

---

---

SENATE BILL NO. 240—SENATOR TOWNSEND

MARCH 6, 2003

---

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions relating to benefits payable to surviving spouses and children of certain police officers and firemen. (BDR 53-696)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

---

AN ACT relating to public employees; allowing the surviving spouse of a deceased police officer or fireman to continue to receive death benefits under industrial insurance after the surviving spouse remarries; making certain provisions apply retroactively to allow certain benefits to be made available to the surviving spouses and children of certain police officers and firemen killed in the line of duty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1       **Section 1.** Chapter 616C of NRS is hereby amended by adding  
2       thereto a new section to read as follows:  
3       1. *Except as otherwise provided in this section, if the*  
4       *surviving spouse of a deceased police officer or fireman is entitled*  
5       *to be paid compensation pursuant to subsection 2 of NRS*  
6       *616C.505, the surviving spouse:*  
7       (a) *Must be paid that compensation until the death of the*  
8       *surviving spouse, whether or not the surviving spouse remarries;*  
9       *and*  
10       (b) *Must not be paid any compensation pursuant to subsection*  
11       *2 of NRS 616C.505 in one lump sum upon remarriage.*  
12       2. *If the surviving spouse of a deceased police officer or*  
13       *fireman becomes the spouse of another employee who thereafter*



1 *dies under circumstances that would otherwise entitle the*  
2 *surviving spouse to be paid compensation pursuant to subsection 2*  
3 *of NRS 616C.505 with respect to the other employee, the surviving*  
4 *spouse:*

5 (a) *Must not be paid compensation pursuant to subsection 2 of*  
6 *NRS 616C.505 with respect to the other employee; and*

7 (b) *Shall be deemed to have predeceased the other employee*  
8 *for the purposes of chapters 616A to 616D, inclusive, of NRS.*

9 **Sec. 2.** NRS 616C.505 is hereby amended to read as follows:

10 616C.505 If an injury by accident arising out of and in the  
11 course of employment causes the death of an employee in the  
12 employ of an employer, within the provisions of chapters 616A to  
13 616D, inclusive, of NRS, the compensation is known as a death  
14 benefit ~~§~~ and is payable as follows:

15 1. In addition to any other compensation payable pursuant to  
16 chapters 616A to 616D, inclusive, of NRS, burial expenses are  
17 payable in an amount not to exceed \$5,000. When the remains of the  
18 deceased employee and the person accompanying the remains are to  
19 be transported to a mortuary or mortuaries, the charge of  
20 transportation must be borne by the insurer.

21 2. ~~¶~~ *Except as otherwise provided in section 1 of this act,*  
22 *to the surviving spouse of the deceased employee, 66 2/3 percent of*  
23 *the average monthly wage is payable until his death or remarriage,*  
24 *with 2 years' compensation payable in one lump sum upon*  
25 *remarriage.*

26 3. In the event of the subsequent death of the surviving spouse:

27 (a) Each surviving child of the deceased employee must share  
28 equally the compensation theretofore paid to the surviving spouse  
29 but not in excess thereof, and it is payable until the youngest child  
30 reaches the age of 18 years.

31 (b) Except as otherwise provided in subsection 11, if the  
32 children have a guardian, the compensation they are entitled to  
33 receive may be paid to the guardian.

34 4. Upon the remarriage of a surviving spouse with children:

35 (a) The surviving spouse must be paid 2 years' compensation in  
36 one lump sum and further benefits must cease; and

37 (b) Each child must be paid 15 percent of the average monthly  
38 wage, up to a maximum family benefit of 66 2/3 percent of the  
39 average monthly wage.

40 *The provisions of this subsection do not apply to the remarriage of*  
41 *a surviving spouse of a deceased police officer or fireman if the*  
42 *provisions of section 1 of this act apply to the surviving spouse.*

43 5. If there are any surviving children of the deceased employee  
44 under the age of 18 years, but no surviving spouse, then each such



1 child is entitled to his proportionate share of  $66 \frac{2}{3}$  percent of the  
2 average monthly wage for his support.

