

1 HB488
2 218655-2
3 By Representatives Shaver, Wood (D), Pettus, Oliver, Lipscomb,
4 Hurst, Paschal, Bedsole, Ball, Sorrell, Kitchens, Faulkner,
5 Treadaway, Farley, Ledbetter, Standridge, Clouse, Drake,
6 Carns, Isbell, Simpson and Lovvorn
7 RFD: Ways and Means General Fund
8 First Read: 10-MAR-22

1 "(2) COMPENSATION. The money benefits paid on
2 account of injury or death that occurred during the course of
3 employment or activity as a peace officer or firefighter and
4 is in the nature of workers' compensation.

5 "(3) COVID-19. Coronavirus disease 2019, for which
6 the Governor declared a public health emergency on March 13,
7 2020, or any mutation or variant thereof that is declared a
8 public health emergency under the Emergency Management Act.

9 "~~(3)~~ (4) DEPENDENT CHILD. An unmarried child under
10 the age of 18 years, or one over the age of 18 who is
11 physically or mentally incapacitated from earning.

12 "~~(4)~~ (5) DIRECT AND PROXIMATE RESULT OF A HEART
13 ATTACK OR STROKE. Death resulting from a heart attack or
14 stroke caused by engaging or participating in a situation
15 while on duty involving nonroutine stressful or strenuous
16 physical law enforcement, fire suppression, rescue, hazardous
17 material response, emergency medical service, prison security,
18 disaster relief, other emergency medical response activity, or
19 participation in a training exercise that involved nonroutine
20 stressful or strenuous physical activity; and the heart attack
21 or stroke is suffered while still on that duty after so
22 engaging or participating or not more than 24 hours after so
23 engaging or participating.

24 "(6) EMERGENCY MEDICAL SERVICES PERSONNEL (EMSP).
25 ~~The term as defined under Section 22-18-1.~~

1 Emergency medical services personnel, as defined
2 under Section 22-18-1, that are employed by the state or a
3 county or municipality thereof.

4 "~~(5)~~(7) FIREFIGHTER or FIREFIGHTERS. A member or
5 members of a paid or volunteer fire department of a city,
6 town, county, or other subdivision of the state or of a public
7 corporation organized for the purpose of providing water,
8 water systems, fire protection services, or fire protection
9 facilities in the state; and shall include the chief,
10 assistant chief, wardens, engineers, captains, firefighters,
11 and all other officers and employees of such departments who
12 actually engage in fire fighting or in rendering first aid in
13 case of drownings or asphyxiation at the scene of action. The
14 term also includes a firefighter who is employed by the
15 Alabama Forestry Commission and who has been certified by the
16 State Forester as having met the wildland firefighter training
17 standards of the National Wildfire Coordinating Group.

18 "(8) FIRST RESPONDER. The term includes
19 firefighters, peace officers, rescue squad members, and
20 emergency medical services personnel.

21 "~~(6)~~(9) PEACE OFFICER. All sheriffs, deputy
22 sheriffs, constables, municipal police officers, municipal
23 policemen, state and town marshals, members of the highway
24 patrol, state troopers, Alcoholic Beverage Control Board
25 Enforcement Division agents, enforcement officers of the
26 Public Service Commission, revenue agents, and persons who are
27 required by law to comply with the provisions of the Peace

1 Officers' Minimum Standards, employees of the Board of
2 Corrections, highway camp guards, law enforcement officers of
3 the Department of Conservation and Natural Resources, all law
4 enforcement officers of the Alabama Forestry Commission,
5 livestock theft investigators of the Department of Agriculture
6 and Industries, Capitol security guards, narcotic agents and
7 inspectors of the State Board of Health, any other state,
8 county, or municipal officer engaged in quelling a riot, or
9 civil disturbance, and university police officers.

10 "~~(7)~~ (10) RESCUE SQUAD MEMBER. A member of an
11 organized rescue squad of a city, town, county, or other
12 subdivision of the state or of a public corporation, organized
13 for the purpose of providing, within the scope of his or her
14 practice: First aid, treatment, or transport of the sick or
15 injured; rescue or recovery operations at incidents of
16 drowning; search and rescue of individuals lost or incapable
17 of self rescue; or any other emergency or non-emergency
18 incident where the services provided by the rescue squad are
19 deemed necessary for incident stabilization. The term includes
20 all commanders, officers, and members of organized rescue
21 squads that are members of the Alabama Association of Rescue
22 Squads.

