

4330

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the administrative code of the city of New York, in relation to death benefits for the auxiliary police

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The administrative code of the city of New York is amended
2 by adding a new section 14-148.1 to read as follows:
3 S 14-148.1 DEATH BENEFITS FOR THE AUXILIARY POLICE. NOTWITHSTANDING
4 THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, A MEMBER OF THE AUXIL-
5 IARY POLICE WHO DIES AS A RESULT OF INJURIES RECEIVED WHILE IN THE LINE
6 OF DUTY AS SUCH MEMBER, SHALL RECEIVE THE FOLLOWING DEATH BENEFITS:
7 1. THE REASONABLE FUNERAL EXPENSES OF THE DECEASED AUXILIARY POLICEMAN
8 SHALL BE PAID IN AN AMOUNT NOT EXCEEDING SIX THOUSAND SEVEN HUNDRED
9 DOLLARS; PROVIDED HOWEVER, THAT SUCH SIX THOUSAND DOLLAR MAXIMUM SHALL
10 NOT APPLY WHERE AN AUXILIARY POLICEMAN DIES FROM INJURIES RECEIVED IN
11 THE LINE OF DUTY. IF SUCH FUNERAL EXPENSES SHALL HAVE BEEN PAID BY A
12 PERSON ENTITLED TO BENEFITS UNDER THIS SECTION OR BY OTHERS, THE FUNERAL
13 EXPENSES AWARDED SHALL BE MADE PAYABLE TO SUCH BENEFICIARY OR OTHERS;
14 OTHERWISE THEY SHALL BE PAYABLE TO THE UNDERTAKER WHO PROVIDED THE BURI-
15 AL. FUNERAL EXPENSES SHALL BE AWARDED IN ALL DEATH CASES.
16 2. IF THERE BE A SURVIVING SPOUSE, TO SUCH SPOUSE THE LUMP SUM OF
17 FIFTY-SIX THOUSAND DOLLARS, BUT IF THERE BE NO SURVIVING SPOUSE, THEN TO
18 THE EXECUTOR OR ADMINISTRATOR OF THE ESTATE OF THE AUXILIARY POLICEMAN,
19 THE LUMP SUM OF FIFTY-SIX THOUSAND DOLLARS. SUCH SUM SHALL BE IN ADDI-
20 TION TO ANY OTHER BENEFITS PROVIDED IN THIS CHAPTER AND SHALL NOT BE
21 DIMINISHED BY BENEFITS PAID TO THE AUXILIARY POLICEMAN DURING HIS OR HER
22 LIFETIME IF ANY. ANY MONEY PAID TO AN EXECUTOR OR ADMINISTRATOR PURSU-
23 ANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL BE DISTRIBUTED IN THE
24 MANNER PROVIDED BY THE LAWS OF THIS STATE FOR THE DISTRIBUTION OF THE
25 PERSONAL PROPERTY OF AN INTESTATE DECEDENT.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 3. IF THERE BE A SURVIVING SPOUSE AND NO SURVIVING CHILD OF THE
2 DECEASED UNDER THE AGE OF EIGHTEEN YEARS OR UNDER THE AGE OF TWENTY-FIVE
3 YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCA-
4 TIONAL INSTITUTION AND NO SURVIVING CHILD OF ANY AGE DEPENDENT BLIND OR
5 PHYSICALLY DISABLED, TO SUCH SPOUSE ONE HUNDRED THIRTY DOLLARS FOR EACH
6 WEEK UNTIL REMARRIED, AND UPON SUCH REMARRIAGE THE LUMP SUM OF THIRTEEN
7 THOUSAND ONE HUNDRED FORTY-TWO DOLLARS.

