



## STATE OF TEXAS

### 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

IRS Code 101 (h) (1) In general. Gross income 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 of 1968) killed in the line of duty.

Exceptions (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 Safety Streets Act of 1968

101 (h) (2) (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, the officer was voluntarily intoxicated at the time of death, the officer was performing such officer's duties in a grossly negligent manner at the time of death, or the payment is to an individual whose actions were a substantial contributing factor to the death of the officer.

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To obtain certified copies of registered personal documents, contact the Texas Department of Health, Bureau of Vital Statistics, 1100 W. 49th Street, Austin, TX 78756-3191, mailing address is PO Box 1020, Austin, Texas 78711, phone (888) 963-7111. In Texas, the county clerk can also supply this information. Larger municipalities may also have a local Bureau of Vital Statistics.

## STATE DEATH BENEFITS

Death benefits are provided for survivors of Law Enforcement Officer Art. 6228f, V.C.S. entitled "Survivors of Law Enforcement Officers".

For line-of-duty death occurring prior to *September 1, 2001*, the state shall pay **\$50,000** to an eligible surviving spouse. Surviving dependent parent(s) may also receive a state death benefit.

For deaths occurring *on or after September 1, 2001*, the state shall pay **\$250,000** to the eligible surviving spouse. If there is no spouse, this amount will be divided equally among surviving children. If there is no eligible surviving spouse or children, the benefit will be paid in equal shares to surviving parents.

Additionally, The state will pay funeral expenses related to the deceased officer *provided the officer had not qualified for an annuity under an employees' retirement plan*.

**Contact the Texas Employee Retirement System, Member Benefits Division, Debra Kelly, P. O. Box 13207, Austin, TX 78711-3207, telephone (512)867-7711 or (877)275-4377.**

## STATE PENSION BENEFITS

Members of the **Employees Retirement System of Texas (ERST)** and also of the **Law Enforcement Custodial Officer Supplemental Retirement Fund** have pension benefits for their survivors.

Prompt notification of death should be made, and to expedite the filing of this claim, the following information should be furnished:

- (1) Sworn statement by the surviving spouse making application for the death benefits, giving the name of the deceased spouse, the date of death, name and ages of all minor children involved together with the address of the surviving spouse and children.
- (2) Certified copies of the investigative reports relating to the fatal injury (if available).
- (3) Certified copies of death certificate.
- (4) Certified copy of the Coroner's Report if any.

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- (5) Affidavits from any witnesses detailing the facts of the fatal injury (if available).
- (6) Sworn statement from the head of the employing agency stating that at the time of the fatality the deceased officer was employed full time as a Law Enforcement Officer and that the deceased was on duty at the time of the fatal accident, and that death was the result of risk or hazard inherent in his employment.
- (7) Certified copy of the marriage license showing marriage between the surviving spouse and the deceased.
- (8) A statement from a responsible physician, who has examined the surviving female spouse, as to whether or not she is pregnant.
- (9) Sworn statements from two substantial persons who are qualified to say that they had known the deceased a number of years intimately enough to know whether either has been married previously, and the names and the approximate ages of their children, if any.
- (10) Certified copies of court orders granting divorce for either the deceased or the surviving spouse, if any.
- (11) Certified copies of Birth Certificates for minor children involved.
- (12) If a guardianship is involved, certified copies of all guardianship papers.

For deaths occurring **after September 1, 2001**, the surviving spouse and minor children of an officer killed in the line of duty who had not qualified for an annuity under an employees' retirement shall receive a monthly annuity from the State.

For specific information concerning your particular situation contact the **State Board of Trustees, Employees Retirement System of Texas**, (512) 867-7360 or [www.ers.state.tx.us](http://www.ers.state.tx.us)

In Texas, police officers in big cities have their own *municipal retirement systems*. All the different police pension systems offer death benefits and in general differentiate between on-duty and off-duty deaths. **Contact the Benefits Assistance Officer of your agency for specific information.**

## **EDUCATION BENEFITS**

### **Texas Education Code Article 54.204**

Children of peace officers killed or disabled in the line of duty *prior to September 1, 2000*, are exempt from all dues, fees and charges, not including room or board, at any public college in Texas. This exemption covers 120 undergraduate semester credit hours.

A child must apply initially for the exemption before (s)he reaches 21 years of age, or age 22 if eligible to participate in a school district's special education program. (S)he must meet the

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entrance requirements of the college and maintain a scholastic average adequate to be in good standing. Must contact Angela Crowder at (512) 427-6344 or (800) 242-6344.

