
SENATE BILL 5353

State of Washington

62nd Legislature

2011 Regular Session

By Senators Conway, Delvin, Kilmer, and McAuliffe; by request of Law Enforcement Officers and Fire Fighters' Plan 2 Retirement Board

Read first time 01/21/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to the benefits of a surviving spouse of a member
2 of the law enforcement officers' and firefighters' retirement system or
3 Washington state patrol retirement system; and amending RCW 51.32.050.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.32.050 and 2010 c 261 s 3 are each amended to read
6 as follows:

7 (1) Where death results from the injury the expenses of burial not
8 to exceed two hundred percent of the average monthly wage in the state
9 as defined in RCW 51.08.018 shall be paid.

10 (2)(a) Where death results from the injury, a surviving spouse of
11 a deceased worker eligible for benefits under this title shall receive
12 monthly for life or until remarriage payments according to the
13 following schedule:

14 (i) If there are no children of the deceased worker, sixty percent
15 of the wages of the deceased worker;

16 (ii) If there is one child of the deceased worker and in the legal
17 custody of such spouse, sixty-two percent of the wages of the deceased
18 worker;

1 (iii) If there are two children of the deceased worker and in the
2 legal custody of such spouse, sixty-four percent of the wages of the
3 deceased worker;

4 (iv) If there are three children of the deceased worker and in the
5 legal custody of such spouse, sixty-six percent of the wages of the
6 deceased worker;

7 (v) If there are four children of the deceased worker and in the
8 legal custody of such spouse, sixty-eight percent of the wages of the
9 deceased worker; or

10 (vi) If there are five or more children of the deceased worker and
11 in the legal custody of such spouse, seventy percent of the wages of
12 the deceased worker.

13 (b) A surviving spouse of a member of the law enforcement officers'
14 and firefighters' retirement system under chapter 41.26 RCW, or the
15 state patrol retirement system under chapter 43.43 RCW, who is entitled
16 to benefits under this section must continue to receive benefits under
17 this section monthly for life.

18 (c) Where the surviving spouse does not have legal custody of any
19 child or children of the deceased worker or where after the death of
20 the worker legal custody of such child or children passes from such
21 surviving spouse to another, any payment on account of such child or
22 children not in the legal custody of the surviving spouse shall be made
23 to the person or persons having legal custody of such child or
24 children. The amount of such payments shall be five percent of the
25 monthly benefits payable as a result of the worker's death for each
26 such child but such payments shall not exceed twenty-five percent.
27 Such payments on account of such child or children shall be subtracted
28 from the amount to which such surviving spouse would have been entitled
29 had such surviving spouse had legal custody of all of the children and
30 the surviving spouse shall receive the remainder after such payments on
31 account of such child or children have been subtracted. Such payments
32 on account of a child or children not in the legal custody of such
33 surviving spouse shall be apportioned equally among such children.

34 ~~((+e))~~ (d) Except as provided in (b) of this subsection, payments
35 to the surviving spouse of the deceased worker shall cease at the end
36 of the month in which remarriage occurs: PROVIDED, That a monthly
37 payment shall be made to the child or children of the deceased worker
38 from the month following such remarriage in a sum equal to five percent

1 of the wages of the deceased worker for one child and a sum equal to
2 five percent for each additional child up to a maximum of five such
3 children. Payments to such child or children shall be apportioned
4 equally among such children. Such sum shall be in place of any
5 payments theretofore made for the benefit of or on account of any such
6 child or children. If the surviving spouse does not have legal custody
7 of any child or children of the deceased worker, or if after the death
8 of the worker, legal custody of such child or children passes from such
9 surviving spouse to another, any payment on account of such child or
10 children not in the legal custody of the surviving spouse shall be made
11 to the person or persons having legal custody of such child or
12 children.