8 4. IF THERE BE A SURVIVING SPOUSE AND A SURVIVING CHILD OR CHILDREN OF
9 THE DECEASED UNDER THE AGE OF EIGHTEEN YEARS OR UNDER THE AGE OF TWEN-
10 TY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN ANY ACCREDITED
11 EDUCATIONAL INSTITUTION OR A SURVIVING CHILD OR CHILDREN OF ANY AGE
12 DEPENDENT BLIND OR PHYSICALLY DISABLED, TO SUCH SPOUSE NINETY-FIVE
13 DOLLARS FOR EACH WEEK UNTIL REMARRIED, AND UPON SUCH REMARRIAGE THE LUMP
14 SUM OF NINE THOUSAND EIGHT HUNDRED FIFTY-SIX DOLLARS; AND AN ADDITIONAL
15 AMOUNT OF SIXTY-THREE DOLLARS FOR EACH WEEK FOR EACH SUCH CHILD UNTIL
16 THE AGE OF EIGHTEEN YEARS OR UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS
17 ENROLLED AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITU-
18 TION OR UNTIL THE REMOVAL OF THE DEPENDENCY OF THE BLIND OR PHYSICALLY
19 DISABLED CHILD OR CHILDREN; IN THE CASE OF THE SUBSEQUENT DEATH OR
20 REMARRIAGE OF SUCH SURVIVING SPOUSE ANY SURVIVING CHILD OF THE DECEASED
21 AUXILIARY POLICEMAN, AT THE TIME UNDER EIGHTEEN YEARS OF AGE OR UNDER
22 THE AGE OF TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN
23 ANY ACCREDITED EDUCATIONAL INSTITUTION OR DEPENDENT THROUGH MENTAL OR
24 PHYSICAL INFIRMITY, SHALL HAVE HIS OR HER BENEFIT INCREASED TO
25 NINETY-FIVE DOLLARS FOR EACH WEEK, AND THE SAME SHALL BE PAYABLE UNTIL
26 HE OR SHE SHALL REACH THE AGE OF EIGHTEEN YEARS OR TWENTY-FIVE YEARS, AS
27 THE CASE MAY BE, OR UNTIL SUCH DEPENDENT BLIND OR PHYSICALLY DISABLED
28 CONDITION SHALL HAVE BEEN REMOVED; PROVIDED THAT THE TOTAL AMOUNT PAYA-
29 BLE FOR EACH WEEK UNDER THIS SUBDIVISION SHALL IN NO CASE EXCEED TWO
30 HUNDRED FIFTY-THREE DOLLARS PER WEEK. UPON STATUTORY TERMINATION OF
31 PAYMENTS TO ALL SUCH CHILDREN, THE PAYMENTS TO THE SURVIVING SPOUSE
32 SHALL BE INCREASED TO ONE HUNDRED THIRTY DOLLARS FOR EACH WEEK UNTIL
33 SUCH SPOUSE REMARRIES, AND UPON SUCH REMARRIAGE, SUCH SPOUSE SHALL BE
34 PAID THE LUMP SUM OF TWELVE THOUSAND THIRTY-THREE DOLLARS.

35 5. IF THERE BE SURVIVING CHILD OR CHILDREN OF THE DECEASED UNDER THE
36 AGE OF EIGHTEEN YEARS OR UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS
37 ENROLLED AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITU-
38 TION OR A DEPENDENT BLIND OR PHYSICALLY DISABLED CHILD OR CHILDREN OF
39 ANY AGE, BUT NO SURVIVING SPOUSE, FOR THE SUPPORT OF EACH SUCH CHILD
40 UNTIL THE AGE OF EIGHTEEN YEARS OR TWENTY-FIVE YEARS AS THE CASE MAY BE,
41 OR UNTIL THE REMOVAL OF THE DEPENDENCY OF SUCH BLIND OR PHYSICALLY DISA-
42 BLED CHILD OR CHILDREN, NINETY-FIVE DOLLARS FOR EACH WEEK; PROVIDED THAT
43 THE TOTAL AMOUNT PAYABLE FOR EACH WEEK UNDER THIS SUBDIVISION SHALL NOT
44 EXCEED TWO HUNDRED FIFTY-THREE DOLLARS PER WEEK.

45 6. IF THERE BE NO SURVIVING SPOUSE, OR CHILD OF THE DECEASED UNDER THE
46 AGE OF EIGHTEEN YEARS, OR UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS
47 ENROLLED AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITU-
48 TION OR DEPENDENT BLIND OR PHYSICALLY DISABLED CHILD OF THE DECEASED OF
49 ANY AGE, OR IF THE AMOUNT PAYABLE FOR EACH WEEK TO THE SURVIVING SPOUSE
50 AND TO CHILDREN UNDER THE AGE OF EIGHTEEN YEARS OR UNDER THE AGE OF
51 TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN ANY ACCRED-
52 ITED EDUCATIONAL INSTITUTION OR SUCH DEPENDENT BLIND OR PHYSICALLY DISA-
53 BLED CHILDREN SHALL BE LESS IN THE AGGREGATE THAN TWO HUNDRED
54 FIFTY-THREE DOLLARS PER WEEK, FOR THE SUPPORT OF GRANDCHILDREN OR BROTH-
55 ERS AND SISTERS UNDER THE AGE OF EIGHTEEN YEARS, OR UNDER THE AGE OF
56 TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN ANY ACCRED-

