

2016 -- H 7503

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LC004636
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION
DEATH BENEFITS

Introduced By: Representatives Shekarchi, McNamara, Carnevale, Serpa, and McEntee

Date Introduced: February 05, 2016

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-33-12 of the General Laws in Chapter 28-33 entitled "Workers'
2 Compensation - Benefits" is hereby amended to read as follows:

3 **28-33-12. Death benefits payable to dependents.** -- (a) (1) If death results from the
4 injury, the employer shall pay the dependents of the employee wholly dependent upon his or her
5 earnings for support at the time of his or her injury or death, whichever is the greater in number, a
6 weekly payment equal to the rate that would have been payable for total incapacity to the
7 deceased employee under the provisions of § 28-33-17, except as provided in this section in case
8 the dependent is the surviving spouse or child under the age of eighteen (18) of that employee.

9 (2) If the dependent is a surviving spouse, or surviving spouse upon whom there is
10 dependent one or more children of the deceased employee including an adopted child or stepchild
11 under the age of eighteen (18) years or over that age but physically or mentally incapacitated
12 from earning, the employer shall pay the surviving spouse the weekly rate for total incapacity the
13 deceased employee would have been entitled to receive under the provisions of § 28-33-17 plus
14 forty dollars (\$40.00) per week for each dependent child.

15 (3) "Child" within the meaning of this section also includes any child of the injured
16 employee conceived but not born at the time of the employee's injury, and the compensation
17 provided for in this section shall be payable on account of any child from the date of its birth.

18 (b) Upon the remarriage or death of the surviving spouse or if there is no surviving

1 spouse then upon the death of the injured employee, the compensation payable under this chapter
2 shall subsequently be paid to those dependent child or children of the injured employee, and if
3 there is more than one child the compensation shall be divided equally among them and the
4 compensation shall be not more than the weekly rate for total incapacity due the injured employee
5 under the provisions of § 28-33-17 for the dependent child plus forty dollars (\$40.00) for each
6 additional dependent child.

7 (c) If the employee leaves dependents only partly dependent upon his or her earnings for
8 support at the time of his or her injury or death, the employer shall pay that dependent from the
9 date of the injury or death, whichever is greater in number, a weekly compensation equal to the
10 amount of the average weekly contribution by the employee to the partial dependents, not
11 exceeding the weekly payments provided in this section for the benefit of wholly dependent
12 persons.

13 (d) When weekly payments have been made to an injured employee before his or her
14 death, the compensation to dependents shall begin from the date of the last of those payments;
15 and provided, that if the deceased leaves no dependents at the time of the injury or death, the
16 employer shall not be liable to pay compensation under chapters 29 -- 38 of this title except as
17 specifically provided in § 28-33-16.

18 (e) Except in the case of a dependent child physically or mentally incapacitated from
19 earning, dependency benefits for each child shall terminate when that dependent child attains his
20 or her eighteenth (18th) birthday; provided, that the payment of dependency benefits to a
21 dependent child over the age of eighteen (18) years shall continue as long as that child is
22 satisfactorily enrolled as a full-time student in an educational institution or an educational facility
23 duly accredited or approved by the appropriate state educational authorities at the time of
24 enrollment. Those payments shall not be continued beyond the age of twenty-three (23) years.

25 (f) When a surviving spouse without dependent children remarries, benefits payable
26 under this section shall cease on the date of the remarriage.

27 (g) A surviving spouse entitled to benefits under this section shall receive an annual cost
28 of living increase ~~of four percent (4%)~~ on every anniversary of the date of death for so long as he
29 or she is eligible for benefits under this section in an amount equal to the total percentage increase
30 in the annual Consumer Price Index, United States City Average for Urban Wage Earners and
31 Clerical Workers, as formulated and computed by the Bureau of Labor Statistics of the United
32 States Department of Labor for the period of March 1 to February 28 each year.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION
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1 This act would allow surviving spouses entitled to workers' compensation death benefits
2 to receive annual cost-of-living increases in the amount of the total percent of increase in the CPI-
3 W, as opposed to the existing four percent (4%) cost-of-living increase.

4 This act would take effect upon passage.

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