

SENATE BILL NO. 487

INTRODUCED BY B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE MONTANA END OF WATCH TRUST; REQUIRING APPLICATIONS FOR PAYMENTS FROM THE END OF WATCH TRUST DUE TO CATASTROPHIC INJURY TO INCLUDE A WORKERS' COMPENSATION DETERMINATION OF PERMANENT AND TOTAL DISABILITY; ALLOWING LEGAL CHILDREN OF AN OFFICER TO RECEIVE PAYMENTS AFTER THEY TURN 18 IN CERTAIN CIRCUMSTANCES; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF JUSTICE; REVISING DEFINITIONS; **AND** AMENDING SECTIONS 2-15-2040, 2-15-2041, 2-15-2042, 2-15-2043, 2-15-2044, AND 2-15-2045, MCA; **AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.**"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Administration by department of justice -- rulemaking authority. (1)

The department of justice may assess a fee not to exceed 15% of the **amount interest and earnings** appropriated to the department **from the trust** for the purposes of administering the end of watch trust fund.

(2) The department may adopt rules for the purposes of executing its obligations under 2-15-2040 through 2-15-2045 and [section 2]. This includes **but is not limited to** rules that create:

- (a) a process for distributing payments to applicants approved by the board;
- (b) a process through which the board approves or denies applications for payments distributed in accordance with this section;
- (c) guidelines for appeal of board decisions;
- (d) information security and document retention policies;
- (e) board training requirements; and
- (f) reporting requirements.

NEW SECTION. Section 2. Determination of eligibility -- board approval -- appeals. (1) A law

enforcement officer or the officer's immediate family is eligible for payment from the end of watch trust after the board established in 2-15-2044 approves the application.

(2) A law enforcement officer or the officer's immediate family that meets the qualifications set forth in this chapter is not guaranteed or entitled to payments from the end of watch trust.

(3) A law enforcement officer or the officer's immediate family may appeal a decision by the board. An appeal must follow the process and all laws for contested cases prescribed in Title 2, chapter 4, part 6.

Section 3. Section 2-15-2040, MCA, is amended to read:

"2-15-2040. Definitions. For the purposes of 2-15-2040 through 2-15-2045 and [sections 1 and 2], the following definitions apply:

(1) "Board" means the Montana end of watch trust board established in 2-15-2044.

(2) "Catastrophic injury" means ~~an a physical, bodily~~ injury directly related to an individual's required employment duties with direct ~~or proximate~~ consequences that ~~renders the individual in need of 24-hour care continuous care to complete basic activities of daily living, permanently incapacitates the individual, and permanently prevents the individual from performing any gainful form of work, and results in a determination of permanent and total disability, as that term is defined in 39-71-116, at the time of maximum medical improvement.~~

(3) "Department" means the department of justice.

(4) "Immediate family" means a law enforcement officer's spouse and legal dependent children under ~~age 18 years of age, including children to whom the law enforcement officer is a legal guardian.~~

(5) "In the line of duty" means as the direct result of an action taken by a law enforcement officer or an activity in which a law enforcement officer participated:

(a) as required or authorized by law, rule, regulation, condition of employment, or professional ethics; and

(b) in the course and scope of carrying out the law enforcement officer's sworn obligations; or

(b) (c) for which compensation is provided by the officer's employer or would have been provided by the officer's employer if the officer had been on duty at the time the action in question was taken.

(6) "Law enforcement officer" means:

(a) a police officer, deputy sheriff, undersheriff, highway patrol officer, investigator appointed by the department of justice, fish and game warden, ~~park ranger~~, or other public safety officer with arrest authority, employed by a state, local, or state-based tribal authority and certified by the public safety officer standards and training council; or

(b) a sheriff.

(7) "Maximum medical improvement" has the same meaning as provided in 39-71-116.

(8) "Permanent total disability" has the same meaning as provided in 39-71-116."

Section 4. Section 2-15-2041, MCA, is amended to read:

"2-15-2041. Montana end of watch trust. (1) There is a Montana end of watch trust within the permanent fund type for the purpose of supporting eligible law enforcement officers and their surviving immediate family in the event of an officer's death or catastrophic injury in the line of duty.

(2) — The department may accept contributions and gifts for the trust in money or other forms. When accepted, the contributions and gifts must be deposited in the trust.

(2) The department may accept financial contributions and gifts for the trust. When accepted, the contributions and gifts must be deposited in the trust.

~~(3)(2)(3)~~ The legislature may transfer money to the trust.

~~(4)(3)(4)~~ The state treasurer shall each month transfer from the trust to the end of watch state special revenue account established in 2-15-2042 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 2-15-2042 must be retained in the trust account. Any unexpended interest that transfers back into the trust can be appropriated if monthly obligations exceed the current available interest in the account. If this portion of the trust is appropriated in any fiscal year, the state treasurer shall transfer that same amount from the general fund to the trust in the following fiscal year. Unexpended interest in excess of the principal of the trust may be used for trust-related litigation expenses in the event the administrative fees authorized in [section 1] are insufficient.

