

Title 18, Crimes and Criminal Procedure, prior to repeal by Pub. L. 99-308, §104(b), May 19, 1986, 100 Stat. 459.

#### AMENDMENTS

2006—Subsec. (a)(4). Pub. L. 109-162, §1164(d), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “if there is no surviving spouse or surviving child, to the individual designated by such officer as beneficiary under such officer’s most recently executed life insurance policy, provided that such individual survived such officer; or”.

Subsec. (a)(6). Pub. L. 109-162, §1164(e), which directed amendment of section 1201(1)(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) by adding par. (6) at end, was executed by adding par. (6) at end of subsec. (a) of this section to reflect the probable intent of Congress.

Subsec. (m). Pub. L. 109-162, §1164(c), added subsec. (m).

2003—Subsecs. (k), (l). Pub. L. 108-182 added subsecs. (k) and (l).

2002—Subsec. (a)(4), (5). Pub. L. 107-196 added par. (4) and redesignated former par. (4) as (5).

2001—Subsec. (a). Pub. L. 107-56 substituted “\$250,000” for “\$100,000” in introductory provisions.

1994—Subsec. (a). Pub. L. 103-322, §330001(e)(1)(A), substituted “subsection (h) of this section,” for “subsection (g) of this section” in introductory provisions.

Subsec. (b). Pub. L. 103-322, §330001(e)(1)(B), substituted “catastrophic injury” for “catastrophic personal injury”, “subsection (h)” for “subsection (g)”, and “benefits paid under this subsection” for “benefits paid under this section”.

1992—Subsec. (b). Pub. L. 102-520 substituted “the same benefit in any year that is payable under subsection (a) of this section in such year,” for “a benefit of up to \$100,000.”.

1990—Subsec. (b). Pub. L. 101-647, §1301(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 101-647, §1301(a)(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 101-647, §1301(a)(1), (2), redesignated subsecs. (c) and (d) as (d) and (e), respectively, and substituted “(c)” for “(b)”. Former subsec. (e) redesignated (f).

Subsecs. (f) to (i). Pub. L. 101-647, §1301(a)(2), redesignated former subsecs. (e) to (h) as (f) to (i), respectively.

Subsec. (j). Pub. L. 101-647, §1301(a)(4), added subsec. (j).

1988—Subsec. (a). Pub. L. 100-690, §6105(a), substituted “\$100,000, adjusted in accordance with subsection (g) of this section” for “\$50,000”.

Subsec. (a)(4). Pub. L. 100-690, §6105(c), struck out “dependent” before “parent”.

Subsecs. (g), (h). Pub. L. 100-690, §6105(b), added subsecs. (g) and (h).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-196, §2(c), June 24, 2002, 116 Stat. 720, provided that: “The amendments made by this section [amending this section and section 3796b of this title] shall take effect on September 11, 2001, and shall apply to injuries or deaths that occur in the line of duty on or after such date.”

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-56, title VI, §613(b), Oct. 26, 2001, 115 Stat. 370, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any death or disability occurring on or after January 1, 2001.”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 2 of Pub. L. 102-520 provided that: “The amendments made by section 1 of this Act [amending this section] shall apply with respect to injuries occurring on or after November 29, 1990, using the calcula-

tion method used to determine benefits under section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [subsec. (a) of this section].”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 1303 of title XIII of Pub. L. 101-647 provided that: “The amendments made by this title [amending this section and sections 3796a and 3796b of this title] shall take effect upon enactment [Nov. 29, 1990] and shall not apply with respect to injuries occurring before the effective date of such amendments.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 6105(e) of Pub. L. 100-690 provided that: “The amendments made by this section [amending this section and section 3796b of this title] shall take effect on June 1, 1988.”

#### EFFECTIVE DATE

Subchapter effective Oct. 1, 1984, and inapplicable with respect to injuries sustained before Oct. 1, 1984, see section 609AA(b)(1) of Pub. L. 98-473, set out as a note under section 3711 of this title.

#### § 3796a. Limitations on benefits

No benefit shall be paid under this subchapter—

(1) if the death or catastrophic injury was caused by the intentional misconduct of the public safety officer or by such officer’s intention to bring about his death or catastrophic injury;

(2) if the public safety officer was voluntarily intoxicated at the time of his death or catastrophic injury;

(3) if the public safety officer was performing his duties in a grossly negligent manner at the time of his death or catastrophic injury;

(4) to any individual who would otherwise be entitled to a benefit under this subchapter if such individual’s actions were a substantial contributing factor to the death or catastrophic injury of the public safety officer; or

(5) with respect to any individual employed in a capacity other than a civilian capacity.