3 6. Except as otherwise provided in subsection 7, if there is no  
4 surviving spouse or child under the age of 18 years, there must be  
5 paid:

6 (a) To a parent, if wholly dependent for support upon the  
7 deceased employee at the time of the injury causing his death,  
8  $33 \frac{1}{3}$  percent of the average monthly wage.

9 (b) To both parents, if wholly dependent for support upon the  
10 deceased employee at the time of the injury causing his death,  
11  $66 \frac{2}{3}$  percent of the average monthly wage.

12 (c) To each brother or sister until he or she reaches the age of 18  
13 years, if wholly dependent for support upon the deceased employee  
14 at the time of the injury causing his death, his proportionate share of  
15  $66 \frac{2}{3}$  percent of the average monthly wage.

16 7. The aggregate compensation payable pursuant to subsection  
17 6 must not exceed  $66 \frac{2}{3}$  percent of the average monthly wage.

18 8. In all other cases involving a question of total or partial  
19 dependency:

20 (a) The extent of the dependency must be determined in  
21 accordance with the facts existing at the time of the injury.

22 (b) If the deceased employee leaves dependents only partially  
23 dependent upon his earnings for support at the time of the injury  
24 causing his death, the monthly compensation to be paid must be  
25 equal to the same proportion of the monthly payments for the  
26 benefit of persons totally dependent as the amount contributed by  
27 the deceased employee to the partial dependents bears to the average  
28 monthly wage of the deceased employee at the time of the injury  
29 resulting in his death.

30 (c) The duration of compensation to partial dependents must be  
31 fixed in accordance with the facts shown, but may not exceed  
32 compensation for 100 months.

33 9. Compensation payable to a surviving spouse is for the use  
34 and benefit of the surviving spouse and the dependent children, and  
35 the insurer may, from time to time, apportion such compensation  
36 between them in such a way as it deems best for the interest of all  
37 dependents.

38 10. In the event of the death of any dependent specified in this  
39 section before the expiration of the time during which compensation  
40 is payable to him, funeral expenses are payable in an amount not to  
41 exceed \$5,000.

42 11. If a dependent is entitled to receive a death benefit pursuant  
43 to this section and is less than 18 years of age or incompetent, the  
44 legal representative of the dependent shall petition for a guardian to  
45 be appointed for that dependent pursuant to NRS 159.044. An



1 insurer shall not pay any compensation in excess of \$3,000, other  
2 than burial expenses, to the dependent until a guardian is appointed  
3 and legally qualified. Upon receipt of a certified letter of  
4 guardianship, the insurer shall make all payments required by this  
5 section to the guardian of the dependent until the dependent is  
6 emancipated, the guardianship terminates or the dependent reaches  
7 the age of 18 years, whichever occurs first, unless paragraph (a) of  
8 subsection 12 is applicable. The fees and costs related to the  
9 guardianship must be paid from the estate of the dependent. A  
10 guardianship established pursuant to this subsection must be  
11 administered in accordance with chapter 159 of NRS, except that  
12 after the first annual review required pursuant to NRS 159.176, a  
13 court may elect not to review the guardianship annually. The court  
14 shall review the guardianship at least once every 3 years. As used in  
15 this subsection, "incompetent" has the meaning ascribed to it in  
16 NRS 159.019.


17 12. Except as otherwise provided in paragraphs (a) and (b), the  
18 entitlement of any child to receive his proportionate share of  
19 compensation pursuant to this section ceases when he dies, marries  
20 or reaches the age of 18 years. A child is entitled to continue to  
21 receive compensation pursuant to this section if he is:

22 (a) Over 18 years of age and incapable of supporting himself,  
23 until such time as he becomes capable of supporting himself; or

24 (b) Over 18 years of age and enrolled as a full-time student in an  
25 accredited vocational or educational institution, until he reaches the  
26 age of 22 years.

27 13. As used in this section, "surviving spouse" means a  
28 surviving husband or wife who was married to the employee at the  
29 time of the employee's death.

