

SUMMARY OF LINE-OF-DUTY DEATH BENEFITS FOR FIREFIGHTERS IN ILLINOIS

June 2021 revision

Families suffering tremendous grief may not be aware of their potential eligibility to receive these benefits. Time is always important in all legal matters and may be critically short once families become aware of their eligibility. Mr. Sherer prays that your family (and his) never has to refer to this, but, if they must, he sincerely hopes that they find that this is helpful.

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The material contained herein is intended to provide a summary of benefits that may be available to a firefighter's loved ones following a line-of-duty death. This summary is not intended to give individual legal advice, but rather general information concerning benefits that might be available. It is a product of gathering information from publicly available sources and not the result of any independent legal analysis. Anyone reviewing this summary should not rely on the accuracy of this information and is strongly encouraged to consult a legal and/or financial professional before making any investments or major commitments, financial or otherwise.

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CONTACTS TO CONSIDER

National Fallen Firefighters Foundation

P.O. Drawer 498
Emmitsburg, MD 21727
Hotline: (866) 736-5868
Telephone: (301) 447-1365
Fax: (301) 447-1645

Office of the Illinois State Fire Marshal

1035 Stevenson Drive
Springfield, IL 62703
Telephone: (217) 785-0969

Illinois Fire Chiefs Association

P.O. Box 7
Skokie, IL 60076-0007
Telephone: (800) 622-0732

Illinois Professional Firefighters Association

188 W. Industrial Drive, Suite 134
Elmhurst, IL 60126
Telephone: (630) 833-2405

QUICK REFERENCES FOR FUNERALS

https://www.nvfc.org/wp-content/uploads/2015/10/Funeral_Procedures_Guide.pdf

<https://www.illinoisfirechiefs.org/professional-services/funeral-assistance-services/>

https://www.illinoisfirechiefs.org/assets/1/6/Funeral_Committee_Flyer.pdf

<http://www.ladder54.com/IAFFFuneral.htm>

<https://www.affi-iaff.org/honorguard/>

INTRODUCTION

Even though this was on the cover page, it cannot be emphasized enough: *Time is always important in all legal matters and may be critically short once families become aware of their eligibility.* There are ***strict filing requirements*** in order to take advantage of these programs. In general, survivors must timely apply for benefits, and the applications are then subjected to a review process before claims are approved or denied. Accordingly, survivors are strongly encouraged to immediately enlist assistance from persons or organizations who may have experience in assisting with such claims and/or who provide support services after a line-of-duty death.

The National Fallen Firefighters Foundation is one place to turn in a very difficult situation. It provides an array of support services that may be helpful to the survivors immediately after a line-of-duty death. Upon request, a [Local Assistance State Team](#) will be deployed to provide assistance to the family and the department coping with a line-of-duty death, from helping with funeral arrangements to properly honor the fallen firefighter, to helping file for federal, state, and other benefits. The Illinois State Contact can be found on their [web site](#).

An attorney can also perform immeasurable service to the family of a firefighter killed in the line of duty by advising them of available benefits and assisting them in the process of requesting benefits or compensation. However, please be aware that there are people out there who would try to take advantage of a family's grief. The federal statute (discussed below) authorizes the administering agency to prescribe the maximum fee that an attorney or other representative may charge for services provided in connection with a claim. By contrast, the Illinois law provides, "No part of such compensation may be paid to any other person for efforts in securing such compensation."

PUBLIC SAFETY OFFICERS' BENEFITS ACT

42 U.S.C. § 3796, *et seq.*

Death Benefits

The United States' Public Safety Officers' Benefits ("PSOB") Program, administered through the Department of Justice and its Bureau of Justice Assistance ("BJA"), is designed to provide death benefits in the form of a one-time financial payment 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 or certain eligible heart attacks or strokes.¹ A public safety officer is defined to be any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, police, corrections, probation, parole and judicial officer, firefighter, rescue squad member, or ambulance crew member.

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. The award amount is solely determined by the actual [date of the officer's death](#). The current Federal benefit is \$370,376 for Fiscal Year 2021.

