

# House Bill 2706

Sponsored by Representative CANNON (at the request of Barrett Behurst, Jr.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes parent who would have become dependent of deceased worker if not for death of worker eligible for workers' compensation survivor benefits.

## A BILL FOR AN ACT

1  
2 Relating to workers' compensation survivor benefits for parent of deceased worker; creating new  
3 provisions; and amending ORS 656.204.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.204 is amended to read:

6 656.204. If death results from the accidental injury, payments shall be made as follows:

7 (1) The cost of burial, including transportation of the body, shall be paid, not to exceed 10 times  
8 the average weekly wage in any case.

9 (2)(a) If the worker is survived by a spouse, monthly benefits shall be paid in an amount equal  
10 to 4.35 times 66-2/3 percent of the average weekly wage to the surviving spouse until remarriage.  
11 The payment shall cease at the end of the month in which the remarriage occurs.

12 (b) If the worker is survived by a spouse, monthly benefits also shall be paid in an amount equal  
13 to 4.35 times 10 percent of the average weekly wage for each child of the deceased who is sub-  
14 stantially dependent on the spouse for support, until such child becomes 18 years of age.

15 (c) If the worker is survived by a spouse, monthly benefits also shall be paid in an amount equal  
16 to 4.35 times 25 percent of the average weekly wage for each child of the deceased who is not sub-  
17 stantially dependent on the spouse for support, until such child becomes 18 years of age.

18 (d) If a surviving spouse receiving monthly payments dies, leaving a child who is entitled to  
19 compensation on account of the death of the worker, a monthly benefit equal to 4.35 times 25 per-  
20 cent of the average weekly wage shall be paid to each such child until the child becomes 18 years  
21 of age or the child's entitlement to benefits under subsection (8) of this section ceases, whichever  
22 is later.

23 (e) If a child who has become 18 years of age is a full-time high school student, benefits shall  
24 be paid as provided in subsection (8) of this section.

25 (f) In no event shall the total monthly benefits provided for in this subsection exceed 4.35 times  
26 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this max-  
27 imum, the benefit for each child will be reduced proportionally.

28 (3)(a) Upon remarriage, a surviving spouse shall be paid 36 times the monthly benefit in a lump  
29 sum as final payment of the claim, but the monthly payments for each child shall continue as before.

30 (b) If, after the date of the subject worker's death, the surviving spouse cohabits with another  
31 person for an aggregate period of more than one year and a child has resulted from the relationship,

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 the surviving spouse shall be paid 36 times the monthly benefit in a lump sum as final payment of  
2 the claim, but the monthly payment for any child who is entitled to compensation on account of the  
3 death of the worker shall continue as before.

4 (4)(a) If the worker leaves neither wife nor husband, but a child under 18 years of age, a monthly  
5 benefit equal to 4.35 times 25 percent of the average weekly wage shall be paid to each such child  
6 until the child becomes 18 years of age.

7 (b) If a child who has become 18 years of age is a full-time high school student, benefits shall  
8 be paid as provided in subsection (8) of this section.

9 (c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 133-1/3  
10 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the  
11 benefit for each child will be reduced proportionally.

12 (5)(a) If the worker leaves a dependent other than a surviving spouse or a child, a monthly  
13 payment shall be made to each dependent equal to 50 percent of the average monthly support ac-  
14 tually received by such dependent from the worker during the 12 months next preceding the occur-  
15 rence of the accidental injury. If a dependent is under the age of 18 years at the time of the  
16 accidental injury, the payment to the dependent shall cease when such dependent becomes 18 years  
17 of age. The payment to any dependent shall cease under the same circumstances that would have  
18 terminated the dependency had the injury not happened.

19 (b) If the dependent who has become 18 years of age is a full-time high school student, benefits  
20 shall be paid as provided in subsection (8) of this section.

21 (c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 10 per-  
22 cent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the  
23 benefit for each dependent will be reduced proportionally.

24 (6) If a child is an invalid at the time the child otherwise becomes ineligible for benefits under  
25 this section, the payment to the child shall continue while the child remains an invalid. If a person  
26 is entitled to payment because the person is an invalid, payment shall terminate when the person  
27 ceases to be an invalid.

28 (7) If, at the time of the death of a worker, the child of the worker or dependent has become  
29 17 years of age but is under 18 years of age, the child or dependent shall receive the payment pro-  
30 vided in this section for a period of one year from the date of the death. However, if after such  
31 period the child is a full-time high school student, benefits shall be paid as provided in subsection  
32 (8) of this section.

33 (8)(a) Benefits under this section which are to be paid as provided in this subsection shall be  
34 paid for the child or dependent until the child or dependent becomes 19 years of age. If, however,  
35 the child or dependent is attending higher education or begins attending higher education within six  
36 months of the date the child or dependent leaves high school, benefits shall be paid until the child  
37 or dependent becomes 23 years of age, ceases attending higher education or graduates from an ap-  
38 proved institute or program, whichever is earlier.

39 (b) As used in this subsection, "attending higher education" means regularly attending commu-  
40 nity college, college or university, or regularly attending a course of vocational or technical training  
41 designed to prepare the participant for gainful employment. A child or dependent enrolled in an  
42 educational course load of less than one-half of that determined by the educational facility to con-  
43 stitute "full-time" enrollment is not "attending higher education."

44 **(9)(a) If the worker is survived by a parent who would have become a dependent of the**  
45 **worker if not for the death of the worker and there are no other persons receiving benefits**

1 under this section when the parent would have become a dependent of the deceased worker,  
2 a monthly benefit equal to 4.35 times 25 percent of the average weekly wage shall be paid to  
3 each dependent parent.

4 (b) If the worker is survived by a parent who would have become a dependent of the  
5 worker if not for the death of the worker and there are other persons entitled to receive  
6 benefits under this section when the parent would have become a dependent of the deceased  
7 worker, the total benefits provided for in this subsection may not exceed 4.35 times 133-1/3  
8 percent of the average weekly wage. If the sum of the individual benefits exceeds this maxi-  
9 mum, the benefit for each dependent will be reduced proportionally.

10 [(9)] (10) As used in this section, "average weekly wage" has the meaning for that term provided  
11 in ORS 656.211.

12 **SECTION 2.** The amendments to ORS 656.204 by section 1 of this 2007 Act apply to deaths  
13 occurring on or after January 2, 2008.