

1 HB340
2 181412-2
3 By Representatives Fridy, Rowe, Standridge, Treadaway, Todd,
4 Daniels, Farley, Sanderford, Butler, Blackshear, Harbison,
5 Collins, Nordgren, Mooney, Hanes, Ledbetter, Weaver,
6 Williams (P), Harper, Ball, Wood, Greer, Shedd, Whorton (I),
7 Brown and Holmes (M)
8 RFD: Public Safety and Homeland Security
9 First Read: 02-MAR-17

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8 SYNOPSIS: Under existing law, the benefits payable to
9 the surviving spouse of a law enforcement officer,
10 firefighter, rescue squad member, or certain
11 volunteer firefighters, killed in the line of duty
12 cease upon his or her remarriage or at the
13 expiration of 500 weeks, whichever is earlier.

14 This bill would create an exception that
15 would allow the surviving spouse of a law
16 enforcement officer, firefighter, rescue squad
17 member, or certain volunteer firefighters, killed
18 in the line of duty to continue to receive the
19 benefits for life.

20 This bill would also allow the surviving
21 spouse to receive benefits after remarriage.

22 Under existing law, the benefits payable to
23 a surviving minor dependent of a law enforcement
24 officer, firefighter, rescue squad member, or
25 certain volunteer firefighters, killed in the line
26 of duty cease upon his or her reaching the age of

1 majority or upon the expiration of 500 weeks,
2 whichever is earlier.

3 This bill would provide that a surviving
4 minor dependent of a law enforcement officer,
5 firefighter, rescue squad member, or certain
6 volunteer firefighters, killed in the line of duty
7 shall continue to receive workers' compensation
8 benefits until he or she reaches the age of
9 majority.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Sections 25-5-60, 25-5-66, 25-5-68, and
16 25-5-69, Code of Alabama 1975, relating to workers'
17 compensation, to provide that the surviving spouse of a law
18 enforcement officer, firefighter, rescue squad member, or
19 certain volunteer firefighters, killed in the line of duty
20 shall continue to receive workers' compensation benefits after
21 remarriage; to provide that the surviving spouse of a law
22 enforcement officer, firefighter, rescue squad member, or
23 certain volunteer firefighters, killed in the line of duty
24 shall receive workers' compensation benefits for life; and to
25 provide that a surviving minor dependent of a law enforcement
26 officer, firefighter, rescue squad member, or certain
27 volunteer firefighters, killed in the line of duty shall

1 continue to receive workers' compensation benefits until he or
2 she reaches the age of majority.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 25-5-60, 25-5-66, 25-5-68, and
5 25-5-69, Code of Alabama 1975, are amended to read as follows:

6 "§25-5-60.

7 "In death cases, where the death results proximately
8 from the accident within three years, compensation payable to
9 dependents shall be computed on the following basis and shall
10 be paid to the persons entitled thereto without
11 administration, or to a guardian or other person as the court
12 may direct, for the use and benefit of the person entitled
13 thereto.

14 "(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF
15 BENEFITS.

16 "a. If the deceased employee leaves one dependent,
17 there shall be paid to the dependent 50 percent of the average
18 weekly earnings of the deceased.

19 "b. If the deceased employee leaves two or more
20 dependents, there shall be paid to the dependents 66 2/3
21 percent of the average weekly earnings of the deceased.

22 "c. If one of two or more dependents is a widow or
23 widower, the compensation may be paid to the widow or widower
24 for the benefit of herself or himself and the dependent child
25 or children. In its discretion and when it considers
26 appropriate to do so, the court shall at any time have the
27 power to determine, without the appointment of any guardian or

1 guardians, what portion of the compensation shall be applied
2 for the benefit of any child or children and may order the
3 same paid to a guardian or custodian of the child or children.