Benefits are provided to eligible survivors as follows:

- If survived by only a spouse, then 100% to the spouse;
- If survived by a spouse and children, then 50% to the spouse and 50% to the children distributed in equal shares;
- If survived only by children, then 100% to the children distributed in equal shares;
- If no surviving spouse or children, then to the individual(s) designated as beneficiary on file with the public safety officer's agency;²
- If no surviving spouse or children and no designation on file, then to the individual(s) designated as the beneficiary on the most recently executed life insurance policy on file with the public safety officer's agency at the time of death;
- If no surviving spouse or children, no designation on file, and no life insurance policy, then the death benefits are equally distributed between the public safety officer's parents.

See 34 U.S.C. § 10281(a).

An online application is available on the BJA's [web site](#). Note that part of the application must be completed by the public safety officer's agency. Following

¹ Fire departments and families should consider arranging for an autopsy after a fatality occurs.

² A sample form is attached.

approval of a death benefits claim,³ the eligible survivors will be paid the benefit in a lump sum through the U.S. Department of the Treasury.

Disability Benefits

The PSOB Program is also designed to provide disability benefits for public safety officers who have been permanently and totally disabled by a catastrophic injury sustained in the line of duty if that injury permanently prevents the officer from performing any gainful work. (Medical retirement for a line-of-duty disability does not, in and of itself, establish eligibility for PSOB benefits.) Disability benefits are beyond the scope of this summary. However, more information is available on the BJA's [web site](#).

Education Benefits

The PSOB Program also includes the Public Safety Officers' Educational Assistance (PSOEA) Program, which provides financial assistance for higher education for the eligible spouses and children of federal, state, and local public safety officers who have been permanently disabled or killed in the line of duty. Educational assistance through the PSOEA Program is only available to the eligible spouse or children of a public safety officer after the PSOB death or disability claim process has been completed and benefits have been awarded. The educational assistance may be used to defray relevant expenses, including tuition and fees, room and board, books, supplies, and other education-related costs.

For Fiscal Year 2021, the maximum award for a full-time student is \$1,265 per month of class attendance. The PSOEA benefit rates are reduced for students who are not full-time, and all PSOEA awards will be reduced by the amount of other governmental assistance that a student is eligible to receive.

The spouse of a public safety officer is eligible to receive PSOEA funds for educational expenses at any time during his or her lifetime. However, for a child of the deceased or disabled officer, eligibility is limited to educational expenses that occur prior to his or her 27th birthday. Also, a spouse or child is eligible to receive PSOEA funds for a period no greater than 45 months of full-time education or a proportionate period of a part-time program.

³ 34 U.S.C. § 10282(a) provides that no benefit shall be paid under certain circumstances, such as "(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 [.]"

Because there is a maximum amount that can be paid, assistance from the PSOEA Program may cover only a portion of the student's expenses. Applicants may be eligible for retroactive assistance for all semesters already completed. PSOEA award payments are made through the U.S. Department of the Treasury and sent directly to the claimant. Additional information can be found on the Department of Justice's Office of Justice Program's [web site](#).

Summary

The Bureau of Justice Assistance has prepared a helpful [PSOB Information Kit](#), which includes a video, checklists, and fact sheets. There is no reconsideration offered for denials of PSOB death benefits or PSOEA benefits, but claimants may request a hearing before a hearing officer assigned by the director of the Department of Justice PSOB Office.

ILLINOIS LINE OF DUTY COMPENSATION ACT

820 ILCS 315/1, *et seq.*

Death Benefits

The Line of Duty Compensation Act defines "fireman" as "any person employed by the State or a local governmental entity as, or otherwise serving as, a member or officer of a fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims, including volunteer firemen." Death must occur within one year from the date the injury was received in order for the Act to apply. The Act further provides that, if a claim is made within one year of the date of death of the firefighter, "compensation shall be paid to the person designated" by the firefighter.⁴

If no beneficiary is designated, or if the designated beneficiary does not survive the death of the firefighter, the compensation shall be paid in accordance with a legally binding Will left by the firefighter. If the firefighter does not leave a legally binding Will, the compensation shall be paid 100% in the following order: (1) to the surviving spouse, (2) to the surviving descendants of the firefighter in equal shares,⁵ (3) the parents of the firefighter in equal shares, or to the surviving parent if one predeceased the firefighter, and (4) in equal parts to (a) the surviving brothers and sisters of the firefighter and (b) the descendants of a firefighter's brother or sister if the decedent(s) were dependents of the firefighter. If there is no one who

⁴ A sample form is attached.

