

Article 12A.

Public Safety Employees' Death Benefits Act.

**§ 143-166.1. Purpose.**

In consideration of hazardous public service rendered to the people of this State, there is hereby provided a system of benefits for dependents of public safety employees who are covered persons. (1959, c. 1323, s. 1; 1965, c. 937; 1973, c. 634, s. 2; 1975, c. 284, s. 6; 1977, c. 797; 1983, c. 761, s. 236; 2018-5, s. 35.29(a); 2021-180, s. 19C.9(uuu); 2021-189, s. 5.1(d).)

**§ 143-166.2. Definitions.**

The following definitions apply in this Article:

- (1) Covered person. – This term shall apply to all of the following individuals:
  - a. Firefighters.
  - b. Law enforcement officers.
  - c. Noncustodial employees of the Department of Adult Correction or the Division of Juvenile Justice of the Department of Public Safety.
  - d. Rescue squad workers.
  - e. Senior Civil Air Patrol members.
- (2) Custodial employee. – An employee of the Department of Adult Correction or the Division of Juvenile Justice of the Department of Public Safety and who is a detention officer or a correctional officer or who otherwise has direct care and control over individuals in the custody of the Department of Adult Correction or the Division of Juvenile Justice of the Department of Public Safety.
- (3) Dependent child. – Any unmarried child of the deceased covered person, whether natural, adopted, posthumously born or whether a child born out of wedlock as entitled to inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon and receiving his or her chief support from the covered person at the time of the covered person's death; provided, however, that if a dependent child is entitled to receive benefits at the time of the covered person's death as hereinafter provided, the child shall continue to be eligible to receive such benefits regardless of his or her age thereafter. This term also includes any child over 18 years of age who is physically or mentally incapable of earning a living. Any child over 18 years of age who was enrolled as a full-time student at the time of the covered person's death shall, so long as the child remains a full-time student as defined in the Social Security Act, be regarded as a dependent child and eligible to receive benefits under the provisions of this Article.
- (4) Dependent parent. – The parent of the deceased covered person, whether natural or adoptive, who was dependent upon and receiving his or her total and entire support from the covered person at the time of the injury that resulted in that covered person's death.
- (5) Firefighter. – This term shall apply to all of the following individuals:
  - a. Firefighters as defined in G.S. 58-84-5.
  - b. Eligible firefighters as defined in G.S. 58-86-2, notwithstanding any age requirements set out in Article 86 of Chapter 58 of the General Statutes.
  - c. Full-time, permanent part-time, and temporary employees of the North Carolina Forest Service of the Department of Agriculture and Consumer

Services during the time they are actively engaged in firefighting activities or emergency response activities pursuant to G.S. 166A-19.77.

- d. Full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in firefighting activities and during the time they are training firefighters.
  - e. County fire marshals when engaged in the performance of their county duties.
  - f. All otherwise eligible individuals who, while actively engaged as firefighters, are acting in the capacity of a fire instructor outside their own department or squad.
- (6) Killed in the line of duty. – This term shall apply to all of the following deaths:
- a. The death of any law-enforcement officer, firefighter, or rescue squad worker who is killed or dies as a result of bodily injuries sustained or extreme exercise or extreme activity experienced in the course and scope of his or her official duties while in the discharge of his or her official duty or duties.
  - b. The death of a senior Civil Air Patrol member who is killed or dies as a result of bodily injuries sustained or extreme exercise or extreme activity experienced in the course and scope of his or her official duties while engaged in a State requested and approved mission pursuant to Article 13 of Chapter 143B of the General Statutes.
  - c. The death of a noncustodial employee who, while performing his or her official duties, is killed in a manner reasonably determined by the Industrial Commission to be directly caused by an individual or individuals in the custody of the Department of Adult Correction or the Division of Juvenile Justice of the Department of Public Safety.
  - d. When the death of a law enforcement officer, firefighter, rescue squad worker, or senior Civil Air Patrol member occurs as the direct and proximate result of a myocardial infarction suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the law enforcement officer, firefighter, rescue squad worker, or senior Civil Air Patrol member is presumed to have been killed in the line of duty.
  - e. When the death of a firefighter occurs as a direct and proximate result of any of the following cancers that are occupationally related to firefighting, that firefighter is presumed to have been killed in the line of duty:
    - 1. Mesothelioma.
    - 2. Testicular cancer.
    - 3. Cancer of the small intestine.
    - 4. Esophageal cancer.
    - 5. Oral cavity cancer.
    - 6. Pharynx cancer.
- (7) Law enforcement officer or officer. – This term shall apply to all of the following individuals:

