~~peace officer, firefighter,~~
21 ~~or rescue squad member~~ first responder at the time of death,
22 or unless it be shown that the ~~peace officer, firefighter, or~~
23 ~~rescue squad member~~ first responder was not in any way
24 contributing to the spouse's support and had not in any way
25 contributed to the spouse's support for more than 12 months
26 next preceding the occurrence of the injury causing death.

1 "(2) Minor children under the age of ~~18~~ 19 years and
2 those ~~over 18~~ 19 years or more if physically and mentally
3 incapacitated from earning.

4 "(3) Spouse, child, mother, father, grandmother,
5 grandfather, sister, brother, mother-in-law, and father-in-law
6 who were wholly supported by a deceased ~~peace officer,~~
7 ~~firefighter, or rescue squad member~~ first responder at the
8 time of his or her death and for a reasonable period of time
9 prior thereto shall be considered his or her dependents and
10 payment of compensation may be made to them as hereinafter
11 authorized.

12 "(c) If a ~~paid or volunteer firefighter, peace~~
13 ~~officer, certified police officer, reserve law enforcement~~
14 ~~officer, or rescue squad member is killed while engaged in the~~
15 ~~performance of his or her duties~~ first responder dies in a
16 manner described in Section 36-30-2 and there are no
17 designated beneficiaries, then the compensation shall be paid
18 to his or her dependents or partial dependents in the manner
19 prescribed by Section 36-30-3, and if there are none, the
20 compensation shall be paid to his or her non-dependent
21 children, and if there are none, the compensation shall be
22 paid to his or her parents, and if there are none, the
23 compensation shall be paid to the estate of the deceased.

24 "(d) Any member of the class named in subdivision
25 (b) (3) who regularly derived part of his or her support from
26 the earnings of the deceased ~~peace officer, firefighter, or~~
27 ~~rescue squad member~~ first responder, as the case may be, at

1 the time of his or her death and for a reasonable time
2 immediately prior thereto shall be considered his or her
3 partial dependent and payment of compensation may be made to
4 the partial dependent as hereinafter authorized.

5 "§36-30-2.

6 "(a) (1) a. In the event a ~~peace officer, a~~
7 ~~firefighter, a volunteer firefighter who is a member of an~~
8 ~~organized volunteer fire department registered with the~~
9 ~~Alabama Forestry Commission, or a rescue squad member~~ first
10 responder is killed, either accidentally or deliberately~~;~~ or
11 dies as a result of injuries received while engaged in the
12 performance of his or her duties~~;~~ or dies as a direct and
13 proximate result of a heart attack or stroke~~;~~ or within 14
14 calendar days after being required to report to his or her
15 usual place of employment, he or she contracts COVID-19
16 between March 13, 2020, and December 31, 2022, as confirmed by
17 a positive test or diagnosis by a licensed medical
18 professional, and dies as a result of COVID-19 or
19 complications therefrom, his or her beneficiaries or
20 dependents shall be entitled to compensation in the amount of
21 one hundred thousand dollars (\$100,000) to be paid from the
22 State Treasury as provided in Section 36-30-3, ~~unless such.~~

23 "b. This subsection does not apply if the first
24 responder's death was caused by the willful misconduct of the
25 ~~officer, firefighter, or rescue squad member~~ first responder
26 or was due to his or her own intoxication or his or her
27 willful failure or refusal to use safety appliances provided

1 by his or her employer or his or her willful refusal or
2 neglect to perform a statutory duty or any other willful
3 violation of a law or his or her willful breach of a
4 reasonable rule or regulation governing the performance of his
5 or her duties or his or her employment of which rule or
6 regulation he or she had knowledge. Notwithstanding the
7 foregoing, for purposes of deaths caused by COVID-19, the
8 dependents or beneficiaries of the deceased first responder
9 shall be entitled to the compensation described in paragraph
10 (a)(1)a. regardless of the first responder's vaccination
11 status against COVID-19, and regardless of whether the first
12 responder regularly wore masks or other filtration devices in
13 the performance of his or her duties.

