
HOUSE BILL 2095

State of Washington

58th Legislature

2003 Regular Session

By Representative Romero

Read first time 02/25/2003. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance benefits for the surviving
2 beneficiaries of workers whose deaths occurred before 1988; and
3 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 1995 c 199 s 6 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 but not less than one hundred
16 eighty-five dollars;

17 (ii) If there is one child of the deceased worker and in the legal
18 custody of such spouse, sixty-two percent of the wages of the deceased
19 worker but not less than two hundred twenty-two dollars;

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 but not less than two hundred fifty-three dollars;

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 but not less than two hundred seventy-six dollars;

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 but not less than two hundred ninety-nine dollars; 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 but not less than three hundred twenty-two dollars.

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

29 (c) Payments to the surviving spouse of the deceased worker shall
30 cease at the end of the month in which remarriage occurs: PROVIDED,
31 That a monthly payment shall be made to the child or children of the
32 deceased worker from the month following such remarriage in a sum equal
33 to five percent of the wages of the deceased worker for one child and
34 a sum equal to five percent for each additional child up to a maximum
35 of five such children. Payments to such child or children shall be
36 apportioned equally among such children. Such sum shall be in place of
37 any payments theretofore made for the benefit of or on account of any
38 such child or children. If the surviving spouse does not have legal

1 custody of any child or children of the deceased worker, or if after
2 the death of the worker, legal custody of such child or children passes
3 from such surviving spouse to another, any payment on account of such
4 child or children not in the legal custody of the surviving spouse
5 shall be made to the person or persons having legal custody of such
6 child or children.

7 ~~((In no event shall))~~ (i) Except as provided in (d)(ii) of this
8 subsection, the monthly payments provided in (a) through (c) of this
9 subsection ((2) of this section) may not exceed the applicable
10 percentage of the average monthly wage in the state as computed under
11 RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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17 (ii) Beginning with payments made on or after the effective date of
18 this act, the monthly payments made under (a) through (c) of this
19 subsection shall be made as if the worker's death resulted from an
20 injury that occurred after June 30, 1996, if:

21 (A) The worker's death occurred after June 30, 1971, but before
22 January 1, 1988;

23 (B) At the time of the worker's death, the worker had a surviving
24 child or children, all of whom were then under the age of ten; and

25 (C) The worker's surviving spouse is not eligible for retirement or
26 disability benefits under the federal old age, survivors, and
27 disability insurance act, 42 U.S.C.

28 (e) In addition to the monthly payments provided for in
29 ~~((subsection (2))~~(a) through (c) of this ~~((section))~~ subsection, a
30 surviving spouse or child or children of such worker if there is no
31 surviving spouse, or dependent parent or parents, if there is no
32 surviving spouse or child or children of any such deceased worker shall
33 be forthwith paid a sum equal to one hundred percent of the average
34 monthly wage in the state as defined in RCW 51.08.018, any such
35 children, or parents to share and share alike in said sum.

1 (f) Upon remarriage of a surviving spouse the monthly payments for
2 the child or children shall continue as provided in this section, but
3 the monthly payments to such surviving spouse shall cease at the end of
4 the month during which remarriage occurs. However, after September 8,
5 1975, an otherwise eligible surviving spouse of a worker who died at
6 any time prior to or after September 8, 1975, shall have an option of:

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

16 (ii) If a surviving spouse does not choose the option specified in
17 subsection (2)(f)(i) of this section to accept the lump sum payment,
18 the remarriage of the surviving spouse of a worker shall not bar him or
19 her from claiming the lump sum payment authorized in subsection
20 (2)(f)(i) of this section during the life of the remarriage, or shall
21 not prevent subsequent monthly payments to him or to her if the
22 remarriage has been terminated by death or has been dissolved or
23 annulled by valid court decree provided he or she has not previously
24 accepted the lump sum payment.

25 (g) If the surviving spouse during the remarriage should die
26 without having previously received the lump sum payment provided in
27 subsection (2)(f)(i) of this section, his or her estate shall be
28 entitled to receive the sum specified under subsection (2)(f)(i) of
29 this section or fifty percent of the then remaining annuity value of
30 his or her pension whichever is the lesser.

31 (h) The effective date of resumption of payments under subsection
32 (2)(f)(ii) of this section to a surviving spouse based upon termination
33 of a remarriage by death, annulment, or dissolution shall be the date
34 of the death or the date the judicial decree of annulment or
35 dissolution becomes final and when application for the payments has
36 been received.

37 (i) If it should be necessary to increase the reserves in the
38 reserve fund or to create a new pension reserve fund as a result of the

1 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
2 such increase in pension reserve in any such case shall be transferred
3 to the reserve fund from the supplemental pension fund.

4 (3) If there is a child or children and no surviving spouse of the
5 deceased worker or the surviving spouse is not eligible for benefits
6 under this title, a sum equal to thirty-five percent of the wages of
7 the deceased worker shall be paid monthly for one child and a sum
8 equivalent to fifteen percent of such wage shall be paid monthly for
9 each additional child, the total of such sum to be divided among such
10 children, share and share alike: PROVIDED, That benefits under this
11 subsection or subsection (4) of this section shall not exceed the
12 lesser of sixty-five percent of the wages of the deceased worker at the
13 time of his or her death or the applicable percentage of the average
14 monthly wage in the state as defined in RCW 51.08.018, as follows:

15	AFTER	PERCENTAGE
16	June 30, 1993	105%
17	June 30, 1994	110%
18	June 30, 1995	115%
19	June 30, 1996	120%

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

23 (5) If the worker leaves no surviving spouse or child, but leaves
24 a dependent or dependents, a monthly payment shall be made to each
25 dependent equal to fifty percent of the average monthly support
26 actually received by such dependent from the worker during the twelve
27 months next preceding the occurrence of the injury, but the total
28 payment to all dependents in any case shall not exceed the lesser of
29 sixty-five percent of the wages of the deceased worker at the time of
30 his or her death or the applicable percentage of the average monthly
31 wage in the state as defined in RCW 51.08.018 as follows:

32	AFTER	PERCENTAGE
33	June 30, 1993	105%

1	June 30, 1994	110%
2	June 30, 1995	115%
3	June 30, 1996	120%

4 If any dependent is under the age of eighteen years at the time of the
5 occurrence of the injury, the payment to such dependent shall cease
6 when such dependent reaches the age of eighteen years except such
7 payments shall continue until the dependent reaches age twenty-three
8 while permanently enrolled at a full time course in an accredited
9 school. The payment to any dependent shall cease if and when, under
10 the same circumstances, the necessity creating the dependency would
11 have ceased if the injury had not happened.

12 (6) For claims filed prior to July 1, 1986, if the injured worker
13 dies during the period of permanent total disability, whatever the
14 cause of death, leaving a surviving spouse, or child, or children, the
15 surviving spouse or child or children shall receive benefits as if
16 death resulted from the injury as provided in subsections (2) through
17 (4) of this section. Upon remarriage or death of such surviving
18 spouse, the payments to such child or children shall be made as
19 provided in subsection (2) of this section when the surviving spouse of
20 a deceased worker remarries.

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

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