



## STATE OF SOUTH DAKOTA

### DEATH BENEFITS

**IMPORTANT NOTICE: Both Federal and State death benefits MAY be tax exempt.**

**The IRS Code of the United States states that:**

Survivor benefits attributable to service by a public safety officer who is killed in the line of duty:

(1) In General

Gross incomes shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act 1968) killed in the line of duty—

- (A) If such annuity is provided, under a governmental plan which meets the requirements of section 401(a), to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and
- (B) To the extent such annuity is attributable to such officer's service as a public safety officer.

(2) Exceptions

Paragraph (1) shall not apply with respect to the death of any public safety officer if, as determined in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968—

- (A) The death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;
- (B) The officer was voluntarily intoxicated at the time of death;
- (C) The officer was performing such officer's duties in a grossly negligent manner at the time of the death
- (D) The payment is to an individual whose actions were substantial contributing factor to the death of the officer



To obtain certified copies of registered personal documents, contact the Vital Records Department, 523 E. Capitol, Pierre, SD 57501, phone (605) 773-3355.

## STATE DEATH BENEFIT

There is **no one-time state death benefit** currently available.

## STATE PENSION BENEFIT

The **South Dakota State Retirement System** members do **not have** burial coverage provisions. There **may be** a lump sum or monthly benefit to dependents depending on circumstances and the **options selected by the employee**. To determine what benefits are provided and what documents are required contact: **South Dakota Retirement System, 216 East Capitol, Pierre, South Dakota 57501 or phone (605) 773- 3731.**

Documents that **may be required** to file claim:

- \*Photocopy of the death certificate,
- \*Copy of the marriage license,
- \*Copy of member's birth certificate,
- \*Copy of spouse's birth certificate,
- \*Copy of birth certificate of dependents under age 18, and
- \*Copy of birth certificate of disabled dependents over age 18.

- (1) Spouse with dependent children shall receive an annual amount, payable in monthly installments, equal to forty percent (**40%**) of the highest annual compensation earned by the member during any one of the last three years of service, plus ten percent (**10%**) of such compensation for **each child** to a **maximum of six** such children;
- (2) The guardian of each child, on whose account there is **no benefit payable** under subdivision (1) shall receive on behalf of each child, to a **maximum of five** such children, an annual amount, payable in monthly installments, equal to twenty percent (**20%**) of the highest annual compensation earned by the member during any one of the last three years of service;
- (3) The sum of benefits payable under subdivisions (1) and (2) shall be proportionally reduced so that the **total of the benefits** is equal to one hundred percent (**100%**) of the highest annual compensation earned by the member during any one of the last three years of



- service;
- (4) If there are **no benefits** being paid under subdivision (1) and the member's accumulated contributions **have not been withdrawn** pursuant to section 3-12-97, the spouse who has **reached age sixty-five (65)** shall receive a monthly payment equal to fifty percent (**50%**) of the amount which would have been payable to the deceased member at his normal retirement age based on the member's credited and projected service and under this subdivision shall be increased by which elapses between the date the member would have reached his normal retirement age and the date benefits commence to the spouse.

Family benefits begin to accrue on the **first day of the month following the death** of the member.

**3-12-97 Family benefits in lieu of other death benefits -- Election by designated beneficiary to withdraw accumulated contributions.** Family benefits payable under section 3-12-95 are **in lieu of** the death benefits payable under any other provision of this chapter except that a designated beneficiary may elect, subject to a dedication for any benefits previously paid, prior to the receipt of the first payment under subdivision (4) of section 3-12-95, to **withdraw the member's accumulated contributions** providing there are **no children** on account of whom benefits are payable under subdivisions (1) and (2) of section 3-12-95.

## **EDUCATION BENEFIT**

South Dakota Law 13-55-22 provides for **tuition-free attendance at South Dakota state-supported universities and vocational schools for the surviving children** of certain law enforcement officers and firefighters who die as a direct result of injuries received in the performance of official duties. Refer to SDCL 13-55-21, 13-55-22 and 13-55B-1 for further explanations of benefits and requirements.

**Benefit applicant should contact the Admissions Office of the state-supported school where attendance is desired for assistance in filing for this benefit.**

## **HEALTH BENEFIT**

Employer **may have** a health insurance policy. These plans change from time to time and vary among agencies so you must contact the appropriate personnel office for specific information.

## **WORKERS' COMPENSATION**

*Learn about line of duty death benefits information for all states and US territories at [ODMP.org](http://ODMP.org). Brought to you by Concerns of Police Survivors and the Officer Down Memorial Page.*



Workers' Compensation coverage is compulsory for employers in South Dakota; however, waivers are allowed.