- a. Sheriffs and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina, or any county or municipality thereof, whether paid or unpaid.
  - b. Full-time custodial employees and probation and parole officers of the Department of Adult Correction.
  - c. Full-time institutional and full-time, permanent part-time, and temporary detention employees of the Division of Juvenile Justice of the Department of Public Safety.
  - d. Full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid.
- (7a) **(For effective date and applicability, see editor's note)** Murdered in the line of duty. – The death of a covered person who was killed in the line of duty in a manner reasonably determined by the Industrial Commission to be directly caused by the intentional harmful act of another person.
- (8) Noncustodial employee. – An employee of the Department of Adult Correction who is not a custodial employee or the Division of Juvenile Justice of the Department of Public Safety who is not a custodial employee.
- (9) Official duties. – All duties to which an individual is assigned as part of the individual's job function. This term shall also include those duties performed by an individual while (i) en route to, engaged in, or returning from training; (ii) in the course of responding to, engaged in, or returning from a call by the department of which the individual is a member; or (iii) in the course of responding to, engaged in, or returning from a call for assistance from any department or organization within the State of North Carolina or within a service area contiguous to the borders of the State of North Carolina when served or aided by a department from within the State of North Carolina. While within the State of North Carolina, any covered person who renders service or assistance, of his or her own volition, at the scene of an emergency, is performing his or her official duties when both of the following apply:
- a. Reasonably apparent circumstances require prompt decisions and actions to protect persons and property.
  - b. The necessity of immediate action is so reasonably apparent that any delay in acting would seriously worsen the property damage or endanger any individual's life.
- (10) Rescue squad worker. – This term shall apply to all of the following individuals:
- a. Individuals who are dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, these individuals must belong to an organized rescue squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and must have attended a minimum of 36 hours of training in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster of those members meeting the above requirements with the State

- Treasurer on or about January 31 of each year, and this roster must be certified to by the secretary of said association.
- b. Members of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 31 of each year.
  - c. County emergency services coordinators when engaged in the performance of their county duties.
  - d. Full-time employees of the North Carolina Department of Insurance during the time they are training rescue squad workers and during the time they are engaged in activities as members of the State Emergency Response Team when the State Emergency Response Team has been activated.
  - e. All otherwise eligible individuals who, while actively engaged as rescue squad workers, are acting in the capacity of a rescue instructor outside their own department or squad.
- (11) Senior Civil Air Patrol members. – Senior members of the North Carolina Wing-Civil Air Patrol who are 18 years of age or older and currently certified pursuant to G.S. 143B-1031.
  - (12) Spouse. – The wife or husband of the deceased covered person who survives him or her and who was residing with the covered person at the time of and during the six months next preceding the date of injury to the covered person that resulted in his or her death and who also resided with the covered person from that date of injury up to and at the time of his or her death and provided, however, the six-month residency requirement shall not apply where the marriage occurred during this six-month period or where the covered person was absent during this six-month period due to service in the Armed Forces of the United States. (1959, c. 1323, s. 1; 1965, c. 937; 1969, c. 1025; 1973, c. 634, s. 2; c. 955, ss. 1, 2; 1975, c. 19, s. 49; c. 284, s. 7; 1977, c. 1048; 1979, c. 516, ss. 2, 3; c. 869; 1981, c. 944, s. 1; 1983, c. 761, s. 237; 1987, c. 812; 1987 (Reg. Sess., 1988), c. 1050, s. 1; 1989, c. 727, s. 218(97); 1989 (Reg. Sess., 1990), c. 1024, s. 32; 1991 (Reg. Sess., 1992), c. 833, s. 5; 1997-443, ss. 11A.118(a), 11A.119(a); 2000-137, s. 4(y); 2003-284, s. 30.18A(b); 2004-124, s. 31.18C(a); 2005-276, s. 29.30C; 2005-376, s. 1; 2008-163, s. 1; 2011-145, ss. 13.25(ss), 19.1(h), (l); 2011-183, s. 104; 2012-83, s. 46; 2013-155, s. 20; 2013-198, s. 27; 2013-288, s. 10; 2015-88, s. 8; 2016-94, s. 22.1(a); 2017-57, s. 21.1; 2017-186, s. 2(bbbbbbb); 2018-5, s. 35.29(a); 2019-228, s. 2(a); 2021-180, ss. 19C.9(vvv), 36.2(a); 2021-189, s. 5.1(e)-(g).)

**§ 143-166.3. Payments; determination.**

(a) When any covered person is killed in the line of duty, the Industrial Commission shall award a death benefit in the amount of one hundred thousand dollars (\$100,000) to be paid to one of the following:

- (1) The spouse of the covered person if there is a surviving spouse.

- (2) If there is no surviving spouse, then payments shall be made to any surviving dependent child of the covered person. If there is more than one surviving dependent child, then the payment shall be made to and equally divided among all surviving dependent children.
- (3) If there is no surviving spouse and no surviving dependent child or children, then payments shall be made to any surviving dependent parent of the covered person. If there is more than one surviving dependent parent, then the payments shall be made to and equally divided between the surviving dependent parents of the covered person.
- (4) If there is no surviving spouse, surviving dependent child, or surviving dependent parent, then the payment shall be made to the estate of the deceased covered person.

