

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 235

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO PEACE OFFICERS; CHANGING THE TITLE OF THE PEACE OFFICERS', NEW MEXICO MOUNTED PATROL MEMBERS' AND RESERVE POLICE OFFICERS' SURVIVORS SUPPLEMENTAL BENEFITS ACT; ADDING CORRECTIONS OFFICERS AND JAILERS TO THE PEACE OFFICERS' SURVIVORS SUPPLEMENTAL BENEFITS ACT; PROVIDING FOR THE DESIGNATION OF A BENEFICIARY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 29-4A-1 NMSA 1978 (being Laws 1995, Chapter 59, Section 1, as amended) is amended to read:

"29-4A-1. SHORT TITLE.--Chapter 29, Article 4A NMSA 1978 may be cited as the "Peace Officers' [~~New Mexico Mounted Patrol Members' and Reserve Police Officers'~~] Survivors Supplemental Benefits Act"."

SECTION 2. Section 29-4A-2 NMSA 1978 (being Laws 1995,

1 Chapter 59, Section 2, as amended) is amended to read:

2 "29-4A-2. FINDINGS--PURPOSE.--The legislature finds that
3 peace officers throughout the state risk their lives daily to
4 protect the [~~citizens~~] residents of New Mexico. The
5 legislature further finds that when peace officers are killed
6 in the line of duty, their [~~immediate~~] families can suffer
7 grievously, both emotionally and economically. To recognize
8 the substantial public safety benefits conferred by peace
9 officers and in consideration of the sacrifices undertaken by
10 these officers and their families for the [~~citizens~~] residents
11 of New Mexico, it is the purpose of the Peace Officers'
12 Survivors Supplemental Benefits Act to ensure that certain
13 supplemental death benefits accrue to the [~~spouse and surviving~~
14 ~~children or parents, if there are no surviving children or~~
15 ~~spouse~~] beneficiaries of a peace officer killed in the line of
16 duty."

17 SECTION 3. Section 29-4A-3 NMSA 1978 (being Laws 1995,
18 Chapter 59, Section 3, as amended) is amended to read:

19 "29-4A-3. DEFINITIONS.--As used in the Peace Officers'
20 [~~New Mexico Mounted Patrol Members' and Reserve Police~~
21 ~~Officers'~~] Survivors Supplemental Benefits Act:

22 A. "fund" means the peace officers' [~~New Mexico~~
23 ~~mounted patrol members' and reserve police officers'~~]
24 survivors fund;

25 [B. "~~New Mexico mounted patrol~~" means units or

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1 ~~troops officered and manned to assist with law enforcement~~
 2 ~~pursuant to the provisions of Sections 29-6-1 and 29-6-4 NMSA~~
 3 ~~1978, Subsection A of Section 29-6-5 NMSA 1978 and Section~~
 4 ~~29-6-6 NMSA 1978;~~

5 ~~G.]~~ B. "peace officer" means:

6 (1) any full-time salaried and commissioned or
 7 certified law enforcement officer of a police or sheriff's
 8 department ~~[or]~~ that is part of or administered by the state or
 9 any political subdivision of the state;

10 (2) a conservation officer of the department
 11 of game and fish as used in Chapter 17 NMSA 1978 that is part
 12 of or administered by the state or any political subdivision of
 13 the state;

14 (3) a corrections officer of the corrections
 15 department or jailers as used in Chapter 33 NMSA 1978 that is
 16 part of or administered by the state or any political
 17 subdivision of the state;

18 (4) a member of a New Mexico mounted patrol
 19 unit or troop officered and staffed to assist with law
 20 enforcement pursuant to the provisions of Sections 29-6-1 and
 21 29-6-4 NMSA 1978, Subsection A of Section 29-6-5 NMSA 1978 and
 22 Section 29-6-6 NMSA 1978; and

23 ~~[D.]~~ (5) a reserve police officer [means] who
 24 is a volunteer or a temporary or part-time employee of a state
 25 or local law enforcement agency who is accepted by that agency

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1 as a reserve law enforcement officer after receiving a
2 background check and training as needed by that agency and who
3 is not a member of the New Mexico mounted patrol; [~~and~~

4 ~~E.]~~ C. "secretary" means the secretary of public
5 safety; and

6 D. "surviving child" means a child:

7 (1) who is either:

8 (a) a biological child of the peace
9 officer, including a child born after the officer's death;

10 (b) an adopted child of the peace
11 officer; or

12 (c) a child of the peace officer's
13 surviving spouse; and

14 (2) who is, at the time of the peace officer's
15 death:

16 (a) eighteen years of age or under;

17 (b) over eighteen years of age and a
18 full-time student under the age of twenty-four enrolled in a
19 post-secondary college, university or vocational or technical
20 education program; or

21 (c) over eighteen years of age and
22 incapable of self-support because of physical or mental
23 disability."

