

PUBLIC SAFETY OFFICERS BENEFIT ACT
Act 46 of 2004

AN ACT to provide compensation and other benefits to dependents of public safety officers who are killed or who are permanently and totally disabled in the line of duty; to create the public safety officers benefit fund; to prescribe the duties and responsibilities of certain state officers; and to make an appropriation.

History: 2004, Act 46, Eff. Oct. 1, 2003;—Am. 2016, Act 284, Imd. Eff. Sept. 27, 2016.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides
"This act is retroactive and is effective October 1, 2003."

The People of the State of Michigan enact:

28.631 Short title.

Sec. 1. This act shall be known as the "public safety officers benefit act".

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.632 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the commission on law enforcement standards created under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

(b) "Dependent" means any individual who was substantially reliant for support upon the income of the deceased public safety officer.

(c) "Direct and proximate" means that the antecedent event is a substantial factor in the result.

(d) "Firefighter" means a regularly employed member of a fire department of a city, county, township, village, state university, or community college or any authority, district, board, or other entity created in whole or in part by 1 or more cities, counties, villages, or townships, or a member of the department of natural resources who is employed to fight fires. Firefighter includes a volunteer member of a fire department.

(e) "Law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction or enforcement of the criminal law. Law enforcement officer includes police, corrections, probation, parole, bailiffs, or other similar court officers.

(f) "Line of duty" means either of the following:

(i) Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he or she serves. For other officers, line of duty means any action the officer is so obligated or authorized to perform in the course or controlling or reducing crime, enforcing the criminal law, or suppressing fires.

(ii) Any action which an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(g) "Medical benefit plan" means a plan to provide for the payment of medical, optical, or dental benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits.

(h) "Member of a rescue squad or ambulance crew" means an emergency medical technician, a medical first responder, or a paramedic, as those terms are defined in sections 20904, 20906, and 20908 of the public health code, 1978 PA 368, MCL 333.20904, 333.20906, and 333.20908, or an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew.

(i) "Permanent and total disability" means medically determinable consequences of a catastrophic, line-of-duty injury that permanently prevent a former public safety officer from performing any gainful work.

(j) "Public safety officer" or "officer" means any individual serving a public agency or any authority, district, board, or other entity created in whole or in part by 1 or more cities, counties, villages, or townships, in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or member of a rescue squad or ambulance crew.

(k) "Surviving spouse" means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.

History: 2004, Act 46, Eff. Oct. 1, 2003;—Am. 2016, Act 284, Imd. Eff. Sept. 27, 2016.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:

"This act is retroactive and is effective October 1, 2003."

28.633 Public safety officers benefit fund; creation; disposition and investment of funds; lapse; expenditures; rules.

Sec. 3. (1) The public safety officers benefit fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The commission shall expend money from the fund, upon appropriation, only to carry out the purposes of this act.

(5) The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that prescribe standards and rules for the distribution of benefits commensurate with the purpose of this act.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:

"This act is retroactive and is effective October 1, 2003."

28.634 Death or disability of public safety officer; benefit; amount; additional benefit.

Sec. 4. (1) If a public safety officer dies or is permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, the state shall pay a benefit of \$25,000.00 to 1 of the following:

(a) If the deceased public safety officer leaves a surviving spouse, to that surviving spouse.

(b) If the deceased public safety officer does not leave a surviving spouse, to his or her dependents.

(c) If the public safety officer does not leave a surviving spouse or any surviving dependents, payment shall be made to the estate of the deceased public safety officer.

(d) If the public safety officer is permanently and totally disabled, to the spouse, but if there is no spouse, to the dependents, and if there are no dependents, then to the entity providing care to the permanently and totally disabled public safety officer.

(2) The benefit shall be paid in addition to any other benefit that the beneficiary receives due to the death of the public safety officer.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:

"This act is retroactive and is effective October 1, 2003."

28.634a Death of public safety officer as direct result of injury in line of duty; medical benefit coverage for surviving spouse and dependent children; requirements; "dependent child" defined.

