

PUBLIC SAFETY OFFICERS' DEATH BENEFITS
DEATH BENEFITS
CHAPTER 46 - SUBCHAPTER XII - PART A
[TITLE I - PART L - SUBPART 1]

42 USC § 3796

[Sec. 1201] Payment of death benefits

(a) Amount; recipients. In any case in which the Bureau of Justice Assistance (hereinafter in this subchapter referred to as the "Bureau") determines, under regulations issued pursuant to this subchapter, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of \$250,000, adjusted in accordance with subsection (h) of this section, as follows:

- (1) if there is no surviving child of such officer, to the surviving spouse of such officer;
- (2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;
- (3) if there is no surviving spouse, to the child or children of such officer in equal shares;
- (4) if there is no surviving spouse or surviving child, to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy, provided that such individual survived such officer; or
- (5) if none of the above, to the parent or parents of such officer in equal shares.

(b) Benefits for permanent and total disability. In accordance with regulations issued pursuant to this subchapter, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, the same benefit in any year that is payable under subsection (a) of this section in such year, adjusted in accordance with subsection (h) of this section, to such officer: Provided, That the total annual benefits paid under this subsection may not exceed \$5,000,000. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: Provided further, That these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.

(c) Interim benefit payment. Whenever the Bureau determines upon showing of need and

prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Bureau may make an interim benefit payment not exceeding \$3,000 to the individual entitled to receive a benefit under subsection (a) of this section.

(d) Deduction of interim payment. The amount of an interim payment under subsection (c) of this section shall be deducted from the amount of any final benefit paid to such individual.

(e) Repayment of interim payment; waiver. Where there is no final benefit paid, the recipient of any interim payment under subsection (c) of this section shall be liable for repayment of such amount. The Bureau may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

(f) Reductions from final benefit payment. The benefit payable under this subchapter shall be in addition to any other benefit that may be due from any other source, except—

(1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C.Code, sec. 4-622); or

(2) benefits authorized by section 8191 of Title 5. Such beneficiaries shall only receive benefits under such section 8191 that are in excess of the benefits received under this subchapter.

(g) Execution or attachment prohibited. No benefit paid under this subchapter shall be subject to execution or attachment.

(h) Consumer Price Index adjustment. On October 1 of each fiscal year beginning after June 1, 1988, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a) of this section, to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

(i) Amount payable determined as of date of death. The amount payable under subsection (a) of this section with respect to the death of a public safety officer shall be the amount payable under subsection (a) of this section as of the date of death of such officer.

(j) Limitations on benefits.

(1) No benefit is payable under this subchapter with respect to the death of a public safety officer if a benefit is paid under this subchapter with respect to the disability of such officer.

(2) No benefit is payable under this subchapter with respect to the disability of a public safety officer if a benefit is payable under this subchapter with respect to the death of such public safety officer.

42 USC § 3796a **[Sec. 1202] Limitations on benefits**

No benefit shall be paid under this subchapter –

(1) if the death or catastrophic injury was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death or catastrophic injury;

(2) if the public safety officer was voluntarily intoxicated at the time of his death or catastrophic injury;

(3) if the public safety officer was performing his duties in a grossly negligent manner at the time of his death or catastrophic injury;

(4) to any individual who would otherwise be entitled to a benefit under this subchapter if such individual's actions were a substantial contributing factor to the death or catastrophic injury of the public safety officer; or

(5) to any individual employed in a capacity other than a civilian capacity.

42 USC § 3796a-1 **[Sec. 1203] National programs for families of public safety officers who have died in line of duty**

The Director is authorized to use no less than \$150,000 of the funds appropriated for this subchapter to maintain and enhance national peer support and counseling programs to assist families of public safety officers who have died in the line of duty.

42 USC § 3796b **[Sec. 1204] Definitions**

As used in this subchapter –

(1) “catastrophic injury” means consequences of an injury that permanently prevent an individual from performing any gainful work;

(2) "chaplain" includes any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency;

(3) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

(i) 18 years of age or under;

(ii) over 18 years of age and a student as defined in section 8101 of Title 5; or

(iii) over 18 years of age and incapable of self-support because of physical or mental disability;

(4) "firefighter" includes an individual serving as an officially recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew.

