

## House Bill 2338A Streamlining of Workers' Compensation Death Benefits

Under workers' compensation law, when a worker dies from an on-the-job injury, occupational disease, or while permanently and totally disabled, their surviving spouse, children, and other dependents are entitled to death benefits. Although workers' compensation law has evolved to address changes in societal and family structures, it has resulted in a benefit structure that is confusing and difficult to administer, let alone explainable to a deceased worker's beneficiaries. Furthermore, it creates unfair outcomes for children in the same family based on arbitrary thresholds. Examples include:

- *Benefit amount for children:* The monthly benefit amount is based on the marital status and living arrangements of the deceased worker and child prior to the worker's death and whether or not the child was dependent on the surviving spouse or cohabitant. Each surviving child is individually evaluated for eligibility and benefit amounts, often leading to different benefit amounts for children of the deceased worker.
- *Duration for children to receive death benefits:* Current statute provides benefits to a child under the age of 18 at the time of the worker's death until their 18<sup>th</sup> birthday, but the duration after the age of 18 is based on the child's age when they leave high school.
- *Benefits for a child attending higher education:* Children attending a higher education program can receive benefits until the age of 23. However, current law can be interpreted in various ways, such as whether a child is entitled to receiving benefits under this qualification if they are 19 years of age or over at the time of the worker's death.

**HB 2338 A** simplifies the criteria and benefit levels for death benefits issued to children, making the delivery of the benefits predictable for families. The bill modifies the issuance of death benefits as follows:

	Current Law	HB 2338
1. Benefit amount for child	10% or 25% of the state average weekly wage* (SAWW)	25% of SAWW
2. Duration of child benefit	To age 18... or 19	To age 19
3. Attending a higher education program	Child must attend within six months of leaving high school. Benefits end when child stops attending, graduates, or becomes 23 – whichever is first.	Monthly benefits for up to 48 months while attending between ages of 19 to 26. Child is responsible for providing documentation to the insurer for eligibility.
4. Timely payment of burial	60 days from acceptance	60 days from acceptance or death – whichever is later
5. Clarifies that a child of a worker who dies during a period of permanent total disability is entitled to survivor benefits.		

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\* "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred. (ORS 656.005)