23 "(b) For the purposes of this chapter, the following
24 described individuals shall be conclusively presumed to be
25 wholly dependent:

26 "(1) Spouse, unless it be shown that the spouse was
27 voluntarily living apart from the ~~peace officer, firefighter,~~

1 ~~or rescue squad member~~ first responder at the time of death,
2 or unless it be shown that the ~~peace officer, firefighter, or~~
3 ~~rescue squad member~~ first responder was not in any way
4 contributing to the spouse's support and had not in any way
5 contributed to the spouse's support for more than 12 months
6 next preceding the occurrence of the injury causing death.

7 "(2) Minor children under the age of ~~18~~ 19 years and
8 those ~~over 18~~ 19 years or more if physically and mentally
9 incapacitated from earning.

10 "(3) Spouse, child, mother, father, grandmother,
11 grandfather, sister, brother, mother-in-law, and father-in-law
12 who were wholly supported by a deceased ~~peace officer,~~
13 ~~firefighter, or rescue squad member~~ first responder at the
14 time of his or her death and for a reasonable period of time
15 prior thereto shall be considered his or her dependents and
16 payment of compensation may be made to them as hereinafter
17 authorized.

18 "(c) If a ~~paid or volunteer firefighter, peace~~
19 ~~officer, certified police officer, reserve law enforcement~~
20 ~~officer, or rescue squad member is killed while engaged in the~~
21 ~~performance of his or her duties~~ first responder dies in a
22 manner described in Section 36-30-2 and there are no
23 designated beneficiaries, then the compensation shall be paid
24 to his or her dependents or partial dependents in the manner
25 prescribed by Section 36-30-3, and if there are none, the
26 compensation shall be paid to his or her non-dependent
27 children, and if there are none, the compensation shall be

1 paid to his or her parents, and if there are none, the
2 compensation shall be paid to the estate of the deceased.

3 "(d) Any member of the class named in subdivision
4 (b) (3) who regularly derived part of his or her support from
5 the earnings of the deceased ~~peace officer, firefighter, or~~
6 ~~rescue squad member~~ first responder, as the case may be, at
7 the time of his or her death and for a reasonable time
8 immediately prior thereto shall be considered his or her
9 partial dependent and payment of compensation may be made to
10 the partial dependent as hereinafter authorized.

11 "§36-30-2.

12 "(a) (1) a. In the event a ~~peace officer, a~~
13 ~~firefighter, a volunteer firefighter who is a member of an~~
14 ~~organized volunteer fire department registered with the~~
15 ~~Alabama Forestry Commission, or a rescue squad member~~ first
16 responder is killed, either accidentally or deliberately~~;~~ or
17 dies as a result of injuries received while engaged in the
18 performance of his or her duties~~;~~ or dies as a direct and
19 proximate result of a heart attack or stroke~~;~~ or within 14
20 calendar days after being required to report to his or her
21 usual place of employment, he or she contracts COVID-19
22 between March 13, 2020, and December 31, 2022, as confirmed by
23 a positive test or diagnosis by a licensed medical
24 professional, and dies as a result of COVID-19 or
25 complications therefrom, his or her beneficiaries or
26 dependents shall be entitled to compensation in the amount of

1 one hundred thousand dollars (\$100,000) to be paid from the
2 State Treasury as provided in Section 36-30-3, ~~unless such.~~

3 "b. This subsection does not apply if the first
4 responder's death was caused by the willful misconduct of the
5 ~~officer, firefighter, or rescue squad member~~ first responder
6 or was due to his or her own intoxication or his or her
7 willful failure or refusal to use safety appliances provided
8 by his or her employer or his or her willful refusal or
9 neglect to perform a statutory duty or any other willful
10 violation of a law or his or her willful breach of a
11 reasonable rule or regulation governing the performance of his
12 or her duties or his or her employment of which rule or
13 regulation he or she had knowledge. Notwithstanding the
14 foregoing, for purposes of deaths caused by COVID-19, the
15 dependents or beneficiaries of the deceased first responder
16 shall be entitled to the compensation described in paragraph
17 (a)(1)a. regardless of the first responder's vaccination
18 status against COVID-19, and regardless of whether the first
19 responder regularly wore masks or other filtration devices in
20 the performance of his or her duties.