~~(5)(4)(5)~~ The board of investments shall invest money deposited in the fund established under this section as provided by law.

~~(5) The board of investments shall provide a biannual report on the financial assets of the trust to the department and the board."~~

Section 5. Section 2-15-2042, MCA, is amended to read:

"2-15-2042. Montana end of watch account -- payment and cessation of payment. (1) There is a Montana end of watch state special revenue account within the state special revenue fund established in 17-2-102 administered by the department. Pursuant to 2-15-2041, all interest and earnings from the end of watch trust fund established in 2-15-2041 must be deposited into this fund.

(2) The department shall disburse payments to a qualifying law enforcement officer or the law enforcement officer's immediate family ~~as provided in this section, contingent upon the board's approval of the application for funds.~~

(3) (a) Payments for a catastrophic injury in the line of duty must be made to a catastrophically injured law enforcement officer on a monthly basis for 60 months from the date of the injury board's approval of the application for payments from the end of watch trust.

(b) ~~Applications to the board for payments related to a catastrophic injury must be accompanied by a workers' compensation determination of permanent and total disability proof of maximum medical improvement. Applications must also include objective medical evidence for a permanent total disability.~~

~~(b)~~ (c) In the event the catastrophically injured law enforcement officer dies prior to receiving all 60 monthly payments, the department shall pay on a monthly basis the remainder of the 60 monthly payments to the law enforcement officer's immediate family as follows:

(i) to the law enforcement officer's surviving spouse until the surviving spouse remarries or dies;
or

(ii) if there is no surviving spouse or if the surviving spouse remarries or dies prior to the disbursement of all 60 monthly payments, then the remainder of the 60 monthly payments must be made to the law enforcement officer's surviving ~~dependent-legal~~ children under 18 years of age, in equal shares, and subject to the Uniform Transfers to Minors Act provided for in Title 72, chapter 26- ; or

(iii) if any of the law enforcement officer's surviving legal children turn 18 years of age prior to the disbursement of all 60 monthly payments, the child will continue to receive funds until the remainder of the 60

1 monthly payments have been made, in equal shares, to each of the officer's surviving legal children.

2 (e) (d) In the event there is no surviving spouse that has not remarried or surviving ~~dependent~~ legal
3 children under 18 years of age, the payments must cease.

4 (4) (a) Payments for a law enforcement officer killed in the line of duty must be made to the law
5 enforcement officer's surviving immediate family on a monthly basis for 60 months from the date of the law
6 ~~enforcement officer's death~~ board's approval of the application. The department shall make the payments as
7 follows:

8 (i) to the law enforcement officer's surviving spouse until the surviving spouse remarries or dies;

9 (ii) if there is no surviving spouse or if the surviving spouse remarries or dies prior to disbursement
10 of all 60 monthly payments, then the remainder of the 60 monthly payments must be made to the law
11 enforcement officer's surviving ~~dependent~~ legal children under 18 years of age, in equal shares, and subject to
12 the Uniform Transfers to Minors Act provided for in Title, 72, chapter 26; or

13 (iii) if any of the law enforcement officer's surviving legal children turn 18 years of age prior to the
14 disbursement of all 60 monthly payments, the child will continue to receive funds until the remainder of the 60
15 monthly payments have been made, in equal shares, to each of the officer's surviving legal children.

16 (b) In the event there is no surviving spouse that has not remarried or surviving ~~dependent~~ legal
17 children under 18 years of age, the payments must cease.

18 (5) A maximum of 60 monthly payments may be made to a law enforcement officer's surviving
19 immediate family under this section. In the event a catastrophically injured officer receiving benefits under this
20 section dies, funds must be distributed to the surviving immediate family until the remainder of the 60 monthly
21 payments for the catastrophic injury have been made. The immediate family are not eligible for additional
22 payments after the full 60 monthly payments from the catastrophic injury have been paid.

23 ~~(5) (6)~~ (a) For the first 12 months following the date of the ~~catastrophic event or death~~ the board
24 approves an application, the monthly payment due to a qualifying law enforcement officer or the law
25 enforcement officer's immediate family under this section is \$7,000 a month, subject to an annual increase
26 according to the consumer price index of July 1, 2025, or an annual increase of 3%, whichever is less.

27 (b) For months 13 through 60 following the date of the ~~catastrophic event or death~~ the board
28 approves an application, the monthly payment due to a qualifying law enforcement officer or the law

1 enforcement officer's immediate family under this section is:

2 (i) \$7,000, subject to an annual increase according to the consumer price index as of July 1,
3 2025, or 3%, whichever is less;

4 (ii) minus the sum of:

5 (A) one-half of the workers' compensation monthly benefit based on the employment of the
6 qualifying law enforcement officer paid to the law enforcement officer or the law enforcement officer's
7 immediate family; and

8 (B) one-half of the state retirement monthly benefit paid based on the employment of the qualifying
9 law enforcement officer to the law enforcement officer or the law enforcement officer's immediate family.