Benefit is **66 2/3%** of employee's wage for spouse or spouse with child(ren) with a **minimum weekly benefit of \$169** or worker's average wage if less than \$169 and a **maximum weekly benefit of \$338 plus \$50 per month for each child.**

Two-year lump sum payable to spouse upon **remarriage and weekly benefits cease**. Children receive benefits until **age 18 or beyond age 81 if disabled, or until age 22 if full-time students.**

As of December, 1989, the funeral bills incurred from duty-related death **may** also be covered with a **maximum of \$3,000.**

**Contact the Division of Labor and Management, State Department of Labor, Kneip Building, 700 Governors Drive, Pierre, SD 57501-2277, telephone (605) 773-3681.**

## **PERSONAL LIFE POLICIES**

**Descent and Distribution:** Real and personal estate of intestate, in excess of share of surviving spouse, descends and is distributed as follows, each class of which a member is living taking to exclusion of subsequent classes:

- (1) Children and/or issue of deceased children, per capita if all of same degree, otherwise per stripes;
- (2) parents or surviving parent;
- (3) brothers and sister and/or children or grandchildren of deceased brothers and sisters (such issue taking always by representation although there may be no surviving brother or sister)
- (4) next of kin of equal degree, except that those claiming through nearest ancestor take to exclusion of others of equal degree claiming through nearest ancestor take to exclusion of others of equal degree claiming through more remote ancestors.

In computing relationship each generation is a degree; thus, son with regard to father is in first degree, grandson in second degree, and vice versa and in collateral line degrees are counted from decedent up to common ancestor and down to relative, excluding decedent, including relative, and counting ancestor only once; thus, brothers are related in second degree, uncle and nephew in third degree, and cousins-germane in fourth degree.

**Surviving spouse** - takes either (a) Elective share which is greater of \$100,000 or one-third of augmented estate under provisions substantially in conformance with Uniform Probate Code, Part 2; or (b) under descent and distribution as follows:

*Learn about line of duty death benefits information for all states and US territories at [ODMP.org](http://ODMP.org). Brought to you by Concerns of Police Survivors and the Officer Down Memorial Page.*



- (1) if there be more than one child, one child and issue of one or more deceased children, one-third,
- (2) if there be only one child or only issue of one deceased child, one-half,
- (3) if there be no children or issue of deceased children, first \$100,000 in value and one-half of excess,
- (4) if there be no issue, parents, brothers or sisters, all. Surviving spouse has no right of dower or curtesy. For statutory rights of surviving spouse when decedent left will.

## **PEER SUPPORT**

Established in 1984, **Concerns of Police Survivors, Inc., (COPS)**, is a national, non-profit organization that works with law enforcement agencies, police organizations, mental health professional, and local peer-support organizations to provide assistance to surviving families of law enforcement officers killed in the line of duty. COPS has become a “lifeline” to police survivors nationwide. **Contact the COPS National Office or visit [www.nationalcops.org/chap.htm](http://www.nationalcops.org/chap.htm) for information on a chapter in your area.**

## **ADDITIONAL BENEFITS**

The **Fraternal Order of Police South Dakota State Lodge** insures all S.D. F.O.P. members for accidental death or dismemberment in the amount of **\$1,000**. Members may have increased this benefit individually by purchasing a supplemental policy. Covered persons need not be on duty at time of injury to be covered. This benefit is void at age 70. **Contact state or local F.O.P. for assistance.**

The **local lodge of the F.O.P.** may also provide an honor guard and a graveside ceremony. Contact officer of local lodge.

**South Dakota Peace Officers Association** - The S.D. P.O.A. provides a **\$500 natural death and \$1,000 accidental death benefit for members**. Member need not be on duty at time of occurrence. **Contact S.D. P.O.A. Executive Secretary, Board Member, or Prairie States Life Insurance in Rapid City.**

**Labor Union** - Members of labor unions may be provided with life insurance. Contact appropriate local union office to determine what benefits may be provided.

**Credit Unions** - Many credit unions have life insurance coverage on its members. The amount of coverage may vary among credit unions; thus, you must contact the appropriate credit union

*Learn about line of duty death benefits information for all states and US territories at ODMP.org. Brought to you by Concerns of Police Survivors and the Officer Down Memorial Page.*



office to inquire about coverage. Some coverage is automatic with deposits, and additional coverage is frequently available. Benefits are often on a sliding scale depending on the depositors age, amount of deposits, length of time in the account, etc.

**Fraternal Order of Police Auxiliary - The Sioux Falls Lodge of the F.O.P. Auxiliary** will perform a memorial ritual for an Auxiliary members' funeral. They may assist with food and/or serving at the funeral of a local officer or immediate member of his/her family. **Please contact the Auxiliary President or Funeral Committee chairperson for more information. Other lodges may provide the same courtesy assistance.**

**Fraternal Order of Police Associates Survivors Fund - Sioux Falls F.O.P.A. Lodge** has a survivors fund that may be used at their discretion on a case by case basis. This fund is normally for covering expenses that are **not addressed** by other coverage or interim expense coverage. **F.O.P.A. may be one of the groups that will assist survivors with expense money to attend the National Police Week activities.**

## **FUNERAL AND CREMATION BENEFITS**

Dignity Memorial funeral, cremation and cemetery providers created the Public Servants Program for emergency service personnel. This program provides dignified and honorable tributes, at no cost, for career and volunteer law enforcement officers who fall in the line of duty. Visit their website for complete information @ [www.dignitymemorial.com](http://www.dignitymemorial.com) and look under Public Servants for details. You may also call 800-344-6489 and speak with a representative.