21 "(2) Any ~~peace officer, firefighter, volunteer~~
22 ~~firefighter, or rescue squad member~~ first responder whose
23 death results proximately from an injury received while
24 performing his or her duties, for the purposes of this
25 article, shall be deemed to have been killed while in the
26 performance of such duties. A volunteer firefighter or a
27 member of an organized rescue squad who dies of cardiac

1 arrest, cerebrovascular accident, or pulmonary edema within 24
2 hours after preparing to respond to a called emergency or
3 responding to an emergency; or after serving in his or her
4 capacity at an emergency; or after participating in a required
5 physical training exercise shall be presumed to have died in
6 the performance of his or her duties. If the State Health
7 Officer determines from all available evidence that a
8 volunteer firefighter, who is a member of an organized
9 volunteer fire department registered with the Alabama Forestry
10 Commission, has become totally disabled as a result of any
11 injury received while engaged in the performance of his or her
12 fire-fighting duties and the disability is likely to continue
13 for more than 12 months from the date the injury is incurred,
14 then the firefighter shall be entitled to receive disability
15 compensation in the amount of one hundred thousand dollars
16 (\$100,000) to be paid from the State Treasury as provided in
17 Section 36-30-3. The term total disability shall be
18 interpreted to mean that the injured party is medically
19 disabled to the extent that he or she cannot perform the
20 duties of the job occupation or profession in which he or she
21 was engaging at the time the injury was sustained. The State
22 Health Officer may seek the assistance of any state agency in
23 making the determination of disability and the state agencies
24 shall cooperate with the State Health Officer in such regard.
25 The State Health Officer shall render a decision within 30
26 days of the time a claim is filed. If such volunteer
27 firefighter disagrees with any officer, he or she may appeal

1 the determination to the State Board of Adjustment in
2 accordance with such board's procedures for such appeals.

3 "(b) Beginning in calendar year 2009, the
4 compensation amounts payable under this section shall be
5 adjusted on January 1 of each year to reflect any increase
6 during the preceding calendar year in the consumer price index
7 as published by the U.S. Department of Labor, Bureau of Labor
8 Statistics. The adjustment shall equal the percentage change
9 in the consumer price index during the preceding calendar
10 year.

11 "(c) Any person who currently serves or previously
12 served as a firefighter or law enforcement officer who dies as
13 a result of a firefighter's occupational disease as defined in
14 Section 11-43-144 or 36-30-40, or law enforcement officer's
15 occupational disease as defined in Section 36-30-20 shall be
16 qualified for a state death benefit as provided in subsection
17 (a) as if the person died in the performance of his or her
18 duties, provided he or she satisfies the three years' service
19 requirement and physical examination requirements set forth in
20 Section 11-43-144, 36-30-22, or 36-30-41, respectively.

21 "(d) Any application for the state death benefit
22 that was submitted during the period from April 29, 2010,
23 until May 27, 2015, and denied because the firefighter or law
24 enforcement officer was no longer employed on the date of
25 death may be resubmitted based on subsection (c) within six
26 months of May 27, 2015, and reconsidered and granted by the
27 awarding authority.

1 "(e) The provisions of this section as amended by
2 Act 2021-488 shall be retroactive to any death covered by this
3 chapter as amended after January 1, 2019.

4 "(f) The provisions of this section as amended by
5 this act shall be retroactive to any death caused by COVID-19
6 covered by this chapter as amended between March 13, 2020, and
7 December 31, 2022.

8 "§36-30-3.