14 " (2) ~~Any peace officer, firefighter, volunteer~~
15 ~~firefighter, or rescue squad member~~ first responder whose
16 death results proximately from an injury received while
17 performing his or her duties, for the purposes of this
18 article, shall be deemed to have been killed while in the
19 performance of such duties. A volunteer firefighter or a
20 member of an organized rescue squad who dies of cardiac
21 arrest, cerebrovascular accident, or pulmonary edema within 24
22 hours after preparing to respond to a called emergency or
23 responding to an emergency; or after serving in his or her
24 capacity at an emergency; or after participating in a required
25 physical training exercise shall be presumed to have died in
26 the performance of his or her duties. If the State Health
27 Officer determines from all available evidence that a

1 volunteer firefighter, who is a member of an organized
2 volunteer fire department registered with the Alabama Forestry
3 Commission, has become totally disabled as a result of any
4 injury received while engaged in the performance of his or her
5 fire-fighting duties and the disability is likely to continue
6 for more than 12 months from the date the injury is incurred,
7 then the firefighter shall be entitled to receive disability
8 compensation in the amount of one hundred thousand dollars
9 (\$100,000) to be paid from the State Treasury as provided in
10 Section 36-30-3. The term total disability shall be
11 interpreted to mean that the injured party is medically
12 disabled to the extent that he or she cannot perform the
13 duties of the job occupation or profession in which he or she
14 was engaging at the time the injury was sustained. The State
15 Health Officer may seek the assistance of any state agency in
16 making the determination of disability and the state agencies
17 shall cooperate with the State Health Officer in such regard.
18 The State Health Officer shall render a decision within 30
19 days of the time a claim is filed. If such volunteer
20 firefighter disagrees with any officer, he or she may appeal
21 the determination to the State Board of Adjustment in
22 accordance with such board's procedures for such appeals.

23 "(b) Beginning in calendar year 2009, the
24 compensation amounts payable under this section shall be
25 adjusted on January 1 of each year to reflect any increase
26 during the preceding calendar year in the consumer price index
27 as published by the U.S. Department of Labor, Bureau of Labor

1 Statistics. The adjustment shall equal the percentage change
2 in the consumer price index during the preceding calendar
3 year.

4 "(c) Any person who currently serves or previously
5 served as a firefighter or law enforcement officer who dies as
6 a result of a firefighter's occupational disease as defined in
7 Section 11-43-144 or 36-30-40, or law enforcement officer's
8 occupational disease as defined in Section 36-30-20 shall be
9 qualified for a state death benefit as provided in subsection
10 (a) as if the person died in the performance of his or her
11 duties, provided he or she satisfies the three years' service
12 requirement and physical examination requirements set forth in
13 Section 11-43-144, 36-30-22, or 36-30-41, respectively.

14 "(d) Any application for the state death benefit
15 that was submitted during the period from April 29, 2010,
16 until May 27, 2015, and denied because the firefighter or law
17 enforcement officer was no longer employed on the date of
18 death may be resubmitted based on subsection (c) within six
19 months of May 27, 2015, and reconsidered and granted by the
20 awarding authority.

21 "(e) The provisions of this section as amended by
22 Act 2021-488 shall be retroactive to any death covered by this
23 chapter as amended after January 1, 2019.

24 "(f) The provisions of this section as amended by
25 this act shall be retroactive to any death caused by COVID-19
26 covered by this chapter as amended between March 13, 2020, and
27 December 31, 2022.

1 "§36-30-3.

2 "The compensation payable to surviving beneficiaries
3 or dependents of ~~peace officers, firefighters, or rescue squad~~
4 ~~members~~ first responders who are killed under the
5 circumstances prescribed in Section 36-30-2 shall be paid to
6 the beneficiaries designated by those ~~peace officers,~~
7 ~~firefighters, or rescue squad members~~ first responders. If no
8 beneficiaries have been designated, or if none remain, the
9 compensation shall be paid to the persons entitled thereto
10 without administration or to a guardian or such other person
11 as the awarding authority may direct for the use of the
12 persons entitled thereto, as follows:

13 "(1) If the deceased ~~peace officer, firefighter, or~~
14 ~~rescue squad member~~ first responder leaves a dependent spouse
15 and no other dependents or partial dependents, the total
16 amount of the compensation provided for in Section 36-30-2
17 shall be paid to the surviving spouse.