1 ITED EDUCATIONAL INSTITUTION IF DEPENDENT UPON THE DECEASED AT THE TIME
2 OF THE INJURY, SEVENTY-NINE DOLLARS FOR EACH WEEK FOR THE SUPPORT OF
3 EACH SUCH PERSON UNTIL THE AGE OF EIGHTEEN YEARS OR TWENTY-FIVE YEARS AS
4 THE CASE MAY BE, AND FOR THE SUPPORT OF EACH PARENT OR GRANDPARENT, OF
5 THE DECEASED IF DEPENDENT UPON HIM OR HER AT THE TIME OF THE INJURY ONE
6 HUNDRED THIRTY DOLLARS FOR EACH WEEK DURING SUCH DEPENDENCY, BUT IN NO
7 CASE SHALL THE AGGREGATE AMOUNT PAYABLE UNDER THIS SUBDIVISION EXCEED
8 THE DIFFERENCE BETWEEN TWO HUNDRED FIFTY-THREE DOLLARS AND THE AMOUNT
9 PAYABLE FOR EACH WEEK AS HEREINBEFORE PROVIDED TO THE SURVIVING SPOUSE
10 OR FOR THE SUPPORT OF A SURVIVING CHILD OR CHILDREN.

11 7. IF ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS IS AN INMATE OF ANY
12 INSTITUTION AND A PUBLIC CHARGE UPON THE STATE OR ANY POLITICAL SUBDIVI-
13 SION, THE BENEFITS ALLOWED HEREUNDER SHALL BE PAYABLE TO THE STATE OR
14 POLITICAL SUBDIVISION TO THE EXTENT OF THE REASONABLE CHARGES FOR CARE
15 AND MAINTENANCE, DURING THE CONTINUANCE AS A PUBLIC CHARGE IN SUCH
16 INSTITUTION OF SUCH BENEFICIARY AND UNTIL HE SHALL HAVE ATTAINED THE AGE
17 OF EIGHTEEN YEARS. ANY SUM OR SUMS REMAINING AFTER SUCH PAYMENTS SHALL
18 BE DISTRIBUTED AS PROVIDED IN THIS SECTION.

19 8. THE TERM "DEPENDENT BLIND OR PHYSICALLY DISABLED", AS USED IN THIS
20 SECTION IN RELATION TO DEPENDENT CHILDREN, MEANS TOTALLY BLIND OR PHYS-
21 ICALLY DISABLED DEPENDENT CHILDREN WHOSE DISABLEMENT IS TOTAL AND PERMA-
22 NENT.

23 9. ALL QUESTIONS OF DEPENDENCY SHALL BE DETERMINED AS OF THE TIME OF
24 THE INJURY.

25 10. THE WORKERS' COMPENSATION BOARD MAY IN ITS DISCRETION REQUIRE THE
26 APPOINTMENT OF A GUARDIAN FOR THE PURPOSE OF RECEIVING BENEFITS PAYABLE
27 TO A MINOR CHILD OR A DEPENDENT BLIND OR PHYSICALLY DISABLED CHILD. IN
28 THE ABSENCE OF SUCH A REQUIREMENT BY SUCH BOARD THE APPOINTMENT OF A
29 GUARDIAN FOR SUCH PURPOSES SHALL NOT BE NECESSARY.

30 11. IN THE CASE OF A DEATH OF AN AUXILIARY POLICEMAN, THAT RESULTS
31 FROM SERVICES PERFORMED IN THE LINE OF DUTY, IF THERE BE A SURVIVING
32 SPOUSE AND NO SURVIVING CHILD OF THE DECEASED UNDER THE AGE OF EIGHTEEN
33 OR UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME
34 STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION AND NO SURVIVING CHILD
35 OF ANY AGE DEPENDENT BLIND OR PHYSICALLY DISABLED, TO SUCH SPOUSE EIGHT
36 HUNDRED EIGHTY-SEVEN DOLLARS FOR EACH WEEK UNTIL REMARRIED AND UPON SUCH
37 REMARRIAGE THE LUMP SUM OF NINETY-TWO THOUSAND TWO HUNDRED NINETEEN
38 DOLLARS.

