

PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

History

The Public Safety Officers' Benefit (PSOB) Act (42 U.S.C. 3796, et seq.) was enacted in 1976 to assist in the recruitment and retention of law enforcement officers and firefighters.

Specifically, Congress was concerned that the hazards inherent in law enforcement and fire suppression and the low level of State and local death benefits might discourage qualified individuals from seeking careers in these fields, thus hampering the ability of communities to provide for public safety.

The PSOB Act was designed to offer peace of mind to men and women seeking careers in public safety and to make a strong statement about the value of those who serve their communities in potentially dangerous circumstances.

The resultant PSOB Program, which is administered by the Bureau of Justice Assistance (BJA), presents a unique opportunity for the U.S. Department of Justice; Federal, State and local public safety agencies; and national public safety organizations to become involved in promoting the protection of public safety officers before tragedies occur. Each year, the PSOB program receives substantial information about line of duty deaths that is used to enhance public safety officer training. The PSOB Program also encourages public safety agencies to adopt model policies that can help guide an agency through the tragic event of a line of duty death.

PSOB Program Benefits

The PSOB Program provides a onetime financial benefit to the eligible survivors of public safety officers whose deaths are the direct and proximate result of a traumatic injury sustained in the line of duty. The benefit was increased from \$50,000 to \$100,000 for deaths occurring on or after June 1, 1988. Since October 15, 1988 the benefit has been adjusted each year on October 1 to reflect the percentage of change in the Consumer Price Index. For fiscal year 1997, the benefit is \$138,461.

The PSOB Program provides the same benefit to public safety officers who have been permanently and totally disabled by a catastrophic personal injury sustained in the line of duty if that injury permanently prevents the officer from performing any gainful work. Approximately 15 disability claims have been submitted annually since the PSOB Act was amended in 1990 to include permanent and total disability. Medical retirement for a line of duty disability does not, in and of itself, establish eligibility for PSOB benefits.

Since 1977, on average, the PSOB Program has received 275 benefit claims each year for line of duty deaths of public safety officers. PSOB Program staff respond rapidly and with sensitivity to requests for assistance from claimants and public safety agencies. They also provide moral support and, when necessary, referrals to organizations such

as Concerns of Police Survivors (COPS), which can provide long-term support for surviving family members and co-workers of deceased public safety officers.

PSOB Program Effective Dates The effective dates for PSOB Program benefits are as follows:

Death Benefits

- State and local law enforcement officers and firefighters are covered for line of duty deaths occurring on or after September 29, 1976.
- Federal law enforcement officers and firefighters are covered for line of duty deaths occurring on or after October 12, 1984.
- Members of Federal, State and local public rescue squads and ambulance crews are covered for line of duty deaths occurring on or after October 15, 1986.

Disability Benefits

Federal, State and local law enforcement officers, firefighters, and members of public rescue squads and ambulance crews are covered for catastrophic injuries sustained on or after November 29, 1990.

Public Safety Officers Eligible for PSOB Benefits

Under the PSOB Program, a public safety officer is a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or member of a public rescue squad or ambulance crew. Law enforcement officers include, but are not limited to, police, corrections, probation, parole, and judicial officers. Volunteer firefighters and members of volunteer rescue squads and ambulance crews are covered under the program if they are officially recognized or designated members of legally organized volunteer fire departments, rescue squads, or ambulance crews.

A public agency is defined as the United States; any U.S. State; the District of Columbia; the commonwealth of Puerto Rico; any U.S. Territory or possession; any unit of local government, any combination of such States or units; and any department, agency or instrumentality of the foregoing. To be eligible for benefits, a public safety officer's death or total and permanent disability must result from injuries sustained in the line of duty. Line of duty is defined in the PSOB regulations (28 CFR 32) as any action that the public safety officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is authorized or obligated by law, rule, regulation, or condition of employment or service to perform. Other public safety officers---whose primary function is not law enforcement or fire suppression-- must be engaged in their authorized law enforcement, fire suppression, rescue squad, or ambulance duties when the fatal or disabling injury is sustained.

