

Senate Substitute for HOUSE BILL No. 2184

By Committee on Commerce

3-15

1 AN ACT concerning workers compensation death benefits; initial
2 payments; legal heirs; dependents; funeral expenses; conservatorship;
3 adequacy and equivalency with respect to other benefit limits; high
4 school children over 18 years of age; amending K.S.A. 2017 Supp. 44-
5 510b and repealing the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2017 Supp. 44-510b is hereby amended to read as
9 follows: 44-510b. Where death results from injury, compensation shall be
10 paid as provided in K.S.A. 44-510h and 44-510i, and amendments thereto,
11 and as follows:

12 (a) If an employee leaves any dependents wholly dependent upon the
13 employee's earnings at the time of the accident or injury, all compensation
14 benefits under this section shall be paid to ~~such~~ the dependent persons.
15 There shall be an initial payment of ~~\$40,000~~ \$60,000 to the surviving legal
16 spouse or a wholly dependent child or children or both. The initial
17 payment shall not be subject to the 8% discount as provided in K.S.A. 44-
18 531, and amendments thereto. The initial payment shall be immediately
19 due and payable and apportioned 50% to the surviving legal spouse and
20 50% to the dependent children. Thereafter, ~~such~~ the dependents shall be
21 paid weekly compensation, except as otherwise provided in this section, in
22 a total sum to all ~~such~~ the dependents, equal to 66²/₃% of the average
23 weekly wage of the employee at the time of the accident or injury,
24 computed as provided in K.S.A. 44-511, and amendments thereto, but in
25 no event shall ~~such~~ the weekly benefits exceed the maximum weekly
26 benefits provided in K.S.A. 44-510c, and amendments thereto, nor be less
27 than a minimum weekly benefit of the dollar amount nearest to 50% of the
28 state's average weekly wage as determined pursuant to K.S.A. 44-511, and
29 amendments thereto, subject to the following:

30 (1) If the employee leaves a surviving legal spouse or a wholly
31 dependent child or children, or both, who are eligible for benefits under
32 this section, then all death benefits shall be paid to ~~such~~ the surviving
33 spouse or children, or both, and no benefits shall be paid to any other
34 wholly or partially dependent persons.

35 (2) A surviving legal spouse shall be paid compensation benefits for
36 life, except as otherwise provided in this section.

1 (3) Any wholly dependent child of the employee shall be paid
2 compensation, except as otherwise provided in this section, until ~~such the~~
3 dependent child becomes 18 years of age, *unless the child is enrolled in*
4 *high school. In that event, compensation shall continue until May 30th of*
5 *the child's senior year in high school or until the child becomes 19 years*
6 *of age, whichever is earlier.* A wholly dependent child of the employee
7 shall be paid compensation, except as otherwise provided in this section,
8 until ~~such the~~ dependent child becomes 23 years of age during any period
9 of time that one of the following conditions is met:

10 (A) The wholly dependent child is not physically or mentally capable
11 of earning wages in any type of substantial and gainful employment; or

12 (B) the wholly dependent child is a student enrolled full-time in an
13 accredited institution of higher education or vocational education.

14 (4) If the employee leaves no legal spouse or dependent children
15 eligible for benefits under this section but leaves other dependents wholly
16 dependent upon the employee's earnings, ~~such the~~ other dependents shall
17 receive weekly compensation benefits as provided in this subsection until
18 death, remarriage or so long as ~~such the~~ other dependents do not receive
19 more than 50% of their support from any other earnings or income or from
20 any other source, except that the maximum benefits payable to all ~~such the~~
21 other dependents, regardless of the number of ~~such the~~ other dependents,
22 shall not exceed a maximum amount of ~~\$18,500~~ \$100,000.

23 (b) Where the employee leaves a surviving legal spouse and
24 dependent children who were wholly dependent upon the employee's
25 earnings and are eligible for benefits under this section 50% of the
26 maximum weekly benefits payable shall be apportioned to ~~such the~~ spouse
27 and 50% to ~~such the~~ dependent children.

