

CHAPTER 78

CHAPTER 78, LAWS 2002

AN ACT

RELATING TO PEACE OFFICERS; INCLUDING PARENTS AS A PARTY ELIGIBLE TO RECEIVE SURVIVORS BENEFITS FOR PEACE OFFICERS SLAIN IN THE LINE OF DUTY; REGULATING MAINTENANCE OF THE PEACE OFFICERS' SURVIVORS FUND; AMENDING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-4A-1 NMSA 1978 (being Laws 1995, Chapter 59, Section 1) is amended to read:

"29-4A-1. SHORT TITLE.-- Chapter 29, Article 4A NMSA 1978 may be cited as the "Peace Officers' Survivors Supplemental Benefits Act"."

Section 2. Section 29-4A-2 NMSA 1978 (being Laws 1995, Chapter 59, Section 2) is amended to read:

"29-4A-2. FINDINGS--PURPOSE.--The legislature finds that peace officers throughout the state risk their lives daily to protect the citizens of New Mexico. The legislature further finds that when peace officers are killed in the line of duty, their immediate families can suffer grievously, both emotionally and economically. To recognize the substantial public safety benefits conferred by peace officers and in consideration of the sacrifices undertaken by these officers and their families for the citizens of New Mexico, it is the purpose of the Peace Officers' Survivors Supplemental Benefits Act to ensure that certain supplemental death benefits accrue to the spouse and surviving children, or parents if there are no surviving children or spouse, of a peace officer killed in the line of duty."

Section 3. Section 29-4A-5 NMSA 1978 (being Laws 1995, Chapter 59, Section 5) is amended to read:

"29-4A-5. PEACE OFFICERS' SURVIVORS SUPPLEMENTAL BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

A. There is created the "peace officers' survivors supplemental death benefits review committee". The committee shall consist of the attorney general, the chief of the New Mexico state police and the state president of the fraternal order of police or their designees.

B. The peace officers' survivors supplemental death benefits review committee shall determine whether a peace officer has been killed in the line of duty and advise

the secretary of that determination. In addition to any other death benefits provided by law, the surviving spouse, children or parents shall be paid fifty thousand dollars (\$50,000) as supplemental death benefits whenever a peace officer is killed in the line of duty. The benefits shall be paid from the fund.

C. The benefits shall be paid first to the surviving spouse. If there is no surviving spouse, the benefits shall be distributed in pro rata shares to all surviving children. If there are no surviving children or spouse, benefits shall be distributed to the surviving parents of the peace officer."

Section 4. Section 29-13-2 NMSA 1978 (being Laws 1983, Chapter 289, Section 2, as amended) is amended to read:

"29-13-2. PURPOSE OF ACT.--The purpose of the Law Enforcement Protection Fund Act is to provide for the equitable distribution of money to municipal police, university police, tribal police and county sheriff's departments for use in the maintenance and improvement of those departments in order to enhance the efficiency and effectiveness of law enforcement services and to sustain at a reasonable level the payments available to the surviving eligible family members of a peace officer killed in the line of duty."

Section 5. Section 29-13-4 NMSA 1978 (being Laws 1993, Chapter 179, Section 6, as amended) is amended to read:

"29-13-4. DETERMINATION OF NEEDS AND RATE OF DISTRIBUTION.--

A. Annually on or before April 15, the division shall:

(1) consider and determine the relative needs as requested by municipal and university police and county sheriff's departments for money in the fund pursuant to the provisions of Subsection C of this section; and

(2) calculate the amount of consideration due a tribal police department pursuant to the provisions of Paragraph (10) of Subsection C of Section 29-1-11 NMSA 1978.

B. As necessary during the year, the division shall transfer an amount from the law enforcement protection fund that enables the balance of the peace officers' survivors fund to be maintained at a minimum balance of three hundred fifty thousand dollars (\$350,000).

