

SENATE BILL NO. 1080

November 07, 2024, Introduced by Senators CAVANAGH and CHERRY and referred to the Committee on Labor.

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending sections 321, 331, 335, 345, and 356 (MCL 418.321, 418.331, 418.335, 418.345, and 418.356), sections 321 and 335 as amended by 1994 PA 271, section 331 as amended by 2011 PA 266, section 345 as amended by 1996 PA 107, and section 356 as amended by 2014 PA 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 321. If death results from the personal injury of an
2 employee, the employer shall pay, or cause to be paid, subject to

1 section 375, in 1 of the methods provided in this section, to the
 2 dependents of the employee who were wholly dependent ~~upon~~ **on** the
 3 employee's earnings for support at the time of the injury, a weekly
 4 payment equal to 80% of the employee's after-tax average weekly
 5 wage, subject to the maximum and minimum rates of compensation
 6 under this act, for a period of 500 weeks from the date of death.
 7 If at the expiration of the 500-week period any ~~such~~ wholly or
 8 partially dependent ~~person~~ **individual** is less than 21 years of age,
 9 a worker's compensation magistrate may order the employer to
 10 continue to pay the weekly compensation or some portion ~~thereof~~ **of**
 11 **the weekly compensation** until the wholly or partially dependent
 12 ~~person~~ **individual** reaches the age of 21. If the employee leaves
 13 dependents only partially dependent ~~upon his or her~~ **on the**
 14 **employee's** earnings for support at the time of injury, the weekly
 15 compensation to be paid ~~shall be~~ **must** equal ~~to~~ the same proportion
 16 of the weekly payments for the benefit of ~~persons~~ wholly dependent
 17 **individuals** as ~~80% of the amount contributed by the employee to the~~
 18 ~~partial dependents~~ **the employee's income** bears to the annual
 19 ~~earnings~~ **combined income** of the deceased ~~employee and the partially~~
 20 **dependent individual** at the time of injury, **except as otherwise**
 21 **provided in section 356.**

22 Sec. 331. (1) **Except as otherwise provided in section 335(1),**
 23 **if death results from the personal injury of an employee, the**
 24 **employee's spouse who is living with the employee at the time of**
 25 **death is conclusively presumed to be wholly dependent on the**
 26 **employee's earnings for support for a period of 208 weeks after the**
 27 **date of death. After the 208-week period, continuing dependency, in**
 28 **whole or in part, is determined in accordance with the facts at the**
 29 **time of the injury. If the spouse is determined to be partially**

1 dependent on the employee's earnings for support at the time of the
 2 injury, the weekly compensation rate must be calculated in
 3 accordance with section 321. Except as otherwise provided in
 4 section 335(1), if the spouse establishes an entitlement to ongoing
 5 weekly compensation payments, payments must be made for a period of
 6 500 weeks from the date of death.

7 (2) ~~Except~~ **If death results from the personal injury of an**
 8 **employee, except** as otherwise provided in this section, a child
 9 ~~under the age of 16 of the employee who is less than 18 years of~~
 10 **age, or 16-18 years of age or over more if the child is** physically
 11 or mentally incapacitated from earning, is conclusively presumed to
 12 be wholly dependent for support ~~upon~~ **on** the parent with whom he or
 13 she is living at the time of the death of that parent. In the event
 14 of the death of an employee who has at the time of death a living
 15 child by a former spouse or a child who has been deserted by the
 16 deceased employee under the age of 16 years, or over if physically
 17 or mentally incapacitated from earning, that child shall be
 18 conclusively presumed to be wholly dependent for support upon the
 19 deceased employee, even though not living with the deceased
 20 employee at the time of death. **employee.**

21 (3) The death benefit ~~shall~~ **must** be divided among all ~~persons~~
 22 **individuals** who are wholly dependent ~~upon~~ **on** the deceased employee,
 23 in equal shares. The total sum due a surviving spouse and ~~his or~~
 24 ~~her~~ **the deceased employee's** own children ~~shall~~ **must** be paid
 25 directly to the surviving spouse for ~~his or her own~~ **the surviving**
 26 **spouse's** use, and for the use and benefit of ~~his or her own~~ **the**
 27 **deceased employee's own** children. If during the time compensation
 28 payments continue, a worker's compensation magistrate finds that
 29 the surviving spouse is not properly caring for ~~these~~ **the deceased**