⁵ Special provisions may apply to children born out of wedlock and not adopted.

falls in any of these categories, then ***no compensation shall be payable***. Therefore, firefighters are encouraged to take advantage of the sample form that is provided with this summary or make a Will so that they can designate those to whom benefits should be paid.

The Act says that, for firefighter deaths that occurred on or after January 1, 2003, the amount shall be the rate for the previous calendar year plus the percentage increase in the Consumer Price Index. As of this update, the amount is estimated to be approximately \$377,000.00 (based on available information).

An application is available online at the Illinois Secretary of State's [web site](#). Instructions are included on the form.

Funeral Benefits

Effective January 1, 2020, burial benefits up to a maximum of \$20,000 are available for a firefighter who is killed in the line of duty after June 30, 2018.

Limitations

The law provides that, "The compensation provided for in this Act is in addition to, and not exclusive of, any pension rights, death benefits or other compensation otherwise payable by law."

ILLINOIS WORKERS' COMPENSATION ACT

820 ILCS 305/1, *et seq.*

Death Benefits

Workers' compensation should cover all first-aid, medical, and hospital expenses connected with fatal injury. A benefit based on a percentage of the deceased's gross average weekly wage⁶ "shall be payable during the life of the widow or widower and if any surviving child or children shall not be physically or mentally incapacitated then until the death of the widow or widower or until the youngest child shall reach the age of 18, whichever shall come later". If a child or children are enrolled full-time in any accredited educational institution, "the payments shall continue until such child has attained the age of 25. In the event any surviving child or children shall be physically or mentally incapacitated, the payments shall continue for the duration of such incapacity." If the spouse remarries and there are

⁶ Volunteer firefighters are compensated based on the average weekly wage in their regular employment.

no surviving children who are entitled to compensation, the surviving spouse will receive a lump sum equal to two years of benefits, and the surviving spouse's rights to further compensation "shall be extinguished."

Burial Benefits

Burial benefits of up to \$20,000 are available under the Act.

Limitations

Volunteer firefighters in particular should check with their departments to determine their scope of coverage. Some questions for volunteers to consider:

1. Are volunteers covered from the time of the page until the time that they return to their points of origin (e.g., home, work, or the firehouse), or is a separate rider or additional policy needed to insure for times and places other than at the scene of an emergency?
2. If, for example, a volunteer slips and falls on his icy driveway before leaving his home or after returning from a call, is he covered by workers' compensation?

ILLINOIS HIGHER EDUCATION STUDENT ASSISTANCE ACT

110 ILCS 947/1, *et seq.*

The spouse or child of an Illinois firefighter who is killed or becomes at least 90% disabled in the line of duty may be eligible for benefits under the Grant Program for Dependents of Police or Fire Officers. This grant provides assistance toward college tuition and mandatory fees for undergraduate or graduate study at an Illinois college approved by the Illinois Student Assistance Commission ("ISAC"). The equivalent of 8 semesters or 12 quarters of assistance may be received. Recipients do not need to be an Illinois resident at the time of enrollment. See http://www.collegezone.com/studentzone/407_633.htm for more information.

Eligibility

Eligibility requirements are listed on the ISAC web site listed above. The number of grants made through this program, as well as the individual dollar amount awarded, are subject to sufficient annual appropriations by the General Assembly and the Governor.⁷ Recipients attending approved public colleges in

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Illinois receive full payment of tuition and mandatory fees on their behalf.⁸ Students may be responsible for payment until program funds are received by the college, and recipients should contact the college's Financial Aid Office or Business office to determine the college's policy.

How To Apply

An application for this grant is available at most high school guidance counselors' offices, at most college financial aid offices, and online. More information can be found at the Grant Program for Dependents of Police or Fire Officers web site, www.isac.org. Filing deadlines apply.

Scholarships are also available through the Illinois State Treasurer's office. More information is available on the [Treasurer's web site](#).

OTHER CONSIDERATIONS

The Importance of a Will

Anyone who owns any property should consider having a Will. If you do not, Illinois has, in effect, made one for you in the statute of descent and distribution. You might be surprised who will receive your estate in the absence of a Will.