28 (c) If an employee does not leave any dependents who were wholly
29 dependent upon the employee's earnings at the time of the injury but
30 leaves dependents, other than a spouse or children, in part dependent on
31 the employee's earnings, ~~such the~~ percentage of a sum equal to three times
32 the employee's average yearly earnings but not exceeding ~~\$18,500~~
33 \$100,000 but not less than ~~\$2,500~~ \$25,000, as ~~such the~~ employee's average
34 annual contributions which the employee made to the support of ~~such the~~
35 dependents during the two years preceding the date of the injury, bears to
36 the employee's average yearly earnings during the contemporaneous two-
37 year period, shall be paid in compensation to ~~such the~~ dependents, in
38 weekly payments as provided in subsection (a), not to exceed ~~\$18,500~~
39 \$100,000 to all ~~such the~~ dependents.

40 (d) If an employee does not leave any dependents, either wholly or
41 partially dependent upon the employee, a lump-sum payment of ~~\$25,000~~
42 \$100,000 shall be made to the legal heirs of ~~such the~~ employee in
43 accordance with Kansas law. *If the employer procured a life insurance*

1 *policy with beneficiaries designated by the employee and in an amount not*
2 *less than \$50,000, then the amount paid to the legal heirs under this*
3 *section shall be reduced by the amount of the life insurance policy up to a*
4 *maximum deduction of \$100,000. However under no circumstances shall*
5 ~~such the payment escheat to the state. Notwithstanding the provisions of~~
6 ~~this subsection, no such payment shall be required if the employer has~~
7 ~~procured a life insurance policy, with beneficiaries designated by the~~
8 ~~employee, providing coverage in an amount not less than \$18,500.~~

9 (e) The administrative law judge, except as otherwise provided in this
10 section, shall have the power and authority to apportion and reapportion
11 the compensation allowed under this section, either to wholly dependent
12 persons or partially dependent persons, in accordance with the degree of
13 dependency as of the date of the injury, except that the weekly payment of
14 compensation to any and all dependents shall not exceed the maximum nor
15 be less than the minimum weekly benefits provided in subsection (a).

16 (f) In all cases of death compensable under this section, the employer
17 shall pay the reasonable expense of burial not exceeding ~~\$5,000~~ \$10,000.
18 Where required, the employer shall pay the costs of a court-appointed
19 conservator not to exceed ~~\$1,000~~ \$2,500.

20 (g) The marriage or death of any dependent shall terminate all
21 compensation, under this section, to ~~such the~~ dependent except the
22 marriage of the surviving legal spouse shall not terminate benefits to ~~such~~
23 *the* spouse. Upon the death of the surviving legal spouse or the marriage or
24 death of a dependent child, the compensation payable to ~~such the~~ spouse or
25 child shall be reapportioned to those, among the surviving legal spouse
26 and dependent children, who remain eligible to receive compensation
27 under this section.

28 (h) Notwithstanding any other provision in this section to the
29 contrary, the maximum amount of compensation benefits payable under
30 this section, including the initial payment in subsection (a) to any and all
31 dependents by the employer shall not exceed a total amount of \$300,000
32 and when ~~such the~~ total amount has been paid the liability of the employer
33 for any further compensation under this section to dependents, other than
34 minor children of the employee, shall cease except that the payment of
35 compensation under this section to any minor child of the employee shall
36 continue for the period of the child's minority at the weekly rate in effect
37 when the employer's liability is otherwise terminated under this subsection
38 and shall not be subject to termination under this subsection until ~~such the~~
39 child becomes 18 years of age.

40 (i) Persons receiving benefits under this section shall submit an
41 annual statement to the insurance carrier, self-insured employer or group-
42 funded workers compensation pool paying the benefits, in ~~such the~~ form
43 and containing ~~such the~~ information relating to eligibility for

1 compensation under this section as may be required by rules and
2 regulations of the director. If the person receiving benefits under this
3 section is a surviving spouse or a dependent child who has reached the age
4 of majority, ~~such the~~ person shall personally submit an annual statement. If
5 the person receiving benefits under this section is a dependent child
6 subject to a conservator, the conservator of ~~such the~~ child shall submit the
7 annual statement. If ~~such the~~ person fails to submit an annual statement,
8 the payer of benefits may notify the director of ~~such the~~ failure and the
9 director shall notify the person of the failure by certified mail with return
10 receipt. If ~~such the~~ person fails to submit the annual statement or fails to
11 reasonably provide the required information within 30 days after receipt of
12 the notice from the director, all compensation benefits paid under this
13 section to ~~such the~~ person shall be suspended until the annual statement is
14 submitted in proper form to the payer of benefits.

15 Sec. 2. K.S.A. 2017 Supp. 44-510b is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the statute book.