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32 Messages

Benefits



From: Douglas T. Noah

<[DNoah@drml-law.com](mailto:DNoah@drml-law.com)>

Date: Wed, May 15, 2019 at 5:54 PM

Subject: RE: \*\*\* TIME SENSITIVE \*\*\*

Fwd: Benefits (Holmes v. Ft. Pierce)

To: Gary Wilson

<[gwilson@wilsonmccoylelaw.com](mailto:gwilson@wilsonmccoylelaw.com)>

Cc: Antoinette Braga

<[Antoinette@drml-law.com](mailto:Antoinette@drml-law.com)>, Patti

Chapman <[PChapman@drml-](mailto:PChapman@drml-)

[law.com](mailto:law.com)>, [rburton@iupa.org](mailto:rburton@iupa.org)

<[rburton@iupa.org](mailto:rburton@iupa.org)>

Gary, in follow up to my view that this dispute will be resolved on the definition of catastrophic injury, I found the language as it existed in 2002 – it was deleted the following year.

FLA. STAT. § 440.02(38) provided:

'Catastrophic injury' means a permanent impairment constituted by:



Select Year:

2019

Go

## The 2019 Florida Statutes

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### [Title X](#)

#### PUBLIC OFFICERS, EMPLOYEES, AND RECORDS

### [Chapter 112](#)

#### PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS

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Chapter](#)

#### **112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—**

(1) As used in this section, the term:

(a) “Employer” means a state board, commission, department, division, bureau, or agency, or a county, municipality, or other political subdivision of the state, which employs, appoints, or otherwise engages the services of law enforcement, correctional, or correctional probation officers.

(b) “Law enforcement, correctional, or correctional probation officer” means any officer as defined in s. [943.10\(14\)](#) or employee of the state or any political subdivision of the state, including any law enforcement officer, correctional officer, correctional probation officer, state attorney investigator, or public defender investigator, whose duties require such officer or employee to investigate, pursue, apprehend, arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime; and the term includes any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices. The term also includes any full-time officer or employee of the state or any political subdivision of the state, certified pursuant to chapter 943, whose duties require such officer to serve process or to attend a session of a circuit or county court as bailiff.

(c) “Insurance” means insurance procured from a stock company or mutual company or association or exchange authorized to do business as an insurer in this state.

(d) “Fresh pursuit” means the pursuit of a person who has committed or is reasonably suspected of having committed a felony, misdemeanor, traffic infraction, or violation of a county or municipal ordinance. The term does not imply instant pursuit, but pursuit without unreasonable delay.

(2)(a) The sum of \$75,000 must be paid as provided in this section when a law enforcement, correctional, or correctional probation officer, while engaged in the performance of the officer’s law enforcement duties, is accidentally killed or receives accidental bodily injury which results in the loss of the officer’s life, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted.

(b) The sum of \$75,000 must be paid as provided in this section if a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (a) and the accidental death occurs:

1. As a result of the officer’s response to fresh pursuit;
2. As a result of the officer’s response to what is reasonably believed to be an emergency;
3. At the scene of a traffic accident to which the officer has responded; or
4. While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

This sum is in addition to any sum provided for in paragraph (a).

(c) If a law enforcement, correctional, or correctional probation officer, while engaged in the performance of the officer's law enforcement duties, is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act, the sum of \$225,000 must be paid as provided in this section.

(d) Such payments, pursuant to paragraphs (a), (b), and (c), whether secured by insurance or not, must be made to the beneficiary designated by such law enforcement, correctional, or correctional probation officer in writing, signed by the officer and delivered to the employer during the officer's lifetime. If no such designation is made, then the payments must be paid to the officer's surviving child or children and to the officer's surviving spouse in equal portions, and if there is no surviving child or spouse, then to the officer's parent or parents. If a beneficiary is not designated and there is no surviving child, spouse, or parent, then the sum must be paid to the officer's estate.

(e) Such payments, pursuant to paragraphs (a), (b), and (c), are in addition to any workers' compensation or retirement plan benefits and are exempt from the claims and demands of creditors of such law enforcement, correctional, or correctional probation officer.

(f) If a full-time law enforcement, correctional, or correctional probation officer who is certified pursuant to chapter 943 and employed by a state agency is killed in the line of duty while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions:

1. The sum of \$1,000 must be paid, as provided for in paragraph (d), toward the funeral and burial expenses of such officer. Such benefits are in addition to any other benefits to which employee beneficiaries and dependents are entitled under the Workers' Compensation Law or any other state or federal statutes; and

2. The officer's employing agency may pay up to \$5,000 directly toward the venue expenses associated with the funeral and burial services of such officer.

(g) Any political subdivision of the state that employs a full-time law enforcement officer as defined in s. 943.10(1) or a full-time correctional officer as defined in s. 943.10(2) who is killed in the line of duty on or after July 1, 1993, as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions shall pay the entire premium of the political subdivision's health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:

1. At the time of the employee's death, the child is dependent upon the employee for support; and
2. The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

(h). Any employer who employs a full-time law enforcement, correctional, or correctional probation officer who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02, Florida Statutes 2002, in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving

spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a law enforcement, correctional, or correctional probation officer or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, the term "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the officer, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of the officer's response to fresh pursuit, the officer's response to what is reasonably believed to be an emergency, or an unlawful act perpetrated by another. Except as otherwise provided herein, this paragraph may not be construed to limit health insurance coverage for which the officer, spouse, or dependent children may otherwise be eligible, except that a person who qualifies under this section is not eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

(i) The Bureau of Crime Prevention and Training within the Department of Legal Affairs shall adopt rules necessary to implement paragraphs (a), (b), and (c).

