

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2533

By: Humphrey

8 COMMITTEE SUBSTITUTE

9 An Act relating to workers' compensation; amending
10 85A O.S. 2021, Section 47, which relates to death
benefits; providing for payment of death benefits to
11 beneficiaries of certain law enforcement officers and
related personnel; providing for basis of payment due
12 to death from COVID-19 virus or variants; providing
for determinations related to cause of death;
13 providing for effect of death certificate; providing
for payment of benefits based on deaths caused by
14 COVID-19 virus or variants occurring on or after
designated date; and declaring an emergency.

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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 85A O.S. 2021, Section 47, is
19 amended to read as follows:

20 Section 47. A. Time of death. If death does not result within
21 one (1) year from the date of the accident or within the first three
22 (3) years of the period for compensation payments fixed by the
23 compensation judgment, a rebuttable presumption shall arise that the
24 death did not result from the injury.

1 B. Common law spouse. A common law spouse shall not be
2 entitled to benefits under this section unless he or she obtains an
3 order from the Workers' Compensation Commission ruling that a common
4 law marriage existed between the decedent and the surviving spouse.
5 The ruling by the Commission shall be exclusive in regard to
6 benefits under this section regardless of any district court
7 decision regarding the probate of the decedent's estate.

8 C. Beneficiaries - Amounts. If an injury or occupational
9 illness causes death, weekly income benefits shall be payable as
10 follows:

11 1. If there is a surviving spouse, a lump-sum payment of One
12 Hundred Thousand Dollars (\$100,000.00) and seventy percent (70%) of
13 the lesser of the deceased employee's average weekly wage and the
14 state average weekly wage. In addition to the benefits theretofore
15 paid or due, two (2) years' indemnity benefit in one lump sum shall
16 be payable to a surviving spouse upon remarriage;

17 2. If there is a surviving spouse and a child or children, a
18 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and
19 fifteen percent (15%) of the lesser of the deceased employee's
20 average weekly wage and the state average weekly wage to each child.
21 If there are more than two children, each child shall receive a pro
22 rata share of Fifty Thousand Dollars (\$50,000.00) and thirty percent
23 (30%) of the deceased employee's average weekly wage;

1 3. If there is a child or children and no surviving spouse, a
2 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and
3 fifty percent (50%) of the lesser of the deceased employee's average
4 weekly wage and the state average weekly wage to each child. If
5 there are more than two children, each child shall receive a pro
6 rata share of one hundred percent (100%) of the lesser of the
7 deceased employee's average weekly wage and the state average weekly
8 wage. With respect to the lump-sum payment, if there are more than
9 six children, each child shall receive a pro rata share of One
10 Hundred Fifty Thousand Dollars (\$150,000.00);

11 4. If there is no surviving spouse or children, each legal
12 guardian, if financially dependent on the employee at the time of
13 death, shall receive twenty-five percent (25%) of the lesser of the
14 deceased employee's average weekly wage and the state average weekly
15 wage until the earlier of death, becoming eligible for Social
16 Security, obtaining full-time employment, or five (5) years from the
17 date benefits under this section begin; and

18 5. The employer shall pay the actual funeral expenses, not
19 exceeding the sum of Ten Thousand Dollars (\$10,000.00).

20 D. The weekly income benefits payable to the surviving spouse
21 under this section shall continue while the surviving spouse remains
22 unmarried. In no event shall this spousal weekly income benefit be
23 diminished by the award to other beneficiaries. The weekly income
24 benefits payable to any child under this section shall terminate on

1 the earlier of death, marriage, or reaching the age of eighteen
2 (18). However, if the child turns eighteen (18) and is:

3 1. Enrolled as a full-time student in high school or is being
4 schooled by other means pursuant to the Oklahoma Constitution;

5 2. Enrolled as a full-time student in any accredited
6 institution of higher education or vocational or technology
7 education; or

8 3. Physically or mentally incapable of self-support,
9 then he or she may continue to receive weekly income benefits under
10 this section until the earlier of reaching the age of twenty-three
11 (23) or, with respect to paragraphs 1 and 2 of this subsection, no
12 longer being enrolled as a student, and with respect to paragraph 3
13 of this subsection, becoming capable of self-support.

14 E. If any member of the class of beneficiaries who receive a
15 pro rata share of weekly income benefits becomes ineligible to
16 continue to receive benefits, the remaining members of the class
17 shall receive adjusted weekly income benefits equal to the new class
18 size.

19 F. To receive benefits under this section, a beneficiary or his
20 or her guardian, if applicable, shall file a proof of loss form with
21 the Commission. All questions of dependency shall be determined as
22 of the time of the injury. The employer shall initiate payment of
23 benefits within fifteen (15) days of the Commission's determination
24 of the proper beneficiaries. The Commission shall appoint a

1 guardian ad litem to represent known and unknown minor children and
2 the guardian ad litem shall be paid a reasonable fee for his or her
3 services.

4 G. Any law enforcement officer employed by any entity organized
5 within the executive branch of state government, and any
6 correctional officer, fugitive apprehension agent, or probation and
7 parole officer employed by the Oklahoma Department of Corrections
8 who died on or after March 15, 2020, as a result of the COVID-19
9 virus, including any variant of that virus, whether the variant was
10 known by a specific name at the time the disease was contracted or
11 not or whether the variant was known by specific name at the time of
12 death or not, shall be deemed by operation of law to have died while
13 in the course of employment and that the death from the COVID-19
14 virus or any of its variants as provided by this subsection arose
15 out of the employment in which the decedent was engaged and the
16 death benefits provided by this section shall be payable to the
17 beneficiaries of the decedent in the same manner as prescribed by
18 law for any other death arising out of and during the course of
19 employment. A death certificate which identifies the COVID-19 virus
20 or any of its variants, as described by this subsection, as the
21 cause of death shall be conclusive with regard to the payment of the
22 death benefits to the beneficiary or beneficiaries of the decedent.

23 SECTION 2. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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