18 "(2) If the deceased ~~peace officer, firefighter, or~~
19 ~~rescue squad member~~ first responder leaves a dependent spouse
20 and a dependent child or dependent children and no other
21 dependents or partial dependents, then the total amount of the
22 compensation provided for in Section 36-30-2 shall be paid to
23 such surviving spouse for the benefit of herself or himself
24 and such child or children, or, in its discretion, the
25 awarding authority may determine what portion of the
26 compensation shall be applied for the benefit of such child or
27 children and may order the same paid to a guardian and then

1 order only the remainder of such compensation paid to the
2 surviving spouse.

3 "(3) If the deceased ~~peace officer, firefighter, or~~
4 ~~rescue squad member~~ first responder leaves a dependent child
5 or children and no dependent spouse or other dependents or
6 partial dependents, then such child or children shall be
7 entitled to the total amount of the compensation authorized in
8 Section 36-30-2, and such compensation shall be paid to a duly
9 appointed guardian of such child or children or, in the
10 discretion of the awarding authority, such sum may be paid to
11 the ~~probate~~ judge of probate of the county of residence of the
12 child or children. Any ~~probate~~ judge of probate who receives
13 any ~~moneys~~ monies due any child or children under this article
14 shall handle and administer all such funds in the manner
15 prescribed in Sections 26-7-2 through 26-7-5.

16 "(4) If the deceased ~~peace officer, firefighter, or~~
17 ~~rescue squad member~~ first responder leaves no dependent spouse
18 or dependent child or children but leaves other dependents or
19 partial dependents, then such dependents and partial
20 dependents jointly shall be entitled to the total amount of
21 the compensation provided in Section 36-30-2, and subject to
22 the limitations prescribed hereinbelow, such compensation
23 shall be paid to them in the amounts and manner ordered by the
24 awarding authority.

25 "(5) If a deceased ~~peace officer, firefighter, or~~
26 ~~rescue squad member~~ first responder leaves a dependent spouse
27 and other dependents or partial dependents but no dependent

1 child or children, then the surviving spouse and the other
2 dependents and partial dependents jointly shall be entitled to
3 the total compensation provided in Section 36-30-2; and,
4 subject to the limitations prescribed hereinbelow, ~~such the~~
5 compensation shall be paid to ~~such the~~ dependents in the
6 proportions and in the manner ordered by the awarding
7 authority; provided, however, that at least 50 percent of ~~such~~
8 the compensation must be awarded to the dependent surviving
9 spouse.

10 "(6) If a deceased ~~peace officer, firefighter, or~~
11 ~~rescue squad member~~ first responder leaves a dependent spouse
12 and a dependent child or children and other dependents and
13 partial dependents, then the awarding authority shall
14 determine what portion of ~~such the~~ compensation shall be paid
15 to the spouse and child or children and, in its discretion,
16 may order all ~~such of the~~ compensation be paid to ~~such the~~
17 spouse and child or children, but must provide that at least
18 70 percent ~~thereof~~ of the compensation is paid to them.

19 "(7) If a deceased ~~peace officer, firefighter, or~~
20 ~~rescue squad member~~ first responder leaves a dependent child
21 or children and other dependents and partial dependents but no
22 dependent spouse, then the awarding authority shall determine
23 what portion of ~~such the~~ compensation ~~such the~~ child or
24 children are entitled to receive and, in its discretion, may
25 order all ~~such of the~~ compensation awarded to ~~such the~~ child
26 or children, but must award at least 60 percent ~~thereof~~ of the
27 compensation to ~~such the~~ child or children.