4 "d. Partial dependents shall be entitled to receive
5 only that proportion of the benefits provided for total
6 dependents which the average amount of the earnings regularly
7 contributed by the deceased employee to the partial dependent,
8 at and for a reasonable time immediately prior to the injury,
9 bore to the total income of the dependent during the same
10 time. If there is one dependent and one or more partial
11 dependents and the dependent is not entitled to the maximum
12 amount of compensation provided in Section 25-5-68, there
13 shall be paid to the partial dependent or partial dependents
14 that percentage of the benefit paid to a full dependent which
15 the contribution of the decedent to the partial dependent's
16 support bears to the total income of the partial dependent.
17 Notwithstanding the foregoing, the compensation payable to the
18 partial dependent or dependents shall not exceed the lesser of
19 16 2/3 percent of the decedent's average weekly wage or the
20 difference between the compensation payable to the full
21 dependent and the maximum weekly compensation benefit payable
22 as provided in Section 25-5-68.

23 "e. ~~If~~ Except as provided in subdivision (3), if
24 compensation is being paid under this article to any
25 dependent, the compensation shall cease upon the death or
26 marriage of the dependent, unless otherwise provided in this
27 article.

1 "f. Upon the cessation of compensation to or for any
2 dependent, for any cause, the compensation of the remaining
3 dependents entitled to compensation shall, for the unexpired
4 period during which their compensation is payable, be that
5 which would have been payable to them had they been the only
6 persons entitled to compensation at the time of death of the
7 deceased employee.

8 "g. If, however, the deceased employee at the time
9 of his or her death has no dependents as herein defined, then
10 within 60 days of his or her death, the employer shall pay a
11 one-time lump sum payment of seven thousand five hundred
12 dollars (\$7,500) to the deceased worker's estate.

13 "(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. The
14 compensation payable in case of death to persons wholly
15 dependent shall be subject to a maximum and minimum weekly
16 compensation as stated in Section 25-5-68, but if at the time
17 of injury the employee receives earnings of less than the
18 minimum stated in Section 25-5-68, then the compensation shall
19 be the full amount of such earnings per week. The compensation
20 payable to partial dependents shall be subject to a maximum
21 and minimum weekly compensation as stated in Section 25-5-68,
22 but if the income loss of the partial dependents by the death
23 is less than the minimum weekly compensation stated in Section
24 25-5-68, then the dependents shall receive the full amount of
25 their income loss. This compensation shall be paid during
26 dependency, not exceeding 500 weeks, except as provided for in
27 subsections (f) and (g) of Section 25-5-68. Payments shall be

1 made at the intervals when the earnings were payable, as
2 nearly as may be, unless the parties otherwise agree.

3 (3) If a dependent is the surviving spouse of a law
4 enforcement officer, a firefighter, a volunteer firefighter
5 who is a member of an organized volunteer fire department
6 registered with the Alabama Forestry Commission, or a rescue
7 squad member killed as a result of injuries received while
8 engaged in the performance of his or her duties, the
9 compensation does not cease upon remarriage.

10 "§25-5-66.

11 "(a) In case of the remarriage of a widow of an
12 employee who has another dependent, the unpaid balance of
13 compensation, which would otherwise become due her, shall be
14 paid to the dependent or may, on approval by the court, be
15 paid to some suitable person designated by the court for the
16 use and benefit of the dependent. Payment to that person shall
17 discharge the employer from any further liability.

18 "(b) Subsection (a) shall not apply to the surviving
19 spouse of a law enforcement officer, a firefighter, a
20 volunteer firefighter who is a member of an organized
21 volunteer fire department registered with the Alabama Forestry
22 Commission, or a rescue squad member who was killed as a
23 result of injuries received while engaged in the performance
24 of his or her duties.

25 "§25-5-68.

26 "(a) The compensation paid under this article shall
27 be not less than, except as otherwise provided in this

1 article, 27 1/2 percent of the average weekly wage of the
2 state as determined by the secretary, rounded to the nearest
3 dollar, pursuant to subsection (b) of this section and, in any
4 event, no more than 100 percent of the average weekly wage.
5 Notwithstanding the foregoing, the maximum compensation
6 payable for permanent partial disability shall be no more than
7 the lesser of \$220.00 per week or 100 percent of the average
8 weekly wage.

