

1-1 By: Staples S.B. No. 728  
1-2 (In the Senate - Filed February 27, 2003; March 3, 2003,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 May 9, 2003, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; May 9, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the benefits provided to the survivors of certain  
1-9 public employees killed in the line of duty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 615.021, Government Code, is amended by  
1-12 amending Subsections (a) and (c) and adding Subsections (d) and (e)  
1-13 to read as follows:

1-14 (a) A survivor of an individual listed under Section 615.003  
1-15 is eligible for the payment of assistance under this chapter if:

1-16 (1) the listed individual died as a result of a  
1-17 personal injury sustained in the line of duty [~~in the course of the~~  
1-18 ~~individual's duty performed~~] in the individual's position as  
1-19 described by Section 615.003 [~~as a result of exposure to a risk:~~

1-20 [~~(A) that is inherent in the duty; or~~  
1-21 [~~(B) to which the general public is not~~  
1-22 ~~customarily exposed~~]; and

1-23 (2) the survivor is:

1-24 (A) the surviving spouse of the listed  
1-25 individual;

1-26 (B) a surviving child of the listed individual,  
1-27 if there is no surviving spouse; or

1-28 (C) a surviving parent of the listed individual,  
1-29 if there is no surviving spouse or child.

1-30 (c) An individual employed by the state or a political or  
1-31 legal subdivision who is subject to certification by the Texas  
1-32 Commission on Fire Protection or whose principal duties are  
1-33 aircraft crash and rescue fire fighting is considered to have died  
1-34 as a result of a personal injury sustained in the line of [~~in the~~  
1-35 ~~course of performing the individual's~~] duty in the individual's  
1-36 position as described by Section 615.003 [~~as a result of exposure to~~  
1-37 ~~a risk that is inherent in the duty or to which the general public is~~  
1-38 ~~not customarily exposed~~] if the individual died while actually  
1-39 performing an activity that the individual was certified to perform  
1-40 by the Texas Commission on Fire Protection, without regard to  
1-41 whether the individual was actually performing the activity during  
1-42 the individual's compensable hours at work.

1-43 (d) In a determination of whether the survivor of an  
1-44 individual listed under Section 615.003 is eligible for the payment  
1-45 of assistance under this chapter, any reasonable doubt arising from  
1-46 the circumstances of the individual's death shall be resolved in  
1-47 favor of the payment of assistance to the survivor.

1-48 (e) In this section:

1-49 (1) "Personal injury" means a traumatic injury or a  
1-50 disease caused by or resulting from a traumatic injury.

1-51 (2) "Line of duty" means an action an individual  
1-52 listed under Section 615.003 is required or authorized by rule,  
1-53 condition of employment, or law to perform. The term includes an  
1-54 action by the individual at a social, ceremonial, or athletic  
1-55 function to which the individual is assigned by the individual's  
1-56 employer.

1-57 SECTION 2. Section 811.001, Government Code, is amended by  
1-58 amending Subdivision (12) and adding Subdivision (12-a) to read as  
1-59 follows:

1-60 (12) "Occupational [~~death or~~] disability" means  
1-61 [~~death or~~] disability from an injury or disease that directly  
1-62 results from a specific act or occurrence determinable by a  
1-63 definite time and place, and directly results from a risk or a  
1-64 hazard peculiar to and inherent in a duty that arises from and in

2-1 the course of state employment.

2-2 (12-a) "Occupational death" means death from an injury  
2-3 or disease that directly results from any action a person is  
2-4 required or authorized by rule, condition of employment, or law to  
2-5 perform. The term includes an action performed by the person at a  
2-6 social, ceremonial, or athletic function to which the person is  
2-7 assigned by the person's employer.

2-8 SECTION 3. The changes in law made by this Act to Sections  
2-9 615.021 and 811.001, Government Code, relating to the death of  
2-10 certain public servants apply only in relation to a death that  
2-11 occurs on or after the effective date of this Act. Matters  
2-12 regarding eligibility, payment, and benefits under Sections  
2-13 615.021 and 811.001, Government Code, in relation to a death that  
2-14 occurs before the effective date of this Act are governed by the law  
2-15 in effect when the death occurs, and the former law is continued in  
2-16 effect for that purpose.

2-17 SECTION 4. This Act takes effect September 1, 2003.

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