§ 8102a. Death gratuity for injuries incurred in connection with employee's service with an Armed Force

(a) **Death Gratuity Authorized.**— The United States shall pay a death gratuity of up to $100,000 to or for the survivor prescribed by subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation.

(b) **Retroactive Payment in Certain Cases.**— At the discretion of the Secretary concerned, subsection (a) may apply in the case of an employee who died, on or after October 7, 2001, and before the date of enactment of this section, as a result of injuries incurred in connection with the employee's service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom.

(c) **Relationship to Other Benefits.**— The death gratuity payable under this section shall be reduced by the amount of any death gratuity provided under section 413 of the Foreign Service Act of 1980, section 1603 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, or any other law of the United States based on the same death.

(d) **Eligible Survivors.**—

(1) Subject to paragraph (5), a death gratuity payable upon the death of a person covered by subsection (a) shall be paid to or for the living survivor highest on the following list:

(A) The employee's surviving spouse.

(B) The employee's children, as prescribed by paragraph (2), in equal shares.

(C) If designated by the employee, any one or more of the following persons:

(i) The employee's parents or persons in loco parentis, as prescribed by paragraph (3).

(ii) The employee's brothers.

(iii) The employee's sisters.

(D) The employee’s parents or persons in loco parentis, as prescribed by paragraph (3), in equal shares.

(E) The employee’s brothers and sisters in equal shares.

Subparagraphs (C) and (E) of this paragraph include brothers and sisters of the half blood and those through adoption.

(2) Paragraph (1)(B) applies, without regard to age or marital status, to—

(A) legitimate children;

(B) adopted children;

(C) stepchildren who were a part of the decedent’s household at the time of death;

(D) illegitimate children of a female decedent; and

(E) illegitimate children of a male decedent—

(i) who have been acknowledged in writing signed by the decedent;

(ii) who have been judicially determined, before the decedent’s death, to be his children;

(iii) who have been otherwise proved, by evidence satisfactory to the employing agency, to be children of the decedent; or

(iv) to whose support the decedent had been judicially ordered to contribute.
(3) Subparagraphs (C) and (D) of paragraph (1), so far as they apply to parents and persons in loco parentis, include fathers and mothers through adoption, and persons who stood in loco parentis to the decedent for a period of not less than one year at any time before the decedent became an employee. However, only one father and one mother, or their counterparts in loco parentis, may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent became an employee.

(4) A person covered by this section may designate another person to receive an amount payable under this section. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with subparagraphs (A) through (E) of paragraph (1).

(5) If a person entitled to all or a portion of a death gratuity under paragraph (1) or (4) dies before the person receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by paragraph (1).

(6) If a person covered by this section has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under this section, the head of the agency, or other entity, in which that person is employed shall provide notice of the designation to the spouse.

(e) Definitions.—

(1) The term “contingency operation” has the meaning given to that term in section 1482a (c) of title 10, United States Code.

(2) The term “employee” has the meaning provided in section 8101 of this title, but also includes a nonappropriated fund instrumentality employee, as defined in section 1587 (a)(1) of title 10.

References in Text

The date of enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 110–181, which was approved Jan. 28, 2008.

Section 413 of the Foreign Service Act of 1980, referred to in subsec. (c), is classified to section 3973 of Title 22, Foreign Relations and Intercourse.


The date of the enactment of this paragraph, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 110–181, which was approved Jan. 28, 2008.

Amendments

2011—Subsec. (d)(4). Pub. L. 112–81, § 1121(a)(1), substituted “A person covered by this section may designate another person to receive an amount payable under this section.” for “Beginning on the date of the enactment of this paragraph, a person covered by this section may designate another person to receive not more than 50 percent of the amount payable under this section.” and struck out “up to the maximum of 50 percent” after “increments”.


Effective Date of 2011 Amendment