

1 HB192
2 189455-2
3 By Representatives Fridy, Poole, Farley, Holmes (M), Mooney,
4 Standridge, Shedd, Pettus, Faulkner, Drake and Rowe
5 RFD: State Government
6 First Read: 11-JAN-18

1 may direct, for the use and benefit of the person entitled
2 thereto.

3 "(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF
4 BENEFITS.

5 "a. If the deceased employee leaves one dependent,
6 there shall be paid to the dependent 50 percent of the average
7 weekly earnings of the deceased.

8 "b. If the deceased employee leaves two or more
9 dependents, there shall be paid to the dependents $66 \frac{2}{3}$
10 percent of the average weekly earnings of the deceased.

11 "c. If one of two or more dependents is a widow or
12 widower, the compensation may be paid to the widow or widower
13 for the benefit of herself or himself and the dependent child
14 or children. In its discretion and when it considers
15 appropriate to do so, the court shall at any time have the
16 power to determine, without the appointment of any guardian or
17 guardians, what portion of the compensation shall be applied
18 for the benefit of any child or children and may order the
19 same paid to a guardian or custodian of the child or children.

20 "d. Partial dependents shall be entitled to receive
21 only that proportion of the benefits provided for total
22 dependents which the average amount of the earnings regularly
23 contributed by the deceased employee to the partial dependent,
24 at and for a reasonable time immediately prior to the injury,
25 bore to the total income of the dependent during the same
26 time. If there is one dependent and one or more partial
27 dependents and the dependent is not entitled to the maximum

1 amount of compensation provided in Section 25-5-68, there
2 shall be paid to the partial dependent or partial dependents
3 that percentage of the benefit paid to a full dependent which
4 the contribution of the decedent to the partial dependent's
5 support bears to the total income of the partial dependent.
6 Notwithstanding the foregoing, the compensation payable to the
7 partial dependent or dependents shall not exceed the lesser of
8 16 2/3 percent of the decedent's average weekly wage or the
9 difference between the compensation payable to the full
10 dependent and the maximum weekly compensation benefit payable
11 as provided in Section 25-5-68.

12 "e. ~~If~~ Except as provided in subdivision (3), if
13 compensation is being paid under this article to any
14 dependent, the compensation shall cease upon the death or
15 marriage of the dependent, unless otherwise provided in this
16 article.

17 "f. Upon the cessation of compensation to or for any
18 dependent, for any cause, the compensation of the remaining
19 dependents entitled to compensation shall, for the unexpired
20 period during which their compensation is payable, be that
21 which would have been payable to them had they been the only
22 persons entitled to compensation at the time of death of the
23 deceased employee.

24 "g. If, however, the deceased employee at the time
25 of his or her death has no dependents as herein defined, then
26 within 60 days of his or her death, the employer shall pay a

1 one-time lump sum payment of seven thousand five hundred
2 dollars (\$7,500) to the deceased worker's estate.

3 "(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. The
4 compensation payable in case of death to persons wholly
5 dependent shall be subject to a maximum and minimum weekly
6 compensation as stated in Section 25-5-68, but if at the time
7 of injury the employee receives earnings of less than the
8 minimum stated in Section 25-5-68, then the compensation shall
9 be the full amount of such earnings per week. The compensation
10 payable to partial dependents shall be subject to a maximum
11 and minimum weekly compensation as stated in Section 25-5-68,
12 but if the income loss of the partial dependents by the death
13 is less than the minimum weekly compensation stated in Section
14 25-5-68, then the dependents shall receive the full amount of
15 their income loss. This compensation shall be paid during
16 dependency, not exceeding 500 weeks, except as provided in
17 subsection (f) of Section 25-5-68. Payments shall be made at
18 the intervals when the earnings were payable, as nearly as may
19 be, unless the parties otherwise agree.

20 "(3) If a dependent is the surviving spouse of a law
21 enforcement officer or firefighter killed as a result of
22 injuries received while engaged in the performance of his or
23 her duties, the compensation does not cease upon remarriage.

24 "§25-5-66.