(3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, but before July 1, 2019, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or after July 1, 1980, but before July 1, 2019, the state must waive certain educational expenses that the child or spouse of the deceased officer incurs while obtaining a career certificate, an undergraduate education, or a postgraduate education. The amount waived by the state must be in an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours. The child or spouse may attend a state career center, a Florida College System institution, or a state university on either a full-time or part-time basis. The benefits provided to a child under this subsection shall continue until the child's 25th birthday. The benefits provided to a spouse under this subsection must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death.

(a) Upon failure of any child or spouse who receives a waiver in accordance with this subsection to comply with the ordinary and minimum requirements regarding discipline and scholarship of the institution attended, such benefits must be withdrawn as to the child or spouse and no further moneys may be expended for the child's or spouse's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits provided in this subsection.

(c) A child or spouse receiving benefits under this subsection must be enrolled according to the customary rules and requirements of the institution attended.

(4)(a) The employer of such law enforcement, correctional, or correctional probation officer is liable

for the payment of the sums specified in this section and is deemed self-insured, unless it procures and maintains, or has already procured and maintained, insurance to secure such payments. Any such insurance may cover only the risks indicated in this section, in the amounts indicated in this section, or it may cover those risks and additional risks and may be in larger amounts. Any such insurance must be placed by such employer only after public bid of such insurance coverage which must be awarded to the carrier making the lowest best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under this section must be paid from existing funds otherwise appropriated to the department employing the law enforcement, correctional, or correctional probation officers.

(5) The State Board of Education shall adopt rules and procedures, and the Board of Governors shall adopt regulations and procedures, as are appropriate and necessary to implement the educational benefits provisions of this section.

(6) Notwithstanding any provision of this section to the contrary, the death benefits provided in paragraphs (2)(c) and (g) shall also be applicable and paid in cases where an officer received bodily injury before July 1, 1993, and subsequently died on or after July 1, 1993, as a result of such in-line-of-duty injury attributable to an unlawful and intentional act, or an act of violence inflicted by another, or an assault on the officer under riot conditions. Payment of such benefits must be in accordance with this section. This subsection may not be construed to limit death benefits for which those individuals listed in paragraph (2)(d) may otherwise be eligible.

**History.**—ss. 1, 2, ch. 67-408; ss. 1, 3, ch. 71-301; s. 52, ch. 79-40; s. 1, ch. 87-143; s. 2, ch. 89-22; s. 1, ch. 90-138; s. 1, ch. 92-59; s. 3, ch. 93-149; s. 2, ch. 94-171; s. 1404, ch. 95-147; s. 3, ch. 95-283; s. 3, ch. 96-198; s. 38, ch. 99-2; s. 1, ch. 2002-191; s. 5, ch. 2002-194; s. 1, ch. 2002-232; s. 9, ch. 2003-1; s. 46, ch. 2003-412; ss. 14, 15, ch. 2004-357; ss. 2, 5, 6, ch. 2005-100; s. 8, ch. 2007-217; s. 2, ch. 2010-78; s. 11, ch. 2013-25; ss. 12, 13, ch. 2014-17; s. 1, ch. 2015-163; s. 1, ch. 2019-24.

**Cc:** "Johnna Morris" <[JMorris@City-FtPierce.Com](mailto:JMorris@City-FtPierce.Com)>

**Subject:** Health Benefits

Mr. Holmes,

You have stated that you will be petitioning the Retirement Board for Health Benefits because health insurance is not a benefit paid for retirees. In the mean time you need to make an election now, if you wish to continue health coverage, at your own expense. As we have explained, this is the only time you will be offered to continue coverage as a retiree under the City's plan. If health benefits are awarded you will receive reimbursement for any amounts you paid. Please note once health insurance is terminated it cannot be reinstated.

Please contact me by 12:00pm Tuesday May 28, 2019, as I will be running pension for June 1, 2019.

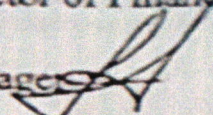
**Christine Paz | Pension Analyst | City of Fort Pierce**

Finance Department

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**To:** George Bergalis, Director of Finance  
**From:** Le Thomas, Risk Manager   
**Date:** February 18, 2004  
**Subject:** Lasenby v. City of Fort Pierce (Medical Insurance)

Retired officer Lasenby under F.S. §112.19(2)(h)1. and 440.02(37), is entitled to the employer's health insurance plan. The City through his Worker's Compensation Insurer, has accepted compensability for his injury and is further responsible for the City health insurance premium from the date of his injury.

It is therefore recommended that the City reimburse Mr. Lasenby for group insurance premiums from his date of injury in the amount of \$10,435.19.