



**IAFF DIVISION OF OCCUPATIONAL HEALTH, SAFETY AND MEDICINE
SUMMARY OF THE FEDERAL (US) BENEFITS FOR
PUBLIC SAFETY OFFICERS
PSOB AND PEOEA PROGRAMS**

I. Summary of the PSOB Law

The Public Safety Officers Benefits Act, (42 USC 3796, 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. On December 15, 2003 the Act was amended (Hometown Heroes Act) to cover deaths from heart attack and stroke occurring in the line-of-duty. The Act does not cover deaths resulting from occupational illness or pulmonary disease unless a traumatic injury is a substantial factor to the death. On August 10, 2006 new regulations for the PSOB were issued that incorporated all prior amendments to the original regulations and added the regulations for the Hometown Heroes Act. The regulations were further changed and issued on December 17, 2008 and incorporated current program practices as well as other modifications including the definition of heart attack, authorized commuting, and training exercise.

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 October 26, 2001, as part of the Patriot Act of 2001, the benefit was increased to \$250,000 and January 1, 2001. The following summarizes the benefit payout since the enactment of the Act:

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, made retroactive to 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
October 1, 1999	\$146,949.00
October 1, 2000	\$151,635.00
October 1, 2001	\$154,199.00
October 26, 2001	\$250,000.00 <i>(retroactive to 1/1/01)*</i>
October 1, 2002	\$262,100.00
October 1, 2003	\$267,494.00
October 1, 2004	\$275,658.00
October 1, 2005	\$283,385.00
October 1, 2006	\$295,194.00
October 1, 2007	\$303,064.00
October 1, 2008	\$315,746.00
October 1, 2009	\$311,810.00

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 June 25, 2002 the Act was amended by the enactment of the Mychal Judge Police and Fire Chaplains Safety Officers Benefit Act, which now allows coverage of fire chaplains under the Act and authorizes all beneficiaries of fallen fire fighters, not just parents, spouses or children to receive the federal compensation. The legislation, named after the FDNY Chaplain Father Judge, was proposed after it was discovered that ten public safety officers who gave their lives on Sept. 11 would not be eligible for death benefits because they did not have any surviving immediate family. The beneficiary hierarchy resulting from this Amendment is as follows:

- If the public safety officer (PSO) is survived by a spouse but no eligible children (as defined above), the spouse will receive 100% of the program benefit.
- If the PSO is survived by a spouse and eligible children, the spouse will receive 50% of the program benefit and the children will receive equal shares of the remaining 50%.
- If the PSO is survived by eligible children but no spouse, the children will receive equal shares of 100% of the program benefit.
- If the PSO is survived by neither a spouse nor eligible children the program benefit shall be paid to "the individual designated by such officer under such officer's most recently executed life insurance policy, provided that such individual survived such officer."
- If the PSO is survived by neither a spouse nor eligible children and dies not have a life insurance policy, then the benefit will be made payable to the surviving parents in equal shares.

On August 10, 2006 new regulations for administration of all PSOB benefits were issued that incorporated all prior amendments to the original regulations and added the provisions of the Hometown Heroes Act (see below). These new regulations address the PSOB Act and regulations in five parts. The first part of this document describes

the structure and background of the PSOB Program and aspects of the history of its administration. The second part covers the changes to the PSOB Act contained in Public Law 109–162, which provided a number of clarifying and conforming changes to the PSOB Act. New definitions included the term “member of a rescue squad or ambulance crew”, which is now defined as “an officially recognized or designated public employee member of a rescue squad or ambulance crew.” It also amended the PSOB Act to ensure that the pre-existing statutory limitation on payments to non-civilians referred to the individual who was injured or killed, and not to any potential beneficiaries. Finally, this legislation amended certain provisions of the PSOB Act regarding designation of beneficiaries when the officer dies without a spouse or eligible children and removed the need for a one-year waiting period to ensure payment to the beneficiary of the officer’s “most recently executed life insurance policy.” The third part addresses the comments received by BJA that relate to the proposed provisions implementing the Hometown Heroes Act, and explains the changes being made in the final rule. The fourth part is a specific discussion of the terms “line of duty” and “authorized commuting.” The last part addresses the remainder of the comments in a section-by-section analysis, indicating where changes to provisions were made, or where BJA determined no changes were necessary.

II. Summary of the Heart/Stoke Amendment

The Hometown Heroes Survivors Benefits Act of 2003 (HHA) amends the PSOB Act and was signed into Law on 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 unless such presumption is not overcome by competent medical evidence to the contrary.

The law requires that the officer, while on duty 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 participated in a training exercise, and such participation involved non-routine stressful or strenuous physical activity. Any claim for non-routine stressful or strenuous physical activities will be excluded if such actions are of a clerical, administrative, or non-manual nature.

Further, the law requires that the officer died as a result of a heart attack or stroke suffered:

- while engaging or participating in such activity as described above,
- while still on that duty after so engaging or participating in such an activity, or
- not later than 24 hours after so engaging or participating in such an activity.

The HHA provision only covers deaths occurring on or after December 15, 2003. The HHA is not retroactive, and therefore it does not apply to deaths occurring before the aforementioned date.

III. Summary of the Disability Amendment

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 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 fire fighter, 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. The PSOB Program'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, the PSOB Program's medical reviews and findings confirmed that this public safety officer would be permanently prevented from performing any gainful work.

IV. Summary of the PSOEA Law

The Police, Fire and Emergency Officers Educational Assistance Act was signed into law in October 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 spouse and 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) Program, administers the Public Safety Officers Educational Assistance (PSOEA) Program.