(5) "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

(i) a post-mortem blood alcohol level of .20 per centum or greater; or

(ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;

or resulting from drugs or other substances in the body;

(6) "law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers;

(7) "public agency" means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department,

agency, or instrumentality of any of the foregoing; and

(8) “public safety officer” means¹ –

(A) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew;

(B) an employee of the Federal Emergency Management Agency who is performing official duties of the Agency in an area, if those official duties–

(i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(ii) are determined by the Director of the Federal Emergency Management Agency to be hazardous duties; or

(C) an employee of a State, local, or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties

(i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(ii) are determined by the head of the agency to be hazardous duties.

42 USC § 3796c **[Sec. 1205] Administrative provisions**

(a) Rules, regulations, and procedures. The Bureau is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this subchapter . Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this subchapter . Rules, regulations, and procedures issued

¹ The Disaster Mitigation Act of 2000 provided: “Effective date.--The amendment made by subsection (a) applies only to employees described in subparagraphs (B) and (C) of section 1204(7) of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended by subsection (a)) who are injured or who die in the line of duty on or after the date of the enactment of this Act.” Pub. L. No. 106-390, 114 Stat. 1552, 1573 (2000); 42 U.S.C. §3796b note.

under this subchapter may include regulations governing the recognition of agents or other persons representing claimants under this subchapter before the Bureau. The Bureau may prescribe the maximum fees which may be charged for services performed in connection with any claim under this subchapter before the Bureau, and any agreement in violation of such rules and regulations shall be void.

(b) Use of State and local administrative and investigative assistance. In making determinations under section 3796 of this title, the Bureau may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Bureau.

(c) Use of funds to conduct appeals of claims. Notwithstanding any other provision of law, the Bureau is authorized to use appropriated funds to conduct appeals of public safety officers' death and disability claims.

42 USC § 3796c-1 **Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack**

(a) In general. Notwithstanding the limitations of subsection (b) of section 3796 of this title or the provisions of subsections (c), (d), and (e) of such section or section 3796a of this title, upon certification (containing identification of all eligible payees of benefits pursuant to section 3796 of this title) by a public agency that a public safety officer employed by such agency was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty as described in section 3796 of this title in connection with prevention, investigation, rescue, or recovery efforts related to a terrorist attack, the Director of the Bureau of Justice Assistance shall authorize payment to qualified beneficiaries, said payment to be made not later than 30 days after receipt of such certification, benefits described under part A of subchapter XII of chapter 46 of this title (42 U.S.C.A. § 3796 et seq.).

(b) Definitions. For purposes of this section, the terms "catastrophic injury", "public agency", and "public safety officer" have the same meanings given such terms in section 3796b of this title.

**PUBLIC SAFETY OFFICERS' DEATH BENEFITS
EDUCATIONAL ASSISTANCE TO DEPENDENTS OF PUBLIC SAFETY OFFICERS
KILLED OR DISABLED IN THE LINE OF DUTY
CHAPTER 46 - SUBCHAPTER XII - PART B
[TITLE I - PART L - SUBPART 2]**

42 USC § 3796d **[Sec. 1211] Purposes**

The purposes of this part are—

- (1) to enhance the appeal of service in public safety agencies;
- (2) to extend the benefits of higher education to qualified and deserving persons who, by virtue of the death of or total disability of an eligible officer, may not be able to afford it otherwise; and
- (3) to allow the family members of eligible officers to attain the vocational and educational status which they would have attained had a parent or spouse not been killed or disabled in the line of duty.

42 USC § 3796d-1 **[Sec. 1212] Basic eligibility**

(a) Benefits

(1) Subject to the availability of appropriations, the Attorney General shall provide financial assistance to a dependent who attends a program of education and is—

(A) the child of any eligible public safety officer under part A [subpart 1] of this subchapter ; or

(B) the spouse of an officer described in subparagraph (A) at the time of the officer's death or on the date of a totally and permanently disabling injury.

