

By: Madla, et al.

S.B. No. 482

Substitute the following for S.B. No. 482:

By: Hopson

C.S.S.B. No. 482

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain benefits provided to the survivors of public  
3 employees and chaplains killed in the line of duty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 615.003, Government Code, is amended to  
6 read as follows:

7 Sec. 615.003. APPLICABILITY. This chapter applies only to  
8 eligible survivors of the following individuals:

9 (1) an individual elected, appointed, or employed as a  
10 peace officer by the state or a political subdivision of the state  
11 under Article 2.12, Code of Criminal Procedure, or other law;

12 (2) a paid probation officer appointed by the director  
13 of a community supervision and corrections department who has the  
14 duties set out in Section 76.002 and the qualifications set out in  
15 Section 76.005, or who was appointed in accordance with prior law;

16 (3) a parole officer employed by the pardons and  
17 paroles division of the Texas Department of Criminal Justice who  
18 has the duties set out in Section 508.001 and the qualifications set  
19 out in Section 508.113 or in prior law;

20 (4) a paid jailer;

21 (5) a member of an organized police reserve or  
22 auxiliary unit who regularly assists peace officers in enforcing  
23 criminal laws;

24 (6) a member of the class of employees of the

1 institutional division or the state jail division of the Texas  
2 Department of Criminal Justice formally designated as custodial  
3 personnel under Section 615.006 by the Texas Board of Criminal  
4 Justice or its predecessor in function;

5 (7) a jailer or guard of a county jail who is appointed  
6 by the sheriff and who:

7 (A) performs a security, custodial, or  
8 supervisory function over the admittance, confinement, or  
9 discharge of prisoners; and

10 (B) is certified by the Commission on Law  
11 Enforcement Officer Standards and Education;

12 (8) a juvenile correctional employee of the Texas  
13 Youth Commission;

14 (9) an employee of the Texas Department of Mental  
15 Health and Mental Retardation who:

16 (A) works at the department's maximum security  
17 unit; or

18 (B) performs on-site services for the Texas  
19 Department of Criminal Justice;

20 (10) an individual who is employed by the state or a  
21 political or legal subdivision and is subject to certification by  
22 the Texas Commission on Fire Protection;

23 (11) an individual employed by the state or a  
24 political or legal subdivision whose principal duties are aircraft  
25 crash and rescue fire fighting;

26 (12) a member of an organized volunteer fire-fighting  
27 unit that:

1 (A) renders fire-fighting services without  
2 remuneration;

3 (B) consists of not fewer than 20 active members,  
4 a majority of whom are present at each meeting; and

5 (C) conducts a minimum of two drills each month,  
6 each two hours long; [~~or~~]

7 (13) an individual who:

8 (A) performs emergency medical services or  
9 operates an ambulance;

10 (B) is employed by a political subdivision of the  
11 state or is an emergency medical services volunteer as defined by  
12 Section 773.003, Health and Safety Code; and

13 (C) is qualified as an emergency care attendant  
14 or at a higher level of training under Section 773.046, 773.047,  
15 773.048, 773.049, or 773.0495, Health and Safety Code; or

16 (14) an individual who is employed or formally  
17 designated as a chaplain for:

18 (A) an organized volunteer fire-fighting unit or  
19 other fire department of this state or of a political subdivision of  
20 this state;

21 (B) a law enforcement agency of this state or of a  
22 political subdivision of this state; or

23 (C) the Texas Department of Criminal Justice.

24 SECTION 2. Section 615.021, Government Code, is amended by  
25 amending Subsections (a) and (c) and adding Subsections (d) and (e)  
26 to read as follows:

27 (a) A survivor of an individual listed under Section 615.003

1 is eligible for the payment of assistance under this chapter if:

2 (1) the listed individual died as a result of a  
3 personal injury sustained in the line of duty [~~in the course of the~~  
4 ~~individual's duty performed~~] in the individual's position as  
5 described by Section 615.003 [~~as a result of exposure to a risk:~~

6 [~~(A) that is inherent in the duty; or~~

7 [~~(B) to which the general public is not~~  
8 ~~customarily exposed~~]; and

9 (2) the survivor is:

10 (A) the surviving spouse of the listed  
11 individual;

12 (B) a surviving child of the listed individual,  
13 if there is no surviving spouse; or

14 (C) a surviving parent of the listed individual,  
15 if there is no surviving spouse or child.

16 (c) An individual employed by the state or a political or  
17 legal subdivision who is subject to certification by the Texas  
18 Commission on Fire Protection or whose principal duties are  
19 aircraft crash and rescue fire fighting is considered to have died  
20 as a result of a personal injury sustained in the line of [~~in the~~  
21 ~~course of performing the individual's~~] duty in the individual's  
22 position as described by Section 615.003 [~~as a result of exposure to~~  
23 ~~a risk that is inherent in the duty or to which the general public is~~  
24 ~~not customarily exposed~~] if the individual died while actually  
25 performing an activity that the individual was certified to perform  
26 by the Texas Commission on Fire Protection, without regard to  
27 whether the individual was actually performing the activity during

1 the individual's compensable hours at work.

