

HOUSE No. 1374

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 19, 1928.

The committee on Bills in the Third Reading, to whom was referred the Bill providing for the payment of compensation to dependents of policemen and firemen who are killed in the performance of duty (Senate, No. 366, amended), report recommending that the same be amended by the substitution of a bill (House, No. 1374) and that when so amended the same will be correctly drawn.

For the committee,

THOMAS R. BATEMAN.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Eight.

An Act providing for the Payment of Compensation to Widows and Children of Policemen and Firemen who are killed in the Performance of Duty.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter thirty-two of the General
2 Laws, as amended in section eighty-nine by section
3 three of chapter five hundred and four of the acts of
4 nineteen hundred and twenty-four, is hereby further
5 amended by striking out said section eighty-nine and
6 inserting in place thereof the following: —

7 *Section 89.* If a member of the police or fire force
8 of a city or town which accepts this section, or a member
9 of the department of public safety doing police duty,
10 is killed, or dies within six months from injuries re-
11 ceived, while in the performance of his duty as such
12 member and it shall be proved to the satisfaction of
13 the mayor and city council or selectmen, or of the com-
14 missioner of public safety subject to the approval of
15 the governor and council, as the case may be, that
16 such death was the natural and proximate result of an
17 accident occurring during the performance and within
18 the scope of his duty as such member, and the attend-
19 ing physician or medical examiner shall certify to the
20 city, town or state treasurer, as the case may be, that

21 the death was the direct result of the said injury, there
22 shall be paid, except as hereinafter provided out of the
23 city, town or state treasury, as the case may be, to the
24 following dependents of such deceased person the
25 following annuities: To the widow, so long as she
26 remains unmarried, an annuity not exceeding one
27 thousand dollars a year, increased by not exceeding
28 two hundred dollars for each child of such deceased
29 person during such time as such child is under the age
30 of eighteen or over said age and physically or mentally
31 incapacitated from earning; and if there is no widow,
32 or if the widow dies, such an annuity to or for the
33 benefit of such surviving children, in equal shares, as
34 would have been payable to the widow had she lived.
35 If the widow remarries, the aforesaid annuities to her
36 shall terminate and there shall be paid an annuity not
37 exceeding two hundred and sixty dollars a year to or
38 for the benefit of each such child. The total amount of
39 all such annuities shall not exceed two thirds of the
40 annual rate of compensation received by such deceased
41 person at the date of his death. The amount of any
42 such annuity shall from time to time be determined
43 within the limits aforesaid by the mayor and city
44 council, the selectmen, or the commissioner of public
45 safety subject to the approval of the governor and
46 council, as the case may be.

47 In case the deceased was a member of a contributory
48 retirement system for public employees, the benefits
49 provided under this section shall be in the alternative
50 for the benefits, if any, provided for dependent widows
51 and children by such retirement system; and the
52 widow, or, if there is no widow, the legal representative
53 of the children entitled thereto, shall elect which bene-
54 fits shall be granted. Such election shall be made in

55 writing and shall be filed with the retirement board in
56 charge of the system of which the deceased was a
57 member and shall not be subject to change or revoca-
58 tion after the first payment of any benefit thereunder.

1 SECTION 2. Said chapter thirty-two, as amended
2 in section seventy-one by section three of chapter four
3 hundred and eighty-seven of the acts of nineteen
4 hundred and twenty-one, is hereby further amended
5 by striking out said section seventy-one and inserting
6 in place thereof the following:—

7 *Section 71.* Subject to the requirement of election
8 set forth in the last paragraph of section eighty-nine,
9 if any permanent or call officer of said police depart-
10 ment is killed or dies within six months from injuries
11 received while in the performance of his duty as such
12 officer and it shall be proved to the satisfaction of the
13 commission that such death was the natural and
14 proximate result of an accident occurring during the
15 performance and within the scope of his duty as such
16 officer and the attending physician or medical ex-
17 aminer shall certify to the state treasurer that the
18 death was the direct result of the said injury, there
19 shall be paid out of the state treasury to the following
20 dependents of such deceased officer the following
21 annuities: To the widow, so long as she remains un-
22 married, an annuity not exceeding one thousand
23 dollars a year, increased by not exceeding two hundred
24 dollars for each child of such deceased person during
25 such time as such child is under the age of eighteen or
26 over said age and physically or mentally incapacitated
27 from earning; and if there is no widow, or if the widow
28 dies, such an annuity to or for the benefit of such
29 surviving children, in equal shares, as would have been

