

AMENDMENTS

1984—Pub. L. 98-473 substituted “Office of Justice Programs, Bureau of Justice Assistance” for “Law Enforcement Assistance Administration”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-473 effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98-473, set out as an Effective Date note under section 10101 of this title.

SUBCHAPTER XI—PUBLIC SAFETY
OFFICERS’ DEATH BENEFITS

PART A—DEATH BENEFITS

§ 10281. Payment of death benefits

(a) Amount; recipients

In any case in which the Bureau of Justice Assistance (hereinafter in this subchapter referred to as the “Bureau”) determines, under regulations issued pursuant to this subchapter, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of \$250,000, adjusted in accordance with subsection (h), as follows (if the payee indicated is living on the date on which the determination is made)—

(1) if there is no child who survived the public safety officer, to the surviving spouse of the public safety officer;

(2) if there is at least 1 child who survived the public safety officer and a surviving spouse of the public safety officer, 50 percent to the surviving child (or children, in equal shares) and 50 percent to the surviving spouse;

(3) if there is no surviving spouse of the public safety officer, to the surviving child (or children, in equal shares);

(4) if there is no surviving spouse of the public safety officer and no surviving child—

(A) to the surviving individual (or individuals, in shares per the designation, or, otherwise, in equal shares) designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

(B) if there is no individual qualifying under subparagraph (A), to the surviving individual (or individuals, in equal shares) designated by the public safety officer to receive benefits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit;

(5) if there is no individual qualifying under paragraph (1), (2), (3), or (4), to the surviving parent (or parents, in equal shares) of the public safety officer; or

(6) if there is no individual qualifying under paragraph (1), (2), (3), (4), or (5), to the surviving individual (or individuals, in equal shares) who would qualify under the definition of the term “child” under section 10284 of this title but for age.

(b) Benefits for permanent and total disability

In accordance with regulations issued pursuant to this subchapter, in any case in which the

Bureau determines that a public safety officer has become permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay the same benefit to the public safety officer (if living on the date on which the determination is made) that is payable under subsection (a) with respect to the date on which the catastrophic injury occurred, as adjusted in accordance with subsection (h): *Provided*, That for the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: *Provided further*, That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.

(c) Interim benefit payment

Whenever the Bureau determines upon showing of need and prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Bureau may make an interim benefit payment not exceeding \$3,000 to the individual entitled to receive a benefit under subsection (a) of this section.

(d) Deduction of interim payment

The amount of an interim payment under subsection (c) shall be deducted from the amount of any final benefit paid to such individual.

(e) Repayment of interim payment; waiver

Where there is no final benefit paid, the recipient of any interim payment under subsection (c) shall be liable for repayment of such amount. The Bureau may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

(f) Reductions from final benefit payment

The benefit payable under this subchapter shall be in addition to any other benefit that may be due from any other source, except—

(1) payments authorized by section 12(k) of the Act of September 1, 1916;

(2) benefits authorized by section 8191 of title 5, such that beneficiaries shall receive only such benefits under such section 8191 as are in excess of the benefits received under this subchapter; or

(3) payments under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42).

(g) Execution or attachment prohibited

No benefit paid under this subchapter shall be subject to execution or attachment.

(h) Consumer Price Index adjustment

On October 1 of each fiscal year beginning after June 1, 1988, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

(i) Amount payable determined as of date of death

The amount payable under subsection (a) with respect to the death of a public safety officer

shall be the amount payable under subsection (a) as of the date of death of such officer.

(j) Limitations on benefits

(1) No benefit is payable under this subchapter with respect to the death of a public safety officer if a benefit is paid under this subchapter with respect to the disability of such officer.

(2) No benefit is payable under this subchapter with respect to the disability of a public safety officer if a benefit is payable under this subchapter with respect to the death of such public safety officer.

(k) Death by heart attack, stroke, or vascular rupture; presumption

As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if—

(1) the public safety officer, while on duty—

(A) engages in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

(B) participates in a training exercise involving nonroutine stressful or strenuous physical activity;

(2) the heart attack, stroke, or vascular rupture commences—

(A) while the officer is engaged or participating as described in paragraph (1);

(B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or

(C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and

(3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer,

unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.

(l) Definition

For purposes of subsection (k), “nonroutine stressful or strenuous physical” excludes actions of a clerical, administrative, or nonmanual nature.

(m) Suspension or end of collection action

The Bureau may suspend or end collection action on an amount disbursed pursuant to a statute enacted retroactively or otherwise disbursed in error under subsection (a) or (c), where such collection would be impractical, or would cause undue hardship to a debtor who acted in good faith.

(n) Confidentiality

The public safety agency, organization, or unit responsible for maintaining on file an exe-

cuted designation of beneficiary or executed life insurance policy for purposes of subsection (a)(4) shall maintain the confidentiality of the designation or policy in the same manner as the agency, organization, or unit maintains personnel or other similar records of the public safety officer.