2 (d) In a determination of whether the survivor of an  
3 individual listed under Section 615.003 is eligible for the payment  
4 of assistance under this chapter, any reasonable doubt arising from  
5 the circumstances of the individual's death shall be resolved in  
6 favor of the payment of assistance to the survivor.

7 (e) In this section:

8 (1) "Personal injury" means a traumatic injury  
9 resulting from an external force or a disease caused by or resulting  
10 from a traumatic injury from an external force.

11 (2) "Line of duty" means an action an individual  
12 listed under Section 615.003 is required or authorized by rule,  
13 condition of employment, or law to perform. The term includes an  
14 action by the individual at a social, ceremonial, athletic, or  
15 other function to which the individual is assigned by the  
16 individual's employer.

17 SECTION 3. Section 615.072, Government Code, is amended to  
18 read as follows:

19 Sec. 615.072. ELIGIBLE SURVIVORS. (a) A survivor of an  
20 individual listed under Section 615.071 is eligible for the health  
21 insurance benefits provided under this subchapter if:

22 (1) the listed individual died as a result of a  
23 personal injury sustained in the line of duty [~~in the course of the~~  
24 ~~individual's duty performed~~] in the individual's position as  
25 described by Section 615.071 [~~as a result of exposure to a risk:~~

26 [~~(A) that is inherent in the duty, or~~

27 [~~(B) to which the general public is not~~

1 ~~customarily exposed~~]; and

2 (2) the survivor is:

3 (A) the surviving spouse of the listed  
4 individual; or

5 (B) a dependent of the listed individual.

6 (b) In a determination of whether the survivor of an  
7 individual listed under Section 615.071 is eligible for the payment  
8 of assistance under this subchapter, any reasonable doubt arising  
9 from the circumstances of the individual's death shall be resolved  
10 in favor of the payment of assistance to the survivor.

11 (c) In this section:

12 (1) "Personal injury" means a traumatic injury  
13 resulting from an external force or a disease caused by or resulting  
14 from a traumatic injury from an external force.

15 (2) "Line of duty" means an action an individual  
16 listed under Section 615.071 is required or authorized by rule,  
17 condition of employment, or law to perform. The term includes an  
18 action by the individual at a social, ceremonial, athletic, or  
19 other function to which the individual is assigned by the  
20 individual's employer.

21 SECTION 4. Section 615.105(b), Government Code, is amended  
22 to read as follows:

23 (b) On the death of an individual listed in Subsection (a),  
24 regardless of whether the individual died as a result of a personal  
25 injury sustained in the line [~~in the course~~] of duty as a peace  
26 officer, the individual's next of kin may receive on request a state  
27 flag from the Commission on Law Enforcement Officer Standards and

1 Education.

2 SECTION 5. Section 615.121, Government Code, is amended by  
3 adding Subsection (f) to read as follows:

4 (f) In this section, "line of duty" has the meaning assigned  
5 by Section 615.021.

6 SECTION 6. Section 811.001, Government Code, is amended by  
7 amending Subdivision (12) and adding Subdivision (12-a) to read as  
8 follows:

9 (12) "Occupational [~~death~~ or] disability" means  
10 [~~death~~ or] disability from an injury or disease that directly  
11 results from a specific act or occurrence determinable by a  
12 definite time and place, and directly results from a risk or a  
13 hazard peculiar to and inherent in a duty that arises from and in  
14 the course of state employment.

15 (12-a) "Occupational death" means death from a  
16 traumatic injury resulting from an external force or a disease  
17 caused by or resulting from a traumatic injury from an external  
18 force that directly results from any action a person is required or  
19 authorized by rule, condition of employment, or law to perform. The  
20 term includes an action performed by the person at a social,  
21 ceremonial, athletic, or other function to which the person is  
22 assigned by the person's employer.

23 SECTION 7. (a) The change in law made by this Act to Section  
24 615.003, Government Code, relating to the death of certain  
25 chaplains applies only in relation to a death that occurs on or  
26 after the effective date of this Act. Matters regarding  
27 eligibility, payment, and benefits under Chapter 615, Government

1 Code, in relation to a death that occurs before the effective date  
2 of this Act are governed by the law in effect when the death occurs,  
3 and the former law is continued in effect for that purpose.

4 (b) The changes in law made by this Act to Sections 615.021,  
5 615.072, 615.105, 615.121, and 811.001, Government Code, relating  
6 to the death of certain public servants apply only in relation to a  
7 death that occurs on or after the effective date of this Act.  
8 Matters regarding eligibility, payment, and benefits under  
9 Sections 615.021, 615.072, 615.105, 615.121, and 811.001,  
10 Government Code, in relation to a death that occurs before the  
11 effective date of this Act are governed by the law in effect when  
12 the death occurs, and the former law is continued in effect for that  
13 purpose.

14 SECTION 8. This Act takes effect September 1, 2003.