1 **employee's own** children, the worker's compensation magistrate shall
 2 order the shares of the children to be ~~thereafter~~ paid to ~~their~~ **the**
 3 **children's** guardian or legal representative for ~~their~~ **the**
 4 **children's** use and benefit, instead of to ~~their father or mother.~~
 5 **the surviving spouse.** In all cases the sums due ~~to~~ the children by
 6 the former spouse of the deceased employee ~~shall~~ **must** be paid to
 7 ~~their~~ **the children's** guardians or legal representatives for the use
 8 and benefit of ~~those~~ **the** children. In all other cases questions of
 9 dependency, in whole or in part, ~~shall~~ **must** be determined in
 10 accordance with the facts at the time of the injury. If a deceased
 11 employee leaves ~~a person~~ **an individual** wholly dependent ~~upon him or~~
 12 ~~her~~ **on the deceased employee** for support, that ~~person~~ shall be
 13 **individual is** entitled to the whole death benefit and ~~persons~~
 14 partially dependent **individuals**, if any, ~~shall~~ receive no part
 15 thereof, **of the death benefit**, while the ~~person~~ wholly dependent
 16 **individual** is living. All ~~persons~~ **individuals** wholly dependent ~~upon~~
 17 **on** a deceased employee, whether by conclusive presumption or as a
 18 matter of fact, ~~shall be~~ **are** entitled to share equally in the death
 19 benefit in accordance with ~~the provisions of~~ this section. If there
 20 is no ~~one~~ wholly dependent **individual** or if the death of all
 21 ~~persons~~ wholly dependent **individuals** occurs before all compensation
 22 is paid, and there is only 1 ~~person~~ partially dependent **individual**,
 23 that ~~person~~ **individual** is entitled to compensation according to the
 24 extent of ~~his or her~~ **the individual's** dependency; and if there is
 25 more than 1 ~~person~~ partially dependent **individual**, the death
 26 benefit ~~shall~~ **must** be divided among ~~them~~ **the partially dependent**
 27 **individuals** according to the relative extent of ~~their~~ **the partially**
 28 **dependent individuals'** dependency. A ~~person~~ shall not be **An**
 29 **individual is not** considered a dependent unless ~~he or she~~ **the**

1 **individual** is a member of the family of the deceased employee, or
 2 unless ~~such person~~ **the individual** bears to the deceased employee
 3 the relation of widower or widow, lineal descendant, ancestor, or
 4 ~~brother or sister.~~ **sibling.**

5 Sec. 335. (1) ~~Upon the remarriage of~~ **If** a dependent wife
 6 **spouse who is** receiving compensation **under section 321 remarries,**
 7 ~~such compensation~~ payments shall cease upon the payment to her of
 8 the balance of the compensation to which ~~she~~ **the spouse that the**
 9 **spouse** would otherwise have been entitled, ~~but~~ not to exceed the
 10 ~~sum of \$500.00. , and further~~ **Any remaining** compensation ~~, if any,~~
 11 ~~shall be~~ **is** payable to the ~~person~~ **individual** either wholly or
 12 partially dependent ~~upon~~ **on the** deceased **employee** for support at
 13 ~~his~~ **the time of the** death as provided in section ~~331(b).~~ **331.** A
 14 worker's compensation magistrate shall determine the amount of
 15 compensation or portion ~~thereof~~ **of the compensation** that shall be
 16 **is** payable weekly to ~~such~~ **the** wholly or partially dependent ~~person~~
 17 **individual** for the remaining weeks of compensation. ~~Where,~~ **If,** at
 18 the expiration of the 500-week period, ~~any such~~ **a** wholly or
 19 partially dependent ~~person~~ **individual** is less than 18 years of age,
 20 a worker's compensation magistrate may order the employer to
 21 continue to pay the weekly compensation, or some portion ~~thereof,~~
 22 **of the weekly compensation,** until ~~such~~ **the** wholly or partially
 23 dependent ~~person~~ **individual** reaches the age of 18. ~~The payment of~~
 24 ~~compensation to any dependent child shall cease when the child~~
 25 ~~reaches the age of 18 years, if at the age of 18 years he or she is~~
 26 ~~neither physically nor mentally incapacitated from earning, or when~~
 27 ~~the child reaches the age of 16 years and thereafter is self-~~
 28 ~~supporting for 6 months. If the child ceases to be self-supporting~~
 29 ~~thereafter, the dependency shall be reinstated. Such~~ **Any** remaining

