

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5986**

Chapter 134, Laws of 1999

56th Legislature  
1999 Regular Session

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM--  
DUTY CONNECTED DEATH BENEFITS

EFFECTIVE DATE: 4/28/99

Passed by the Senate March 9, 1999  
YEAS 49 NAYS 0

BRAD OWEN  
**President of the Senate**

Passed by the House April 12, 1999  
YEAS 93 NAYS 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

FRANK CHOPP  
**Speaker of the  
House of Representatives**

Approved April 28, 1999

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5986** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK  
**Secretary**

FILED

April 28, 1999 - 4:25 p.m.

**Secretary of State  
State of Washington**

---

**SENATE BILL 5986**

---

Passed Legislature - 1999 Regular Session

**State of Washington                      56th Legislature                      1999 Regular Session**

**By Senators Goings, Benton, Bauer, Costa and Rasmussen**

Read first time 02/18/1999. Referred to Committee on Ways & Means.

1            AN ACT Relating to duty connected death benefits under the law  
2 enforcement officers' and fire fighters' retirement system, plan 1;  
3 amending RCW 41.26.160; adding a new section to chapter 41.26 RCW;  
4 creating new sections; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** The purpose of sections 1 through 4 of this  
7 act is to clarify that the intent of the legislature in enacting RCW  
8 41.26.160, insofar as that section provides benefits to members or  
9 surviving spouses for deaths incurred in the line of duty, was to  
10 provide a statute in the nature of a workers' compensation act that  
11 provides compensation to employees or surviving spouses for personal  
12 injuries or deaths incurred in the course of employment. Accordingly,  
13 this act amends and divides RCW 41.26.160 into two separate sections.  
14 Section 2 of this act clarifies and emphasizes the legislature's intent  
15 that the death benefits granted by RCW 41.26.160, as amended, are  
16 granted only to those members who die or become disabled by any injury  
17 or incapacity that is incurred in the line of duty. Section 3 of this  
18 act continues to provide death retirement benefits to members or  
19 surviving spouses for deaths not incurred in the line of duty.

1       **Sec. 2.** RCW 41.26.160 and 1991 sp.s. c 11 s 5 are each amended to  
2 read as follows:

3       (1) In the event of the duty connected death of any member who is  
4 in active service, or who has vested under the provisions of RCW  
5 41.26.090 with twenty or more service credit years of service, or who  
6 is on duty connected disability leave or retired(~~(, whether)~~) for duty  
7 connected disability (~~(or service)~~), the surviving spouse shall become  
8 entitled to receive a monthly allowance equal to fifty percent of the  
9 final average salary at the date of death if active, or the amount of  
10 retirement allowance the vested member would have received at age  
11 fifty, or the amount of the retirement allowance such retired member  
12 was receiving at the time of death if retired for (~~(service or)~~) duty  
13 connected disability. The amount of this allowance will be increased  
14 five percent of final average salary for each child as defined in RCW  
15 41.26.030(7), (~~(as now or hereafter amended,)~~) subject to a maximum  
16 combined allowance of sixty percent of final average salary: PROVIDED,  
17 That if the child or children is or are in the care of a legal  
18 guardian, payment of the increase attributable to each child will be  
19 made to the child's legal guardian or, in the absence of a legal  
20 guardian and if the member has created a trust for the benefit of the  
21 child or children, payment of the increase attributable to each child  
22 will be made to the trust.

23       (2) If at the time of the duty connected death of a vested member  
24 with twenty or more service credit years of service as provided in  
25 subsection (1) of this section or a member retired for (~~(service or)~~)  
26 duty connected disability, the surviving spouse has not been lawfully  
27 married to such member for one year prior to retirement or separation  
28 from service if a vested member, the surviving spouse shall not be  
29 eligible to receive the benefits under this section: PROVIDED, That if  
30 a member dies as a result of a disability incurred in the line of duty,  
31 then if he or she was married at the time he or she was disabled, the  
32 surviving spouse shall be eligible to receive the benefits under this  
33 section.

34       (3) If there be no surviving spouse eligible to receive benefits at  
35 the time of such member's duty connected death, then the child or  
36 children of such member shall receive a monthly allowance equal to  
37 thirty percent of final average salary for one child and an additional  
38 ten percent for each additional child subject to a maximum combined  
39 payment, under this subsection, of sixty percent of final average

1 salary. When there cease to be any eligible children as defined in RCW  
2 41.26.030(7), (~~as now or hereafter amended,~~) there shall be paid to  
3 the legal heirs of (~~said~~) the member the excess, if any, of  
4 accumulated contributions of (~~said~~) the member at the time of death  
5 over all payments made to survivors on his or her behalf under this  
6 chapter: PROVIDED, That payments under this subsection to children  
7 shall be prorated equally among the children, if more than one. If the  
8 member has created a trust for the benefit of the child or children,  
9 the payment shall be made to the trust.