9 "(b) For the purpose of this section, the average
10 weekly wage of the state shall be determined by the secretary
11 as follows: On or before June 1 of each year, the total wages
12 reported on contribution reports to the unemployment
13 compensation division of the department for the preceding
14 calendar year shall be divided by the average monthly number
15 of insured workers, which shall be determined by dividing the
16 sum of the number of insured workers reported for each month
17 of the preceding year by 12. The average annual wage thus
18 obtained shall be divided by 52, and the average weekly wage
19 thus determined rounded to the nearest cent. The average
20 weekly wage as so determined shall be applicable for the
21 12-month period beginning July 1 following the June 1
22 determination. If the determination shall not be made on or
23 before June 1, the effective date of the average weekly wage
24 when determined shall be the first day of the month next
25 following 30 days after the determination is made.

26 "(c) The maximum and minimum weekly benefit shall
27 not be changed on any July 1 or as a result of any annual

1 determination, unless the computation provided for in
2 subsection (b) of this section results in an increase or
3 decrease of two dollars (\$2) or more in the amount of either
4 the maximum or minimum benefit.

5 "(d) In no event, except as provided for permanent
6 total disability in subdivision (a)(4) of Section 25-5-57 or
7 except for compensation benefits payable for permanent partial
8 and temporary total disability in connection with a disability
9 scheduled in subdivisions (1) and (3) of subsection (a) of
10 Section 25-5-57 or except as provided for in subsections (f)
11 or (g), shall the total amount of compensation payable for an
12 accident or an occupational disease exceed the product of 500
13 times the maximum weekly benefit applicable on the date of the
14 accident.

15 "(e) The minimum and maximum benefits that are in
16 effect on the date of the accident which results in injury or
17 death shall be applicable for the full period during which
18 compensation is payable.

19 "(f) In no event shall the compensation benefits
20 payable to the surviving spouse of a law enforcement officer,
21 a firefighter, a volunteer firefighter who is a member of an
22 organized volunteer fire department registered with the
23 Alabama Forestry Commission, or a rescue squad member who was
24 killed as a result of injuries received while engaged in the
25 performance of his or her duties terminate during the life of
26 the surviving spouse.

1 "(g) Notwithstanding any other provision of this
2 article, the compensation benefits payable to a surviving
3 minor dependent of a law enforcement officer, a firefighter, a
4 volunteer firefighter who is a member of an organized
5 volunteer fire department registered with the Alabama Forestry
6 Commission, or a rescue squad member who was killed as a
7 result of injuries received while engaged in the performance
8 of his or her duties shall continue until the minor dependent
9 reaches the age of majority.

10 "\$25-5-69.

11 "~~¶~~ Except when the dependent is the surviving
12 spouse of a law enforcement officer, a firefighter, a
13 volunteer firefighter who is a member of an organized
14 volunteer fire department registered with the Alabama Forestry
15 Commission, or a rescue squad member who was killed as a
16 result of injuries received while engaged in the performance
17 of his or her duties, if compensation is being paid under this
18 article to any dependent, such compensation shall cease upon
19 the death or marriage of such dependent. Where compensation is
20 being paid under this chapter to any dependent, in no event
21 shall such dependent receive more than the proportion which
22 the amount received of the deceased employee's income during
23 his or her life bears to the compensation provided under this
24 article."

25 Section 2. (a) All of the following shall apply to
26 the compensation payable under Chapter 29A of Title 36, Code
27 of Alabama 1975, to the surviving spouse of a law enforcement

1 officer, a firefighter, a volunteer firefighter who is a
2 member of an organized volunteer fire department registered
3 with the Alabama Forestry Commission, or a rescue squad member
4 who was killed as a result of injuries received while engaged
5 in the performance of his or her duties:

6 (1) The compensation shall continue during the
7 entire period of survivorship.

8 (2) The compensation does not expire upon
9 remarriage.

10 (b) The compensation payable under Chapter 29A of
11 Title 36, Code of Alabama 1975, to a surviving minor dependent
12 of a law enforcement officer, a firefighter, a volunteer
13 firefighter who is a member of an organized volunteer fire
14 department registered with the Alabama Forestry Commission, or
15 a rescue squad member who was killed as a result of injuries
16 received while engaged in the performance of his or her duties
17 shall continue until the minor reaches the age of majority.

18 Section 3. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.