

STATE OF NEW YORK

9790

IN SENATE

May 30, 2024

Introduced by Sen. SCARCELLA-SPANTON -- (at request of the Department of Veterans' Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the veterans' services law, in relation to equitable treatment for all parents, spouses, and minor children of service members who are killed in action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (a), (b) and (c) of subdivision 1 and subdivi-
2 sions 2 and 3 of section 26 of the veterans' services law are amended to
3 read as follows:
4 (a) A parent, [~~identified in 10 USC 1126 as a gold star parent,~~
5 spouse, or minor child of a [~~veteran~~ service member who [~~heretofore has~~
6 ~~died or a parent of a veteran dying hereafter~~] died while on active
7 duty, shall upon application to the state commissioner, be paid an annu-
8 al annuity out of the treasury of the state for the sum of five hundred
9 dollars for such term as such parent, spouse, or minor child shall be
10 entitled thereto under the provisions of this article. Commencing in the
11 year two thousand nineteen, the amount of any annuity payable under this
12 section shall be the same amount as the annuity payable in the preceding
13 year plus a percentage adjustment equal to the annual percentage
14 increase, if any, for compensation and pension benefits administered by
15 the United States Department of Veterans Affairs in the previous year.
16 Such percentage increase shall be rounded up to the next highest one-
17 tenth of one percent and shall not be less than one percent nor more
18 than four percent. The commissioner [~~of veterans' services~~], not later
19 than February first of each year, shall publish by any reasonable means,
20 including but not limited to posting on the department's website, the
21 amount of the annuity as adjusted payable under this section. The term
22 "parent" for the purposes of this section includes mother, father, step-
23 mother, stepfather, mother through adoption and father through adoption.
24 The term "spouse" for the purposes of this section includes unremarried
25 spouse and remarried spouse. The term "minor child" for the purposes of

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

LBD06145-02-4

1 this section includes minor biological, step, or adopted children,
2 through the day before the child's eighteenth birthday.

3 (b) The entitlement of any parent, spouse, or minor child to receive
4 the annuity provided by paragraph (a) of this subdivision shall termi-
5 nate upon [~~his or her~~] such person's death or upon [~~his or her~~] such
6 person ceasing to continue to be a resident of and domiciled in the
7 state of New York, but such entitlement may be reinstated upon applica-
8 tion to the state commissioner, if such parent, spouse, or minor child
9 shall thereafter resume[~~his or her~~] such person's residence and domi-
10 cile in the state.

11 (c) The effective date of an award of the annuity to a parent, spouse,
12 or minor child shall be the day after the date of death of the veteran
13 if the application therefor is received within one year from date of
14 death. If the application is received after the expiration of the first
15 year following the date of the death of the [~~veteran~~] service member,
16 the effective date of an award of the annuity to a parent, spouse, or
17 minor child shall be the date of receipt of the application by the state
18 commissioner. If the application is denied but is granted at a later
19 date upon an application for reconsideration based upon new evidence,
20 the effective date of the award of the annuity to a parent, spouse, or
21 minor child shall be the date of the receipt of the application for
22 reconsideration by the state commissioner.

23 2. Qualifications. (a) Any gold star parent, spouse, or minor child
24 who is the parent, spouse, or minor child of a deceased [~~veteran~~]
25 service member, and who is a resident of and domiciled in the state of
26 New York, shall make application to the department.

27 (b) No entitlement shall be paid under this section to or for a gold
28 star parent, spouse, or minor child who is in prison in a federal,
29 state, or local penal institution as a result of conviction of a felony
30 or misdemeanor for any part of the period beginning sixty-one days after
31 [~~his or her~~] such person's imprisonment begins and ending with [~~his or~~
32 ~~her~~] such person's release.

33 (c) Where one or more gold star parents or minor children are disqual-
34 ified for the annuity for a period under paragraph (b) of this subdivi-
35 sion, the state commissioner shall pay the shares of such disqualified
36 parents or minor children to the other parents or minor children, if
37 they meet the qualifications on their own.

38 (d) The decision of the state commissioner on matters regarding the
39 payment of such annuity shall be final.

40 3. Method of payment. (a) Evidence of the military service of the
41 deceased [~~veteran~~] service member of the gold star parent, spouse, or
42 minor child for each case shall be furnished in the manner and form
43 prescribed by the state commissioner.

44 (b) Upon being satisfied that such service was honorable, that other
45 facts and statements in the application of such gold star parent,
46 spouse, or minor child are true, the state commissioner shall certify to
47 the state comptroller the name and address of such gold star parent,
48 spouse, or minor child.

49 (c) Thereafter, the department of taxation and finance, on the audit
50 and warrant of the comptroller, shall pay such gold star parent, spouse,
51 or minor child such sum as is authorized by the provisions of this
52 section in semi-annual installments for so long as such qualified gold
53 star parent, spouse, or minor child shall meet the requirements of this
54 section.

55 § 2. This act shall take effect immediately and shall apply to deaths
56 of service members killed on and after such date.