25 "(a) In case of the remarriage of a ~~widow~~ the
26 surviving spouse of an employee who has another dependent, the
27 unpaid balance of compensation, which would otherwise become

1 due ~~her~~, shall be paid to the dependent or may, on approval by
2 the court, be paid to some suitable person designated by the
3 court for the use and benefit of the dependent. Payment to
4 that person shall discharge the employer from any further
5 liability.

6 "(b) Subsection (a) does not apply to the surviving
7 spouse of a law enforcement officer or firefighter who was
8 killed as a result of injuries received while engaged in the
9 performance of his or her duties.

10 "§25-5-68.

11 "(a) The compensation paid under this article shall
12 be not less than, except as otherwise provided in this
13 article, 27 1/2 percent of the average weekly wage of the
14 state as determined by the secretary, rounded to the nearest
15 dollar, pursuant to subsection (b) of this section and, in any
16 event, no more than 100 percent of the average weekly wage.
17 Notwithstanding the foregoing, the maximum compensation
18 payable for permanent partial disability shall be no more than
19 the lesser of \$220.00 per week or 100 percent of the average
20 weekly wage.

21 "(b) For the purpose of this section, the average
22 weekly wage of the state shall be determined by the secretary
23 as follows: On or before June 1 of each year, the total wages
24 reported on contribution reports to the unemployment
25 compensation division of the department for the preceding
26 calendar year shall be divided by the average monthly number
27 of insured workers, which shall be determined by dividing the

1 sum of the number of insured workers reported for each month
2 of the preceding year by 12. The average annual wage thus
3 obtained shall be divided by 52, and the average weekly wage
4 thus determined rounded to the nearest cent. The average
5 weekly wage as so determined shall be applicable for the
6 12-month period beginning July 1 following the June 1
7 determination. If the determination shall not be made on or
8 before June 1, the effective date of the average weekly wage
9 when determined shall be the first day of the month next
10 following 30 days after the determination is made.

11 "(c) The maximum and minimum weekly benefit shall
12 not be changed on any July 1 or as a result of any annual
13 determination, unless the computation provided for in
14 subsection (b) of this section results in an increase or
15 decrease of two dollars (\$2) or more in the amount of either
16 the maximum or minimum benefit.

17 "(d) In no event, except as provided for permanent
18 total disability in subdivision (a)(4) of Section 25-5-57 or
19 except for compensation benefits payable for permanent partial
20 and temporary total disability in connection with a disability
21 scheduled in subdivisions (1) and (3) of subsection (a) of
22 Section 25-5-57 or except as provided in subsection (f), shall
23 the total amount of compensation payable for an accident or an
24 occupational disease exceed the product of 500 times the
25 maximum weekly benefit applicable on the date of the accident.

26 "(e) The minimum and maximum benefits that are in
27 effect on the date of the accident which results in injury or

1 death shall be applicable for the full period during which
2 compensation is payable.

3 "(f) Notwithstanding any other provision of this
4 article, the compensation benefits payable to a surviving
5 dependent child of a law enforcement officer or firefighter
6 who was killed as a result of injuries received while engaged
7 in the performance of his or her duties shall continue until
8 the dependent child reaches the age of majority. in the
9 performance of his or her duties shall not discontinue at
10 least until the dependent child reaches the age of 18 years.

11 "§25-5-69.

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

23 Section 3. (a) The compensation payable under
24 Chapter 29A of Title 36, Code of Alabama 1975, to the
25 surviving spouse of a law enforcement officer or firefighter
26 who was killed as a result of injuries received while engaged

1 in the performance of his or her duties shall continue upon
2 remarriage.

3 (b) The compensation payable under Chapter 29A of
4 Title 36, Code of Alabama 1975, to a surviving dependent child
5 of a law enforcement officer or firefighter who was killed as
6 a result of injuries received while engaged in the performance
7 ~~of his or her duties shall continue until the minor reaches~~
8 ~~the age of majority.~~ of his or her duties shall not
9 discontinue at least until the dependent child reaches the age
10 of 18 years.

11 Section 4. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on State Government
..... 11-JAN-18

Read for the second time and placed
on the calendar..... 08-FEB-18

Read for the third time and passed
as amended..... 20-FEB-18

Yeas 80, Nays 3, Abstains 9

Jeff Woodard
Clerk