Sec. 4a. (1) If a public safety officer dies as a direct and proximate result of a personal injury that is sustained in the line of duty on or after October 1, 2015, this state, upon notice to the office of retirement services from the public agency or entity the officer served, and subject to appropriation, shall provide to the decedent's surviving spouse and dependent children a comparable medical benefit plan on comparable terms to the medical benefit plan offered to Michigan state police trooper retirees, including any change to the medical benefit plan after the public safety officer's death. Coverage for a surviving spouse or dependent child under this section is not required to be provided for more than 60 months after the later of the public safety officer's death or the effective date of this section. Coverage under this section is not required to be provided during any period during which the surviving spouse or dependent child, respectively, has qualified for and is covered by a medical benefit plan from another source. Coverage provided under this section ends for a surviving spouse upon Medicare eligibility. Coverage for a dependent child is not required to be provided under this section after the limiting age for a dependent child or another terminating event that is provided in the medical benefit plan for Michigan state police trooper retirees. However, if 42 USC 300gg-14 requires that dependent child eligibility be applied more broadly, this state shall make the coverage available in compliance with that law.

(2) This section does not require this state to provide medical benefits to a surviving spouse or dependent child who, as a result of the public safety officer's death and independent of this section, would receive benefits under a medical benefit plan through a retirement system administered by this state.

(3) In a manner determined by the office of retirement services, the office of retirement services shall administer benefits provided under this section as part of the Michigan state police trooper retiree medical

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benefit plan and may coordinate the funding or prefunding of those benefits. The office of retirement services shall determine, at its sole discretion, if a medical benefit plan is comparable and offered on comparable terms to the medical benefit plan offered to Michigan state police trooper retirees for purposes of determining the medical benefit plan that will be offered under this section.

(4) For purposes of this section, "dependent child" means any of the following dependents with respect to the deceased public safety officer:

- (a) His or her unmarried natural or adopted child.
- (b) A child lawfully placed for adoption with the public safety officer.
- (c) His or her stepchild.
- (d) A child under the age of 18 if full legal guardianship was awarded to the public safety officer.
- (5) If a dependent child of a deceased public safety officer is receiving coverage under this section, a child of the dependent child is not also a dependent child for purposes of this section.

History: Add. 2016, Act 284, Imd. Eff. Sept. 27, 2016.

28.635 Interim benefit.

Sec. 5. (1) If it appears to the commission that a benefit will be paid under section 4, and if a showing of need is made, the commission may make an interim benefit payment of not more than \$3,000.00 to the person or entity who would be entitled to receive the full benefit payment.

(2) The amount of an interim benefit payment shall be deducted from the amount of any final benefit paid.

(3) If an interim benefit is paid under this section, but a final benefit in that case is not paid because the death or the permanent and total disability of the public safety officer is determined not to be covered under section 4, the recipient of the interim benefit payment is liable for repayment of that benefit payment. However, the state may waive its right to repayment of all or part of the interim benefit payment if substantial hardship would result to the recipient.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.636 Benefit payment; prohibitions.

Sec. 6. A benefit payment shall not be made under this act if any of the following apply:

(a) The personal injury that resulted in death or permanent and total disability was caused by the intentional misconduct of the public safety officer or by his or her intent to bring about the injury.

(b) The public safety officer was voluntarily intoxicated at the time the personal injury occurred.

(c) The public safety officer was performing his or her duties in a grossly negligent manner at the time the personal injury occurred.

(d) The injury was the direct and proximate result of the actions of an individual to whom payment would be made under this act.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.637 Appropriation; amount.

Sec. 7. One hundred twenty-five thousand dollars is hereby appropriated from the general fund to the public safety officers benefit fund for fiscal year 2003-2004 to pay for the benefits prescribed in this act.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.638 Payment of benefits; condition.

Sec. 8. The payment of benefits under this act is subject to an appropriation by the legislature of money necessary to make the payment.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."