

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

November 2023 revision

Families suffering tremendous grief following the loss of a loved one in the line of duty may understandably not be quick to consider the availability of potential death benefits. Because time is always important in all legal matters and may be critically short once a family becomes aware of possible eligibility, Mr. Sherer has prepared this summary as a quick reference. He prays that your family (and his) never has to refer to this document, but, should that time come, he sincerely hopes that this summary 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: (847) 966-0732

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 mentioned on the cover page, it cannot be emphasized enough: *Time is always important in all legal matters and may be critically short once a family becomes aware of potential eligibility.* The programs mentioned herein have ***strict filing requirements and deadlines***, which may cause an otherwise proper claim to be denied. 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 an invaluable resource for family and department members enduring the pain of a line-of-duty death. It provides an array of support services that may be helpful following 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](#).

As with many other issues, 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. Unfortunately, there are those in this world who would try to take advantage of a family's grief as an avenue to exploitation. 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." Thus, listen to your gut, and, if something does not feel right, do not hesitate to seek a second opinion before making a final decision.

PUBLIC SAFETY OFFICERS' BENEFITS ACT

34 U.S.C. § 10281, *et seq.*

Death Benefits

The federal government provides a program called the Public Safety Officers' Benefits ("PSOB") program. Administered through the Department of Justice and its Bureau of Justice Assistance ("BJA"), the program gives eligible survivors a one-time financial payment, adjusted according to certain economic conditions. The PSOB applies to multiple kinds of public safety officers, including firefighters. To be eligible, the firefighter must lose their life because of a personal injury closely related to their work in the line of duty. But you should know that a "personal injury" here can include not only obvious physical injuries, but also things like heart attacks, strokes, vascular ruptures, or even stress-based conditions like post-traumatic stress disorder and acute stress disorder, if diagnosed by a licensed medical or mental health professional. (Accordingly, fire departments and families should consider arranging for an autopsy after a fatality occurs.) The current amount of this benefit is \$437,503.

There are certain events you should know that may prevent you from receiving a PSOB benefit. For one, you cannot receive this benefit if the injury or death resulted from the firefighter's intentional misconduct or gross negligence. You also can't receive a PSOB benefit if the firefighter was voluntarily intoxicated at the time of their injury such that their blood alcohol content was .20 or more, although you may still be able to receive a PSOB benefit if the firefighter's blood alcohol content was between .10 and .20. You cannot receive a PSOB benefit if the firefighter's actions substantially contributed to their injury or death. And the PSOB benefit cannot go to a person employed in a capacity other than a civilian capacity. But there is a presumption that these exceptions do not apply, meaning that, for you to not receive the PSOB benefit, the evidence would need to show clearly and convincingly that you should not receive the PSOB benefit.

If no exception to your eligibility applies and the BJA otherwise decides you're entitled to receive the PSOB benefit, the benefit will be distributed in this way:

- If only a spouse survives, they receive 100% of the benefit.
- If a spouse and children survive, the spouse receives 50% of the benefit and the children receive the other 50% equally.
- If only children survive, they receive 100% of the benefit equally.
- If no spouse or children survive, then the benefit goes equally to any individual or individuals the firefighter has designated in a writing on file with their department. (A sample form is attached.)
- If no spouse or children survive and the firefighter did not make this designation with their department, then the benefit goes to any individual

or individuals the firefighter designated in their health insurance policy on file with their department.

- If none of the people mentioned above survive, then the benefit goes equally to the public safety firefighter's parents.
- And if none of the people mentioned above, including parents, survive, then the benefit goes to any surviving people who would qualify as a child of the firefighter except for their age.

See 34 U.S.C. § 10281(a).

You can find the BJA's [online application](#) for benefits on their [web site](#). You should know part of the application must be completed by your loved one's department. For a much more developed explanation of what you must do to make a PSOB claim, you can follow the directions available [here](#).

Disability Benefits

Depending on your situation, you might be eligible for disability benefits if your loved one became permanently and totally disabled because of a personal injury closely related to their work in the line of duty. To learn more about these benefits, visit this website: [Benefits | Bureau of Justice Assistance \(ojp.gov\)](#).

Education Benefits

PSOB benefits include certain benefits that apply to education too. In particular, the PSOB includes the Public Safety Officers' Educational Assistance Program, the division of the PSOB which aims to help the eligible children and spouses of public safety officers permanently and totally disabled or killed in the line of duty by helping reduce the cost of their education. These benefits come into play when the spouse or child or a qualifying public service officer attends or has attended a degree or certification program at an institution of higher learning. The benefits apply to expenses including tuition and fees, textbooks, room and board, and other supplies.

