

By Mr. Rushing of Boston, petition of Byron Rushing, Marsha R. Platt, Michael W. Morrissey, Carol C. Cleven, Thomas P. Kennedy and Daniel E. Bosley relative to establishing the Massachusetts public safety employees line of duty death benefit. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT ESTABLISHING THE MASSACHUSETTS PUBLIC SAFETY
EMPLOYEES LINE OF DUTY DEATH BENEFIT.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to immediately provide in the line of
3 duty death benefits, therefore it is hereby declared to be an
4 emergency act, necessary for the immediate preservation of the
5 public convenience.

*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 Laws, as
2 appearing in the 1992 Official Edition, is hereby amended by
3 adding after section one hundred the following section: —

4 Section 100A.(1)(a) There shall be a public safety employees
5 line of duty death benefit commission consisting of five members
6 to be appointed by the Governor. Said members to be appointed
7 by the Governor shall include the Secretary of Public Safety
8 who shall serve as chairperson, a firefighter representing the
9 Professional Firefighters of Massachusetts from nominations
10 submitted to the Governor from the Professional Firefighters of
11 Massachusetts, a state police officer representing the State Police
12 Association of Massachusetts from nominations submitted to the
13 Governor from the State Police Association of Massachusetts, a
14 police officer representing the International Brotherhood of
15 Police Officers from nominations submitted to the Governor from
16 the International Brotherhood of Police Officers, a corrections

17 officer representing corrections officers from nominations
18 submitted to the Governor from the Massachusetts Correction
19 Officers Federated Union, the International Brotherhood of
20 Corrections Officers and the Massachusetts Public Employees
21 Council, #93, AFSCME. The members of the commission shall
22 serve for a term of three years and shall serve without compen-
23 sation. The commission shall meet at least annually and at other
24 such times deemed necessary to conduct any business coming
25 before the commission. The commission shall report annually to
26 the Governor and the Clerks of the senate and house of repre-
27 sentatives, its activities and accomplishments.

28 (b) The commission shall promulgate regulations governing
29 the administration of and the awarding of such public safety
30 in the line of duty death benefit. Such regulations shall be subject
31 to the provisions of chapter thirty A, and a copy of such regula-
32 tions, and any amendments thereto, shall be filed in advance of
33 their taking effect with the general court. The commission shall
34 file the proposed regulation, amendment or repeal with the clerk
35 of the house of representatives, who shall refer such regulations
36 to the joint committee on public service. Within thirty days after
37 such referral, the committee on public service may hold a public
38 hearing on the regulations and shall issue a report to the com-
39 mission. Said report shall contain any proposed changes to the
40 regulations voted upon by the public service committee. The
41 commission shall review said report and shall adopt final regu-
42 lations as deemed appropriate in view of said report and shall file
43 with the chairmen of the public service committee its final
44 regulations. If the final regulations do not contain the changes
45 proposed by the public service committee, the commission shall
46 send a letter to the public service committee accompanying the
47 final regulations stating the reasons why such proposed changes
48 were not adopted. Not earlier than forty-five days after the filing
49 of such letter and final regulations with the public service
50 committee, the commission shall file the final regulations with the
51 state secretary as provided in section five of said chapter thirty A
52 and said regulations shall thereupon take effect.

53 If no such proposed changes to the regulations are made to the
54 commission within sixty days of the initial filing of the proposed
55 regulation or any amendment or a repeal of such regulation with

56 the clerk of the house of representatives, the commission may file
57 the final regulations with the state secretary as provided in section
58 five of said chapter thirty A and said regulations shall thereupon
59 take effect.

60 (c) The line of duty death benefit shall be a one-time award
61 in the amount of one hundred thousand dollars, payable to the
62 surviving spouse of such firefighter, police officer or corrections
63 officer or, if no such surviving spouse, to the child or children
64 of such firefighter and police officer, in equal shares or, if no
65 surviving child, to the parent or parents in equal shares, however,
66 in the case of a parent or parents, no such benefit shall be disbursed
67 unless the commission determines by means of a hearing, by a
68 preponderance of the evidence, that said parent or parents were
69 at least fifty percent financially dependent upon such firefighter,
70 police officer or corrections officer in the preceding year prior to
71 the date of death of said firefighter or police officer. This one
72 hundred thousand dollar benefit shall be paid upon the death of
73 a firefighter who in the performance of his duties and as a result
74 of an accident while responding to or returning from an alarm
75 of fire or any emergency, or as the result of an accident involving
76 a fire department vehicle, which the firefighter is operating or in
77 which he is riding, or while at the scene of a fire or any emergency
78 is killed or sustains injuries which result in the death of the
79 firefighter, or upon the death of a police officer while in the per-
80 formance of his duties or as a result of an assault on his person
81 or as a result of an accident involving a police department vehicle
82 which he is operating or in which he is riding in the performance
83 of his duties as a police officer is killed or sustains injuries which
84 result in his death, or upon the death of a corrections officer while
85 in the performance of his duties and as the result of an assault
86 on his person is killed or sustains injuries which result in his death.
87 The apportionment of the one hundred thousand dollar line of
88 duty death benefit shall be made payable to the family of the
89 deceased public safety employee in a manner as determined by
90 the commission. All decisions made by the commission shall
91 be final.

92 (d) The presumptions created by sections ninety-four, ninety-
93 four A, and ninety-four B of chapter thirty-two of the General

94 Laws shall not be applicable as eligibility for the one hundred
95 thousand dollar line of duty death benefit.

96 (e) Said one hundred thousand dollar line of duty death benefit
97 shall be non-taxable by the United States Internal Revenue
98 Service and the Massachusetts Department of Revenue.

1 SECTION 2. The provisions of this act shall apply to any such
2 death which has occurred on or after September first, nineteen
3 hundred and ninety-three.