Anyone who has children should seriously consider having a Will in order to declare his or her wishes as to who might become the children's guardian. Without a Will, the surviving family members could fight over your children in court. By declaring your wishes, you can designate who you want to serve as guardian of your children.

Wills do not dispose of jointly-titled property (such as bank accounts, real estate, or motor vehicles) or property subject to a valid beneficiary designation (such as life insurance). While thinking about these sobering things, you might also consider how your property is titled and whether your beneficiary designations are as you want them.

⁸ Recipients attending approved private colleges in Illinois shall receive payment of tuition and mandatory fees in an amount not to exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public college in Illinois.

Health Insurance

A federal law known as “COBRA” provides for continuation of employer-sponsored health insurance coverage for spouses and dependents. This law applies to group health plans maintained by employers who had 20 or more employees on more than 50% of the business days in the prior calendar year, and plans sponsored by state and local governments. Employers must notify plan administrators within 30 days after an employee’s death, and the administrators then have 14 days after being notified to contact the survivors and offer COBRA coverage. However, to protect yourself, you should be sure to notify the employer and/or insurer to preserve your continuation rights. In most cases, survivors must pay for the coverage themselves, including the part that was paid by the employer. Continued coverage is available for up to 36 months. For more information, visit the Department of Labor’s *FAQs: Health Care Reform and COBRA* web site (dol.gov) and the State of Illinois’ *COBRA - State Employee Benefits* web site (illinois.gov).

For a volunteer whose employer has less than 20 employees, the Illinois Continuation Law (known as mini-COBRA) may be the only option. The employer is required to notify you in writing within 10 days, and you must request continuation of coverage within 30 days after the date of the written notice. To be eligible for continued coverage, the employee and eligible dependents must have been continuously covered for 3 months.

Social Security Benefits

Some members of the fallen firefighter’s family members may be eligible to receive Social Security benefits if he or she worked long enough under Social Security to qualify for benefits. Social Security should be notified as soon as possible. Often, the funeral director will report the person’s death. The Social Security Administration’s [web site](#) provides a helpful article that discusses surviving spouse Social Security benefits.

Monthly survivors benefits can also be paid to certain family members, including the surviving spouse, dependent children, or dependent parents. How much depends on the deceased’s average lifetime earnings. For more information, visit the Social Security Administration’s [web site](#).

Victims of Crime Act

The DOJ supports state programs to provide compensation and assistance to victims of crime. If a firefighter’s death is associated with a criminal act, such as arson, benefits may be available. The Office of Attorney General’s Crime Victims Division investigates the claim and files a report and proposed order with the

Illinois Court of Claims, and the Court of Claims renders a decision. Up to \$27,000 in financial assistance may be available (with certain limits) for things such as medical expenses, lost wages, and funeral costs. For more information, visit <http://www.ag.state.il.us/victims/cvc.html>.

Tax Consequences

Some of the above benefits may be taxable, and others not. In some cases, the benefit might be offset or reduced by tax withholdings. In others, your family might have to write a check for the taxes when filing their tax returns. Survivors should do their best to determine the potential tax implications and secure written confirmation of such during the application process. Otherwise, survivors should consider securing the assistance of a trusted tax professional or a tax attorney so that they can properly prepare for any tax liability that might result from the receipt of any benefits and avoid the shock of having to write a large check later on.

DESIGNATION OF BENEFICIARY

Firefighter's printed name

I hereby designate the following person or persons as beneficiary or beneficiaries in the event that compensation or other benefits are payable in accordance with state or federal law, including, but not limited to, the provisions of the Illinois "Line of Duty Compensation Act" (820 ILCS 315/1, *et seq.*) and/or the Public Safety Officers Benefits Act (34 U.S.C. § 10281, *et seq.*).

Complete name and address of each beneficiary	Relationship	Cash amount or percentage

Print your name (first, middle, last) _____

Your address: _____

Your date of birth: _____ Your SSN: _____

Title or designation of position _____

Local government entity and address: _____

Your signature: _____

Signature of witness 1: _____

Printed name & address of witness 1: _____

Signature of witness 2: _____

Printed name & address of witness 2: _____

DATE: _____

The original of this document should be placed on file with the firefighter's agency.