Those who qualify under this program can get up to 45 months of benefits for full-time education or training, and these benefits are reduced as appropriate for part-time students, subject to things like the length of the academic term and whether they're attending school on a full-time basis. These benefits are also reduced by the amount of other government assistance the student is eligible to receive. The current maximum monthly award for a full-time student is \$1,488 per month of class attendance. The spouse of a qualifying public safety officer can apply for and receive PSOEAF funds for educational expenses at any time during their lifetime, but a child of the deceased or disabled, while they may apply for these benefits at any time, will not generally be able to get them for any classes they

attend after their 27th birthday. That said, a qualifying child could also potentially use these benefits for classes they have already taken. The BJA has a fact sheet about these benefits that you can find at: [Public Safety Officers' Education Benefits \(PSOB\) - Educational Assistance Program \(ojp.gov\)](http://www.ojp.gov/psob/education/benefits).

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 PSOEAs 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

This Illinois law generally provides a duty death benefit and burial benefit to the designated beneficiary of various kinds of public safety officers, including firemen. This Act can apply if the qualifying firefighter was injured in the course of their duties, but it won't apply if the qualifying firefighter was willfully intoxicated or willfully engaging in misconduct. This Act can also potentially apply when the qualifying firefighter is injured by another person's willful act of violence related to the firefighter's job, even if the firefighter was not on duty at the time. The Act might also apply if the firefighter was injured while trying to prevent a crime by another or trying to stop an individual the firefighter suspects has committed a crime, even if the firefighter was not on duty at the time. Finally, the Act could apply if the firefighter is injured while travelling to or from their job or during any meal break or other break occurring when the firefighter is on duty as a firefighter. Death must occur within one year from the date the injury was received in order for the Act to apply.

Under this Act, the government must pay a particular amount of compensation to the person or people the qualifying firefighter designates prior to their death in the line of duty. But, to claim this amount, the claim for compensation must be made within 2 years after the qualifying firefighter's death. And, for this Act to apply, the qualifying firefighter must pass away within 1 year of the date they were injured.

These benefits will go first to a designated beneficiary that the firefighter can appoint while they are alive. (A sample form is attached.) If the firefighter does not

designate a beneficiary, or if no beneficiary survives when the qualifying firefighter dies, this compensation gets paid according to any valid Will the firefighter made while alive. If the firefighter did not have a Will, then the compensation gets paid according to the specific rules the Act provides. Otherwise, there is a chance that ***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 amount of this benefit is calculated based on a figure that was originally established in 2003, plus certain annual increases that depend on economic conditions. This means the amount of the benefit is not a fixed number; it varies each year. That said, the recent totals for this benefit have been in the range of \$200,000-\$300,000.

Finally, even if your claim under the Line of Duty Compensation Act is not or is not likely to be successful, keep in mind there may be other kinds of benefits that are still available to you. The Act does not replace any of the other laws or programs that may provide you with benefits; it adds to them. An application to make a claim under the Line of Duty Compensation Act is available from the [Illinois Secretary of State's website](#). For more information, you can visit the [Illinois Attorney General's website](#).

Funeral Benefits

The Line of Duty Compensation Act also provides for a burial benefit of up to \$20,000 for a firefighter who is killed in the line of duty after June 30, 2018.

ILLINOIS WORKERS' COMPENSATION ACT

820 ILCS 305/1, *et seq.*

Death Benefits

Workers' compensation is another possibility to consider in the issue of recovering benefits for the loss of an Illinois firefighter in the line of duty. For fatal accidents after which the firefighter leaves behind a widow, widower, child, or children, this law requires weekly compensation payments to the surviving widow or widower computed according to the firefighter's average weekly pay. This amount must be paid to the widow or widower, if any of their children is not mentally or physically incapacitated, until the widow or widower dies or their youngest child turns 18, whichever happens later. But there are two exceptions to this rule. First, if the child or children are enrolled full-time in an accredited educational institution, they remain eligible to receive these payments until they

turn 25. And second, if any of the surviving children are mentally or physically incapacitated, the payments continue for as long as they remain incapacitated. You should also know there are other minor exceptions that may cause the benefits to go to various other people, potentially including the firefighter's parents, their dependent children, or even dependent grandparents or grandchildren, as the case may be, if the people who would otherwise get them first are not surviving. To correctly determine who would get these benefits in your case, we recommend getting an attorney's help. Finally, you should know that if the widow or widower remarries, and there were no surviving children of the firefighter entitled to workers' compensation benefits at the time of the remarriage, the surviving spouse gets a lump-sum payment equal to 2 years of workers' compensation payments, and any claim they have to more workers' compensation payments is extinguished.