39 12. IN THE CASE OF A DEATH OF AN AUXILIARY POLICEMAN, THAT RESULTS
40 FROM SERVICES PERFORMED IN THE LINE OF DUTY, IF THERE BE A SURVIVING
41 SPOUSE AND A SURVIVING CHILD OR CHILDREN OF THE DECEASED UNDER THE AGE
42 OF EIGHTEEN YEARS OR UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS ENROLLED
43 AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION OR A
44 SURVIVING CHILD OR CHILDREN OF ANY AGE DEPENDENT BLIND OR PHYSICALLY
45 DISABLED, TO SUCH SPOUSE FOUR HUNDRED EIGHTY-EIGHT DOLLARS FOR EACH WEEK
46 UNTIL REMARRIED, AND THE ADDITIONAL AMOUNT OF FOUR HUNDRED DOLLARS FOR
47 EACH WEEK FOR SUCH CHILD OR CHILDREN, SHARE AND SHARE ALIKE, UNTIL THE
48 AGE OF EIGHTEEN YEARS OR UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS
49 ENROLLED AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITU-
50 TION OR UNTIL THE REMOVAL OF THE DEPENDENCY OF THE BLIND OR PHYSICALLY
51 DISABLED CHILD OR CHILDREN. IN THE CASE OF THE DEATH OF SUCH SURVIVING
52 SPOUSE, THE SURVIVING CHILD OR CHILDREN OF THE DECEASED AUXILIARY
53 POLICEMAN, AT THE TIME UNDER EIGHTEEN YEARS OF AGE OR UNDER THE AGE OF
54 TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN ANY ACCRED-
55 ITED EDUCATIONAL INSTITUTION OR DEPENDENT THROUGH MENTAL OR PHYSICAL
56 INFIRMITY, SHALL HAVE HIS OR HER BENEFIT INCREASED TO EIGHT HUNDRED

1 EIGHTY-SEVEN DOLLARS, FOR EACH WEEK, SHARE AND SHARE ALIKE, AND THE SAME
2 SHALL BE PAYABLE UNTIL HE OR SHE OR THEY SHALL REACH THE AGE OF EIGHTEEN
3 YEARS OR TWENTY-FIVE YEARS AS THE CASE MAY BE, OR UNTIL SUCH DEPENDENT
4 BLIND OR PHYSICALLY DISABLED CONDITION SHALL HAVE BEEN REMOVED. UPON THE
5 REMARRIAGE OF SUCH SURVIVING SPOUSE PRIOR TO THE STATUTORY TERMINATION
6 OF BENEFIT TO ALL SUCH CHILDREN, SUCH SPOUSE SHALL BE PAID THE LUMP SUM
7 OF FIFTY THOUSAND SEVEN HUNDRED TWENTY DOLLARS AND THE SURVIVING CHILD
8 SHALL CONTINUE TO RECEIVE WEEKLY PAYMENTS OF FOUR HUNDRED DOLLARS; IF
9 THERE BE TWO SURVIVING CHILDREN, EACH SHALL RECEIVE THREE HUNDRED THIR-
10 TY-THREE DOLLARS PER WEEK; AND IF THERE BE MORE THAN TWO SURVIVING CHIL-
11 DREN, THEY SHALL RECEIVE EIGHT HUNDRED EIGHTY-SEVEN DOLLARS PER WEEK,
12 SHARE AND SHARE ALIKE; AND THE SAME SHALL BE PAYABLE UNTIL HE OR SHE OR
13 THEY SHALL REACH THE AGE OF EIGHTEEN YEARS OR TWENTY-FIVE YEARS, AS THE
14 CASE MAY BE, OR UNTIL SUCH DEPENDENT BLIND OR PHYSICALLY DISABLED CONDI-
15 TION SHALL HAVE BEEN REMOVED. UPON STATUTORY TERMINATION OF PAYMENTS TO
16 ALL SUCH CHILDREN, THE PAYMENTS TO THE SURVIVING SPOUSE SHALL BE
17 INCREASED TO EIGHT HUNDRED EIGHTY-SEVEN DOLLARS FOR EACH WEEK UNTIL SUCH
18 SPOUSE REMARRIES AND UPON SUCH REMARRIAGE SUCH SPOUSE SHALL BE PAID THE
19 LUMP SUM OF NINETY-TWO THOUSAND TWO HUNDRED NINETEEN DOLLARS. IN NO
20 EVENT SHALL THE TOTAL AMOUNT PAYABLE FOR EACH WEEK UNDER THIS SUBDIVI-
21 SION EXCEED EIGHT HUNDRED EIGHTY-SEVEN DOLLARS.