10 (4) In the event that there is no surviving spouse eligible to  
11 receive benefits under this section, and that there be no child or  
12 children eligible to receive benefits under this section, then the  
13 accumulated contributions shall be paid to the estate of (~~said~~) the  
14 member.

15 (5) If a surviving spouse receiving benefits under the provisions  
16 of this section thereafter dies and there are children as defined in  
17 RCW 41.26.030(7), (~~as now or hereafter amended,~~) payment to the  
18 spouse shall cease and the child or children shall receive the benefits  
19 as provided in subsection (3) of this section.

20 (6) The payment provided by this section shall become due the day  
21 following the date of death and payments shall be retroactive to that  
22 date.

23 NEW SECTION. Sec. 3. A new section is added to chapter 41.26 RCW  
24 under the subchapter heading "plan 1" to read as follows:

25 (1) In the event of the nonduty connected death of any member who  
26 is in active service, or who has vested under the provisions of RCW  
27 41.26.090 with twenty or more service credit years of service, or who  
28 is on disability leave or retired, whether for nonduty connected  
29 disability or service, the surviving spouse shall become entitled to  
30 receive a monthly allowance equal to fifty percent of the final average  
31 salary at the date of death if active, or the amount of retirement  
32 allowance the vested member would have received at age fifty, or the  
33 amount of the retirement allowance such retired member was receiving at  
34 the time of death if retired for service or nonduty connected  
35 disability. The amount of this allowance will be increased five  
36 percent of final average salary for each child as defined in RCW  
37 41.26.030(7), subject to a maximum combined allowance of sixty percent  
38 of final average salary: PROVIDED, That if the child or children is or

1 are in the care of a legal guardian, payment of the increase  
2 attributable to each child will be made to the child's legal guardian  
3 or, in the absence of a legal guardian and if the member has created a  
4 trust for the benefit of the child or children, payment of the increase  
5 attributable to each child will be made to the trust.

6 (2) If at the time of the death of a vested member with twenty or  
7 more service credit years of service as provided in subsection (1) of  
8 this section or a member retired for service or disability, the  
9 surviving spouse has not been lawfully married to such member for one  
10 year prior to retirement or separation from service if a vested member,  
11 the surviving spouse shall not be eligible to receive the benefits  
12 under this section.

13 (3) If there be no surviving spouse eligible to receive benefits at  
14 the time of such member's death, then the child or children of such  
15 member shall receive a monthly allowance equal to thirty percent of  
16 final average salary for one child and an additional ten percent for  
17 each additional child subject to a maximum combined payment, under this  
18 subsection, of sixty percent of final average salary. When there cease  
19 to be any eligible children as defined in RCW 41.26.030(7), there shall  
20 be paid to the legal heirs of the member the excess, if any, of  
21 accumulated contributions of the member at the time of death over all  
22 payments made to survivors on his or her behalf under this chapter:  
23 PROVIDED, That payments under this subsection to children shall be  
24 prorated equally among the children, if more than one. If the member  
25 has created a trust for the benefit of the child or children, the  
26 payment shall be made to the trust.

27 (4) In the event that there is no surviving spouse eligible to  
28 receive benefits under this section, and that there be no child or  
29 children eligible to receive benefits under this section, then the  
30 accumulated contributions shall be paid to the estate of said member.

31 (5) If a surviving spouse receiving benefits under the provisions  
32 of this section thereafter dies and there are children as defined in  
33 RCW 41.26.030(7), payment to the spouse shall cease and the child or  
34 children shall receive the benefits as provided in subsection (3) of  
35 this section.

36 (6) The payment provided by this section shall become due the day  
37 following the date of death and payments shall be retroactive to that  
38 date.

1        NEW SECTION.    **Sec. 4.**    The provisions of section 2 of this act  
2 apply retrospectively to all line of duty death retirement allowances  
3 granted under chapter 41.26 RCW prior to the effective date of this  
4 act.

5        NEW SECTION.    **Sec. 5.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 immediately.

      Passed the Senate March 9, 1999.

      Passed the House April 12, 1999.

      Approved by the Governor April 28, 1999.

      Filed in Office of Secretary of State April 28, 1999.