This assistance is only available after the PSOB death or disability claim process has been completed and benefits have been awarded. Further, the PSOEA applicant must have received at least a portion of the PSOB benefits and be defined as the officer's spouse or child under the PSOB Act and regulations. In January 2000, the law further extended the retroactive eligibility date for financial assistance. Accordingly, the law is retroactive and will apply to the spouses or children of public safety officers whose deaths or permanent and total disabilities are covered by the PSOB Program on or after January 1, 1978. Public safety officers' children will no longer be eligible after their 27th birthday, absent a finding by the Attorney General of extraordinary circumstances. The PSOEA Program will provide an educational assistance allowance, which may be used solely to defray educational expenses, including tuition, room and board, books, supplies, and education-related fees/costs.

As of October 1, 2003 the maximum award for a full-time student is \$695.00 per month of class attendance. All PSOEA awards must, by law, be reduced by the amount of other governmental assistance that a student is eligible to receive.

The IAFF Division of Occupational Health, Safety and Medicine will provide our affiliates and the member's family with assistance in filing for PSOB and PSOEA benefits.

V. Summary of Legislation

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

- ***Federal Register, Vol. 45, No. 51 - March 13, 1980.*** Amendments to the hearing and appeal provisions of the regulations.
- ***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.
- ***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.
- ***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.
- ***Public Law 107-37 - September 18, 2001, [115 STAT. 219].*** Amendment to the PSOB Act to provide for the expedited payment of PSOB benefits for a public safety officer who was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001.
- ***Public Law 107-56 - October 26, 2001, [115 STAT. 369].*** Amendment to the PSOB Act to provide for the expedited payment of PSOB benefits for a public safety officer who was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty in connection with prevention, investigation, rescue, or recovery efforts related to any terrorist attack. Increases the PSOB program benefit payment to \$250,000 retroactive to January 1, 2001.
- ***Public Law 107-196 - June 24, 2002, [116 STAT. 719].*** Amendment to the PSOB Act to include coverage of fire chaplains and allows all beneficiaries of fallen fire fighters, not just parents, spouses or children to receive the federal compensation.
- ***Public Law No: 108-182 December 15, 2003 [117 STAT. 2649].*** Amendment to the PSOB Act to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits. The legislation was entitled the Hometown Heroes Act.
- ***Public Law 109-162 January 5, 2006 [119 STAT. 2960, 3120].*** Amendment to the PSOB Act contained in the DOJ Reauthorization Act and contains several clarifying and conforming changes. New definitions included the term "member

of a rescue squad or ambulance crew” that is now defined as “an officially recognized or designated public employee member of a rescue squad or ambulance crew.” It also amended the PSOB Act to ensure that the pre-existing statutory limitation on payments to non-civilians referred to the individual who was injured or killed, and not to any potential beneficiaries. Finally, this legislation amended certain provisions of the PSOB Act regarding designation of beneficiaries when the officer dies without a spouse or eligible children and removed the need for a one-year waiting period to ensure payment to the beneficiary of the officer’s “most recently executed life insurance policy.”

- ***Federal Register, Vol. 71, No. 154, August 10, 2006.*** The new regulations for administration of all PSOB benefits that incorporated all prior amendments to the original regulations and added the provisions of the Hometown Heroes Act. This document addresses the PSOB Act and regulations in five parts. The first part of this document describes the structure and background of the PSOB Program and aspects of the history of its administration. The second part covers the recent changes to the PSOB Act contained in Public Law 109–162. The third part addresses the comments received by BJA that relate to the proposed provisions implementing the Hometown Heroes Act, and explains the changes being made in the final rule. The fourth part is a specific discussion of the terms “line of duty” and “authorized commuting.” The last part addresses the remainder of the comments in a section-by-section analysis, indicating where changes to provisions were made, or where BJA determined no changes were necessary.
- ***Federal Register, Vol. 73, No. 133, July 10, 2008.*** The regulations for the administration of PSOB benefits were proposed for modification in July of 2008. The proposed changes reflected current program practices, addressed substantive and procedural shortcomings in the rule that implemented the Hometown Heroes and Survivors Benefit Act, incorporated two policy memoranda related to non-routine stressful or strenuous physical activity and competent medical evidence to the contrary, and made other housekeeping changes. New or revised definitions were incorporated for authorized commuting, biological (as pertains to children), heart attack, injury, line of duty activity, voluntary intoxication at the time of death or catastrophic injury, and other terms. The proposed rule also made changes to evidentiary rules related to the submission of claims. Public safety agencies were invited to comment on the proposed changes and the IAFF made a submittal. The regulations were published as a final rule in the Federal Register on December 17, 2008 with an effective date of January 16, 2009. A number of changes were made to the proposal and incorporated into the final rule including changes in the definition of heart attack, authorized commuting, and training exercise.

VI. PSOB Government Contact and Information

Contact:

For more information about this program or to obtain forms, contact:

Payments & Benefits Division
Bureau of Justice Assistance
810 Seventh Street NW.
Washington, DC 20531
202-307-0635
Toll free: 1-888-SIGNAL13 (744-6513)
Fax: 202-616-0314
E-mail: AskPSOB@usdoj.gov

Fact Sheets:

USDOJ, Bureau of Justice Assistance **Fact Sheet**, which provides the summary of PSOB and PSOEA benefits, can be found at the following website address: http://www.ojp.usdoj.gov/BJA/grant/psob/psob_main.html. This site also provides all the notification and filing forms needed to process a claim.

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