### **Government Code 615.0225**

For line-of-duty deaths that occur *on or after September 1, 2000*, education benefits are expanded. Eligible survivors include a **surviving spouse as well as surviving children** provided the children were claimed as dependents on the income tax return filed with the IRS by the deceased officer in the year preceding the year of death. Survivors must be enrolled as full-time students to be eligible.

Eligible survivors are **exempt from tuition and fees** until receipt of a bachelor's degree or **200 hours** of course credit, whichever occurs first. Additionally, if the student elects to reside in housing provided by the institution of higher education and qualifies to reside in that housing, the student will be **exempt from charges for food and housing**. If no school housing is available, the student will be paid the equivalent amount for food and housing. The student shall also be **reimbursed the cost of textbooks**. If applying through this code, send information directly to the school.

**For additional information or to apply for this educational assistance contact the Texas Higher Education Coordinating Board, Assistant Commissioner for Student Services, Angela Crowder, (512) 427-6344 or (800) 242-6344.**

## **HEALTH BENEFITS**

The surviving spouse and surviving dependents of Texas law enforcement officers killed in the line of duty are entitled to purchase continued health insurance benefits. The surviving spouse is entitled to continue to purchase health insurance coverage until the earlier of: (1) the date the surviving spouse remarries; (2) the date the surviving spouse becomes eligible for group health insurance through another employers; or (3) the date the surviving spouse becomes eligible for federal Medicare benefits.

Surviving dependent minor children are entitled to continue health insurance coverage until the dependent: (1) reaches the age of 21 years; or (2) becomes eligible for group health insurance through another employer.

Surviving dependents who are not minor children are entitled to continue health insurance coverage until the earlier of: (1) the date the dependent marries; (2) the date the dependent becomes eligible for group health insurance through another employer; or (3) the date the dependent becomes eligible for federal Medicare benefits.

Survivors may elect to continue coverage at any level of benefits currently offered by the employing entity to dependents of an active employee. Eligible survivors who are entitled to continued coverage are entitled to purchase the coverage at the group rate for that coverage that exists at the time of payment.



**Contact the Benefits Assistance Officer at your agency to continue group health insurance coverage.**

## **WORKERS' COMPENSATION**

Workers' Compensation coverage is elective for employers in Texas.

Workers' Compensation will pay the following death benefits when a law enforcement officer is killed in the line of duty:

- (1) Will pay up to \$2,500 for funeral expenses which can be paid directly to the funeral home handling the burial arrangements.
- (2) Payment will be computed by multiplying the employee's average weekly wage by .75.
- (3) If the officer is survived by any minor children, Workers' Compensation will then mandatorily divide the payment, paying a portion each week to the child until the child reaches the age of 18, or marries, or beyond age 18 if disabled, or until the child reaches the age of 25 if full-time students. If there are two or more children, the weekly amount must equally be divided among them.
- (4) At such time as all dependent children become of age or leave home, the surviving spouse will receive a weekly benefit thereafter.
- (5) If the surviving spouse remarries, then they must take a two-year lump sum and weekly benefits cease. The minor child or children would continue to receive the weekly benefit until reaching the maximum age.
- (6) If the officer was single and had never been married, the parents (if living) or next of kin, if financially dependent upon the officer, are entitled to receive cash settlement under Workers' Compensation.

Workers' Compensation benefits are calculated based on the officer's average salary for the **13 weeks immediately prior to death**.

To file for Workers' Compensation the officer's survivors, or their representative should contact the Industrial Accident Board. To file the claim, the following information will be needed:

- (1) Full name of the deceased and age.
- (2) Social Security number of the deceased.
- (3) Date and time of injury.
- (4) Description of injuries received.
- (5) Date and time of death.



- (6) Exact cause of death.
- (7) Hourly wage rate and weekly wage average of the deceased.
- (8) Full name and age of surviving spouse.
- (9) Full names, ages, dates of birth, and marital status of children.
- (10) Date of marriage and copy of marriage certificate.
- (11) Names, addresses, and dates of marriage and divorce or death of previous spouses if the deceased was married more than once.
- (12) Copy of the death certificate.
- (13) If the deceased was not married, then the name and the address of parents, if living, or next of kin.

Workers' Compensation benefits will begin approximately **two weeks** after the date of filing.

