88R2161 BDP-D

By:  Herrero H.B. No. 3818

A BILL TO BE ENTITLED

AN ACT

relating to financial assistance paid to survivors of certain public school employees.

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

SECTION 1.  Subtitle A, Title 6, Government Code, is amended by adding Chapter 615A to read as follows:

CHAPTER 615A. FINANCIAL ASSISTANCE TO SURVIVORS OF CERTAIN PUBLIC SCHOOL EMPLOYEES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 615A.001.  DEFINITIONS. In this chapter:

(1)  "Deadly weapon" means:

(A)  a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury;  or

(B)  anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(2)  "Employer" has the meaning assigned by Section 821.001.

(3)  "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

(4)  "Minor child" means a child who:

(A)  on the date of the death of a public school employee, is younger than 18 years of age; and

(B)  if the child is not a biological or adopted child, was claimed as a dependent on the federal income tax return of a public school employee for the year preceding the year of the employee's death.

(5)  "Personal injury" means physical or mental harm.

(6)  "Public school" has the meaning assigned by Section 821.001.

(7)  "Public school employee" means a person who is employed, as determined by the retirement system, by a public school.

(8)  "Retirement system" means the Teacher Retirement System of Texas.

Sec. 615A.002.  ADMINISTRATION OF CHAPTER. The board of trustees of the Teacher Retirement System of Texas shall administer this chapter under rules adopted by the board.

Sec. 615A.003.  APPLICABILITY. This chapter applies only to eligible survivors of a public school employee.

Sec. 615A.004.  EFFECT OF AWARD. (a) A finding that assistance is payable to an eligible survivor of a public school employee is not a declaration of the cause, nature, or effect of a death for any other purpose.

(b)  A finding that a death is within the provisions of this chapter does not affect another claim or cause of action arising from or connected to the death.

Sec. 615A.005.  ASSISTANCE NOT ASSIGNABLE; PAYMENTS EXEMPT. (a) Assistance payable under this chapter is not transferable or assignable at law or in equity.

(b)  Money paid or payable under this chapter is not subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any insolvency law.

Sec. 615A.006.  LIMITATION ON ASSISTANCE. A survivor may not receive payment of assistance under this chapter for a loss or expense for which the survivor or another person has already received compensation under a claim for compensation under Chapter 56B, Code of Criminal Procedure.

SUBCHAPTER B. PAYMENTS TO ELIGIBLE SURVIVORS

Sec. 615A.101.  ELIGIBLE SURVIVORS. (a) A survivor of a public school employee is eligible for the payment of assistance under this chapter if:

(1)  the employee was a victim who died from a personal injury sustained as a result of an event or occurrence involving the use of a firearm or other deadly weapon and that event or occurrence happened while the employee was:

(A)  in or on the grounds of a public school, even if the event or occurrence happened before or after the employee's regular work hours;

(B)  traveling to or from a regular session of school; or

(C)  attending or traveling to or from an official school-sponsored or school-related event; and

(2)  the survivor is:

(A)  the surviving spouse of the employee;

(B)  a surviving child of the employee, if there is no surviving spouse; or

(C)  a surviving parent of the employee, if there is no surviving spouse or child.

(b)  Payment of assistance may not occur under this chapter unless the survivor is eligible under Subsection (a).

(c)  In a determination of whether the survivor of a public school employee is eligible for payment of assistance under this chapter, any reasonable doubt arising from the circumstances of the employee's death shall be resolved in favor of the payment of assistance to the survivor.

Sec. 615A.102.  PAYMENT TO SURVIVORS. (a) If there is an eligible surviving spouse, the state shall pay the benefits described by Subsection (d) to the eligible surviving spouse.

(b)  If there is no eligible surviving spouse, the state shall pay the benefits described by Subsection (d) in equal shares to surviving children.

(c)  If there is no eligible surviving spouse or child, the state shall pay the benefits described by Subsection (d) in equal shares to surviving parents.

(d)  An eligible survivor, or eligible survivors in equal shares, are entitled to receive a lump sum payment in the amount provided by this subsection. The lump sum payment amount payable to an eligible survivor during the 12 months beginning September 1, 2023, is $500,000. Effective September 1 of each following year, the board of trustees of the retirement system by rule shall adjust the amount of the lump sum payment required under this subsection by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor for the preceding year. The amount paid to an eligible survivor or survivors as adjusted under this subsection is calculated based on the date of the decedent's death and not on the date the eligible survivor or survivors file a claim under this chapter.

Sec. 615A.103.  PAYMENT TO SURVIVING MINOR CHILD. (a) The state shall pay to the duly appointed or qualified guardian or other legal representative of an eligible surviving minor child:

(1)  $400 each month, if there is one surviving child;

(2)  $600 each month, if there are two surviving children; or

(3)  $800 each month, if there are three or more surviving children.

(b)  A child's entitlement to assistance payable under this section ends on the last day of the month that includes the child's 18th birthday. At that time, payments to any other surviving minor children shall be adjusted, as necessary, to conform to the amounts payable under Subsection (a).

(c)  A payment under this section is in addition to any payment made under Section 615A.102.

