

**Enrolled**  
**House Bill 2833**

Sponsored by Representatives BARKER, KOTEK; Representative BERGER

CHAPTER .....

AN ACT

Relating to Public Safety Memorial Fund; amending ORS 243.954, 243.956, 243.958, 243.969 and 243.974.

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

**SECTION 1.** ORS 243.954 is amended to read:

243.954. As used in ORS 243.954 to 243.974:

(1) "Child" means a person who is a natural child, adopted child or stepchild of a public safety officer and who is:

- (a) 18 years of age or younger;
- (b) [19] 18 through 22 years of age and enrolled as a full-time undergraduate student; or
- (c) [19] 18 years of age or older and incapable of self-support due to a physical or mental disability.

**(2) "Designee" means a person designated under ORS 243.974 (1).**

[2)] **(3) "Family member" means:**

- (a) The spouse of a public safety officer.
- (b) A child of a public safety officer.
- (c) A person who qualifies as a dependent of a public safety officer for state income tax purposes.

[3)] **(4) "Permanent total disability" has the meaning given that term in ORS 656.206.**

[4)] **(5) "Public safety officer" means:**

- (a) Corrections officers, as defined in ORS 181.610.
- (b) Fire service professionals, as defined in ORS 181.610, and includes volunteer firefighters as defined in ORS 652.050.
- (c) Parole and probation officers, as defined in ORS 181.610.
- (d) Police officers, as defined in ORS 181.610, and includes reserve officers, as defined in ORS 181.610.
- (e) Youth correction officers, as defined in ORS 181.610.

[5)] **(6) "Qualifying death or disability" means death or permanent total disability suffered by a public safety officer while on or off duty that is the direct or proximate result of:**

(a) An enforcement action, an emergency response or public safety training for an enforcement action or emergency response that the public safety officer is authorized or obligated to perform by law, rule, regulation or condition of employment or service; or

(b) An act committed against the public safety officer because of the public safety officer's position as a public safety officer.

[6) "Survivor" means:]

*[(a) A family member; or]*

*[(b) A parent of a public safety officer.]*

**SECTION 2.** ORS 243.956 is amended to read:

243.956. (1) A person is eligible for an award of benefits from the Public Safety Memorial Fund if the person:

(a)(A) Is a family member, *[or a]* parent **or designee** of a public safety officer who has suffered a qualifying death or disability; or

(B) Is a public safety officer who has suffered a qualifying disability; and

(b) Has submitted an initial application for an award of benefits under ORS 243.958.

(2) Notwithstanding subsection (1) of this section, a person is not eligible for an award of benefits if:

(a) The person's actions were a substantial contributing factor to the qualifying death or disability of the public safety officer;

(b) The public safety officer's intentional misconduct caused the qualifying death or disability;

(c) The public safety officer intended to bring about the officer's qualifying death or disability;

(d) The public safety officer was voluntarily intoxicated at the time of the injury that caused the qualifying death or disability; or

(e) The public safety officer was performing the officer's duties in a grossly negligent manner at the time of the injury that caused the qualifying death or disability.

(3) If a person who is eligible for an award of benefits under subsection (1) of this section is younger than 18 years of age or is incompetent, another person may file the application for an award of benefits on behalf of the eligible person.

(4) Within 14 days after receipt of a notice under ORS 243.974 or entry of an order under ORS 243.964 awarding benefits based on an initial application, whichever occurs later, the Public Safety Memorial Fund Board shall pay a lump sum amount of \$25,000:

**(a) If a designation of beneficiary form has been completed under ORS 243.974 (1), to the designee of a public safety officer who suffered a qualifying death;**

*[(a)]* **(b) If a designation of beneficiary form has not been completed,** in the manner described under ORS 243.969, to a *[survivor]* **family member or parent** of a public safety officer who suffered a qualifying death; or

*[(b)]* **(c) To the public safety officer who suffered a qualifying disability.**

(5) If alternative coverage is not provided, the board may award benefits to the family members of a public safety officer **or, if a designation of beneficiary form has been completed under ORS 243.974 (1), to the designee, children and dependents of a public safety officer** who has suffered a qualifying death or disability in an amount sufficient to allow the *[family members]* **recipients** to purchase health and dental insurance comparable to that provided by the public safety officer:

(a) For five years or until the spouse remarries, whichever occurs first; *[and]*

(b) Until a child or a dependent attains 18 years of age or, if the child or the dependent is attending school, 23 years of age[.]; **and**

**(c) For five years for a designee who is not a person described in paragraph (a) or (b) of this subsection, or until the designee marries, whichever occurs first.**

(6) If alternative coverage is not provided, the board may award benefits for five years to a public safety officer who has suffered a qualifying disability in an amount sufficient to allow the public safety officer to purchase health and dental insurance comparable to the health and dental insurance coverage that the public safety officer had immediately prior to the qualifying disability.

(7) The board may award benefits to an eligible spouse **or designee** of a public safety officer who has suffered a qualifying death or to a public safety officer who has suffered a qualifying disability in an amount up to the equivalent of 12 monthly mortgage payments on the residence of *[the spouse or]* the public safety officer **or the spouse or designee of the public safety officer** if there is no mortgage insurance to cover the cost.

(8)**(a)** The board may award scholarships for a graduate program of higher education to:

(A) A family member of a public safety officer who has suffered a qualifying death or disability; [or]

**(B) If a designation of beneficiary form has been completed under ORS 243.974 (1), to the designee, children and dependents of a public safety officer who suffered a qualifying death or disability; or**

(C) To a public safety officer who has suffered a qualifying disability.

