

ASSEMBLY, No. 4203

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 1, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Increases workers' compensation burial expense allowance.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the workers' compensation burial expense
2 allowance and amending R.S.34:15-13.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. R.S. 34:15-13 is amended to read as follows:

8 34:15-13. Except as hereinafter provided, in case of death,
9 compensation shall be computed, but not distributed, on the
10 following basis:

11 a. For one or more dependents, 70% of wages.

12 b. (Deleted by amendment, P.L.2003, c.253).

13 c. (Deleted by amendment, P.L.2003, c.253).

14 d. (Deleted by amendment, P.L.2003, c.253).

15 e. (Deleted by amendment, P.L.2003, c.253).

16 f. The term "dependents" shall apply to and include any or all
17 of the following who are dependent upon the deceased at the time of
18 accident or the occurrence of occupational disease, or at the time of
19 death, namely: husband, wife, parent, stepparents, grandparents,
20 children, stepchildren, grandchildren, child in esse, posthumous
21 child, illegitimate children, brothers, sisters, half brothers, half
22 sisters, niece, nephew. Legally adopted children shall, in every
23 particular, be considered as natural children. Dependency shall be
24 conclusively presumed as to the decedent's spouse and to any
25 natural child of a decedent under 18 years of age or, if enrolled as a
26 full-time student, under 23 years of age, who was actually a part of
27 the decedent's household at the time of the decedent's death. Every
28 provision of this article applying to one class shall be equally
29 applicable to the other, except for the surviving spouses of members
30 of the State Police or members of fire or police departments or
31 forces who die in line of duty. Should any dependent of a deceased
32 employee die during the period covered by such weekly payments
33 the right of such dependent to compensation under this section shall
34 cease, but should the surviving spouse of a deceased employee,
35 other than the surviving spouse of a deceased member of the State
36 Police or member of a fire or police department or force who died
37 in line of duty, remarry during such period and before the total
38 compensation is paid, the spouse shall be entitled to receive the
39 remainder of the compensation which would have been due the
40 spouse had the spouse not remarried, or 100 times the amount of
41 weekly compensation paid immediately preceding the remarriage,
42 whichever is the lesser. If the deceased was a member of the State
43 Police or member of a fire or police department or force who died
44 in the line of duty, the compensation shall be paid to the surviving
45 spouse during the entire period of survivorship, even if the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 surviving spouse remarries, but the surviving spouse shall not
2 receive a lump sum payment pursuant to this subsection. The
3 foregoing schedule applies only to persons wholly dependent, and
4 in the case of persons only partially dependent, except in the case of
5 the surviving spouse and children who were actually a part of the
6 decedent's household at the time of death, the compensation shall be
7 such proportion of the scheduled percentage as the amounts actually
8 contributed to them by the deceased for their support constituted of
9 his total wages and the provision as to a minimum of 20% of the
10 average weekly wage as set forth in subsection a. of R.S.34:15-12
11 shall not apply to such compensation. In determining the number of
12 dependents, where the deceased employee was a minor, the number
13 of persons dependent upon the deceased employee shall be
14 determined in the same way as if the deceased employee were an
15 adult, notwithstanding any rule of law as to the person entitled to a
16 minor's wages. Nothing in this subsection pertaining to the
17 surviving spouse of a member of the State Police or member of a
18 fire or police department or force who died in the line of duty shall
19 be construed to entitle the surviving spouse to resumed payments of
20 compensation if that surviving spouse received a lump sum payment
21 pursuant to this subsection or remarried prior to the effective date of
22 P.L.2013, c.62.

23 g. Compensation shall be computed upon the foregoing basis.
24 Distribution shall be made among dependents, if more than one,
25 according to the order of the Division of Workers' Compensation,
26 which shall, when applied to for that purpose, determine, upon the
27 facts being presented to it, the proportion to be paid to or on behalf
28 of each dependent according to the relative-dependency. Payment
29 on behalf of infants shall be made to the surviving parent, if any, or
30 to the statutory or testamentary guardian.

31 h. If death results from the accident or occupational disease,
32 whether there be dependents or not, expenses of the last sickness of
33 the deceased employee shall be paid in accordance with the
34 provisions for medical and hospital service as set forth in
35 R.S.34:15-15. In addition, the cost of burial and of a funeral, not to
36 exceed **[\$3,500]** \$5,000, shall be paid to the dependent or other
37 person having paid the costs of burial and the funeral. In the event
38 that the dependent or other person has paid less than **[\$3,500]**
39 \$5,000 for the costs of burial and the funeral, the dependent or other
40 person shall be reimbursed in the amount paid and, if the costs of
41 burial and the funeral exceed the amount so paid, the difference
42 between the said amount and **[\$3,500]** \$5,000 or so much thereof as
43 may be necessary to pay the cost of burial and the funeral, shall be
44 paid to the undertaker or embalmer or the dependent or other person
45 having paid the costs of burial and the funeral. In the event that no
46 part of the costs of burial and the funeral have been paid, the
47 amount of such cost of burial and the funeral, not to exceed

1 **[\$3,500] \$5,000** , shall be paid to the undertaker or embalmer or the
2 dependent or other person who is to pay the costs of burial and the
3 funeral.

i. In computing compensation to those named in this section, except husband, wife, parents and stepparents, and except as otherwise provided in this section, only those under 18 or over 40 years of age shall be included and then only for that period in which they are under 18 or over 40; provided, however, that payments to such physically or mentally deficient persons as are for such reason dependent shall be made during the full compensation period of 450 weeks.

j. The maximum compensation in case of death shall be subject to the maximum compensation as stated in subsection a. of R.S.34:15-12 and a minimum of 20% of average weekly wages per week as set forth in subsection a. of R.S.34:15-12, except in the case of partial dependency as provided in this section. This compensation shall be paid, in the case of a surviving spouse, other than a surviving spouse of a member of the State Police or member of a fire or police department or force who died in the line of duty, during the entire period of survivorship or until such surviving spouse shall remarry and, in the case of other dependents, during 450 weeks and if at the expiration of 450 weeks there shall be one or more dependents under 18 years of age, compensation shall be continued for such dependents until they reach 18 years of age, or 23 years of age while enrolled as a full-time student, at the schedule provided under subsection a. of this section. If the deceased was a member of the State Police or member of a fire or police department or force who died in the line of duty, the compensation shall be paid to the surviving spouse during the entire period of survivorship, even if the surviving spouse remarries, but the surviving spouse shall not receive a lump sum payment pursuant to subsection f. of this section.

33 (cf: P.L.2013, c.62, s.1)

35 2. This act shall take effect immediately.

STATEMENT

40 This bill increases the workers' compensation burial expense
41 allowance, if a death results from a workplace accident or
42 occupational disease, from \$3,500 to \$5,000.