Workers' compensation benefits include not only the compensation payments we just discussed, but also all first aid and emergency treatment along with all primary and secondary medical, surgical, and hospital services provided by the physician, surgeon, or hospital initially or subsequently chosen by the firefighter or by any other physician, consultant, expert, institution, or other provider of services recommended by a medical service provider in any chain of medical service providers. They even include an additional payment of up to \$8,000 for burial expenses to be paid by the firefighter's department.

In closing this section, we urge firefighters to check with their departments to see how far their workers' compensation coverage goes, including whether their coverage extends to the time firefighters spend traveling to and from the scene of an emergency.

ILLINOIS HIGHER EDUCATION STUDENT ASSISTANCE ACT 110 ILCS 947/1, *et seq.*

Under the [Grant Program for Dependents of Police or Fire Officers](#), any spouse, natural child, legally adopted child, or child in the legal custody of any fire officer killed or permanently disabled to at least 90% while in the line of duty and employed by or volunteering for any local public entity in Illinois. The people who receive this grant do not need to be Illinois residents. They also do not need to be born, legally adopted, or in the legal custody of the firefighter before the disability or death occurred, nor do they need to demonstrate any kind of financial need to receive this grant. They must simply be enrolled in any Illinois institution of higher learning as a full or part-time undergraduate or graduate student.

This grant covers 8 semesters or 12 quarters of full tuition and mandatory fees at any State sponsored Illinois institution of higher learning, or an equivalent

amount of tuition and mandatory fees at any private Illinois education institution, so long as the recipient is maintaining satisfactory academic progress there.

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.

Eligibility

An individual applying for this grant must complete an application which includes the deceased or disabled officer's biographical information as well as a certified death certificate or statement of a licensed physician. The application must separately include documents which establish that the death or disability occurred in the line of duty. But, after one member of a family establishes that they are eligible, all other applying members of the same family are eligible too. The deadline for applications is October 1st for all academic terms, March 1st for second semester as well as second and third quarter and summer term, and June 15th for the Summer term only.

Someone who receives this grant while attending a public institution in Illinois may not receive a grant that is any larger than their tuition and mandatory fees at that institution, although this does include the difference between in-district and out-of-district tuition. One who receives this grant to attend a private Illinois institution may receive a grant large enough to completely pay their tuition and mandatory fees, as long as the grant does not exceed the maximum grant payable to the most expensive comparable program of study at a public institution. If someone receives this grant and the Illinois Student Assistance Commission then determines the recipient is not eligible for the grant, the recipient must repay the institution the total grant amount they received while eligible. And, at all times, the funds for this grant are provided by the General Assembly. This means it is possible that, from time to time, there may not be enough funds to fully distribute all the grants given under this program. If this happens, the Illinois Student Assistance Commission has the power to prioritize earlier applications and otherwise arrange so that all the people who receive grants at least receive something towards paying the first parts of their expenses.

You can get an application for this grant in the office of most Illinois guidance counselors, at most Illinois college financial aid offices, and online. You should be able to find the information you'll need for this grant at the [Illinois Student Assistance Commission's web site](#). Scholarships are also available through the [Illinois State Treasurer's office](#).

OTHER THINGS TO CONSIDER

1. The Importance of a Will. Anyone who owns property and especially anyone who has children should seriously consider having a Will. Otherwise, the law will determine many things that happen one's passing. As noted above, a firefighter's Will may dictate who is eligible to receive benefits.

2. Health Insurance. A federal law known as "COBRA" provides for continuation of employer-sponsored health insurance coverage for spouses and dependents. A firefighter's survivors may be entitled to continue their health insurance coverage under the law. 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). In some situations, the Illinois Continuation Law (known as mini-COBRA) may be the only option for continuance of health insurance coverage.

3. Social Security. 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.

4. Victims of Crime. If a firefighter's death is associated with a criminal act, such as arson, benefits may be available. The Illinois Attorney General's office will investigate the claim and file a report and proposed order with the Illinois Court of Claims, and the Court of Claims renders a decision. Up to \$45,000 in financial assistance may be available (with certain limits) for things such as medical expenses, lost wages, and funeral costs. For more information, visit [the Attorney General's website](#).

5. 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.

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.