13 ~~((d))~~ (e) In no event shall the monthly payments provided in this
14 subsection (2) ~~((of this section))~~:

15 (i) Exceed the applicable percentage of the average monthly wage in
16 the state as computed under RCW 51.08.018 as follows:

| 17 | AFTER | PERCENTAGE |
|----|---------------|------------|
| 18 | June 30, 1993 | 105% |
| 19 | June 30, 1994 | 110% |
| 20 | June 30, 1995 | 115% |
| 21 | June 30, 1996 | 120% |

22 (ii) For dates of injury or disease manifestation after July 1,
23 2008, be less than fifteen percent of the average monthly wage in the
24 state as computed under RCW 51.08.018 plus an additional ten dollars
25 per month for a surviving spouse and an additional ten dollars per
26 month for each child of the worker up to a maximum of five children.
27 However, if the monthly payment computed under this subsection
28 (2)~~((d))~~ (e)(ii) is greater than one hundred percent of the wages of
29 the deceased worker as determined under RCW 51.08.178, the monthly
30 payment due to the surviving spouse shall be equal to the greater of
31 the monthly wages of the deceased worker or the minimum benefit set
32 forth in this section on June 30, 2008.

33 ~~((e))~~ (f) In addition to the monthly payments provided for in
34 ~~((subsection (2))~~(a) through ~~((e))~~ (d) of this subsection, a
35 surviving spouse or child or children of such worker if there is no

1 surviving spouse, or dependent parent or parents, if there is no
2 surviving spouse or child or children of any such deceased worker shall
3 be forthwith paid a sum equal to one hundred percent of the average
4 monthly wage in the state as defined in RCW 51.08.018, any such
5 children, or parents to share and share alike in said sum.

6 ~~((f))~~ (g) Upon remarriage of a surviving spouse the monthly
7 payments for the child or children shall continue as provided in this
8 section, but the monthly payments to such surviving spouse shall cease
9 at the end of the month during which remarriage occurs. However, after
10 September 8, 1975, an otherwise eligible surviving spouse of a worker
11 who died at any time prior to or after September 8, 1975, shall have an
12 option of:

13 (i)(A) Receiving, once and for all, a lump sum of twenty-four times
14 the monthly compensation rate in effect on the date of remarriage
15 allocable to the spouse for himself or herself pursuant to ~~((subsection~~
16 ~~+2))~~(a)(i) of this subsection and subject to any modifications
17 specified under ~~((subsection-(2)-(d))~~ (e) of this subsection and RCW
18 51.32.075(3) or fifty percent of the then remaining annuity value of
19 his or her pension, whichever is the lesser: PROVIDED, That if the
20 injury occurred prior to July 28, 1991, the remarriage benefit lump sum
21 available shall be as provided in the remarriage benefit schedules then
22 in effect;

23 (B) If a surviving spouse is the surviving spouse of a member of
24 the law enforcement officers' and firefighters' retirement system under
25 chapter 41.26 RCW or the state patrol retirement system under chapter
26 43.43 RCW, the surviving spouse may receive a lump sum of thirty-six
27 times the monthly compensation rate in effect on the date of remarriage
28 allocable to the spouse for himself or herself pursuant to ~~((subsection~~
29 ~~+2))~~(a)(i) of this subsection and RCW 51.32.075(3) or fifty percent of
30 the remaining annuity value of his or her pension provided under this
31 chapter, whichever is the lesser: PROVIDED, That if the injury
32 occurred prior to July 28, 1991, the lump sum benefit shall be as
33 provided in the remarriage benefit schedules then in effect; or

34 (ii) If a surviving spouse does not choose the option specified in
35 ~~((subsection-(2)-(f))~~ (g)(i) of this subsection to accept the lump sum
36 payment, the remarriage of the surviving spouse of a worker shall not
37 bar him or her from claiming the lump sum payment authorized in
38 ~~((subsection-(2)-(f))~~ (g)(i) of this subsection during the life of the

1 remarriage, or shall not prevent subsequent monthly payments to him or
2 to her if the remarriage has been terminated by death or has been
3 dissolved or annulled by valid court decree provided he or she has not
4 previously accepted the lump sum payment.

5 ~~((g))~~ (h) If the surviving spouse during the remarriage should
6 die without having previously received the lump sum payment provided in
7 ~~((subsection (2)(f))~~ (g)(i) of this subsection, his or her estate
8 shall be entitled to receive the sum specified under ~~((subsection~~
9 ~~(2)(f))~~ (g)(i) of this subsection or fifty percent of the then
10 remaining annuity value of his or her pension whichever is the lesser.

