

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 39

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED By

Manny M Aragon

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. -- [~~This act~~] 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

underscored material = new
[bracketed material] = delete

1 protect the citizens of New Mexico. The legislature further
2 finds that when peace officers are killed in the line of duty,
3 their immediate families can suffer grievously, both
4 emotionally and economically. To recognize the substantial
5 public safety benefits conferred by peace officers and in
6 consideration of the sacrifices undertaken by these officers
7 and their families for the citizens of New Mexico, it is the
8 purpose of the Peace Officers' Survivors Supplemental Benefits
9 Act to ensure that certain supplemental death benefits accrue
10 to the ~~[spouses]~~ spouse and surviving children, or parents if
11 there are no surviving children or spouse, of a peace
12 ~~[officers]~~ officer killed in the line of duty."

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

15 "29-4A-5. PEACE OFFICERS' SURVIVORS SUPPLEMENTAL
16 BENEFITS-- REVIEW COMMITTEE-- DETERMINATION-- PAYMENT. --

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

22 B. The peace officers' survivors supplemental
23 death benefits review committee shall determine whether a
24 peace officer has been killed in the line of duty and advise
25 the secretary of that determination. In addition to any other

. 139559. 1

underscored material = new
[bracketed material] = delete

1 death benefits provided by law, the surviving spouse, [~~or~~]
2 children or parents shall be paid fifty thousand dollars
3 (\$50,000) as supplemental death benefits whenever a peace
4 officer is killed in the line of duty. The benefits shall be
5 paid from the fund.

6 C. The benefits shall be paid [~~entirely~~] first to
7 the surviving spouse. If there is no surviving spouse, the
8 benefits shall be distributed in pro rata shares to all
9 surviving children. If there are no surviving children or
10 spouse, benefits shall be distributed to the surviving parents
11 of the peace officer."

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

14 "29-13-2. PURPOSE OF ACT. --The purpose of the Law
15 Enforcement Protection Fund Act is to provide for the
16 equitable distribution of money to municipal police,
17 university police, tribal police and county sheriff's
18 departments for use in the maintenance and improvement of
19 those departments in order to enhance the efficiency and
20 effectiveness of law enforcement services and to sustain at a
21 reasonable level the payments available to the surviving
22 eligible family members of a peace officer killed in the line
23 of duty."

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

. 139559. 1

underscored material = new
[bracketed material] = delete

1 "29-13-4. DETERMINATION OF NEEDS AND RATE OF
2 DISTRIBUTION. --

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

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

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

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

17 ~~[B.]~~ C. The division shall determine the rate of
18 distribution of money remaining in the fund to each municipal
19 and university police and county sheriff's department as
20 follows:

21 (1) all municipal police and county sheriff's
22 departments shall be rated by class pursuant to this paragraph
23 in accordance with populations established by the most
24 recently completed decennial census; provided that the
25 population of any county shall not include the population of

underscored material = new
[bracketed material] = delete

1 any municipality within that county that has a municipal
2 police department. The rate of distribution to which a
3 municipal police or county sheriff's department is entitled is
4 the following:

5 CLASS	POPULATION	AMOUNT
6 1	0 to 20,000	\$20,000
7 2	20,001 to 160,000	30,000
8 3	160,001 to 1,280,000	40,000;

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

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

21 [~~C~~] D. After distributions are determined in
22 accordance with Paragraph (2) of Subsection A, Subsection B
23 and Paragraphs (1) and (2) of Subsection [B] C of this
24 section, if the balance in the fund is insufficient to
25 permit the total allocations provided by Paragraph (3) of

underscored material = new
[bracketed material] = delete

1 Subsection [B] C of this section, the division shall reduce
2 that allocation to the maximum amount permitted by available
3 money. "

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

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

8 A. Annually on or before July 31, the state
9 treasurer shall distribute from the fund the amounts
10 certified by the division to be distributed to
11 municipalities, universities and counties, and the transfer
12 shall distribute money from the law enforcement protection
13 fund to the peace officers' survivors fund as required in
14 Section 29-13-4 NMSA 1978. Payments shall be made to the
15 treasurer of the appropriate governmental entity or fund.

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

22 C. Annually on or before July 31, the state
23 treasurer shall distribute from the excess money remaining
24 in the fund after distributions pursuant to Subsection A of
25 this section are made, money certified by the division to be

. 139559. 1

underscored material = new
[bracketed material] = delete

1 distributed to tribes and pueblos. Payment shall be made to
2 the chief financial officer of the tribe or pueblo. If
3 necessary, the fund may be decreased below the level of one
4 hundred thousand dollars (\$100,000) to enable payment to the
5 tribes and pueblos. If insufficient money remains in the
6 fund to fully compensate the tribes and pueblos, a report
7 shall be made to the New Mexico office of Indian affairs and
8 to an appropriate interim committee of the legislature that
9 reviews issues having impact on tribes and pueblos in New
10 Mexico by September 1 of the year of the shortfall. "

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

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

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

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

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

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

25 [~~3~~] (4) complying with match or

underscored material = new
[bracketed material] = delete

1 contribution requirements for the receipt of federal funds
2 relating to criminal justice programs; and

3 [~~(4)~~] (5) no more than fifty percent of the
4 replacement salaries of municipal and county law enforcement
5 personnel of municipalities or counties rated as Class 1 in
6 Paragraph (1) of Subsection ~~[B]~~ C of Section 29-13-4 NMSA
7 1978 participating in basic law enforcement training.

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

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

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

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

19 B. Any person who expends or directs or permits
20 the expenditure of any money distributed from the fund for
21 purposes other than those expressly authorized by the Law
22 Enforcement Protection Fund Act shall be personally liable
23 to the state for the amount of money wrongfully expended and
24 interest and costs. An action to recover the amount of any
25 wrongful expenditure may be commenced by the attorney

. 139559. 1

underscored material = new
[bracketed material] = delete

1 general or the district attorney upon the filing with that
2 officer of a verified statement describing the wrongful
3 expenditure. "

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25