

1 HB488  
2 218655-3  
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

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ENROLLED, An Act,

Relating to state death benefits; to amend Sections 36-30-1 and 36-30-2, as amended by Act 2021-488, 2021 Regular Session, and Sections 36-30-3, 36-30-4, 36-30-5, and 36-30-7, Code of Alabama 1975, to provide a COVID-19 death benefit for first responders; to include emergency medical services personnel within the state death benefit; to provide retroactive effect; and to make nonsubstantive, technical revisions to update the exiting code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 36-30-1 and 36-30-2, as amended by Act 2021-488, 2021 Regular Session, and Sections 36-30-3, 36-30-4, 36-30-5, and 36-30-7, Code of Alabama 1975, are amended to read as follows:

"§36-30-1.

"(a) For the purposes of this chapter, the following words and phrases shall have the following meanings:

"(1) AWARDING AUTHORITY. The State Board of Adjustment, created and existing pursuant to Article 4, Chapter 9 of Title 41.

"(2) COMPENSATION. The money benefits paid on account of injury or death that occurred during the course of

1 employment or activity as a peace officer or firefighter and  
2 is in the nature of workers' compensation.

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

7 ~~"(3)~~ (4) DEPENDENT CHILD. An unmarried child under  
8 the age of 18 years, or one over the age of 18 who is  
9 physically or mentally incapacitated from earning.

10 ~~"(4)~~ (5) DIRECT AND PROXIMATE RESULT OF A HEART  
11 ATTACK OR STROKE. Death resulting from a heart attack or  
12 stroke caused by engaging or participating in a situation  
13 while on duty involving nonroutine stressful or strenuous  
14 physical law enforcement, fire suppression, rescue, hazardous  
15 material response, emergency medical service, prison security,  
16 disaster relief, other emergency medical response activity, or  
17 participation in a training exercise that involved nonroutine  
18 stressful or strenuous physical activity; and the heart attack  
19 or stroke is suffered while still on that duty after so  
20 engaging or participating or not more than 24 hours after so  
21 engaging or participating.

22 "(6) EMERGENCY MEDICAL SERVICES PERSONNEL (EMSP).  
23 ~~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

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

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

1           "(b) For the purposes of this chapter, the following  
2 described individuals shall be conclusively presumed to be  
3 wholly dependent:

4           "(1) Spouse, unless it be shown that the spouse was  
5 voluntarily living apart from the ~~peace officer, firefighter,~~  
6 ~~or rescue squad member~~ first responder at the time of death,  
7 or unless it be shown that the ~~peace officer, firefighter, or~~  
8 ~~rescue squad member~~ first responder was not in any way  
9 contributing to the spouse's support and had not in any way  
10 contributed to the spouse's support for more than 12 months  
11 next preceding the occurrence of the injury causing death.

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

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

23           "(c) If a ~~paid or volunteer firefighter, peace~~  
24 ~~officer, certified police officer, reserve law enforcement~~  
25 ~~officer, or rescue squad member~~ is killed while engaged in the

1 ~~performance of his or her duties~~ first responder dies in a  
2 manner described in Section 36-30-2 and there are no  
3 designated beneficiaries, then the compensation shall be paid  
4 to his or her dependents or partial dependents in the manner  
5 prescribed by Section 36-30-3, and if there are none, the  
6 compensation shall be paid to his or her non-dependent  
7 children, and if there are none, the compensation shall be  
8 paid to his or her parents, and if there are none, the  
9 compensation shall be paid to the estate of the deceased.

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

18 "§36-30-2.

19 "(a) (1) a. In the event a ~~peace officer, a~~  
20 ~~firefighter, a volunteer firefighter who is a member of an~~  
21 ~~organized volunteer fire department registered with the~~  
22 ~~Alabama Forestry Commission, or a rescue squad member~~ first  
23 responder is killed, either accidentally or deliberately<sup>7;</sup> or  
24 dies as a result of injuries received while engaged in the  
25 performance of his or her duties<sup>7;</sup> or dies as a direct and

1 proximate result of a heart attack or stroke~~;~~ or within 14  
2 calendar days after being required to report to his or her  
3 usual place of employment, he or she contracts COVID-19  
4 between March 13, 2020, and December 31, 2022, as confirmed by  
5 a positive test or diagnosis by a licensed medical  
6 professional, and dies as a result of COVID-19 or  
7 complications therefrom, his or her beneficiaries or  
8 dependents shall be entitled to compensation in the amount of  
9 one hundred thousand dollars (\$100,000) to be paid from the  
10 State Treasury as provided in Section 36-30-3, ~~unless such.~~

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

1 status against COVID-19, and regardless of whether the first  
2 responder regularly wore masks or other filtration devices in  
3 the performance of his or her duties.

4 " (2) ~~Any peace officer, firefighter, volunteer~~  
5 ~~firefighter, or rescue squad member~~ first responder whose  
6 death results proximately from an injury received while  
7 performing his or her duties, for the purposes of this  
8 article, shall be deemed to have been killed while in the  
9 performance of such duties. A volunteer firefighter or a  
10 member of an organized rescue squad who dies of cardiac  
11 arrest, cerebrovascular accident, or pulmonary edema within 24  
12 hours after preparing to respond to a called emergency or  
13 responding to an emergency; or after serving in his or her  
14 capacity at an emergency; or after participating in a required  
15 physical training exercise shall be presumed to have died in  
16 the performance of his or her duties. If the State Health  
17 Officer determines from all available evidence that a  
18 volunteer firefighter, who is a member of an organized  
19 volunteer fire department registered with the Alabama Forestry  
20 Commission, has become totally disabled as a result of any  
21 injury received while engaged in the performance of his or her  
22 fire-fighting duties and the disability is likely to continue  
23 for more than 12 months from the date the injury is incurred,  
24 then the firefighter shall be entitled to receive disability  
25 compensation in the amount of one hundred thousand dollars