**Contact the Texas Workers' Compensation Commission Central Office, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744, telephone (512) 804-4000.**

## **PERSONAL LIFE POLICIES**

Property of intestate decedent, real or personal, leaving no surviving spouse, passes as follows, each class of which member is living taking to exclusion of subsequent classes: **(1)** To children and their decedents; **(2)** to parents equally, but if only one survives, one-half to survivor and one-half to brothers and sisters of decedent and their decedents, but if none all to surviving parent; **(3)** to brothers and sisters and their descendants, **(4)** in equal moieties to paternal and maternal kindred as follows: **(a)** to grandfather and grandmother equally, if living; **(b)** if only one survives, one-half to survivor and one-half to descendants of other, but if there are no such descendants, all to survivor; **(c)** if no surviving grandparents, to their descendants; **(d)** and in same manner without end, to nearest lineal ancestors and their descendants.

No corruption of blood or forfeiture of estate exists by reason of conviction of crime, except beneficiary of life insurance policy convicted in death and insured nor is there forfeiture because of death by casualty or self destruction.

Heirs of the same degree take per capita, descendants of deceased members of the class taking per stripes.

In case of death of a joint tenant, his estate does not survive to remaining joint tenants but descends to his heirs as in other cases, unless tenancy is by agreement in writing.

Spouses may agree in writing that all or part of community property becomes property of surviving spouse upon death of spouse.

Surviving spouse takes as follows: If there be issue, one-third of deceased spouse's separate real property for life and one-third of personalty absolutely; if there be no issue but surviving

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parents or descendants of parents, one-half of realty and all of personalty; if there be no surviving issue, parents, or brothers or sisters or their descendants, entire estate.

## **ADDITIONAL BENEFITS**

### **Duty Weapon and Badge**

On the death of a Texas law enforcement officer, the employing governmental entity shall provide, at no cost, the deceased individual's duty weapon, if any, and badge to the individuals designated beneficiary or to the estate if the individual did not designate a beneficiary. The governmental entity that employs the law enforcement officer shall provide the individual a form on which the individual may designate the individual's beneficiaries for the purposes of this benefit. **Contact your agency.**

### **Burial with Uniform**

If a Texas law enforcement officer dies and is to be buried in the individual's uniform, the employing governmental entity shall provide the uniform at no cost. **Contact your agency.**

## **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.**

### **THE 100 CLUB, Inc.**

Established in 1953, the **100 Club** benefits cover Austin, Brazoria, Brazos, Burleson, Chambers, Colorado, Fayette, Fort Bend, Galveston, Grimes, Liberty, Madison, Montgomery, San Jacinto, Walker, Waller, and Washington **Law Enforcement Peace Officers and any State or Federal Law Enforcement Officer located and discharging duties in those counties** and, further, brings financial aid to the families of those officers losing their lives in the line of duty. **Contact: The 100 Club, Inc., 555 San Felipe, Suite 520, Houston, Texas 77056-2733, telephone (713)952-0100, fax (713)952-0181.**

**The 100 Club of Central Texas** was established in 1983. The Club provides financial, legal and emotional support to families of law enforcement officers killed in the line of duty. Area of coverage includes **Travis, Williamson, Bastrop, Hays and Caldwell Counties.** **Contact: The 100 Club of Central Texas at 3200 Steck Avenue, Suite 240, Austin, Texas 78757**

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mailing address is PO Box 10126, Austin, Texas 78766, telephone (512) 345-3200, fax (512) 345-3215, or email [info@100clubcentex.com](mailto:info@100clubcentex.com).

\*\*If the employee is a member of any professional organizations, a life insurance policy may be included in membership dues.

## The Fleetwood Memorial Foundation

Mr. W.I. Fleetwood established the **Fleetwood Memorial Foundation** in 1974 out of gratitude and respect for the men and women of Texas who dedicates their lives to the safety of the public. The Foundation's purpose is to provide virtually *instant no-strings-attached grants of \$10,000* to certified Texas Law Enforcement or Fire Protection Personnel who are injured in the performance of their duties or to the families of such personnel who are killed in the performance of their duties. These grants are designed to provide immediate financial relief to meet unexpected expenses until insurance or more permanent sources of funds can be arranged. Funds are available for education expenses to re-educate qualified personal if they are unable to return to their normal duties after an accident. Educational funds for college are also available to the dependent children of deceased Peace and Fire personal.

The Fleetwood Foundation has provided over 400 grants to qualified recipients totaling nearly \$1,500,000 since inception in 1974. Application for Fleetwood grants may be made **by any Texas law enforcement or fire protection agency, on behalf of qualified personnel injured or killed in the performance of their duty.** The Fleetwood Foundation, 501 South Fielder Rd., Arlington, Texas 76013, fax (817) 261-2368, phone (817) 261-8954, [www.fleetwoodmemorial.org/middle.html](http://www.fleetwoodmemorial.org/middle.html).

## 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.