

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/SB 1232

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Book

SUBJECT: Death Benefits

DATE: March 24, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1232 requires an employer of a law enforcement officer, correctional officer, or a correctional probation officer to pay the entire premium of the employer's health insurance plan for surviving dependents if the employee was exposed in the line of duty to, and died on or after March 1, 2020, from, a pandemic disease which was the subject of a declared public health emergency.

State and local governments may incur additional costs associated with the payment of health insurance premiums for the surviving dependents of law enforcement officers, correctional officers, and correctional probation officers who were exposed in the line of duty to, and died from, a pandemic disease which was the subject of a declared public health emergency.

State and local governments employing law enforcement officers, correctional officers, and correctional probation officers may experience an indeterminate increase in costs associated with providing the benefits granted by this bill.

The bill takes effect July 1, 2021, but has retroactive application to March 1, 2020.

## II. Present Situation:

### **Death Benefits**

Section 112.19, F.S., requires the employer of a law enforcement officer, correctional officer, and correctional probation officer must provide death benefits, including a monetary payment, waiver of educational costs, and health insurance premiums, to surviving family members of an officer killed under certain circumstances.

#### *Monetary benefits*

The monetary benefit is \$75,000 if the law enforcement officer, correctional officer, or correctional probation officer, while engaged in the officer's law enforcement duties, is killed accidentally or as a result of accidental injuries.

The monetary benefit is \$150,000 if the law enforcement officer, correctional officer, or correctional probation officer, while engaged in the officer's law enforcement duties, is killed accidentally or as a result of accidental injuries and the accidental death occurs:

- As a result of the officer's response to fresh pursuit;
- As a result of the officer's response to what is reasonably believed to be an emergency;
- At the scene of a traffic accident to which the officer has responded; or
- While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

The monetary benefit is \$225,000 if the law enforcement officer, correctional officer, or correctional probation officer, while engaged in the performance of the officer's law enforcement duties, is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act.

#### *Educational benefits*

The educational benefits are provided to the surviving spouse and dependent children of:

- A law enforcement officer, correctional officer, and correctional probation officer killed accidentally or as a result of accidental injuries and the accidental death occurs:
  - As a result of the officer's response to fresh pursuit;
  - As a result of the officer's response to what is reasonably believed to be an emergency;
  - At the scene of a traffic accident to which the officer has responded; or
  - While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.
- A law enforcement officer, correctional officer, correctional probation officer, or firefighter who is unlawfully and intentionally killed or is injured by an unlawful and intentional act of another person and dies as a result of the injury.

The educational benefit is granted to the surviving children and spouse of the deceased employee. This benefit is a waiver, by the state educational institution, of the tuition and fees associated with attaining a career certificate, an undergraduate education, or a postgraduate education. An eligible child may use the waiver until the child's 25<sup>th</sup> birthday. An eligible spouse may use the waiver until the 10<sup>th</sup> anniversary of the employee's death.

### ***Health insurance benefits***

The health insurance benefits must be provided if the officer suffers a catastrophic injury in the line of duty and as a result of:

- The officer's response to fresh pursuit;
- The officer's response to what is reasonably believed to be an emergency; or
- The unlawful act perpetrated by another.

The health insurance benefit is equivalent to the entire premium for health insurance for the injured officer, the employee's spouse, and any dependent child until the child reaches age 18 or until the end of the calendar year in which the child reaches age 25. If the employee dies, the employer must pay the insurance premium for the spouse until the spouse remarries and for the dependent children under the same conditions.

### **Public Health Emergency**

Section 381.00315, F.S., grants authority to the State Health Officer to declare public health emergencies. During the last 30 years, the following public health emergencies relating to infectious diseases have been declared:

- Zika virus in 2016;
- Hepatitis A in 2019; and
- COVID-19 in 2020.

### **In Line of Duty Deaths of Law Enforcement Officers, Correctional Officers, and others**

According to the Officer Down Memorial Page,<sup>1</sup> thirteen law enforcement officers and correctional officers employed local governments in Florida and one correctional officer employed by the state died in 2020 of COVID-19 or COVID-19-related complications. Another three officers employed by local governments have died in 2021 of COVID-19 or COVID-19-related complications.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 112.19, F.S., to require an employer of a law enforcement officer, correctional officer, or a correctional probation officer to pay the entire premium of the employer's health insurance plan for surviving dependents if the employee was exposed in the line of duty to, and died on or after March 1, 2020, from, a pandemic disease which was the subject of a declared public health emergency.

**Section 2** provides that the amendments in section 1 apply retroactively to certain employees who died on or after March 1, 2020, from a pandemic disease which was the subject of a declared public health emergency.

**Section 3** provides that the Legislature determines and declares that this act fulfills an important state interest.

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<sup>1</sup> Officer Down Memorial Page, <https://www.odmp.org/> (last viewed on March 18, 2021).

**Section 4** provides the act takes effect July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides, in relevant part, that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: the law requiring such expenditure is approved by two-thirds vote of the membership of each house of the legislature; [or] . . . the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments....” The provisions of this bill appear to apply to all persons similarly situated (state agencies, state universities, state colleges, and local governments employing law enforcement officers, correctional officers, and correctional probation officers. Section 3 of the bill contains a legislative declaration that the bill fulfills an important state interest.

The mandate requirements do not apply to laws having an insignificant impact which, for Fiscal Year 2021-2022, is forecast at \$2.2 million.<sup>2,3,4</sup> The fiscal impact of this bill on cities or counties is indeterminate. If costs imposed by the bill are determined to exceed \$2.2 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in State Constitution (e.g., applies to all persons similarly situated or enactment by vote of two-thirds of the membership of each house).

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

<sup>2</sup> FLA. CONST. art. VII, s. 18(d).

<sup>3</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited February 25, 2021).

<sup>4</sup> Based on the Florida Demographic Estimating Conference’s November 3, 2020, population forecast for 2021 of 21,830,364. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited February 25, 2021).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The cost on state and local governments is indeterminate based on the prospective application of the benefits. However, if the surviving dependents of the fourteen officers who died of COVID-19 during 2020 were eligible for these benefits in 2021, the estimated annual costs are roughly \$288,848.<sup>5</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the section 112.19 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Governmental Oversight and Accountability on March 24, 2021:**

The CS limits the disease that qualifies the employee for such benefits to pandemic diseases that are subject to a declaration of a public health emergency. The CS also applies the new benefits retroactively to deaths on or after March 1, 2020. The CS contains a legislative finding that the bill fulfills an important state interest.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>5</sup> Fourteen officers multiplied by \$20,632 (the full 2021 premium for family health insurance coverage in the State Employee Health Insurance Program) equals \$288,848 annually. This annual amount will change each year as health insurance premiums increase, additional surviving dependents become eligible, and other surviving dependents become ineligible.