

**IAFF DEPARTMENT OF OCCUPATIONAL HEALTH AND SAFETY  
SUMMARY OF THE FEDERAL (US) BENEFITS FOR  
PUBLIC SAFETY OFFICERS**

The following information relates to the public safety officers' death and disability benefits program provided by the United States Government.

**I. Summary of the Law**

The Public Safety Officers Benefits Act (Public Law 94-430) became law on September 29, 1976. The legislation provided for a \$50,000 death benefit for fire fighters (paid and volunteer) and law enforcement officers that died in the line-of-duty (emergency or non-emergency) from a traumatic injury. The Act does not cover deaths resulting from occupational illness or pulmonary or heart disease unless a traumatic injury is a substantial factor to the death. However, if toxicology reports demonstrate a carbon monoxide 10 percent or greater (15 percent or greater for the smoker) at the onset of a heart attack benefits are paid. The Public Safety Officers' Benefits Program has developed a formula that addresses oxygen therapy provided to the victim prior to the death.

The Act did exclude federal fire fighters, however on October 12, 1984 the Act was amended to correct this exclusion. Likewise, on October 15, 1986 public sector EMS personnel were also amended into the coverage of the Act.

On November 11, 1988, the benefit was increased from \$50,000.00 to \$100,000.00 and made retroactive to June 1, 1988. The dependency test for parent(s) was eliminated. Additionally, it provided that on October 1, 1988 and every year thereafter, the benefit would be increased to reflect any increase in the consumer price index.

On November 29, 1990, Congress again amended the PSOB benefits program to include permanent and total disability. The amendment was tightly drawn, sharply limited in scope, and intended to cover

only those public safety officers permanently unable to perform any gainful employment.

The PSOB disability amendment recognizes that state, local and agency benefit programs are primarily responsible for the hundreds, perhaps thousands, of public safety officer disability pensions awarded each year. The PSOB Act is clear that benefits awarded are supplementary in nature and by law are not to offset any worker compensation payment or disability pension benefit.

Even where an officer is disabled by a severe, catastrophic injury received in the line of duty, PSOB benefits do not come into play unless the injuries are so disabling as to permanently prevent any gainful employment. This standard recognizes that in all but rare cases a disabled public safety officer will have the capacity to supplement a state or local disability pension with employment earnings of varying degrees.

It is clear that Congress intended the PSOB disability for the rare occasion where a public safety officer miraculously survives line of duty injuries that, except for modern medical technology, would have resulted in death. Such a survivor, however, is so severely handicapped with permanent disabilities that any type of

gainful employment is simply not possible. The following example, one of three disability cases PSOB approved during the past year, illustrates the kind of line of duty injuries and permanent disability that will merit a PSOB finding of permanent and total disability, and award of the program's disability benefit.

A Spokane, Washington fire medic, in a scheduled training exercise, was rappelling from a training tower. The supporting anchor point failed, plunging the fire fighter almost 40 feet to the pavement. He sustained extensive blunt force trauma, with severe head injuries and residual mental impairment. Subsequently, attending physicians diagnosed the fire fighter as permanently paraplegic and permanently unable to perform any gainful employment. PSOB's medical experts confirmed the medical findings, especially noting craniocerebral head injuries with residual mental impairments, the existence of permanent spinal cord damage and resultant permanent motor and sensory functional loss of lower limbs, bladder and bowel control. These medical reviews also affirmed that the fire fighter would remain a paraplegic, permanently and totally disabled. Moreover, PSOB's medical reviews and findings confirmed that this public safety officer would be permanently prevented from performing any gainful work.

**II. Additional Information Available from the IAFF Department of Occupational Health and Safety:**

A. Bureau of Justice Assistance Fact Sheet, which provides the summary of benefits.

B. Public Safety Officers' Benefits Act of 1976, Part J. Original act detailing the provision of death benefits. Introduced to the 94th Congress, September 29, 1976.

**Summary of the PSOB  
Amount Since Enactment**

September 29, 1976	\$50,000.00
June 1, 1988	\$100,000.00
October 1, 1988	\$103,890.00
October 1, 1989	\$109,460.00
October 1, 1990	\$114,235.00
October 1, 1991	\$119,894.00
October 1, 1992	\$123,520.00
October 1, 1993	\$127,499.00
October 1, 1994	\$130,416.00
October 1, 1995	\$134,571.00
October 1, 1996	\$138,461.00
October 1, 1997	\$141,556.00
October 1, 1998	\$143,943.00

C. Federal Register, May 6, 1977, Part II. The rules adopted by the Law Enforcement Assistance Administration for implementation of the PSOB Act are written.