(Pub. L. 90-351, title I, §1202, as added Pub. L. 98-473, title II, §609F, Oct. 12, 1984, 98 Stat. 2099; amended Pub. L. 101-647, title XIII, §1301(b), Nov. 29, 1990, 104 Stat. 4834; Pub. L. 109-162, title XI, §1164(b), Jan. 5, 2006, 119 Stat. 3120.)

#### PRIOR PROVISIONS

A prior section 3796a, Pub. L. 90-351, title I, §1202, as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1220; amended Pub. L. 98-411, title II, §204(a)(2), Aug. 30, 1984, 98 Stat. 1561; Pub. L. 98-473, title II, §609Z, Oct. 12, 1984, 98 Stat. 2107, contained provisions similar to this section, prior to the general amendment of this subchapter by section 609F of Pub. L. 98-473.

Another prior section 3796a, Pub. L. 90-351, title I, §702, as added Pub. L. 94-430, §2, Sept. 29, 1976, 90 Stat. 1347, contained provisions similar to this section, prior to the general amendment of this chapter by Pub. L. 96-157.

A prior section 1202 of Pub. L. 90-351, title VII, June 19, 1968, 82 Stat. 236, was set out in the Appendix to Title 18, Crimes and Criminal Procedure, prior to repeal by Pub. L. 99-308, §104(b), May 19, 1986, 100 Stat. 459.

#### AMENDMENTS

2006—Par. (5). Pub. L. 109-162 inserted “with respect” before “to any individual”.

1990—Pars. (1) to (4). Pub. L. 101-647 inserted “or catastrophic injury” after “death” wherever appearing.

## EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-647 effective Nov. 29, 1990, and not applicable with respect to injuries occurring before Nov. 29, 1990, see section 1303 of Pub. L. 101-647, set out as a note under section 3796 of this title.

**§ 3796a-1. National programs for families of public safety officers who have died in line of duty**

The Director is authorized to use no less than \$150,000 of the funds appropriated for this subchapter to maintain and enhance national peer support and counseling programs to assist families of public safety officers who have died in the line of duty.

(Pub. L. 90-351, title I, §1203, as added Pub. L. 100-690, title VI, §6106(a)(2), Nov. 18, 1988, 102 Stat. 4341; amended Pub. L. 105-180, §2(a), June 16, 1998, 112 Stat. 511.)

## PRIOR PROVISIONS

A prior section 1203 of Pub. L. 90-351 was renumbered section 1204 and is classified to section 3796b of this title.

Another prior section 1203 of Pub. L. 90-351, title VII, June 19, 1968, 82 Stat. 237, was set out in the Appendix to Title 18, Crimes and Criminal Procedure, prior to repeal by Pub. L. 99-308, §104(b), May 19, 1986, 100 Stat. 459.

## AMENDMENTS

1998—Pub. L. 105-180 amended text generally. Prior to amendment, text read as follows: “The Director is authorized and directed to use up to \$150,000 of the funds appropriated for this subchapter to establish national programs to assist the families of public safety officers who have died in the line of duty.”

## TRANSFER OF FUNCTIONS

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 3742(3) to (6) of this title, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, §108(b)] of Pub. L. 106-113, set out as a note under section 3741 of this title.

**§ 3796b. Definitions**

As used in this subchapter—

(1) “catastrophic injury” means consequences of an injury that permanently prevent an individual from performing any gainful work;

(2) “chaplain” includes any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency;

(3) “child” means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer’s death, is—

- (i) 18 years of age or under;
- (ii) over 18 years of age and a student as defined in section 8101 of title 5; or
- (iii) over 18 years of age and incapable of self-support because of physical or mental disability;

(4) “firefighter” includes an individual serving as an officially recognized or designated

member of a legally organized volunteer fire department;

(5) “intoxication” means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

(i) a post-mortem blood alcohol level of .20 per centum or greater; or

(ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;

or resulting from drugs or other substances in the body;

(6) “law enforcement officer” means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws (including juvenile delinquency),<sup>1</sup> including, but not limited to, police, corrections, probation, parole, and judicial officers;

(7) “member of a rescue squad or ambulance crew” means an officially recognized or designated public employee member of a rescue squad or ambulance crew;

(8) “public agency” means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing; and

(9) “public safety officer” means—

(A) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew;

(B) an employee of the Federal Emergency Management Agency who is performing official duties of the Agency in an area, if those official duties—

(i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(ii) are determined by the Administrator of the Federal Emergency Management Agency to be hazardous duties; or

(C) an employee of a State, local, or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties—

(i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

<sup>1</sup> So in original. The period probably should not appear.