30 payable to the widow had she lived. If the widow
31 remarries, the aforesaid annuities to her shall terminate
32 and there shall be paid an annuity not exceeding two
33 hundred and sixty dollars a year to or for the benefit
34 of each such child. The total amount of all such
35 annuities shall not exceed two thirds of the annual
36 rate of compensation received by such deceased officer
37 at the date of his death. The amount of any such
38 annuity shall, from time to time, be determined within
39 the limits aforesaid by the said commission. The
40 provisions of this and the two preceding sections as
41 to pensions or annuities for disability or death result-
42 ing from injuries received in the performance of duty
43 shall apply to officers assigned to duty under the com-
44 missioner of public safety as provided in section four
45 of chapter one hundred and forty-seven.

1 SECTION 3. Said chapter thirty-two, as amended
2 in section eighty-seven by chapter one hundred and
3 seventy-eight of the acts of nineteen hundred and
4 twenty-three and by chapter three hundred and
5 seventy-one of the acts of nineteen hundred and
6 twenty-four, is hereby further amended by striking
7 out said section eighty-seven and inserting in place
8 thereof the following:— *Section 87.* If a policeman
9 in a regularly organized police department of a city
10 or town is killed, or dies within six months from in-
11 juries received, while in the performance of his duties,
12 and his death is certified by the city or town clerk
13 and by the attending physician or medical examiner
14 to the city or town treasurer, there shall be paid by
15 said treasurer to the executor or administrator of said
16 deceased the sum of twenty-five hundred dollars for
17 the use equally of his widow and minor children; or

18 if there are minor children but no widow, to their use,
19 or if there is no minor child, to the use of the widow,
20 and if there is no widow or minor child, to the use of
21 the next of kin, if dependent upon such deceased per-
22 son for support. A child of full age dependent upon
23 such policeman for support shall be regarded as a
24 minor child. The provisions of this section shall not
25 apply in a city or town after it shall have accepted
26 section eighty-nine.

1 SECTION 4. Section eighty-seven A of said chapter
2 thirty-two, as inserted by section two of chapter five
3 hundred and four of the acts of nineteen hundred and
4 twenty-four, is hereby repealed.

1 SECTION 5. Section eighty-eight of said chapter
2 thirty-two is hereby amended by adding at the end
3 thereof the following:— The provisions of this section,
4 in so far as they relate to pensions for widows and
5 children of deceased policemen or firemen, shall not
6 be open to acceptance by, or be applicable in, a town
7 after it shall have accepted section eighty-nine.

1 SECTION 6. Section eighty-three of chapter forty-
2 eight of the General Laws, as amended by section
3 fifty-four of chapter three hundred and sixty-two of
4 the acts of nineteen hundred and twenty-three, is
5 hereby further amended by adding at the end thereof
6 the following:— No payments shall be made under
7 this section or section eighty-one on account of the
8 death of a member of the fire department of a city or
9 town after it shall have accepted section eighty-nine
10 of chapter thirty-two.

1 SECTION 7. Upon the acceptance of section eighty-
2 nine of chapter thirty-two of the General Laws by any

3 city or town, the provisions of any non-contributory
4 pension law of general application within the limits of
5 such city or town so far as it provides for the payment
6 of compensation to the dependents of policemen or
7 firemen killed, or dying from injuries received, while
8 in the performance of duty, shall not apply therein as
9 to a policeman or fireman so killed or so dying after the
10 date of such acceptance.

1 SECTION 8. The provisions of said section eighty-
2 nine, as in effect immediately prior to the effective date
3 of this act, shall, notwithstanding the provisions of this
4 act, continue in full force and effect in any such city
5 or town as has accepted said section eighty-nine or the
6 corresponding provisions of earlier laws, until the
7 acceptance by such city or town of said section eighty-
8 nine as amended by section one of this act. Nothing
9 contained in this act shall affect any right to pension
10 or annuities accrued prior to its effective date.

HOUSE OF REPRESENTATIVES, July 20, 1928.

Passed to be engrossed,
Sent up for concurrence,

FRANK E. BRIDGMAN,
Clerk.

SENATE, July 20, 1928.

Passed to be engrossed, in concurrence.

WILLIAM H. SANGER,
Clerk.