24 **SECTION 4.** Section 29-4A-4 NMSA 1978 (being Laws 1995,
25 Chapter 59, Section 4, as amended) is amended to read:

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1 "29-4A-4. FUND CREATED.--The "peace officers' [~~New Mexico~~
2 ~~mounted patrol members' and reserve police officers'~~]
3 survivors fund" is created in the state treasury and shall be
4 administered by the department of public safety. The fund
5 shall consist of all gifts, donations and bequests of money to
6 the fund as well as any appropriations made to the fund.
7 Earnings from investment of the fund shall be credited to the
8 fund. Money in the fund is appropriated to the department of
9 public safety for the purpose of paying death benefits pursuant
10 to the Peace Officers' [~~New Mexico Mounted Patrol Members' and~~
11 ~~Reserve Police Officers'~~] Survivors Supplemental Benefits Act
12 and shall be paid out only upon warrants issued by the
13 secretary of finance and administration pursuant to vouchers
14 signed by the secretary of public safety. Any unexpended or
15 unencumbered balance remaining in the fund at the end of any
16 fiscal year shall not revert."

17 **SECTION 5.** Section 29-4A-5 NMSA 1978 (being Laws 1995,
18 Chapter 59, Section 5, as amended) is amended to read:

19 "29-4A-5. PEACE OFFICERS' [~~NEW MEXICO MOUNTED PATROL~~
20 ~~MEMBERS' AND RESERVE POLICE OFFICERS'~~] SURVIVORS SUPPLEMENTAL
21 DEATH BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

22 A. There is created the "peace officers' [~~New~~
23 ~~Mexico mounted patrol members' and reserve police officers'~~]
24 survivors supplemental death benefits review committee". The
25 committee shall consist of the attorney general, the chief of

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1 the New Mexico state police and the state president of the
2 fraternal order of police or their designees.

3 B. The peace officers' [~~New Mexico mounted patrol~~
4 ~~members' and reserve police officers'~~] survivors supplemental
5 death benefits review committee shall determine whether a peace
6 officer [~~New Mexico mounted patrol member or reserve police~~
7 ~~officer~~] has been killed in the line of duty and advise the
8 secretary of that determination.

9 C. In addition to any other death benefits provided
10 by law, the surviving spouse, children, designated beneficiary
11 or parents shall be paid a total of two hundred fifty thousand
12 dollars (\$250,000) as supplemental death benefits whenever a
13 peace officer [~~New Mexico mounted patrol member or reserve~~
14 ~~police officer~~] is killed in the line of duty as follows:

15 (1) if the peace officer is married and has no
16 surviving children, one hundred percent of the benefit shall be
17 paid to the surviving spouse;

18 (2) if the peace officer is married and has
19 surviving children, fifty percent of the benefit shall be paid
20 to the surviving spouse and fifty percent shall be paid to the
21 surviving children in equal shares;

22 (3) if the peace officer is not married and
23 has surviving children, one hundred percent of the benefit
24 shall be paid to the surviving children in equal shares;

25 (4) if the peace officer is not married and

1 has no surviving child, the benefit shall be paid to a
2 beneficiary or beneficiaries designated by the peace officer in
3 the most recently executed:

4 (a) designation of beneficiary on file
5 at the time of death with the peace officer's public safety
6 agency, organization or unit, in shares according to the
7 designation, or in equal shares if there is no designation of
8 shares;

9 (b) life insurance policy on file at the
10 time of death with the peace officer's public safety agency,
11 organization or unit, if the peace officer has not designated a
12 beneficiary pursuant to Subparagraph (a) of this paragraph; or

13 (c) public employees retirement
14 association survivor beneficiary designation form on file at
15 the time of death with the peace officer's public safety
16 agency, organization or unit, if the peace officer has not
17 designated a beneficiary pursuant to Subparagraph (a) or (b) of
18 this paragraph;

19 (5) if there is no beneficiary qualifying
20 under Paragraph (1), (2), (3) or (4) of this subsection but
21 there are surviving children who would qualify but for their
22 age, the benefit shall be paid to them in equal shares; or

23 (6) if there is no beneficiary qualifying
24 under Paragraph (1), (2), (3), (4) or (5) of this subsection,
25 the benefit shall be paid in equal shares to the surviving

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1 parent or parents of the peace officer.

2 D. The benefits shall be paid from the fund.

3 ~~[G. The benefits shall be paid first to the~~
4 ~~surviving spouse. If there is no surviving spouse, the~~
5 ~~benefits shall be distributed in pro rata shares to all~~
6 ~~surviving children. If there are no surviving children or~~
7 ~~spouse, benefits shall be distributed to the surviving~~
8 ~~parents of the peace officer, New Mexico mounted patrol member~~
9 ~~or reserve police officer.]"~~

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