(b) Repealed by Session Laws 2018-5, s. 35.29(a), effective retroactively to April 1, 2017, and applicable to qualifying deaths occurring on or after that date.

(c), (d) Repealed by Session Laws 2015-88, s. 9, effective July 1, 2015.

(e) On and after July 1, 2016, when any covered person is murdered in the line of duty, in addition to the award under subsection (a) of this section, the Industrial Commission shall award a death benefit in the amount of one hundred thousand dollars (\$100,000) to be paid to one of the following:

- (1) The spouse of the covered person if there is a surviving spouse.
- (2) If there is no surviving spouse, then payments shall be made to any surviving dependent child of the covered person. If there is more than one surviving dependent child, then the payment shall be made to and equally divided among all surviving dependent children.
- (3) If there is no surviving spouse and no surviving dependent child or children, then payments shall be made to any surviving dependent parent of the covered person. If there is more than one surviving dependent parent, then the payments shall be made to and equally divided between the surviving dependent parents of the covered person.
- (4) If there is no surviving spouse, surviving dependent child, or surviving dependent parent, then the payment shall be made to the estate of the deceased covered person.

(f) Except as otherwise allowed under subdivisions (a)(4) and (e)(4) of G.S. 143-166, the State Treasurer shall not pay or distribute a death benefit awarded under this section to any person other than the beneficiary or the beneficiary's parent or legal guardian. (1959, c. 1323, s. 1; 1965, c. 937; 1971, c. 960; 1973, c. 634, s. 2; 1975, c. 284, s. 8; 2003-284, s. 30.18A(a); 2015-88, s. 9; 2018-5, s. 35.29(a); 2019-228, ss. 2(b), 3(a); 2022-14, s. 4.1.)

#### **§ 143-166.4. Funds; conclusiveness of award.**

Such award of benefits as is provided for by this Article shall be paid from the Contingency and Emergency Fund and such amounts as may be required to pay benefits provided for by this Article are hereby appropriated from said fund for this special purpose.

The Industrial Commission shall have power to make necessary rules and regulations for the administration of the provisions of this Article. It shall be vested with power to make all determinations necessary for the administration of this Article and all of its decisions and determinations shall be final and conclusive and not subject to review or reversal except by the

Industrial Commission itself. The Industrial Commission shall keep a record of all proceedings conducted under this Article and shall have the right to subpoena any persons and records which it may deem necessary in making its determinations, and the Industrial Commission shall further have the power to require all persons called as witnesses to testify under oath or affirmation, and any member of the Industrial Commission may administer oaths. If any person shall refuse to comply with any subpoena issued hereunder or to testify with respect to any matter relevant to proceedings conducted under this Article, the Superior Court of Wake County, on application of the Industrial Commission, may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as for contempt. (1959, c. 1323, s. 1; 1965, c. 937.)

**§ 143-166.5. Other benefits not affected.**

None of the other benefits now provided for law-enforcement officers, or other persons covered by this Article, or their dependents by the Workers' Compensation Act or other laws shall be affected by the provisions of this Article, and the benefits provided for herein shall not be diminished, abated or otherwise affected by such other provisions of law. (1959, c. 1323, s. 1; 1965, c. 937; 1979, c. 245; c. 714, s. 2.)

**§ 143-166.6. Awards exempt from taxes.**

Any award made under the provisions of this Article shall be exempt from taxation by the State or any political subdivision. The Industrial Commission shall not be responsible for any determination of the validity of any claims against said awards and shall distribute the death benefit awards directly to the dependent or dependents entitled thereto under the provisions of this Article. (1959, c. 1323, s. 1; 1965, c. 937.)

**§ 143-166.7. Applicability of Article.**

The provisions of this Article shall apply and be in full force and effect with respect to any law-enforcement officer, firefighter, rescue squad worker or senior Civil Air Patrol member killed in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with respect to full-time, permanent part-time and temporary employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services killed in the line of duty on or after July 1, 1975. The provisions of this Article shall apply to county fire marshals and emergency services coordinators killed in the line of duty on and after July 1, 1988. The provisions of this Article shall apply to noncustodial employees of the Division of Prisons of the Department of Adult Correction and noncustodial employees of the Division of Juvenile Justice of the Department of Public Safety who are killed in the line of duty on and after April 1, 2017. (1965, c. 937; 1973, c. 634, s. 3; 1975, c. 284, s. 9; 1981, c. 944, s. 2; 1987 (Reg. Sess., 1988), c. 1050, s. 2; 1989, c. 727, s. 218(98); 1997-443, s. 11A.119(a); 2011-145, s. 13.25(tt); 2013-155, s. 21; 2018-5, s. 35.29(a); 2021-180, s. 19C.9(www).)

**§§ 143-166.8 through 143-166.12. Reserved for future codification purposes.**