



# FIRE MARSHAL BULLETIN

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## Public Safety Officers' Benefit Act

DEPARTMENT OF STATE POLICE, Fire Marshal Division, 7150 Harris Drive, Lansing, MI 48913

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### Benefits

The Public Safety Officers' Benefits (PSOB) Act provides a \$143,943 benefit as of October 1, 1998, to the eligible survivors of a public safety officer whose death is the direct and proximate result of a traumatic injury sustained in the line of duty. The act also provides the same benefit to a public safety officer who has been permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty. To qualify, the injury must permanently prevent the officer from performing any gainful work.

### Effective Dates

Death benefits:

State and local law enforcement officers and fire fighters are covered for injuries sustained on or after September 29, 1976.

Federal law enforcement officers and fire fighters are covered for injuries sustained on or after October 12, 1984.

Members of Federal, State, and local public rescue squads and ambulance crews are covered for injuries sustained on or after October 15, 1986.

Disability benefits:

Federal, State and local law enforcement officers, fire fighters, and members of public rescue squads and ambulance crews are covered for injuries sustained on or after November 29, 1990.

### Eligible Public Safety Officers

A public safety officer is a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, fire fighter, or member of a public rescue squad or ambulance crew. Law enforcement officers include but are not limited to police, corrections, probation, parole, and judicial officers. Volunteer fire fighters and members of volunteer rescue squads and ambulance crews are covered if they are officially recognized or designated members of legally organized volunteer fire, rescue, or ambulance departments.

A public safety officer's death or total and permanent disability must result from injuries sustained in the line of duty. "Line of duty" means any action that the public safety officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service. If law enforcement, fire suppression, rescue, or ambulance service is not a person's primary function, then to be covered by this act, that person must be engaged in his or her authorized law enforcement, fire suppression, rescue, or ambulance duties when the fatal or disabling injury is sustained.

## **Public Agency**

"Public agency" means the United States, any U.S. State, the District of Columbia, the Commonwealth of Puerto Rico, any U.S. territory or possession, any unit of local government, any combination of such States or units, and any department, agency, or instrumentality of the foregoing.

### Eligible Survivors

Once the U.S. Department of Justice (DOJ) approves a claim for death benefits, the benefit will be paid in a lump sum as follows:

If there is no surviving child of the deceased officer, to the surviving spouse.

If there is a surviving child or children and a surviving spouse, one-half to the child or children in equal shares and one-half to the surviving spouse.

If there is no surviving spouse, to the child or children of the officer in equal shares.

If none of the above, to the parent or parents of the officer in equal shares.

A public safety officer must be survived by an eligible survivor for a benefit to be paid. Under the act, public safety officers cannot name their own beneficiaries. Under the act, "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officers death is:

18 years of age or younger.

19 through 22 years of age, who has not completed 4 years of education beyond high school, and who is pursuing a full-time course of study or training.

19 years of age or older and incapable of self-support because of a physical or mental disability.

### Limitations And Exclusions

The following are exclusions to benefits. No benefit can be paid:

If the death or permanent and total disability was caused by the intentional misconduct of the public safety officer or the officer intended to bring about his or her own death or permanent and total disability.

If the public safety officer was voluntarily intoxicated at the time of death or permanent and total disability.

If the public safety officer was performing his or her duties in a grossly negligent manner at the time of death or permanent and total disability.

To a claimant whose actions were a substantial contributing factor to the death of the public safety officer.

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To military law enforcement officers, fire fighters, rescue squads, ambulance crews, or to any of their survivors.

Deaths or permanent and total disabilities resulting from stress and strain, occupational illness, or chronic, progressive, or congenital disease such as heart or pulmonary disease, are not covered by the act unless there is a traumatic injury that is a substantial factor in the death or permanent and total disability. Medical proof of the traumatic injury, such as a blood test for carbon monoxide, may be essential for coverage in such cases.

### **Documentation - Autopsy**

As stated earlier in this bulletin, a benefit is provided to eligible survivors of a public safety officer whose death is the "...direct and proximate result of a traumatic injury sustained in the line of duty.". It is not necessary that an autopsy be performed, only that a death certificate be provided indicating the proximate cause. Remember though that there must be evidence presented to demonstrate that the person was not intoxicated. The presence of carbon monoxide in the blood is also often a factor. There may be other factors such as exposure to hazardous materials which may be pivotal in any discussion of whether to grant the claim or not.

Documentation to support the claim will disappear with time. If no autopsy is conducted, much of the proof will immediately be lost and not be retrievable. Exposure to hazardous materials, evidence of trauma, etc., may also be demonstrated by the condition and contamination of personal protective clothing.

For these reasons, among others, it is imperative that certain actions be taken immediately following a potentially claimable death or injury to make certain that accurate documentation exists. Attached as an appendix to this bulletin is a "Firefighter Autopsy Protocol" which should be followed in such a case. More information is available on this topic from the United States Fire Administration. Ask for Publication Number FA-156. You can obtain it by calling the 24-hour publication line at (301) 447-1660 or the Publications Center at (301) 447-1189 between 8:30a – 5:00p. You can also order by mail from:

Publications Center  
United States Fire Administration  
16825 South Seton Avenue  
Emmitsburg, MD 21727

### **Reduction Of Benefits**

State and local benefits should not be reduced by benefits received under the PSOB statute. The PSOB benefit is not reduced by any benefit that may be received at the State or local level. The benefit is reduced by certain payments made under the District of Columbia Code and may reduce benefits under Section 8191 of the Federal Employees' Compensation Act.

### **Attachment: Tax Exemption**

The act ensures that the benefit will not be subject to execution or attachment by creditors. The Internal Revenue Service has ruled that the benefit is not subject to Federal income tax (Revenue Ruling No. 77-235, IRB 1977-28) or to Federal estate tax (Revenue Ruling No. 79-397).

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## **Attorney Fees**

The Public Safety Officers' Benefits Act of 1976 (Public Law 94-430) authorized DOJ to prescribe the maximum fee that a representative may charge a claimant for services rendered in connection with any claim before the Bureau of Justice Assistance. Contracts for a stipulated fee and contingent fee arrangements are especially prohibited by the PSOB regulations, 28 CFR 32.22(b). DOJ assumes no responsibility for payment.

## **Filing A Claim**

Eligible survivors or disability claimants may file claims directly with DOJ or through the public safety agency, organization, or unit in which the public safety officer served. Normally, the public safety agency provides the information that enables DOJ to determine whether the circumstances of the death or permanent and total disability entitle a claimant to a benefit payment. The public safety agency prepares a Report of Public Safety Officer's Death or Permanent and Total Disability Claim form to accompany the claims.

DOJ will make the final determination on whether and to whom a benefit should be paid.

## **Further Information**

For more information about the Public Safety Officers' Benefits Act, please contact:

Bureau of Justice Assistance, Special Programs  
Public Safety Officers' Benefit Program  
810 7th Street N.W., 4th Floor  
Washington, DC 20531  
Phone: 202-307-0635

If you have any questions regarding this bulletin, please contact the Michigan Fire Fighters Training Council at (517) 322-5444.

Please be advised that recipients of any Fire Marshal Bulletin may treat the contents as a news release. Feel free to insert your department, association, or individual name where appropriate when contact is made with local news media or other sources of dissemination.

## **Benefits**

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Bureau of Justice Assistance, Special Programs

Public Safety Officers' Benefit Program

810 7th Street N.W., 4th Floor

Washington, DC 20531

Phone: 202-307-0635

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