

October 1, 2005

ALL LAW ENFORCEMENT OFFICERS



SUBJECT: Public Safety Officers' Benefits Act, Death and Disability Benefits for Fiscal Year 2006

PURPOSE: This memorandum summarizes the benefits available to qualified survivors under the **Public Safety Officers' Benefits (PSOB) Act.**

It provides updated information on the increased dollar amounts of all PSOB benefits as well as information on the Education Assistance Benefit.

Action Required - Benefits coordinators and human resources specialists must provide eligible employees with information about the death and disability benefits under the PSOB Act.

What is the PSOB Act? The PSOB Act of 1976 (42 U.S.C. § 3796) was enacted 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 the ability of communities to provide for public safety would be hampered. 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 the contributions of those who serve their communities in potentially dangerous circumstances.

(Federal law enforcement officers and firefighters are covered for line-of-duty deaths occurring on or after October 12, 1984. Eligibility for disability benefits is based on catastrophic personal injuries sustained on or after November 29, 1990.)

Who Administers the PSOB Program?

The Department of Justice, Bureau of Justice Assistance (BJA), administers the PSOB program.

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Which Public Safety Employees Are Covered by the PSOB Act?

Employees whose duties meet the definition of “law enforcement officer” in section 3796b(6) of title 42, United States Code, are covered by the PSOB Act. Employees who serve in positions clearly classified as Law Enforcement Officers (LEO) positions.

Under the Public Safety Officers' Benefits (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.

In October 2000, Public Law 106-390 (Sec. 305) designated Federal Emergency Management Agency (FEMA) employees as public safety officers under the PSOB Act if they are performing official, hazardous duties related to a declared major disaster or emergency. The legislation also indicates that state, local, and tribal emergency management or civil defense agency employees working in cooperation with FEMA are, under the same circumstances, considered public safety officers under the PSOB Act.

The Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefits Act of 2002 ([42 U.S.C. § 3796, et seq.](#)) is retroactive to September 11, 2001, and amends the PSOB Act of 1976 to include chaplains in the definition of public safety officers. A chaplain is defined as "including any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized fire or police department who was responding to a fire, rescue, or police emergency."

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 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.

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What are the PSOB Act Benefits?

Death Benefit:

The PSOB Act provides a one-time 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.

Disability Benefit:

The PSOB Act 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* substantial and gainful work. Medical retirement, workers' compensation, or social security benefits for a line-of duty disability do not, in and of themselves, establish eligibility for PSOB program benefits.

Educational Assistance Benefit:

The PSOB Act provides assistance for higher education for the spouses and children of officers who have been killed or permanently disabled in the line of duty. The assistance may be used to defray relevant expenses, including tuition and fees, room and board, books, supplies, and other education-related costs. As of October 1, 2005, the maximum award for a full-time student is \$827.00 per month of full-time attendance. All award amounts are proportionately less for part-time students. By law, the PSOB educational assistance awards must be reduced by the amount of other governmental assistance that a student is eligible to receive.

PSOB 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 non-civilian members of the military serving as law enforcement officers, firefighters, or rescue squad or ambulance crew members, or to any of their survivors.

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Death or Disability Resulting from Heart Attack or Stroke

Prior to December 15, 2003, PSOB program benefits did not cover death or permanent and total disability resulting from stress, strain, occupational illness; or chronic, progressive, or congenital disease (such as heart or pulmonary disease leading to a heart attack), unless there was a traumatic injury that was 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) was often required for coverage in these cases. The Hometown Heroes Survivors Benefits Act (HHA) of 2003 (Public Law 108-182) amended the PSOB Act, as it relates to **death** from heart attack or stroke.

For deaths on or after December 15, 2003, if a public safety officer dies as a direct and proximate result of a heart attack or stroke, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty if:

- (1) that officer, while on duty

- (A) engaged in a situation, and such engagement involved 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) participated in a training exercise, and such participation involved non-routine stressful or strenuous physical activity;

- (2) that officer died as a result of a heart attack or stroke suffered

- (A) while engaging or participating in such activity described above,

- (B) while still on that duty after so engaging or participating in such an activity;

- or,

- (C) not later than 24 hours after so engaging or participating in such an activity;

- and

- (3) such presumption is not overcome by competent medical evidence to the contrary.

The term “non-routine stressful or strenuous physical” excludes actions of a clerical, administrative, or non-manual nature.

PSOB Amount

The benefit is adjusted each year on October 1 to reflect the percentage of change in the Consumer Price Index. **The current benefit, as of October 1, 2005, is \$283,385.**

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).

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Survivors Eligible for Program Death Benefits

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

1. *If there are no surviving children of the deceased officer*, to the surviving spouse;
2. *If there is a surviving child or children and a surviving spouse*, one-half to the child or to the children in equal shares and one-half to the surviving spouse;
3. *If there is no surviving spouse*, to the child or in equal shares to the children;
4. *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,
5. *If none of the above apply*, to the parent or in equal shares to the parents.

Under the PSOB Act, *child* is defined as any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death is:

- 18 years of age or under;
- over 18 years of age and a student under 23 years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at a n eligible institution; or,
- over 18 years of age and incapable of self-support because of 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 pre-designate beneficiaries specifically for this benefit.**

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Filing a Claim

Eligible survivors or disability claimants may file claims directly with BJA by contacting the PSOB program office as follows:

**Payment and Benefit Division
Bureau of Justice Assistance
810 Seventh Street, NW
Washington, DC 20531**

**Telephone: 202-307-0635
Toll-free Telephone: 1-888-744-6513
Fax: 202-616-0314**

Claims may also be filed with the agency in which the public safety officer served.

For Further Information - The BJA web site at:

http://www.ojp.usdoj.gov/BJA/grant/psob/psob_main.html

Provides additional information about the PSOB benefit, as well as links to related web sites that provide information about services and assistance to families of fallen law enforcement officers.

Individuals may also obtain answers to their questions by submitting an e-mail request to AskPSOB@usdoj.gov.