SUBCHAPTER C. ADMINISTRATION AND PROCEDURE

Sec. 615A.201.  CONSIDERATION AND DETERMINATION OF CLAIM; COMPELLED COMPLIANCE. (a) Not later than the 30th day after the date of the death of a public school employee in a manner described by Section 615A.101(a)(1), the employee's employer shall furnish to the board of trustees of the retirement system proof of the death in the form and with additional evidence and information required by the board. The employer shall furnish the evidence and information required under this subsection regardless of whether the employing entity believes the employee's death satisfies the eligibility requirements established under Section 615A.101(a)(1).

(b)  The board of trustees shall consider the proof, evidence, and information provided under Subsection (a), and any additional information required by the rules adopted in accordance with Section 615A.002, to determine whether the employee's death satisfies the eligibility requirements established under Section 615A.101(a)(1) and justifies the payment of assistance to the employee's eligible survivors under this chapter.

(c)  If the employee's employer fails to comply with Subsection (a), the attorney general may use any means authorized by law, including filing suit for a writ of mandamus against the employer, to compel the employer's compliance with this section.

Sec. 615A.202.  AWARD AND PAYMENT OF ASSISTANCE. (a) The retirement system shall notify the comptroller of the retirement system's determination that a claim under this chapter is valid and justifies payment.

(b)  On receipt of notice, the comptroller shall issue a warrant to each claimant in the proper amount from the fund appropriated for that purpose.

(c)  Payments under this chapter on behalf of a surviving child are payable beginning on the first day of the first month after the death of the public school employee.

Sec. 615A.203.  DENIAL OF CLAIM. If the retirement system denies a claim, the retirement system shall send a notice of the denial to:

(1)  the person making the claim; or

(2)  the duly qualified guardian or legal representative of a surviving minor child, if a claim is being made on behalf of the child.

Sec. 615A.204.  APPEALS. (a) An eligible survivor or the eligible survivor's legal representative whose claim for payment is denied may appeal the denial to the board of trustees of the retirement system.

(b)  An appeal under this section is considered to be an appeal of a contested case under Chapter 2001 and shall be conducted in the same manner as an appeal described by Section 825.115.

(c)  Judicial review of a decision under this section is under the substantial evidence rule as provided by Chapter 2001.

Sec. 615A.205.  RECORDS. (a) Records of public school employees and of survivors eligible for benefits under this chapter that are in the custody of the retirement system, an administering firm as defined by Section 1579.002, Insurance Code, a carrier as defined by Section 1575.002, Insurance Code, or another governmental agency acting with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the provisions of Chapter 552, except as otherwise provided by this section.

(b)  Records may be released to an eligible survivor or to an authorized attorney, family member, or representative acting on behalf of the eligible survivor. The retirement system may release the records to an administering firm, carrier, agent, or attorney acting on behalf of the retirement system, to another governmental entity having a legitimate need for the information to perform the purposes of the retirement system, or to a party in response to a subpoena issued under applicable law.

(c)  A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(d)  The records of public school employees and of eligible survivors remain confidential after release to a person as authorized by this section. The records of public school employees and of eligible survivors may become part of the public record of an administrative or judicial proceeding related to an appeal filed under this chapter, unless the records are closed to public access by a protective order issued under applicable law.

(e)  The retirement system has sole discretion in determining whether a record is subject to this section. For purposes of this section, a record includes any identifying information about any person, living or deceased, who is or was:

(1)  a public school employee; or

(2)  a survivor, heir, or beneficiary of a public school employee.

SUBCHAPTER D. ADDITIONAL BENEFITS FOR ELIGIBLE SURVIVORS

Sec. 615A.301.  PAYMENTS TO SURVIVING SPOUSE. (a) In this section, "public retirement system" has the meaning assigned by Section 802.001.

(b)  The state shall pay the following benefits to an eligible surviving spouse of a public school employee whose death satisfies the eligibility requirements established under Section 615A.101(a)(1) and who had not qualified for an annuity under a public retirement system:

(1)  funeral expenses related to the deceased employee; and

(2)  monthly payments that equal the monthly annuity payment the deceased employee would have received if the employee had survived, had retired on the last day of the month in which the employee died, and had been eligible to receive an annuity under a public retirement system.

(c)  The surviving spouse is entitled to continue to receive monthly payments under Subsection (b) until the earlier of:

(1)  the date the surviving spouse remarries;

(2)  the date the surviving spouse becomes eligible for a service retirement benefit under a public retirement system; or

(3)  the date the surviving spouse becomes eligible for Social Security benefits.

(d)  The retirement system may require the surviving spouse to provide information as necessary to administer this section.

(e)  The board of trustees of the retirement system may adopt rules necessary to administer this section, including rules:

(1)  setting the maximum amount of funeral expenses payable under this subchapter; and

(2)  calculating the survivor benefits payable under this subchapter.

(f)  The retirement system shall apply reduction factors, as applicable to an annuity payable under this section, in the same manner the factors are applied to a benefit plan administered by the system.

Sec. 615A.302.  PAYMENTS TO SURVIVING MINOR CHILDREN. If a public school employee whose death satisfies the eligibility requirements established under Section 615A.101(a)(1) did not have an eligible surviving spouse who would be entitled to benefits under Section 615A.301 at the time of the employee's death does have one or more eligible surviving minor children, the state shall pay to the guardian or other legal representative of those children the funeral expenses of the deceased employee.

Sec. 615A.303.  BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

SECTION 2.  The changes in law made by this Act apply only to the death of a public school employee that occurs on or after the effective date of this Act. A death that occurred before the effective date of this Act is governed by the law in effect when the death occurred, and that law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2023.