Survivors Eligible for Program Death Benefits

Once BJA approves a claim for death benefits, the benefit will be paid to eligible survivors in a lump sum, as follows:

- If there are no surviving children of the deceased officer, to the surviving spouse.
- If there is a surviving child or children and a surviving spouse, one-half to the child or children in equal shares and one-half to the surviving spouse.
- If there is no surviving spouse, in equal shares to the child or children.
- If none of the above apply, in equal shares to the parent or parents.

Under the PSOB Act, child is defined as any natural child who was born before or after the death of the public safety officer, or who is an adopted child or stepchild of the deceased public safety officer. At the time of death, the child must be 18 years of age or younger, or 19 through 22 years of age and pursuing a full-time course of study or training, if the child has not already completed 4 years of education beyond high school; or 19 years or older and incapable of self-support due to a physical or mental disability.

For PSOB Program benefits to be paid, a public safety officer must be survived by an eligible survivor; public safety officers cannot predesignate their beneficiaries.

PSOB Program Limitations and Exclusions

No PSOB Program benefit can be paid:

- If the death or permanent and total disability was caused by the intentional misconduct of the public safety officer or if the officer intended to bring about his or her own death or permanent and total disability.
- If the public safety officer was voluntarily intoxicated at the time of death or permanent and total disability.
- If the public safety officer was performing his or her duties in a grossly negligent manner at the time of death or permanent and total disability.
- To a claimant whose actions were a substantial contributing factor to the death of the public safety officer.
- To members of the military serving as law enforcement officers, firefighters, or rescue squad or ambulance crew members, or to any of their survivors.

PSOB benefits do not cover death or permanent and total disability resulting from stress; strain; occupational illness; or a chronic, progressive, or congenital disease (such as heart or pulmonary disease), unless there is a traumatic injury that is a substantial contributing factor in the death or permanent and total disability. Medical proof of the traumatic injury (such as a blood test for carbon monoxide poisoning) may be necessary for coverage in these cases.

Reduction of Benefits

The PSOB Program benefit is reduced by certain payments made under the District of Columbia Code and may itself reduce benefits under Section 8191 of the Federal Employees' Compensation Act. However, State and local benefits must not be reduced by benefits received under the PSOB Act, and the PSOB benefit is not reduced by any benefit received at the State or local level.

Interim Payment

If BJA determines an urgent claimant need before the final action of paying a death benefit, an interim benefit payment not exceeding \$3,000 may be made to the eligible survivor(s) if it is probably that the death is compensable.

Attachment and Tax Exemption

PSOB death and disability benefits are not subject to execution or attachment by creditors. The Internal Revenue Service (IRS) has ruled that the benefit is not subject to Federal income tax (IRS Ruling No. 77-235, IRS 1977-28) or to Federal estate tax (IRS Ruling No. 79-397). Attorneys' Fees

The PSOB Act authorizes BJA to establish the maximum fee that may be charged for services rendered to the claimant by another party in connection with any PSOB claim filed with BJA. Contracts for stipulation fee and contingent fee arrangements are prohibited by PSOB regulations (28 CFR 32.22(b)). BJA assumes no responsibility for payment of claimant attorney fees (28 CFR 32.22(d)).

Filing A Claim

Eligible survivors or disability claimants may file claims directly with BJA or through the public safety agency, organization, or unit in which the public safety officer served. In most cases, the public safety agency provides BJA with sufficient information to determine whether the circumstances of the death or permanent and total disability support a benefit payment. The public safety agency prepares a Report of Public Safety Officer's Death or Permanent and Total Disability Claim Form to accompany the claim for death benefits completed by the eligible survivor(s) or, in the case of disability claims, the injured officer. BJA will determine whether and to whom a benefit should be paid.

For Further Information

For more information about the Public Safety Officers' Benefit Program or to share your observations and recommendations, please contact:

U.S. Department of Justice Response Center Tel: 1-800-421-6770

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