

ASSEMBLY BILL

No. 607

Introduced by Assembly Member Perea

February 20, 2013

An act to amend Sections 3501 and 4703.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 607, as introduced, Perea. Workers' compensation: dependent children.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law provides certain methods for determining workers' compensation benefits payable to a worker or his or her dependents for purposes of temporary disability, permanent total disability, permanent partial disability, and in the case of death. Existing law provides that totally dependent minor children of the deceased worker shall receive death benefits until the youngest child attains 18 years of age, or until the death of a child physically or mentally incapacitated from earning, at a weekly rate of at least \$224. Existing law conclusively presumes, for the purpose of determining workers' compensation benefits, that children under 18, or certain adult children, who were living with the employee-parent at the time of injury resulting in death, or for whose maintenance the employee-parent was legally liable at the time of the injury resulting in death, is wholly dependent for support on the deceased employee-parent if there is no surviving totally dependent parent.

This bill would eliminate the requirement that, in order to conclusively presume that children under 18, or certain adult children, are wholly dependent for support on the deceased employee-parent, there not be a surviving totally dependent parent. This bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3501 of the Labor Code is amended to
2 read:

3 3501. (a) A child under the age of 18 years, or a child of any
4 age found by any trier of fact, whether contractual, administrative,
5 regulatory, or judicial, to be physically or mentally incapacitated
6 from earning, shall be conclusively presumed to be wholly
7 dependent for support upon a deceased employee-parent with
8 whom that child is living at the time of injury resulting in death
9 of the parent or for whose maintenance the parent was legally
10 liable at the time of injury resulting in death of the parent, ~~there~~
11 ~~being no surviving totally dependent parent.~~ *parent.*

12 (b) A spouse to whom a deceased employee is married at the
13 time of death shall be conclusively presumed to be wholly
14 dependent for support upon the deceased employee if the surviving
15 spouse earned thirty thousand dollars (\$30,000) or less in the
16 twelve months immediately preceding the death.

17 SEC. 2. Section 4703.5 of the Labor Code is amended to read:

18 4703.5. (a) In the case of one or more totally dependent ~~minor~~
19 children, as defined in Section 3501, after payment of the amount
20 specified in Section 4702, and notwithstanding the maximum
21 limitations specified in Sections 4702 and 4703, payment of death
22 benefits shall continue until the youngest child attains 18 years of
23 age, or until the death of a child physically or mentally
24 incapacitated from earning, in the same manner and amount as
25 temporary total disability indemnity would have been paid to the
26 employee, except that no payment shall be made at a weekly rate
27 of less than two hundred twenty-four dollars (\$224).

28 (b) (1) Notwithstanding the age limitation in subdivision (a),
29 the payment of death benefits shall continue until the youngest
30 child attains 19 years of age if the child is still attending high

1 school and is receiving the death benefits as a child of an active
2 member of a sheriff's office, *an* active member of a police or fire
3 department of a city, county, city and county, district, or other
4 public or municipal corporation or political subdivision, *an*
5 individual described in Chapter 4.5 (commencing with Section
6 830) of Title 3 of Part 2 of the Penal Code who is primarily
7 engaged in active law enforcement activities, active firefighting
8 member of the Department of Forestry and Fire Protection, or an
9 active member of any county forestry or firefighting department
10 or unit killed in the performance of duty.

11 (2) Paragraph (1) shall not apply with respect to a child of a
12 person whose principal duties are clerical or otherwise do not
13 clearly fall within the scope of active law enforcement or active
14 firefighting services, such as stenographers, telephone operators,
15 and other office workers.

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