

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 2533

By: Humphrey

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9                               COMMITTEE SUBSTITUTE

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

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

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

          Section 47.   A.   Time of death.   If death does not result within  
one (1) year from the date of the accident or within the first three  
(3) years of the period for compensation payments fixed by the

1 compensation judgment, a rebuttable presumption shall arise that the  
2 death did not result from the injury.

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

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

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

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

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

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

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

22 D. The weekly income benefits payable to the surviving spouse  
23 under this section shall continue while the surviving spouse remains  
24 unmarried. In no event shall this spousal weekly income benefit be

1 diminished by the award to other beneficiaries. The weekly income  
2 benefits payable to any child under this section shall terminate on  
3 the earlier of death, marriage, or reaching the age of eighteen  
4 (18). However, if the child turns eighteen (18) and is:

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

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

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

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

21 F. To receive benefits under this section, a beneficiary or his  
22 or her guardian, if applicable, shall file a proof of loss form with  
23 the Commission. All questions of dependency shall be determined as  
24 of the time of the injury. The employer shall initiate payment of

1 benefits within fifteen (15) days of the Commission's determination  
2 of the proper beneficiaries. The Commission shall appoint a  
3 guardian ad litem to represent known and unknown minor children and  
4 the guardian ad litem shall be paid a reasonable fee for his or her  
5 services.

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

SECTION 2. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/03/2022 - DO PASS, As Amended.