30 **Sec. 3.** Section 7 of chapter 506, Statutes of Nevada 1999, at  
31 page 2610, is hereby amended to read as follows:

32 Sec. 7. This act becomes effective upon passage and  
33 approval  *and applies retroactively to January 1, 1998.*

34 **Sec. 4.** The amendatory provisions of sections 1 and 2 of this  
35 act do not apply to a surviving spouse of a deceased police officer or  
36 fireman if the surviving spouse remarried before July 1, 2003.

37 **Sec. 5.** Notwithstanding the provisions of NRS 287.021 or  
38 287.0477 concerning notice, if a surviving spouse or child who was  
39 not eligible for the benefits set forth in NRS 287.021 or 287.0477  
40 before July 1, 2003, becomes eligible for those benefits by the  
41 retroactive operation of the amendatory provisions of section 3 of  
42 this act, the surviving spouse or child must notify in writing the  
43 public agency, the participating public agency or the Board of the  
44 Public Employees' Benefits Program, as appropriate under NRS



1 287.021 or 287.0477, not later than August 29, 2003, to be entitled  
2 to the benefits set forth in NRS 287.021 or 287.0477.

3 **Sec. 6.** 1. If a public agency is required pursuant to NRS  
4 287.021 and the amendatory provisions of section 3 of this act to  
5 pay the entire cost of the premiums or contributions for the group  
6 insurance or medical and hospital service for a surviving spouse or  
7 child who notifies the public agency pursuant to section 5 of this act,  
8 the public agency is not required to:

9 (a) Reimburse the surviving spouse or child for any payments  
10 made by or on behalf of the surviving spouse or child between  
11 January 1, 1998, and July 1, 2003, for the group insurance or  
12 medical and hospital service; or

13 (b) Pay or reimburse the surviving spouse or child for any  
14 medical expenses incurred by or on behalf of the surviving spouse  
15 or child between January 1, 1998, and July 1, 2003.

16 2. If a participating public agency is required pursuant to NRS  
17 287.0477 and the amendatory provisions of section 3 of this act to  
18 pay the entire cost of the premiums or contributions for the Public  
19 Employees' Benefits Program or any other insurer or employee  
20 benefit plan approved by the Board of the Public Employees'  
21 Benefits Program pursuant to NRS 287.0479 for a surviving spouse  
22 or child who meets the requirements set forth in subsection 1 of  
23 NRS 287.0477 and who notifies the participating public agency  
24 pursuant to section 5 of this act, the participating public agency is  
25 not required to:

26 (a) Reimburse the surviving spouse or child for any payments  
27 made by or on behalf of the surviving spouse or child between  
28 January 1, 1998, and July 1, 2003, for the Public Employees'  
29 Benefits Program or any other insurer or employee benefit plan  
30 approved by the Board of the Public Employees' Benefits Program  
31 pursuant to NRS 287.0479; or

32 (b) Pay or reimburse the surviving spouse or child for any  
33 medical expenses incurred by or on behalf of the surviving spouse  
34 or child between January 1, 1998, and July 1, 2003.

35 3. If the State of Nevada is required pursuant to NRS 287.0477  
36 and the amendatory provisions of section 3 of this act to pay the  
37 entire cost of the premiums or contributions for the Public  
38 Employees' Benefits Program for a surviving spouse or child who  
39 elects to join the Public Employees' Benefits Program pursuant to  
40 subsection 2 of NRS 287.0477 and who notifies the Board of the  
41 Public Employees' Benefits Program pursuant to section 5 of this  
42 act, the State of Nevada is not required to:

43 (a) Reimburse the surviving spouse or child for any payments  
44 made by or on behalf of the surviving spouse or child between



- 1 January 1, 1998, and July 1, 2003, for the Public Employees'
- 2 Benefits Program; or
- 3 (b) Pay or reimburse the surviving spouse or child for any
- 4 medical expenses incurred by or on behalf of the surviving spouse
- 5 or child between January 1, 1998, and July 1, 2003.
- 6 **Sec. 7.** This act becomes effective on July 1, 2003.

⑩