22 13. IN THE CASE OF A DEATH OF AN AUXILIARY POLICEMAN, THAT RESULTS
23 FROM SERVICES PERFORMED IN THE LINE OF DUTY, IF THERE BE SURVIVING A
24 CHILD OR CHILDREN OF THE DECEASED UNDER THE AGE OF EIGHTEEN YEARS OR
25 UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME
26 STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION OR A DEPENDENT CHILD
27 OR PHYSICALLY DISABLED CHILD OR CHILDREN OF ANY AGE, BUT NO SURVIVING
28 SPOUSE, FOR SUPPORT OF SUCH CHILD OR CHILDREN UNTIL THE AGE OF EIGHTEEN
29 YEARS OR TWENTY-FIVE YEARS AS THE CASE MAY BE, OR UNTIL REMOVAL OF THE
30 DEPENDENCY OF SUCH BLIND OR PHYSICALLY DISABLED CHILD OR CHILDREN, EIGHT
31 HUNDRED EIGHTY-SEVEN DOLLARS SHARE AND SHARE ALIKE, FOR EACH WEEK;
32 PROVIDED THAT THE TOTAL AMOUNT PAYABLE FOR EACH WEEK UNDER THIS SUBDIVI-
33 SION SHALL NOT EXCEED EIGHT HUNDRED EIGHTY-SEVEN DOLLARS PER WEEK.

34 14. IN THE CASE OF A DEATH OF AN AUXILIARY POLICEMAN, THAT RESULTS
35 FROM SERVICES PERFORMED IN THE LINE OF DUTY, IF THERE BE NO SURVIVING
36 SPOUSE OR CHILD OF THE DECEASED UNDER THE AGE OF EIGHTEEN YEARS OR UNDER
37 THE AGE OF TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME STUDENT IN
38 ANY ACCREDITED EDUCATIONAL INSTITUTION, OR DEPENDENT BLIND OR PHYSICALLY
39 DISABLED CHILD OF THE DECEASED OF ANY AGE, THEN FOR THE SUPPORT OF
40 GRANDCHILDREN OR BROTHERS AND SISTERS UNDER THE AGE OF EIGHTEEN YEARS OR
41 UNDER THE AGE OF TWENTY-FIVE YEARS WHO IS ENROLLED AS A FULL TIME
42 STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION IF DEPENDENT UPON THE
43 DECEASED AT THE TIME OF THE INJURY, THREE HUNDRED THIRTY-THREE DOLLARS
44 FOR EACH WEEK FOR THE SUPPORT OF EACH SUCH PERSON UNTIL THE AGE OF EIGH-
45 TEEN YEARS OR TWENTY-FIVE YEARS AS THE CASE MAY BE, AND FOR THE SUPPORT
46 OF EACH PARENT OR GRANDPARENT OF THE DECEASED IF DEPENDENT UPON THE
47 DECEASED AT THE TIME OF THE INJURY, FIVE HUNDRED THIRTY-TWO DOLLARS FOR
48 EACH WEEK DURING SUCH DEPENDENCY BUT IN NO CASE SHALL THE AGGREGATE
49 AMOUNT PAYABLE UNDER THIS SUBDIVISION EXCEED EIGHT HUNDRED EIGHTY-SEVEN
50 DOLLARS PER WEEK.

51 15. IN THE CASE OF THE DEATH OF AN INJURED AUXILIARY POLICEMAN TO WHOM
52 THERE WAS DUE AT THE TIME OF HIS OR HER DEATH ANY BENEFITS, THE AMOUNT
53 OF SUCH BENEFITS SHALL BE PAYABLE TO THE SURVIVING SPOUSE, IF THERE BE
54 ONE, OR, IF NONE, TO THE SURVIVING CHILD OR CHILDREN OF THE DECEASED
55 UNDER THE AGE OF EIGHTEEN YEARS, AND IF THERE BE NO SURVIVING SPOUSE OR
56 CHILDREN, THEN TO THE DEPENDENTS OF SUCH DECEASED OR TO ANY OF THEM AS

1 THE WORKERS' COMPENSATION BOARD MAY DIRECT, AND IF THERE BE NO SURVIVING
2 SPOUSE, CHILDREN OR DEPENDENTS OF SUCH DECEASED, THEN TO HIS OR HER
3 ESTATE. AN AWARD FOR DISABILITY MAY BE MADE AFTER THE DEATH OF AN
4 INJURED AUXILIARY POLICEMAN.

5 S 2. This act shall take effect immediately and shall apply to deaths
6 occurring on and after such effective date.