

By: Staples

S.B. No. 728

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. Section 615.021, Government Code, is amended by
6 amending Subsections (a) and (c) and adding Subsections (d) and (e)
7 to read as follows:

8 (a) A survivor of an individual listed under Section 615.003
9 is eligible for the payment of assistance under this chapter if:

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

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

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

17 (2) the survivor is:

18 (A) the surviving spouse of the listed
19 individual;

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

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

24 (c) An individual employed by the state or a political or

1 legal subdivision who is subject to certification by the Texas
2 Commission on Fire Protection or whose principal duties are
3 aircraft crash and rescue fire fighting is considered to have died
4 as a result of a personal injury sustained in the line of [~~in the~~
5 ~~course of performing the individual's~~] duty in the individual's
6 position as described by Section 615.003 [~~as a result of exposure to~~
7 ~~a risk that is inherent in the duty or to which the general public is~~
8 ~~not customarily exposed~~] if the individual died while actually
9 performing an activity that the individual was certified to perform
10 by the Texas Commission on Fire Protection, without regard to
11 whether the individual was actually performing the activity during
12 the individual's compensable hours at work.

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

18 (e) In this section:

19 (1) "Personal injury" means a traumatic injury or a
20 disease caused by or resulting from a traumatic injury.

21 (2) "Line of duty" means an action an individual
22 listed under Section 615.003 is required or authorized by rule,
23 condition of employment, or law to perform. The term includes an
24 action by the individual at a social, ceremonial, or athletic
25 function to which the individual is assigned by the individual's
26 employer.

27 SECTION 2. Section 811.001, Government Code, is amended by

1 amending Subdivision (12) and adding Subdivision (12-a) to read as
2 follows:

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

9 (12-a) "Occupational death" means death from an injury
10 or disease that directly results from any action a person is
11 required or authorized by rule, condition of employment, or law to
12 perform. The term includes an action performed by the person at a
13 social, ceremonial, or athletic function to which the person is
14 assigned by the person's employer.

15 SECTION 3. The changes in law made by this Act to Sections
16 615.021 and 811.001, Government Code, relating to the death of
17 certain public servants apply only in relation to a death that
18 occurs on or after the effective date of this Act. Matters
19 regarding eligibility, payment, and benefits under Sections
20 615.021 and 811.001, Government Code, in relation to a death that
21 occurs before the effective date of this Act are governed by the law
22 in effect when the death occurs, and the former law is continued in
23 effect for that purpose.

24 SECTION 4. This Act takes effect September 1, 2003.