1 "(8) If a deceased ~~peace officer, firefighter, or~~
2 ~~rescue squad member~~ first responder leaves no dependent spouse
3 or child or children but leaves other dependents and partial
4 dependents, the awarding authority shall determine what
5 portion of ~~such the~~ compensation each dependent and each
6 partial dependent shall be entitled to receive, but ~~such the~~
7 awarding authority may not award to a partial dependent a
8 greater percent of ~~such the~~ compensation than the percent of
9 the deceased ~~peace officer's, firefighter's, or rescue squad~~
10 ~~member's~~ first responder's average monthly income which was
11 regularly contributed toward ~~such the~~ partial dependent's
12 support for a reasonable time immediately prior to the death
13 of ~~such officer, firefighter, or rescue squad member~~ the first
14 responder. In its discretion, the awarding authority may award
15 all of the compensation provided for in Section 36-30-2 to
16 ~~such the~~ total dependents of the deceased ~~officer,~~
17 ~~firefighter, or rescue squad member~~ first responder to the
18 exclusion of partial dependents.

19 "§36-30-4.

20 "Compensation pursuant to this article for the death
21 of a ~~peace officer, firefighter, or rescue squad member~~ first
22 responder shall be paid only to his or her designated
23 beneficiaries or dependents who at the time of ~~such officer's,~~
24 ~~firefighter's, or rescue squad member's~~ the first responder's
25 death were ~~actually~~ residents of the United States.

26 "§36-30-5.

1 "(a) All claims for compensation as provided in this
2 article shall be presented to the awarding authority within
3 two years from the date of the death of the ~~peace officer,~~
4 ~~firefighter, or rescue squad member~~ first responder or the
5 claims are forfeited. All ~~such~~ claims shall be presented in
6 the form prescribed by the awarding authority, and proof of
7 the facts and circumstances of the ~~peace officer's,~~
8 ~~firefighter's, or rescue squad member's~~ first responder's
9 death and, if necessary, the claimant's relationship to and
10 dependence upon ~~such peace officer, firefighter, or rescue~~
11 ~~squad member~~ the first responder shall be made in the manner
12 prescribed by the awarding authority.

13 "(b) Notwithstanding ~~the provisions of~~ subsection
14 (a), any person who was previously ineligible to claim the
15 compensation provided in this article, but is now eligible to
16 claim the compensation provided in this article because of the
17 enactment of Act 2008-480, and who is making a claim based
18 upon the death of a peace officer or firefighter who died on
19 or after January 1, 2006, but prior to the enactment of Act
20 2008-480, shall be able to present his or her claim for
21 compensation to the awarding authority within one year of the
22 date of enactment of Act 2008-480 regardless of whether the
23 claim was presented within one year from the date of the death
24 of the peace officer or firefighter.

25 "(c) The awarding authority ~~is hereby authorized to~~
26 may prescribe ~~such~~ forms and adopt ~~such~~ rules of evidence and
27 procedure as it deems necessary or proper, not inconsistent

1 with the provisions of this article, for the proper
2 determination of all claims for compensation under this
3 article."

4 "§36-30-7.

5 "(a) This article shall not be construed to give any
6 person a right of action against the State of Alabama in any
7 court for the recovery of the compensation authorized by this
8 article. This article shall not be construed to take away any
9 right of action in any court under any other law for the
10 recovery of damages for the death of a ~~peace officer,~~
11 ~~firefighter, or rescue squad member~~ first responder; nor, in
12 the event of the death of a ~~peace officer, firefighter, or~~
13 ~~rescue squad member~~ first responder who was an employee of the
14 State of Alabama at the time of the injury which proximately
15 caused his or her death, shall this article be construed to
16 take away the right or privilege of the surviving dependents
17 of ~~such peace officer, firefighter, or rescue squad member~~ the
18 first responder to file a claim for damages with the State
19 Board of Adjustment pursuant to any other law.

20 "(b) The decision of the awarding authority shall be
21 final and shall not be subject to appeal or review by any
22 court."

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 29-MAR-22, as amended.

Jeff Woodard
Clerk

Senate

07-APR-22

Passed