D. Federal Register, Vol. 43, No. 180 - September 15, 1978. Results of meeting detailing the contribution of carbon monoxide and heart disease in the deaths of public safety officers.

E. Federal Register, Vol. 45, No. 51 - March 13, 1980. Amendments to the hearing and appeal provisions of the regulations.

F. Federal Register, Vol. 50, No. 128, July 3, 1985. An amendment to the PSOB Act which transfers the administration of the Act from the LEAA to the Bureau of Justice Assistance. In addition, federal public safety officers are now covered under the act and "gross negligence" and "intoxication" standards are defined within this amendment.

G. Federal Register, Vol. 53, No. 50, March 15, 1988. Amendment to

the PSOB Act which includes provision of death benefit coverage to members of public rescue squads or ambulance crews. Also an explanation of EMS coverage in correspondence from the U.S. Department of Justice.

H. Federal Register, Vol. 57, No. 113, June 11, 1992. Amendment to the PSOB Act to include coverage for disability benefits. Such disability is defined as permanent and total as a direct result of a catastrophic personal injury sustained in the line of duty which will prevent an individual from performing any gainful work.

I. Court Case: Beverly Morrow, et al. v. The United States. U.S. Court of Claims case in which a fire fighter's widow sought benefits following the death of her husband of a heart attack six weeks after an initial attack associated with a smoke inhalation incident. Benefits were denied as death was attributed to heart disease.

J. Court Case: Hubert Smykowski, et al. v. The United States. U.S. Court of Claims case in which a police officer died after a struggle with a suspect. Court upheld the Administrators ruling that the stress and strain of a struggle was not a traumatic injury as defined by the PSOB Act.

K. Court Case: Carrie Rose, etc. v. Arkansas State Police. The U.S. Supreme Court ruled that any law that authorizes a state to offset state worker compensation benefits against benefits paid by the Federal PSOB program is in conflict with the supplementary nature of the PSOB Act and is therefore invalid under the supremacy clause of the U.S. Constitution.

*Updated:*

*Martin E. Pierce, 1 November 1993*

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## **SCHOLARSHIPS FOR DEPENDENTS OF FALLEN FIRE FIGHTERS APPROVED**

In October of 1998 President Clinton signed into law The Police, Fire and Emergency Officers Educational Assistance Act of 1998. The law was created to provide financial assistance for higher education to the dependants of federal, state, and local public safety officers who are killed or permanently and totally disabled as a result of traumatic injury sustained in the line of duty and were eligible for the U.S. PSOB death or disability benefit. This is the only federally funded program that provides educational benefits for the children of fire fighters killed in the line of duty.

The U.S. Department of Justice's Bureau of Justice Assistance - Office of Special Programs, the same office that administers the Public Safety Officer Benefit (PSOB), will administer this law. The Department of Justice anticipates that it will be April, 1999 before the procedures to administer this program are in place.

The law is retroactive and will apply to all qualified individuals who died in the line of duty on or after October 1, 1997. The children of eligible public safety officers who are under the age of 27 may receive up to \$404 per month for up to 45 months. Once application procedures for the education benefit are in place, the IAFF Department of Occupational Health and Safety will provide our affiliates and the member's families with assistance in filing claims.

There are two additional provisions of the law that the Bureau of Justice Assistance - Office of Special Programs must clarify before administering the benefit. The law requires the Attorney General to issue regulations regarding the use of a sliding scale to be used to ensure that the most financially needy dependants receive funding priority. Furthermore, the law calls for the "offset"

of the educational benefit by any other federal, state, or local government funds provided as an educational benefit. For example, if the student receives \$2,000 from the local government for education, then this amount would be deducted from the amount that the child would be eligible to receive from the Federal government. The Bureau of Justice Assistance will establish the administrative policies in the upcoming months.

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**KEEP THIS PAGE** with your other work related benefits documents. Mahalo to Honolulu Capt Brian Emmons (E14/3) for suggesting this informational item for our members.