An Act

ENROLLED HOUSE
BILL NO. 1738

By: Townley and Deck of the House

and

Alvord of the Senate

An Act relating to workers' compensation; amending 85A O.S. 2021, Section 47, which relates to death benefits for certain survivors; increasing death benefit amount; providing for modification of benefits based upon events occurring on or after effective date; and providing an effective date.

SUBJECT: Workers' compensation

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85A O.S. 2021, Section 47, is amended to read as follows:

Section 47. A. Time of death. If death does not result within one (1) year from the date of the accident or within the first three (3) years of the period for compensation payments fixed by the compensation judgment, a rebuttable presumption shall arise that the death did not result from the injury.

B. Common law spouse. A common law spouse shall not be entitled to benefits under this section unless he or she obtains an order from the Workers' Compensation Commission ruling that a common law marriage existed between the decedent and the surviving spouse. The ruling by the Commission shall be exclusive in regard to benefits under this section regardless of any district court decision regarding the probate of the decedent's estate.

C. Beneficiaries - Amounts. If an injury or occupational illness causes death, weekly income benefits shall be payable as follows:

1. If there is a surviving spouse, a lump-sum payment of One Hundred Thousand Dollars ($100,000.00) and seventy percent (70%) of the lesser of the deceased employee's average weekly wage and the state average weekly wage. In addition to the benefits theretofore paid or due, two (2) years' indemnity benefit in one lump sum shall be payable to a surviving spouse upon remarriage;

2. If there is a surviving spouse and ~~a~~ one (1) child ~~or children~~, the child shall receive a lump-sum payment of Twenty-five Thousand Dollars ($25,000.00) and fifteen percent (15%) of the lesser of the deceased employee's average weekly wage and the state average weekly wage ~~to each child~~. If there is more than one (1) child but less than five (5) children, each child shall receive a lump-sum payment of Twenty-five Thousand Dollars ($25,000.00) and a pro rata share of thirty percent (30%) of the deceased employee's average weekly wage for claims with a date of accident occurring on or after the effective date of this act. If there are five (5) or more ~~than two~~ children, each child shall receive a pro rata share of ~~Fifty Thousand Dollars ($50,000.00)~~ One Hundred Thousand Dollars ($100,000.00) and a pro rata share of thirty percent (30%) of the deceased employee's average weekly wage for claims with a date of accident occurring on or after the effective date of this act;

3. If there is a child or children and no surviving spouse, a lump-sum payment of Twenty-five Thousand Dollars ($25,000.00) and fifty percent (50%) of the lesser of the deceased employee's average weekly wage and the state average weekly wage to each child. If there are more than two children, each child shall receive a pro rata share of one hundred percent (100%) of the lesser of the deceased employee's average weekly wage and the state average weekly wage. With respect to the lump-sum payment, if there are more than six children, each child shall receive a pro rata share of One Hundred Fifty Thousand Dollars ($150,000.00);

4. If there is no surviving spouse or children, each legal guardian, if financially dependent on the employee at the time of death, shall receive twenty-five percent (25%) of the lesser of the deceased employee's average weekly wage and the state average weekly wage until the earlier of death, becoming eligible for Social Security, obtaining full-time employment, or five (5) years from the date benefits under this section begin; and

5. The employer shall pay the actual funeral expenses, not exceeding the sum of Ten Thousand Dollars ($10,000.00).

D. The weekly income benefits payable to the surviving spouse under this section shall continue while the surviving spouse remains unmarried. In no event shall this spousal weekly income benefit be diminished by the award to other beneficiaries. The weekly income benefits payable to any child under this section shall terminate on the earlier of death, marriage, or reaching the age of eighteen (18). However, if the child turns eighteen (18) and is:

1. Enrolled as a full-time student in high school or is being schooled by other means pursuant to the Oklahoma Constitution;

2. Enrolled as a full-time student in any accredited institution of higher education or vocational or technology education; or

3. Physically or mentally incapable of self-support,

then he or she may continue to receive weekly income benefits under this section until the earlier of reaching the age of twenty-three (23) or, with respect to paragraphs 1 and 2 of this subsection, no longer being enrolled as a student, and with respect to paragraph 3 of this subsection, becoming capable of self-support.

E. If any member of the class of beneficiaries who receive a pro rata share of weekly income benefits becomes ineligible to continue to receive benefits, the remaining members of the class shall receive adjusted weekly income benefits equal to the new class size.

F. To receive benefits under this section, a beneficiary or his or her guardian, if applicable, shall file a proof of loss form with the Commission. All questions of dependency shall be determined as of the time of the injury. The employer shall initiate payment of benefits within fifteen (15) days of the Commission's determination of the proper beneficiaries. The Commission shall appoint a guardian ad litem to represent known and unknown minor children and the guardian ad litem shall be paid a reasonable fee for his or her services.

SECTION 2. This act shall become effective January 1, 2024.

Passed the House of Representatives the 10th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 18th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 11th

day of May, 20 23, at 10:48 o'clock a. M.

By: Jenee Curry

Approved by the Governor of the State of Oklahoma this 15th

day of May, 20 23, at 11:06 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 15th

day of May, 20 23, at 1:53 o'clock p M.

By: Brian Bingman