(Pub. L. 90-351, title I, §1201, as added Pub. L. 98-473, title II, §609F, Oct. 12, 1984, 98 Stat. 2098; amended Pub. L. 100-690, title VI, §6105(a)-(c), Nov. 18, 1988, 102 Stat. 4341; Pub. L. 101-647, title XIII, §1301(a), Nov. 29, 1990, 104 Stat. 4834; Pub. L. 102-520, §1, Oct. 25, 1992, 106 Stat. 3402; Pub. L. 103-322, title XXXIII, §330001(e)(1), Sept. 13, 1994, 108 Stat. 2138; Pub. L. 107-56, title VI, §613(a), Oct. 26, 2001, 115 Stat. 369; Pub. L. 107-196, §2(b), June 24, 2002, 116 Stat. 719; Pub. L. 108-182, §2, Dec. 15, 2003, 117 Stat. 2649; Pub. L. 109-162, title XI, §1164(c)-(e), Jan. 5, 2006, 119 Stat. 3120, 3121; Pub. L. 112-239, div. A, title X, §1086(b)(1)(B), Jan. 2, 2013, 126 Stat. 1964.)

REFERENCES IN TEXT

Section 12 of the Act of September 1, 1916, referred to in subsec. (f)(1), is section 12 of act Sept. 1, 1916, ch. 433, 39 Stat. 718, which is not classified to the Code.

The September 11th Victim Compensation Fund of 2001, referred to in subsec. (f)(3), is title IV of Pub. L. 107-42, Sept. 22, 2001, 115 Stat. 237, which is set out in a note under section 40101 of Title 49, Transportation.

CODIFICATION

Section was formerly classified to section 3796 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section. Some section numbers or references in amendment notes below reflect the classification of such sections or references prior to editorial reclassification.

PRIOR PROVISIONS

A prior section 1201 of title I of Pub. L. 90-351, as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1219; amended Pub. L. 98-411, title II, §204(a)(1), 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 part I of title I of Pub. L. 90-351 by section 609F of Pub. L. 98-473.

Another prior section 1201 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

2013—Subsec. (a). Pub. L. 112-239, §1086(b)(1)(B)(i), substituted “follows (if the payee indicated is living on the date on which the determination is made)—” for “follows:” in introductory provisions, added pars. (1) to (6), and struck out former pars. (1) to (6) which listed a succession of beneficiaries.

Subsec. (b). Pub. L. 112-239, §1086(b)(1)(B)(ii), substituted “direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay the same benefit to the public safety officer (if living on the date on which the determination is made) that is payable under subsection (a) of this section with respect to the date on which the catastrophic injury occurred, as adjusted in accordance with subsection (h) of this section:” for “direct result of a catastrophic injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, the same benefit in any year that is payable under subsection (a) of this section in such year, adjusted in accordance with subsection (h) of this section, to such officer:”, “That for the purposes” for “That the total annual benefits paid under this subsection may not exceed

\$5,000,000. For the purposes”, and “That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.” for “That these benefit payments are subject to the availability of appropriations and that each beneficiary’s payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.”

Subsec. (f)(1). Pub. L. 112-239, § 1086(b)(1)(B)(iii)(I), substituted semicolon at end for “, as amended (D.C. Code, sec. 4-622); or”.

Subsec. (f)(2). Pub. L. 112-239, § 1086(b)(1)(B)(iii)(II), substituted “, such that beneficiaries shall receive only such benefits under such section 8191 as are in excess of the benefits received under this subchapter; or” for “. Such beneficiaries shall only receive benefits under such section 8191 that are in excess of the benefits received under this subchapter.”

Subsec. (f)(3). Pub. L. 112-239, § 1086(b)(1)(B)(iii)(III), added par. (3).

Subsec. (k). Pub. L. 112-239, § 1086(b)(1)(B)(iv), amended subsec. (k) generally. Prior to amendment, subsec. (k) related to presumption with respect to death by heart attack or stroke.

Subsec. (n). Pub. L. 112-239, § 1086(b)(1)(B)(v), added subsec. (n).

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 2013 AMENDMENT

Amendment by Pub. L. 112-239 effective Jan. 2, 2013, and applicable to matters pending on Jan. 2, 2013, or

filed or accruing after that date, with certain exceptions, see section 1086(d) of Pub. L. 112-239, set out as a note under section 10251 of this title.

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 10284 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

Pub. L. 102-520, § 2, Oct. 25, 1992, 106 Stat. 3402, 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 calculation method used to determine benefits under section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [34 U.S.C. 10281(a)].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-647, title XIII, § 1303, Nov. 29, 1990, 104 Stat. 4835, provided that: “The amendments made by this title [amending this section and sections 10282 and 10284 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

Pub. L. 100-690, title VI, § 6105(e), Nov. 18, 1988, 102 Stat. 4341, provided that: “The amendments made by this section [amending this section and section 10284 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 10101 of this title.

§ 10282. Limitations on benefits

(a) In general

No benefit shall be paid under this subchapter—

(1) if the fatal 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, disability, or injury;

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

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

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

(b) Presumption

In determining whether a benefit is payable under this subchapter, the Bureau—