9 "The compensation payable to surviving beneficiaries
10 or dependents of ~~peace officers, firefighters, or rescue squad~~
11 ~~members~~ first responders who are killed under the
12 circumstances prescribed in Section 36-30-2 shall be paid to
13 the beneficiaries designated by those ~~peace officers,~~
14 ~~firefighters, or rescue squad members~~ first responders. If no
15 beneficiaries have been designated, or if none remain, the
16 compensation shall be paid to the persons entitled thereto
17 without administration or to a guardian or such other person
18 as the awarding authority may direct for the use of the
19 persons entitled thereto, as follows:

20 "(1) If the deceased ~~peace officer, firefighter, or~~
21 ~~rescue squad member~~ first responder leaves a dependent spouse
22 and no other dependents or partial dependents, the total
23 amount of the compensation provided for in Section 36-30-2
24 shall be paid to the surviving spouse.

25 "(2) If the deceased ~~peace officer, firefighter, or~~
26 ~~rescue squad member~~ first responder leaves a dependent spouse
27 and a dependent child or dependent children and no other

1 dependents or partial dependents, then the total amount of the
2 compensation provided for in Section 36-30-2 shall be paid to
3 such surviving spouse for the benefit of herself or himself
4 and such child or children, or, in its discretion, the
5 awarding authority may determine what portion of the
6 compensation shall be applied for the benefit of such child or
7 children and may order the same paid to a guardian and then
8 order only the remainder of such compensation paid to the
9 surviving spouse.

10 "(3) If the deceased ~~peace officer, firefighter, or~~
11 ~~rescue squad member~~ first responder leaves a dependent child
12 or children and no dependent spouse or other dependents or
13 partial dependents, then such child or children shall be
14 entitled to the total amount of the compensation authorized in
15 Section 36-30-2, and such compensation shall be paid to a duly
16 appointed guardian of such child or children or, in the
17 discretion of the awarding authority, such sum may be paid to
18 the ~~probate~~ judge of probate of the county of residence of the
19 child or children. Any ~~probate~~ judge of probate who receives
20 any ~~moneys~~ monies due any child or children under this article
21 shall handle and administer all such funds in the manner
22 prescribed in Sections 26-7-2 through 26-7-5.

23 "(4) If the deceased ~~peace officer, firefighter, or~~
24 ~~rescue squad member~~ first responder leaves no dependent spouse
25 or dependent child or children but leaves other dependents or
26 partial dependents, then such dependents and partial
27 dependents jointly shall be entitled to the total amount of

1 the compensation provided in Section 36-30-2, and subject to
2 the limitations prescribed hereinbelow, such compensation
3 shall be paid to them in the amounts and manner ordered by the
4 awarding authority.

5 " (5) If a deceased ~~peace officer, firefighter, or~~
6 ~~rescue squad member~~ first responder leaves a dependent spouse
7 and other dependents or partial dependents but no dependent
8 child or children, then the surviving spouse and the other
9 dependents and partial dependents jointly shall be entitled to
10 the total compensation provided in Section 36-30-2; and,
11 subject to the limitations prescribed hereinbelow, ~~such the~~
12 compensation shall be paid to ~~such the~~ dependents in the
13 proportions and in the manner ordered by the awarding
14 authority; provided, however, that at least 50 percent of ~~such~~
15 the compensation must be awarded to the dependent surviving
16 spouse.

17 " (6) If a deceased ~~peace officer, firefighter, or~~
18 ~~rescue squad member~~ first responder leaves a dependent spouse
19 and a dependent child or children and other dependents and
20 partial dependents, then the awarding authority shall
21 determine what portion of ~~such the~~ compensation shall be paid
22 to the spouse and child or children and, in its discretion,
23 may order all ~~such of the~~ compensation be paid to ~~such the~~
24 spouse and child or children, but must provide that at least
25 70 percent ~~thereof of the compensation~~ is paid to them.

26 " (7) If a deceased ~~peace officer, firefighter, or~~
27 ~~rescue squad member~~ first responder leaves a dependent child

1 or children and other dependents and partial dependents but no
2 dependent spouse, then the awarding authority shall determine
3 what portion of ~~such the~~ compensation ~~such the~~ child or
4 children are entitled to receive and, in its discretion, may
5 order all ~~such of the~~ compensation awarded to ~~such the~~ child
6 or children, but must award at least 60 percent ~~thereof of the~~
7 compensation to ~~such the~~ child or children.