11 ~~((h))~~ (i) The effective date of resumption of payments under
12 ~~((subsection (2)(f))~~ (g)(ii) of this subsection to a surviving spouse
13 based upon termination of a remarriage by death, annulment, or
14 dissolution shall be the date of the death or the date the judicial
15 decree of annulment or dissolution becomes final and when application
16 for the payments has been received.

17 ~~((i))~~ (j) If it should be necessary to increase the reserves in
18 the reserve fund or to create a new pension reserve fund as a result of
19 the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the
20 amount of such increase in pension reserve in any such case shall be
21 transferred to the reserve fund from the supplemental pension fund.

22 (k) After the effective date of this section, the monthly payments
23 to such surviving spouse of a member of the law enforcement officers'
24 and firefighters' retirement system under chapter 41.26 RCW, or the
25 state patrol retirement system under chapter 43.43 RCW, shall resume
26 regardless of remarriage.

27 (3) If there is a child or children and no surviving spouse of the
28 deceased worker or the surviving spouse is not eligible for benefits
29 under this title, a sum equal to thirty-five percent of the wages of
30 the deceased worker shall be paid monthly for one child and a sum
31 equivalent to fifteen percent of such wage shall be paid monthly for
32 each additional child, the total of such sum to be divided among such
33 children, share and share alike: PROVIDED, That benefits under this
34 subsection or subsection (4) of this section shall not exceed the
35 lesser of sixty-five percent of the wages of the deceased worker at the
36 time of his or her death or the applicable percentage of the average
37 monthly wage in the state as defined in RCW 51.08.018, as follows:

| | AFTER | PERCENTAGE |
|---|---------------|------------|
| 1 | | |
| 2 | June 30, 1993 | 105% |
| 3 | June 30, 1994 | 110% |
| 4 | June 30, 1995 | 115% |
| 5 | June 30, 1996 | 120% |

6 (4) In the event a surviving spouse receiving monthly payments
7 dies, the child or children of the deceased worker shall receive the
8 same payment as provided in subsection (3) of this section.

9 (5) If the worker leaves no surviving spouse or child, but leaves
10 a dependent or dependents, a monthly payment shall be made to each
11 dependent equal to fifty percent of the average monthly support
12 actually received by such dependent from the worker during the twelve
13 months next preceding the occurrence of the injury, but the total
14 payment to all dependents in any case shall not exceed the lesser of
15 sixty-five percent of the wages of the deceased worker at the time of
16 his or her death or the applicable percentage of the average monthly
17 wage in the state as defined in RCW 51.08.018 as follows:

| | AFTER | PERCENTAGE |
|----|---------------|------------|
| 18 | | |
| 19 | June 30, 1993 | 105% |
| 20 | June 30, 1994 | 110% |
| 21 | June 30, 1995 | 115% |
| 22 | June 30, 1996 | 120% |

23 If any dependent is under the age of eighteen years at the time of
24 the occurrence of the injury, the payment to such dependent shall cease
25 when such dependent reaches the age of eighteen years except such
26 payments shall continue until the dependent reaches age twenty-three
27 while permanently enrolled at a full time course in an accredited
28 school. The payment to any dependent shall cease if and when, under
29 the same circumstances, the necessity creating the dependency would
30 have ceased if the injury had not happened.

31 (6) For claims filed prior to July 1, 1986, if the injured worker
32 dies during the period of permanent total disability, whatever the

1 cause of death, leaving a surviving spouse, or child, or children, the
2 surviving spouse or child or children shall receive benefits as if
3 death resulted from the injury as provided in subsections (2) through
4 (4) of this section. Upon remarriage or death of such surviving
5 spouse, the payments to such child or children shall be made as
6 provided in subsection (2) of this section when the surviving spouse of
7 a deceased worker remarries.

8 (7) For claims filed on or after July 1, 1986, every worker who
9 becomes eligible for permanent total disability benefits shall elect an
10 option as provided in RCW 51.32.067.

--- END ---