

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

1 employee, is younger than 18 years of age; and

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

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

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

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

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

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

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

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

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

26 Sec. 615A.005. ASSISTANCE NOT ASSIGNABLE; PAYMENTS EXEMPT.

27 (a) Assistance payable under this chapter is not transferable or

1 assignable at law or in equity.

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

5 Sec. 615A.006. LIMITATION ON ASSISTANCE. A survivor may
6 not receive payment of assistance under this chapter for a loss or
7 expense for which the survivor or another person has already
8 received compensation under a claim for compensation under Chapter
9 56B, Code of Criminal Procedure.

10 SUBCHAPTER B. PAYMENTS TO ELIGIBLE SURVIVORS

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

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

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

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

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

25 (2) the survivor is:

26 (A) the surviving spouse of the employee;

27 (B) a surviving child of the employee, if there

1 is no surviving spouse; or

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

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

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

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

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

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

20 (d) An eligible survivor, or eligible survivors in equal
21 shares, are entitled to receive a lump sum payment in the amount
22 provided by this subsection. The lump sum payment amount payable to
23 an eligible survivor during the 12 months beginning September 1,
24 2023, is \$500,000. Effective September 1 of each following year,
25 the board of trustees of the retirement system by rule shall adjust
26 the amount of the lump sum payment required under this subsection by
27 an amount equal to the percentage change in the Consumer Price Index

1 for All Urban Consumers, published by the Bureau of Labor
2 Statistics of the United States Department of Labor for the
3 preceding year. The amount paid to an eligible survivor or
4 survivors as adjusted under this subsection is calculated based on
5 the date of the decedent's death and not on the date the eligible
6 survivor or survivors file a claim under this chapter.

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

- 10 (1) \$400 each month, if there is one surviving child;
11 (2) \$600 each month, if there are two surviving
12 children; or
13 (3) \$800 each month, if there are three or more
14 surviving children.

15 (b) A child's entitlement to assistance payable under this
16 section ends on the last day of the month that includes the child's
17 18th birthday. At that time, payments to any other surviving minor
18 children shall be adjusted, as necessary, to conform to the amounts
19 payable under Subsection (a).

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

22 SUBCHAPTER C. ADMINISTRATION AND PROCEDURE

23 Sec. 615A.201. CONSIDERATION AND DETERMINATION OF CLAIM;
24 COMPELLED COMPLIANCE. (a) Not later than the 30th day after the
25 date of the death of a public school employee in a manner described
26 by Section 615A.101(a)(1), the employee's employer shall furnish to
27 the board of trustees of the retirement system proof of the death in

1 the form and with additional evidence and information required by
2 the board. The employer shall furnish the evidence and information
3 required under this subsection regardless of whether the employing
4 entity believes the employee's death satisfies the eligibility
5 requirements established under Section 615A.101(a)(1).

6 (b) The board of trustees shall consider the proof,
7 evidence, and information provided under Subsection (a), and any
8 additional information required by the rules adopted in accordance
9 with Section 615A.002, to determine whether the employee's death
10 satisfies the eligibility requirements established under Section
11 615A.101(a)(1) and justifies the payment of assistance to the
12 employee's eligible survivors under this chapter.

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

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

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

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

27 Sec. 615A.203. DENIAL OF CLAIM. If the retirement system

1 denies a claim, the retirement system shall send a notice of the
2 denial to:

3 (1) the person making the claim; or

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

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

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

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

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

1 this section.

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

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

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

25 (e) The retirement system has sole discretion in
26 determining whether a record is subject to this section. For
27 purposes of this section, a record includes any identifying

1 information about any person, living or deceased, who is or was:

2 (1) a public school employee; or

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

5 SUBCHAPTER D. ADDITIONAL BENEFITS FOR ELIGIBLE SURVIVORS

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

9 (b) The state shall pay the following benefits to an
10 eligible surviving spouse of a public school employee whose death
11 satisfies the eligibility requirements established under Section
12 615A.101(a)(1) and who had not qualified for an annuity under a
13 public retirement system:

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

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

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

23 (1) the date the surviving spouse remarries;

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

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

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

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

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

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

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

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

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

24 SECTION 2. The changes in law made by this Act apply only to
25 the death of a public school employee that occurs on or after the
26 effective date of this Act. A death that occurred before the
27 effective date of this Act is governed by the law in effect when the

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1 death occurred, and that law is continued in effect for that
2 purpose.

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