1 (\$100,000) to be paid from the State Treasury as provided in  
2 Section 36-30-3. The term total disability shall be  
3 interpreted to mean that the injured party is medically  
4 disabled to the extent that he or she cannot perform the  
5 duties of the job occupation or profession in which he or she  
6 was engaging at the time the injury was sustained. The State  
7 Health Officer may seek the assistance of any state agency in  
8 making the determination of disability and the state agencies  
9 shall cooperate with the State Health Officer in such regard.  
10 The State Health Officer shall render a decision within 30  
11 days of the time a claim is filed. If such volunteer  
12 firefighter disagrees with any officer, he or she may appeal  
13 the determination to the State Board of Adjustment in  
14 accordance with such board's procedures for such appeals.

15 "(b) Beginning in calendar year 2009, the  
16 compensation amounts payable under this section shall be  
17 adjusted on January 1 of each year to reflect any increase  
18 during the preceding calendar year in the consumer price index  
19 as published by the U.S. Department of Labor, Bureau of Labor  
20 Statistics. The adjustment shall equal the percentage change  
21 in the consumer price index during the preceding calendar  
22 year.

23 "(c) Any person who currently serves or previously  
24 served as a firefighter or law enforcement officer who dies as  
25 a result of a firefighter's occupational disease as defined in

1 Section 11-43-144 or 36-30-40, or law enforcement officer's  
2 occupational disease as defined in Section 36-30-20 shall be  
3 qualified for a state death benefit as provided in subsection  
4 (a) as if the person died in the performance of his or her  
5 duties, provided he or she satisfies the three years' service  
6 requirement and physical examination requirements set forth in  
7 Section 11-43-144, 36-30-22, or 36-30-41, respectively.

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

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

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

22 "§36-30-3.

23 "The compensation payable to surviving beneficiaries  
24 or dependents of ~~peace officers, firefighters, or rescue squad~~  
25 ~~members~~ first responders who are killed under the

1 circumstances prescribed in Section 36-30-2 shall be paid to  
2 the beneficiaries designated by those ~~peace officers,~~  
3 ~~firefighters, or rescue squad members~~ first responders. If no  
4 beneficiaries have been designated, or if none remain, the  
5 compensation shall be paid to the persons entitled thereto  
6 without administration or to a guardian or such other person  
7 as the awarding authority may direct for the use of the  
8 persons entitled thereto, as follows:

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

14           "(2) If the deceased ~~peace officer, firefighter, or~~  
15 ~~rescue squad member~~ first responder leaves a dependent spouse  
16 and a dependent child or dependent children and no other  
17 dependents or partial dependents, then the total amount of the  
18 compensation provided for in Section 36-30-2 shall be paid to  
19 such surviving spouse for the benefit of herself or himself  
20 and such child or children, or, in its discretion, the  
21 awarding authority may determine what portion of the  
22 compensation shall be applied for the benefit of such child or  
23 children and may order the same paid to a guardian and then  
24 order only the remainder of such compensation paid to the  
25 surviving spouse.

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

14           "(4) If the deceased ~~peace officer, firefighter, or~~  
15 ~~rescue squad member~~ first responder leaves no dependent spouse  
16 or dependent child or children but leaves other dependents or  
17 partial dependents, then such dependents and partial  
18 dependents jointly shall be entitled to the total amount of  
19 the compensation provided in Section 36-30-2, and subject to  
20 the limitations prescribed hereinbelow, such compensation  
21 shall be paid to them in the amounts and manner ordered by the  
22 awarding authority.

23           "(5) If a deceased ~~peace officer, firefighter, or~~  
24 ~~rescue squad member~~ first responder leaves a dependent spouse  
25 and other dependents or partial dependents but no dependent

1 child or children, then the surviving spouse and the other  
2 dependents and partial dependents jointly shall be entitled to  
3 the total compensation provided in Section 36-30-2; and,  
4 subject to the limitations prescribed hereinbelow, ~~such~~ the  
5 compensation shall be paid to ~~such~~ the dependents in the  
6 proportions and in the manner ordered by the awarding  
7 authority; provided, however, that at least 50 percent of ~~such~~  
8 the compensation must be awarded to the dependent surviving  
9 spouse.

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

19 "(7) If a deceased ~~peace officer, firefighter, or~~  
20 ~~rescue squad member~~ first responder leaves a dependent child  
21 or children and other dependents and partial dependents but no  
22 dependent spouse, then the awarding authority shall determine  
23 what portion of ~~such~~ the compensation ~~such~~ the child or  
24 children are entitled to receive and, in its discretion, may  
25 order all ~~such~~ of the compensation awarded to ~~such~~ the child

1 or children, but must award at least 60 percent ~~thereof~~ of the  
2 compensation to ~~such the~~ child or children.

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

21 "§36-30-4.

22 "Compensation pursuant to this article for the death  
23 of a ~~peace officer, firefighter, or rescue squad member~~ first  
24 responder shall be paid only to his or her designated  
25 beneficiaries or dependents who at the time of ~~such officer's,~~

1 ~~firefighter's, or rescue squad member's~~ the first responder's  
2 death were ~~actually~~ residents of the United States.

3 "§36-30-5.

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

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

1 claim was presented within one year from the date of the death  
2 of the peace officer or firefighter.

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

9 "§36-30-7.

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