10 ~~(6)~~ (7) The money in the account is subject to legislative appropriation.

11 ~~(7)~~ (8) All payments under this section are exempt from execution without limit as provided in 25-13-
12 608."

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14 **Section 6.** Section 2-15-2043, MCA, is amended to read:

15 **"2-15-2043. Certification of continued eligibility -- notification of change in marital status --**

16 **notification of date of birth.** (1) Each year on the anniversary of the first payment made under 2-15-2042(3),
17 the catastrophically injured law enforcement officer, surviving spouse, other immediate family member, or agent
18 of the catastrophically injured law enforcement officer, surviving spouse, or other immediate family member,
19 shall attest to the board on a form provided by the department that the law enforcement officer is still eligible
20 under the definition of catastrophic injury in 2-15-2040. If the law enforcement officer is no longer eligible under
21 the definition of catastrophic injury in 2-15-2040 or if the annual attestation is not submitted within ~~120~~ 30 days
22 after the anniversary date of the first payment under 2-15-2042(3), the payment must cease.

23 (2) If payments are being made to a surviving spouse and the surviving spouse's marital status
24 changes, the surviving spouse shall notify the board of the change in marital status within ~~120~~ 30 days. On
25 receipt of notification, the payment must be dispersed as directed in 2-15-2042(3) and (4).

26 (3) ~~On a form provided by the department and within 180 days of receipt of the first payment~~ Prior
27 to the disbursement of funds, the catastrophically injured law enforcement officer, surviving spouse, other
28 immediate family member, or agent of the catastrophically injured law enforcement officer, surviving spouse, or

1 other immediate family member, shall provide the board with the identity and dates of birth of all dependent
2 legal children of the law enforcement officer who were under 18 years of age at the time of the law enforcement
3 officer's catastrophic injury or date of death on a form provided by the department."
4

5 **Section 7.** Section 2-15-2044, MCA, is amended to read:

6 **"2-15-2044. Montana end of watch trust board.** (1) There is a volunteer board to oversee the
7 administration of the Montana end of watch trust provided for in 2-15-2041 and to determine the eligibility of
8 applicants seeking funds from the trust. The board is attached to the department for administrative purposes
9 only, as provided in 2-15-121.

10 (2) The board consists of five members appointed by the attorney general, including:

11 (a) a representative of the Montana sheriffs and peace officers association;

12 (b) a representative of the Montana police protective association;

13 (c) a representative of the association of Montana troopers;

14 (d) a representative of the Montana association of chiefs of police; and

15 (e) a representative from the department.

16 (3) The board shall:

17 (a) meet at least once each fiscal year; ~~and~~

18 (b) ~~act as an advocate for law enforcement officers catastrophically injured in the line of duty and~~
19 ~~the surviving immediate family members of officers who died in the line of duty; and convene as necessary to~~
20 ~~review applications and determine the eligibility of applicants.; and~~

21 ~~(c) settle disputes and concerns regarding trust benefits.;~~

22 ~~(c) review the board of investments annual report for the fund.~~

23 ~~(4) The representatives in subsection (2) must be sworn actors of a participating agency."~~
24

25 **Section 8.** Section 2-15-2045, MCA, is amended to read:

26 **"2-15-2045. End of watch health insurance support.** (1) (a) Local governments that employ a law
27 enforcement officer and provide health insurance benefits to an officer, an officer's spouse, or an officer's
28 dependents shall:

(i) enroll the officer and the officer's spouse and dependents in COBRA continuation coverage if the officer is catastrophically injured; and

(ii) enroll the officer's spouse and dependents in COBRA coverage if the officer dies in the line of duty.

(b) Continuation coverage under this section must provide for the same level of continuation coverage benefits as is available to other members of the group. Premiums charged to an officer, spouse, or dependent under this section must be the same as premiums charged to other similarly situated members of the group.

(c) Dependent special enrollment must be allowed under the terms of the insurance contract or plan.

(d) The provisions of this section are applicable to an officer, spouse, or dependent who is already insured under a COBRA continuation provision and who was enrolled under the law enforcement officer's employee health plan at the time of the officer's catastrophic injury or death in the line of duty.

(2) The law enforcement officer's employing agency shall pay the premium for 4 months after the catastrophic injury or death in the line of duty, after which the officer, spouse, or dependent ~~shall pay~~ may continue paying the premium or allow the coverage to lapse.

(3) The benefit plans may discontinue or not renew the coverage of an officer, spouse, or dependent only if:

(a) the officer, spouse, or dependent has failed to pay premiums or contributions for which the individual is responsible pursuant to subsection (2);

(b) the officer, spouse, or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(c) the state employee group benefit plans cease to offer coverage in accordance with applicable state law."

NEW SECTION. Section 9. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [sections 1 and 2].

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NEW SECTION. **Section 10.** **Effective date.** [This act] is effective on passage and approval.

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AMENDED