(2) Except as provided in paragraph (3), financial assistance under this part shall consist of direct payments to an eligible dependent and shall be computed on the basis set forth in section 3532 of Title 38.

(3) The financial assistance referred to in paragraph (2) shall be reduced by the sum of —

(A) the amount of educational assistance benefits from other Federal, State, or local governmental sources to which the eligible dependant

would otherwise be entitled to receive; and

(B) the amount, if any, determined under section 3694d-3(b) [1214(b)]

(b) Duration of benefits. No dependent shall receive assistance under this part for a period in excess of forty-five months of full-time education or training or a proportional period of time for a part-time program.

(c) Age limitation for dependent children. No dependent child shall be eligible for assistance under this part after the child's 27th birthday absent a finding by the Attorney General of extraordinary circumstances precluding the child from pursuing a program of education.

42 USC § 3796d-2 **[Sec. 1213] Applications; approval**

(a) Application. A person seeking assistance under this part shall submit an application to the Attorney General in such form and containing such information as the Attorney General reasonably may require.

(b) Approval. The Attorney General shall approve an application for assistance under this part unless the Attorney General finds that—

(1) the dependent is not eligible for, is no longer eligible for, or is not entitled to the assistance for which application is made;

(2) the dependent's selected educational institution fails to meet a requirement under this part for eligibility;

(3) the dependent's enrollment in or pursuit of the educational program selected would fail to meet the criteria established in this part for programs; or

(4) the dependent already is qualified by previous education or training for the educational, professional, or vocational objective for which the educational program is offered.

(c) Notification. The Attorney General shall notify a dependent applying for assistance under this part of approval or disapproval of the application in writing.

42 USC § 3796d-3 **[Sec. 1214] Regulations**

(a) In general. The Attorney General may promulgate reasonable and necessary regulations to implement this part .

(b) Sliding scale. Notwithstanding section 3796d-2(b) [1213(b)], the Attorney General

shall issue regulations regarding the use of a sliding scale based on financial need to ensure that an eligible dependent who is in financial need receives priority in receiving funds under this part

42 USC § 3796d-4 **[Sec. 1215] Discontinuation for unsatisfactory conduct or progress**

The Attorney General may discontinue assistance under this part when the Attorney General finds that, according to the regularly prescribed standards and practices of the educational institution, the recipient fails to maintain satisfactory progress as described in section 1091(c) of Title 20.

42 USC § 3796d-5 **[Sec. 1216] Special rule**

(a) Retroactive eligibility. Notwithstanding any other provision of law, each dependent of a Federal law enforcement officer killed in the line of duty on or after January 1, 1978, and each dependent of a public safety officer killed in the line of duty on or after January 1, 1978, shall be eligible for assistance under this part, subject to the other limitations of this part .

(b) Retroactive assistance. The Attorney General may provide retroactive assistance to dependents eligible under this section for each month in which the dependent pursued a program of education at an eligible educational institution. The Attorney General shall apply the limitations contained in this part to retroactive assistance.

(c) Prospective assistance. The Attorney General may provide prospective assistance to dependents eligible under this section on the same basis as assistance to dependents otherwise eligible. In applying the limitations on assistance under this part , the Attorney General shall include assistance provided retroactively. A dependent eligible under this section may waive retroactive assistance and apply only for prospective assistance on the same basis as dependents otherwise eligible.

42 USC § 3796d-6 **[Sec. 1217] Definitions**

For purposes of this part :

(1) The term “Attorney General” means the Attorney General of the United States.

(2) The term “program of education” means any curriculum or any combination of unit courses or subjects pursued at an eligible educational institution, which generally is accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. It includes course work for the attainment of more than one objective if in addition to the previous requirements, all the objectives generally are recognized as

reasonably related to a single career field.

(3) The term “eligible educational institution” means an institution which—

(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the October 3, 1996; and

(B) is eligible to participate in programs under title IV of such Act [20 U.S.C.A. § 1070 et seq.].

42 USC § 3796d-7 **[Sec. 1218] Authorization of appropriations**

There are authorized to be appropriated to carry out this part such sums as may be necessary.