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STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4371

By: Ford of the House

and

Weaver of the Senate

## AS INTRODUCED

An Act relating to workers' compensation; amending 85A O.S. 2021, Section 47, which relates to beneficiaries in case of death; providing for continuation of payments to certain surviving spouses of public safety officers; and providing an effective date.

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

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 compensation judgment, a rebuttable presumption shall arise that the 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. The weekly income benefits payable to the surviving  
23 spouse of a municipal police officer, a municipal firefighter, a  
24 county sheriff or deputy sheriff, a state trooper, or an emergency

1 medical technician shall continue whether or not the surviving  
2 spouse remarries. In no event shall this spousal weekly income  
3 benefit be diminished by the award to other beneficiaries. The  
4 weekly income benefits payable to any child under this section shall  
5 terminate on the earlier of death, marriage, or reaching the age of  
6 eighteen (18). However, if the child turns eighteen (18) and is:

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

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

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

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

23 F. To receive benefits under this section, a beneficiary or his  
24 or her guardian, if applicable, shall file a proof of loss form with

1 the Commission. All questions of dependency shall be determined as  
2 of the time of the injury. The employer shall initiate payment of  
3 benefits within fifteen (15) days of the Commission's determination  
4 of the proper beneficiaries. The Commission shall appoint a  
5 guardian ad litem to represent known and unknown minor children and  
6 the guardian ad litem shall be paid a reasonable fee for his or her  
7 services.

8 SECTION 2. This act shall become effective November 1, 2022.

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10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated  
11 02/16/2022 - DO PASS, As Coauthored.  
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