



## STATE OF WASHINGTON

### 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.

*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.*



**To obtain certified copies of registered personal documents, contact Vital Records, P. O. Box 9709, Olympia, WA 98507-9709, phone (360) 236-4313.**

## **STATE DEATH BENEFIT**

Under Washington law, **all full-time law enforcement officers and commissioned state troopers participate in the Law Enforcement Officers' and Fire Fighters' (LEOFF) or Washington State Patrol Retirement System (WSPRS) retirement systems.** The 1996 Legislature passed a bill which established a survivor benefit in the amount of \$150,000. The benefit will be paid to beneficiaries of members and duty-disability retirees of LEOFF and WSPRS "where death occurs as a result of injuries sustained in the course of employment." This is a separate benefit that has no effect on any other benefits payable from LEOFF and WSPRS.

The Department of Retirement Systems (DRS) has created a beneficiary form that pertains **only** to the \$150,000 benefit. When a covered employee or retiree dies, the beneficiary is to notify DRS. DRS will provide the beneficiary with an Application for Death Benefit. Upon receipt of the application and death certificate, DRS submits the documents and necessary information to the Department of Labor and Industries for determination whether the covered employee's or retiree's death is a result of injuries sustained in the course of LEOFF or WSPRS-covered employment.

**Contact the Plan Administrator at the Department of Retirement Systems, (360) 664-7000.**

## **STATE PENSION BENEFITS**

Under Washington law, **all full-time law enforcement officers and commissioned state troopers participate in the Law Enforcement Officers' and Fire Fighters' (LEOFF) or Washington State Patrol Retirement System (WSPRS) retirement systems.** Both retirement systems provide survivor benefits to **spouses and children** of retirement system members who die while in service. (These benefits are not limited only to survivors of officers killed in the line of duty, but are available to survivors of **any officer** who dies while employed as a law enforcement officer - regardless of the cause of death.) Under both retirement systems, survivor death benefits are calculated based on the deceased officer's salary for the two years preceding his/her death.

### **Retirement allowances.**

- (1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.
- (2) Where death results from an injury sustained while on duty, the member's lawful spouse shall be paid an allowance which shall be equal to sixty percent (**60%**) of the average final salary of the member.



The allowance paid to the lawful spouse shall continue as long as the spouse lives or until the spouse **remarries**. To be eligible for an allowance the lawful surviving spouse shall have been married to the member at least **two years** prior to the member's death.

- (3) If a member should die while in service, the member's surviving children **under the age of eighteen** and in the legal custody of such spouse shall be provided for in the following manner:

If there is one child of the deceased worker, 62% of wages, two children of the deceased worker, 64% of wages, three children of the deceased worker, 66% of wages, four children of the deceased worker, 68% of wages, if there are five or more children of the deceased worker, 70% of the deceased worker's wages.

Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent (**5%**) of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent (**25%**). Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent (35%) of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent (15%) of such wage shall be paid monthly for each additional child, the total of such sum to be divided equally among such children. Benefits shall not exceed the lesser of sixty-five percent (65%) of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.080.018.

If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent (50%) of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent (65%) of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018.



- (4) If a member should die in the line of duty while employed by the Washington State Patrol, the member's surviving **children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution** accredited or approved by the state of Washington shall hereafter be entitled to a benefit equal to five percent (**5%**) of the final average salary of the member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent (**60%**) of the final average salary of the member: Provided, that if a beneficiary under this section shall reach the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of said term.

## EDUCATION BENEFITS

### **28B.15.380 Exemption from payment of fees at state universities.**

The board of regents at Washington state universities may exempt the following class of persons from the payment of **general tuition fees, operating fees, or service and activities fees exempt for individual instruction fees**: Children after the age of nineteen years of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time volunteer fire department in this state. **Contact your local police department or state university for specific details on entrance requirements.**

## HEALTH BENEFITS

**Health care access for survivors of emergency service personnel killed in the line of duty.**

**House Bill 1371 (2001) – Codified as Revised Code of Washington (RCW) 41.05.080**

This bill required the Public Employees Benefits Board (PEBB) to provide access to health insurance to surviving spouses and dependent children of emergency service personnel killed in the line of duty on or after January 1, 1998, including those who die as a result of injuries sustained in the course of employment as determined by the Department of Labor and Industries under Title 51 RCW. "Emergency service personnel" means members of the Law Enforcement Officers' and Fire Fighters' Retirement system and members of the Volunteer Fire Fighters' and Reserve Officers' Relief and Pensions system. All benefit costs are paid by the surviving spouses and dependent children. **Contact the benefits assistance officer at your agency.**

## WORKERS' COMPENSATION



Workers' Compensation coverage is compulsory for employers in Washington.

Benefit is **60%** of employee's wage for a surviving spouse and **70%** for a surviving spouse with child(ren) with a **minimum weekly benefit of \$44.05 to \$83.81 according to the number of dependents and a maximum weekly benefit of \$517.16**. Lump sum of **\$1,600** becomes payable at time of death. Maximum burial allowance is **\$2,000**.

**Upon remarriage**, surviving spouse is entitled to **\$7,500 or 50% of remaining annuity value**, if less, and weekly benefits cease. Children receive benefits **until age 18 or beyond age 18 if disabled, or until age 23 if full-time students**.

To receive workers' compensation benefits the surviving spouse **must take the initiative** and file a workers' compensation claim through a **workers' compensation attorney** to receive any compensation. The determination as to whether the claim will be paid will be determined by the Workers' Compensation Appeals Board.

**Contact the Industrial Insurance Division of the Department of Labor and Industries, P. O. Box 44001, Olympia, WA 98504-4001, telephone (360) 902-5800.**

## **PERSONAL LIFE POLICIES**

**Descent and Distribution:** Upon the death of decedent, one-half share of community property and of quasi-community property is confirmed to surviving spouse and other one-half share, if not subject of testimony disposition, shall descend and be distributed as provided in following subhead as shall all other property with respect to which decedent died intestate.

### **Descent and Distribution of Real and Personal Property - Surviving Spouse:**

- (a) All of decedent's share of net community and quasi-community state; and
- (b) 1/2 of net separate estate if intestate is survived by issue; or
- (c) 3/4 of net separate estate if there is no surviving issue, but intestate is survived by one or more of his parents, or by one or more of issue of one or more of his parents; or
- (d) all of net estate, if there is no surviving issue nor parent nor issue of parent.

**Shares Of Others Than Surviving Spouse:** Share of net estate not distributable to surviving spouse, or entire net estate if there is no surviving spouse, as follows:

- (a) To issue of intestate; if in same degree of kinship to intestate they take equally; if of unequal degree those of more remote degree take by representation;
- (b) if intestate not survived by issue then to parents who survive;

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- (c) if intestate not survived by issue or parent then to those issue of parents who survive; if all in same degree of kinship to intestate they take equally; if of unequal degree those of more remote degree take by representation;
- (d) if intestate not survived by issue or by parent, or by any issue of parents, then to grandparent(s) who survive; if both maternal and paternal grandparents survive; maternal grandparent(s) take 1/2 and paternal grandparent(s) take 1/2;
- (e) if intestate not survived by issue, parent(s), by any issue of parent(s), or by grandparent(s) then to issue of grandparent(s) who survive; taken as groups' issue of maternal grandparent(s) share equally if in same degree of kinship to intestate, or if of unequal degree then issue of more remote degree takes by representation.

## **ADDITIONAL BENEFITS**

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.**