C. The division shall determine the rate of distribution of money remaining in the fund to each

municipal and university police and county sheriff's department as follows:

(1) all municipal police and county sheriff's departments shall be rated by class pursuant to this paragraph in accordance with populations established by the most recently completed decennial census; provided that the population of any county shall not include the population of any municipality within that county that has a municipal police department. The rate of distribution to which a municipal police or county sheriff's department is entitled is the following:

CLASS	POPULATION	AMOUNT
1	0 to 20,000	\$20,000
2	20,001 to 160,000	30,000
3	160,001 to 1,280,000	40,000;

(2) university police departments shall be entitled to a rate of distribution of seventeen thousand dollars (\$17,000); and

(3) municipal and university police and county sheriff's departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to six hundred dollars (\$600) for each police officer or sheriff's deputy employed full time by his department who has been certified by the New Mexico law enforcement academy as a police officer or has been authorized to act as a New Mexico peace officer pursuant to the provisions of Section 29-1-11 NMSA 1978.

D. After distributions are determined in accordance with Paragraph (2) of Subsection A, Subsection B and Paragraphs (1) and (2) of Subsection C of this section, if the balance in the fund is insufficient to permit the total allocations provided by Paragraph (3) of Subsection C of this section, the division shall reduce that allocation to the maximum amount permitted by available money."

Section 6. Section 29-13-6 NMSA 1978 (being Laws 1983, Chapter 289, Section 6, as amended) is amended to read:

"29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION FUND.--

A. Annually on or before July 31, the state treasurer shall distribute from the fund the amounts certified by the division to be distributed to municipalities, universities and counties, and the transfer shall distribute money from the law enforcement protection

fund to the peace officers' survivors fund as required in Section 29-13-4 NMSA 1978. Payments shall be made to the treasurer of the appropriate governmental entity or fund.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in an amount certified by the division, pursuant to an ordinance or a resolution passed by the municipality or county and a written agreement of the municipality or county and the New Mexico finance authority.

C. Annually on or before July 31, the state treasurer shall distribute from the excess money remaining in the fund after distributions pursuant to Subsection A of this section are made, money certified by the division to be distributed to tribes and pueblos. Payment shall be made to the chief financial officer of the tribe or pueblo. If necessary, the fund may be decreased below the level of one hundred thousand dollars (\$100,000) to enable payment to the tribes and pueblos. If insufficient money remains in the fund to fully compensate the tribes and pueblos, a report shall be made to the New Mexico office of Indian affairs and to an appropriate interim committee of the legislature that reviews issues having impact on tribes and pueblos in New Mexico by September 1 of the year of the shortfall."

Section 7. Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended) is amended to read:

"29-13-7. EXPENDITURE LIMITATION--CONTROL.--

A. Amounts distributed from the fund shall be expended only for the following:

(1) the repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;

(2) expenses associated with advanced law enforcement planning and training;

(3) maintaining the balance of the peace officers' survivors fund at a minimum amount of three hundred fifty thousand dollars (\$350,000);

(4) complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs; and

(5) no more than fifty percent of the replacement salaries of municipal and county law enforcement personnel of municipalities or counties rated as Class 1 in Paragraph (1) of Subsection C of Section 29-13-4 NMSA 1978

participating in basic law enforcement training.

B. Amounts distributed from the fund shall be expended only pursuant to approved budgets and upon duly executed vouchers approved as required by law."

Section 8. Section 29-13-9 NMSA 1978 (being Laws 1983, Chapter 289, Section 9, as amended) is amended to read:

"29-13-9. EXPENDITURES OF MONEY DISTRIBUTED FROM THE LAW ENFORCEMENT PROTECTION FUND--WRONGFUL EXPENDITURE.--

A. Amounts distributed from the fund shall be expended only for the specific purposes for which they are distributed and shall not be distributed for accumulation, except as provided for the peace officers' survivors fund.

B. Any person who expends or directs or permits the expenditure of any money distributed from the fund for purposes other than those expressly authorized by the Law Enforcement Protection Fund Act shall be personally liable to the state for the amount of money wrongfully expended and interest and costs. An action to recover the amount of any wrongful expenditure may be commenced by the attorney general or the district attorney upon the filing with that officer of a verified statement describing the wrongful expenditure."

Section 9. APPLICABILITY.--The provisions of this 2002 act regarding benefits provided to the spouses, children and parents of peace officers killed in the line of duty apply to peace officers killed in the line of duty since January 1, 2001.

SENATE BILL 39, AS AMENDED