1 compensation ~~, if any, shall be~~ **is** payable to the ~~person either~~
 2 **individual who is** wholly or partially dependent ~~upon on~~ the
 3 deceased employee for support at the time of the employee's death,
 4 ~~as provided in the case of the remarriage of a dependent wife.~~ **not**
 5 **to exceed \$500.00.**

6 (2) This section ~~shall apply~~ **applies** to all ~~persons~~
 7 **individuals** who are entitled to receive compensation or are
 8 receiving compensation under this act on July 30, ~~1985~~ **2025** and who
 9 have not attained the age of 18 years on July 30, ~~1985~~ **2025.**

10 Sec. 345. If death results from the **personal injury of an**
 11 **employee,** the employer shall pay, or cause to be paid, the
 12 reasonable expense of the employee's last sickness, funeral, and
 13 burial. The ~~cost~~ **expense** of the funeral and burial ~~shall~~ **must** not
 14 exceed ~~\$6,000.00~~ **\$12,000.00** or the actual ~~cost,~~ **expense,** whichever
 15 is less. Any person ~~who~~ **that** performed ~~such a~~ service or incurred
 16 ~~such~~ **liability under this section** may file an application with the
 17 ~~bureau.~~ **agency.** A worker's compensation magistrate may order the
 18 employer to pay ~~such~~ **the sums for the service or liability, or**
 19 **both.**

20 Sec. 356. (1) An injured employee who, at the time of the
 21 personal injury, is entitled to a rate of compensation less than
 22 50% of the then applicable state average weekly wage as determined
 23 for the year in which the injury occurred ~~pursuant to~~ **under** section
 24 355, may be entitled to an increase in benefits after 2 years of
 25 continuous disability. After 2 years of continuous disability, the
 26 employee may petition for a hearing at which the employee may
 27 present evidence that, by virtue of the employee's age, education,
 28 training, experience, or other documented evidence ~~which~~ **that** would
 29 fairly reflect the employee's earning capacity, the employee's

1 earnings would have been expected to increase. Upon presentation of
2 this evidence, a worker's compensation magistrate may order an
3 adjustment of the compensation rate up to 50% of the state average
4 weekly wage for the year in which the employee's injury occurred.
5 The adjustment of compensation, if ordered, ~~shall be~~ **is** effective
6 as of the date of the employee's petition for the hearing. The
7 **carrier shall pay the** adjustments ~~provided in under~~ this subsection
8 ~~shall be paid by the carrier~~ on a weekly basis. However, the
9 carrier, the self-insurers' security fund, and the private employer
10 group self-insurers security fund ~~shall be~~ **are** entitled to
11 reimbursement for these payments from the second injury fund
12 created in section 501. ~~There shall be~~ **An employee may receive** only
13 1 adjustment ~~made for an employee~~ under this subsection.

14 (2) The minimum weekly benefit for death under section 321
15 ~~shall be~~ **for a wholly dependent individual is** 50% of the state
16 average weekly wage as determined under section 355.

17 (3) The minimum weekly benefit for 1 or more losses stated in
18 section 361(2) and (3) ~~shall be~~ **is** 25% of the state average weekly
19 wage as determined under section 355.

20 (4) There is no minimum weekly benefit for total disability
21 under section 351 **or for a partially dependent individual under**
22 **section 321.**

23 (5) This section does not apply to an employee entitled to
24 benefits under section 361(1).