(b) In determining the amount of a scholarship, the board shall consider the person's financial need, the funds available in the Public Safety Memorial Fund and the anticipated demands on the fund. The board may not grant a scholarship in an amount exceeding the highest tuition charged by a state institution of higher education for a graduate program.

(9) A family member, a **designee** or a public safety officer is eligible to apply for a scholarship under subsection (8) of this section only if the family member, **designee** or public safety officer:

(a) Has exhausted the education benefits available under 28 C.F.R., Part 32, subpart B;

(b) Applies for the scholarship within one year from the date of exhaustion of the education benefits under paragraph (a) of this subsection; and

(c) Has applied for other available public education benefits.

(10) If a person described in subsection (8) of this section is ineligible to receive education benefits under 28 C.F.R., Part 32, subpart B, if funds for education benefits are unavailable under those provisions or if the education benefit program under those provisions no longer exists, the person may apply to the board for a scholarship for an undergraduate program. Scholarships for only undergraduate degrees may be awarded to a person under this subsection. The board may not grant a scholarship under this subsection in an amount exceeding the highest tuition charged by a state institution of higher education for an undergraduate program.

(11)(a) A person may apply for a scholarship under subsection (10) of this section at any time up to:

(A) Five years after the date on which the applicant graduated from high school if:

(i) The applicant was a minor at the time the public safety officer suffered a qualifying death or disability; and

(ii) An application for an award of some type of benefits was filed by a person described in subsection (8) of this section;

(B) The date the applicant remarries, if the applicant is the surviving spouse of a public safety officer who suffered a qualifying death, or the date the applicant divorces the public safety officer, if the applicant is the spouse of a public safety officer who suffered a qualifying disability; or

(C) Five years after the date of the injury that caused the disability, if the applicant is a public safety officer who suffered a qualifying disability **or is a designee who is not a family member.**

(b) The board may extend the time period for applying for a scholarship under subsection (10) of this section.

(12) If the family member, **designee** or public safety officer who is awarded a scholarship under this section is receiving other public education benefits, the amount of the scholarship awarded to the family member, **designee** or [the] public safety officer shall be reduced by the amount of the other public education benefits.

**SECTION 3.** ORS 243.969 is amended to read:

243.969. (1) If the Public Safety Memorial Fund Board awards lump sum benefits under ORS 243.956 **and no designation of beneficiary form has been completed under ORS 243.974 (1)**, the board shall pay the benefits to the [survivor] **family member or parent** of a public safety officer who suffered a qualifying death as follows:

(a) 100 percent to the surviving spouse.

(b) If there is no surviving spouse, 100 percent to the surviving child.

(c) If there is no surviving spouse or child, 100 percent to a person who qualifies as a dependent of the public safety officer for state income tax purposes.

(d) If there is no surviving spouse, [or] child or dependent, 100 percent to the parent of the public safety officer.

(2) If more than one child, or both parents, or more than one dependent are survivors, the board shall pay the percentage amount one child or one parent or one dependent would have received under subsection (1) of this section in equal shares to the children or parents or dependents.

**SECTION 4.** ORS 243.958 is amended to read:

243.958. (1) An applicant for benefits under ORS 243.956 (4) must file an initial application under oath on a form furnished by the Public Safety Memorial Fund Board. The initial application must include:

(a) The name and address of the applicant [*and the applicant's relationship to the public safety officer*];

(b) The public safety officer's name, the date of the qualifying death or disability and the agency that employed the public safety officer;

(c) Releases authorizing the surrender to the board of reports, documents and other information relating to matters specified in this subsection; and

(d) Any other information that the board determines is necessary.

(2) The board may require that an applicant submit with the initial application any materials that substantiate the facts stated in the initial application.

(3) If the board finds that an initial application does not contain the required information or materials or finds that the facts stated therein have not been substantiated, the board shall notify the applicant in writing that specific additional items of information or materials are required and that the applicant has 180 days from the date of mailing of the notice in which to furnish the additional items to the board. Unless an applicant requests and is granted an extension of time by the board, the board shall reject with prejudice the claim of the applicant for failure to file the additional information or materials within the specified time.

(4) An applicant may file an amended initial application or additional substantiating materials to correct inadvertent errors or omissions at any time before the board has completed its consideration of the original initial application.

**SECTION 5.** ORS 243.974 is amended to read:

**243.974. (1) At the time a public safety officer is hired or utilized as a volunteer, the agency employing or utilizing the public safety officer shall provide the public safety officer with a designation of beneficiary form on which the public safety officer may elect to designate a person to receive benefits under ORS 243.956 in lieu of the standard beneficiaries identified in ORS 243.969. If the public safety officer completes the beneficiary form, the agency shall retain the beneficiary form until an initial application is filed under ORS 243.958.**

**(2) If no designation of beneficiary form has been completed under subsection (1) of this section, any lump sum benefits will be paid under the provisions of ORS 243.969.**

(3) No later than three days after a determination that a public safety officer suffered a qualifying death or disability, the agency employing or utilizing the public safety officer shall notify the Public Safety Memorial Fund Board of the fact by sending the board the appropriate form supplied by the Department of Public Safety Standards and Training. **If a designation of beneficiary form has been completed, the agency shall include the form with the notification to the board.**

**Passed by House May 8, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate May 18, 2007**

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President of Senate

**Received by Governor:**

.....M,....., 2007

**Approved:**

.....M,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State