8 "(8) If a deceased ~~peace officer, firefighter, or~~
9 ~~rescue squad member~~ first responder leaves no dependent spouse
10 or child or children but leaves other dependents and partial
11 dependents, the awarding authority shall determine what
12 portion of ~~such the~~ compensation each dependent and each
13 partial dependent shall be entitled to receive, but ~~such the~~
14 awarding authority may not award to a partial dependent a
15 greater percent of ~~such the~~ compensation than the percent of
16 the deceased ~~peace officer's, firefighter's, or rescue squad~~
17 ~~member's~~ first responder's average monthly income which was
18 regularly contributed toward ~~such the~~ partial dependent's
19 support for a reasonable time immediately prior to the death
20 of ~~such officer, firefighter, or rescue squad member~~ the first
21 responder. In its discretion, the awarding authority may award
22 all of the compensation provided for in Section 36-30-2 to
23 ~~such the~~ total dependents of the deceased ~~officer,~~
24 ~~firefighter, or rescue squad member~~ first responder to the
25 exclusion of partial dependents.

26 "§36-30-4.

1 "Compensation pursuant to this article for the death
2 of a ~~peace officer, firefighter, or rescue squad member~~ first
3 responder shall be paid only to his or her designated
4 beneficiaries or dependents who at the time of ~~such officer's,~~
5 ~~firefighter's, or rescue squad member's~~ the first responder's
6 death were ~~actually~~ residents of the United States.

7 "§36-30-5.

8 "(a) All claims for compensation as provided in this
9 article shall be presented to the awarding authority within
10 two years from the date of the death of the ~~peace officer,~~
11 ~~firefighter, or rescue squad member~~ first responder or the
12 claims are forfeited. All ~~such~~ claims shall be presented in
13 the form prescribed by the awarding authority, and proof of
14 the facts and circumstances of the ~~peace officer's,~~
15 ~~firefighter's, or rescue squad member's~~ first responder's
16 death and, if necessary, the claimant's relationship to and
17 dependence upon ~~such peace officer, firefighter, or rescue~~
18 ~~squad member~~ the first responder shall be made in the manner
19 prescribed by the awarding authority.

20 "(b) Notwithstanding ~~the provisions of~~ subsection
21 (a), any person who was previously ineligible to claim the
22 compensation provided in this article, but is now eligible to
23 claim the compensation provided in this article because of the
24 enactment of Act 2008-480, and who is making a claim based
25 upon the death of a peace officer or firefighter who died on
26 or after January 1, 2006, but prior to the enactment of Act
27 2008-480, shall be able to present his or her claim for

1 compensation to the awarding authority within one year of the
2 date of enactment of Act 2008-480 regardless of whether the
3 claim was presented within one year from the date of the death
4 of the peace officer or firefighter.

5 "(c) The awarding authority ~~is hereby authorized to~~
6 may prescribe ~~such~~ forms and adopt ~~such~~ rules of evidence and
7 procedure as it deems necessary or proper, not inconsistent
8 with the provisions of this article, for the proper
9 determination of all claims for compensation under this
10 article."

11 "§36-30-7.

12 "(a) This article shall not be construed to give any
13 person a right of action against the State of Alabama in any
14 court for the recovery of the compensation authorized by this
15 article. This article shall not be construed to take away any
16 right of action in any court under any other law for the
17 recovery of damages for the death of a ~~peace officer,~~
18 ~~firefighter, or rescue squad member~~ first responder; nor, in
19 the event of the death of a ~~peace officer, firefighter, or~~
20 ~~rescue squad member~~ first responder who was an employee of the
21 State of Alabama at the time of the injury which proximately
22 caused his or her death, shall this article be construed to
23 take away the right or privilege of the surviving dependents
24 of ~~such peace officer, firefighter, or rescue squad member~~ the
25 first responder to file a claim for damages with the State
26 Board of Adjustment pursuant to any other law.

1 "(b) The decision of the awarding authority shall be
2 final and shall not be subject to appeal or review by any
3 court."

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 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 Ways and Means
General Fund..... 10-MAR-22

Read for the second time and placed
on the calendar 1 amendment 17-MAR-22

Read for the third time and passed
as amended..... 29-MAR-22

Yeas 98, Nays 0, Abstains 2

Jeff Woodard
Clerk