

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

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

13 This bill would allow the surviving spouse
14 to receive benefits after remarriage.

15 Under existing law, the benefits payable to
16 a surviving dependent child of a law enforcement
17 officer or firefighter killed in the line of duty
18 cease upon his or her reaching the age of majority
19 or upon the expiration of 500 weeks, whichever is
20 earlier.

21 This bill would allow the surviving
22 dependent child to continue to receive workers'
23 compensation benefits until he or she reaches the
24 age of majority.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Sections 25-5-60, 25-5-66, 25-5-68, and
4 25-5-69, Code of Alabama 1975, relating to workers'
5 compensation; to provide that the surviving spouse of a law
6 enforcement officer or firefighter killed in the line of duty
7 shall continue to receive workers' compensation benefits after
8 remarriage; and to provide that a surviving dependent child of
9 a law enforcement officer or firefighter killed in the line of
10 duty shall continue to receive workers' compensation benefits
11 until he or she reaches the age of majority.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 25-5-60, 25-5-66, 25-5-68, and
14 25-5-69, Code of Alabama 1975, are amended to read as follows:

15 "§25-5-60.

16 "In death cases, where the death results proximately
17 from the accident within three years, compensation payable to
18 dependents shall be computed on the following basis and shall
19 be paid to the persons entitled thereto without
20 administration, or to a guardian or other person as the court
21 may direct, for the use and benefit of the person entitled
22 thereto.

23 "(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF
24 BENEFITS.

25 "a. If the deceased employee leaves one dependent,
26 there shall be paid to the dependent 50 percent of the average
27 weekly earnings of the deceased.

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

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

13 "d. Partial dependents shall be entitled to receive
14 only that proportion of the benefits provided for total
15 dependents which the average amount of the earnings regularly
16 contributed by the deceased employee to the partial dependent,
17 at and for a reasonable time immediately prior to the injury,
18 bore to the total income of the dependent during the same
19 time. If there is one dependent and one or more partial
20 dependents and the dependent is not entitled to the maximum
21 amount of compensation provided in Section 25-5-68, there
22 shall be paid to the partial dependent or partial dependents
23 that percentage of the benefit paid to a full dependent which
24 the contribution of the decedent to the partial dependent's
25 support bears to the total income of the partial dependent.
26 Notwithstanding the foregoing, the compensation payable to the
27 partial dependent or dependents shall not exceed the lesser of

1 16 2/3 percent of the decedent's average weekly wage or the
2 difference between the compensation payable to the full
3 dependent and the maximum weekly compensation benefit payable
4 as provided in Section 25-5-68.

5 "e. ~~If~~ Except as provided in subdivision (3), if
6 compensation is being paid under this article to any
7 dependent, the compensation shall cease upon the death or
8 marriage of the dependent, unless otherwise provided in this
9 article.

10 "f. Upon the cessation of compensation to or for any
11 dependent, for any cause, the compensation of the remaining
12 dependents entitled to compensation shall, for the unexpired
13 period during which their compensation is payable, be that
14 which would have been payable to them had they been the only
15 persons entitled to compensation at the time of death of the
16 deceased employee.

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

22 "(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. The
23 compensation payable in case of death to persons wholly
24 dependent shall be subject to a maximum and minimum weekly
25 compensation as stated in Section 25-5-68, but if at the time
26 of injury the employee receives earnings of less than the
27 minimum stated in Section 25-5-68, then the compensation shall

1 be the full amount of such earnings per week. The compensation
2 payable to partial dependents shall be subject to a maximum
3 and minimum weekly compensation as stated in Section 25-5-68,
4 but if the income loss of the partial dependents by the death
5 is less than the minimum weekly compensation stated in Section
6 25-5-68, then the dependents shall receive the full amount of
7 their income loss. This compensation shall be paid during
8 dependency, not exceeding 500 weeks, except as provided in
9 subsection (f) of Section 25-5-68. Payments shall be made at
10 the intervals when the earnings were payable, as nearly as may
11 be, unless the parties otherwise agree.

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

16 "§25-5-66.

17 "(a) In case of the remarriage of a ~~widow~~ the
18 surviving spouse of an employee who has another dependent, the
19 unpaid balance of compensation, which would otherwise become
20 due ~~her~~, shall be paid to the dependent or may, on approval by
21 the court, be paid to some suitable person designated by the
22 court for the use and benefit of the dependent. Payment to
23 that person shall discharge the employer from any further
24 liability.

25 "(b) Subsection (a) does not apply to the surviving
26 spouse of a law enforcement officer or firefighter who was

1 killed as a result of injuries received while engaged in the
2 performance of his or her duties.

3 "§25-5-68.

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

14 "(b) For the purpose of this section, the average
15 weekly wage of the state shall be determined by the secretary
16 as follows: On or before June 1 of each year, the total wages
17 reported on contribution reports to the unemployment
18 compensation division of the department for the preceding
19 calendar year shall be divided by the average monthly number
20 of insured workers, which shall be determined by dividing the
21 sum of the number of insured workers reported for each month
22 of the preceding year by 12. The average annual wage thus
23 obtained shall be divided by 52, and the average weekly wage
24 thus determined rounded to the nearest cent. The average
25 weekly wage as so determined shall be applicable for the
26 12-month period beginning July 1 following the June 1
27 determination. If the determination shall not be made on or

1 before June 1, the effective date of the average weekly wage
2 when determined shall be the first day of the month next
3 following 30 days after the determination is made.

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

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

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

23 "(f) Notwithstanding any other provision of this
24 article, the compensation benefits payable to a surviving
25 dependent child 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 until
2 the dependent child reaches the age of majority.

3 "§25-5-69.

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

15 Section 2. (a) The compensation payable under
16 Chapter 29A of Title 36, Code of Alabama 1975, to the
17 surviving spouse of a law enforcement officer or firefighter
18 who was killed as a result of injuries received while engaged
19 in the performance of his or her duties shall continue upon
20 remarriage.

21 (b) The compensation payable under Chapter 29A of
22 Title 36, Code of Alabama 1975, to a surviving dependent child
23 of a law enforcement officer or firefighter who was killed as
24 a result of injuries received while engaged in the performance
25 of his or her duties shall continue until the minor reaches
26 the age of majority.

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