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By: **Delegate Kach**  
Introduced and read first time: February 7, 2003  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 27, 2003

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CHAPTER 319

1 AN ACT concerning

2 **Workers' Compensation - Continuation of Death Benefits - Wholly**  
3 **Dependent Spouses - Partly Self-Supporting Spouses**

4 FOR the purpose of ~~requiring an employer or insurer to continue to make~~ altering the  
5 payments to a surviving spouse who was wholly dependent at the time of the  
6 covered employee's death but who later becomes partly self-supporting;  
7 specifying certain rates for determining a surviving spouse's benefits; providing  
8 that the combined payments to a surviving spouse who was wholly dependent at  
9 the time of the covered employee's death but who later becomes partly  
10 self-supporting may not exceed a certain amount under certain circumstances;  
11 providing for the application of this Act; and generally relating to death benefits  
12 for wholly dependent spouses who become partly self-supporting after the death  
13 of the covered employee under workers' compensation.

14 BY repealing and reenacting, with amendments,  
15 Article - Labor and Employment  
16 Section 9-681 and 9-682  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2002 Supplement)

19 ~~BY repealing and reenacting, without amendments,~~  
20 ~~Article - Labor and Employment~~  
21 ~~Section 9-682~~  
22 ~~Annotated Code of Maryland~~  
23 ~~(1999 Replacement Volume and 2002 Supplement)~~

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Labor and Employment**

4 9-681.

5 (a) If there are individuals who were wholly dependent on a deceased covered  
6 employee at the time of death resulting from an accidental personal injury or  
7 occupational disease, the employer or its insurer shall pay death benefits in  
8 accordance with this section.

9 (b) (1) Except as provided in paragraph (2) of this subsection, the death  
10 benefit payable under this section shall equal two-thirds of the average weekly wage  
11 of the deceased covered employee, but may not:

12 (i) exceed the State average weekly wage; or

13 (ii) be less than \$25.

14 (2) If the average weekly wage of the deceased covered employee was  
15 less than \$25 at the time of the accidental personal injury or the last injurious  
16 exposure to the hazards of the occupational disease, the weekly death benefit payable  
17 under this section shall equal the average weekly wage of the deceased covered  
18 employee.

19 (c) Except as otherwise provided in this section, the employer or its insurer  
20 shall pay the weekly death benefit:

21 (1) for the period of total dependency; or

22 (2) until \$45,000 has been paid.

23 (d) If a surviving spouse who was wholly dependent at the time of death  
24 continues to be wholly dependent after \$45,000 has been paid, the employer or its  
25 insurer shall continue to make payments to the surviving spouse at the same weekly  
26 rate during the total dependency of the surviving spouse.

27 (e) (1) If a surviving spouse who is wholly dependent at the time of death  
28 becomes wholly [or partly] self-supporting before \$45,000 has been paid, the  
29 employer or its insurer shall continue to pay death benefits until \$45,000 has been  
30 paid.

31 (2) IF A SURVIVING SPOUSE WHO IS WHOLLY DEPENDENT AT THE TIME  
32 OF DEATH BECOMES PARTLY SELF-SUPPORTING, THE EMPLOYER OR ITS INSURER  
33 SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE:

34 ~~(1) UNTIL \$45,000 HAS BEEN PAID, AT THE SAME WEEKLY RATE~~  
35 ~~THE SPOUSE WOULD BE PAID UNDER SUBSECTION (B) OF THIS SECTION, AS IF THE~~  
36 ~~SPOUSE WAS WHOLLY DEPENDENT; AND~~

1                   ~~(H)     AFTER \$45,000 HAS BEEN PAID, AT THE SAME WEEKLY RATE~~  
2 ~~AND FOR THE SAME PERIOD OF TIME THAT THE SPOUSE WOULD BE PAID UNDER §~~  
3 ~~9-682(B), (C), AND (D) OF THIS SUBTITLE, AS IF THE SPOUSE HAD BEEN PARTLY~~  
4 ~~DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH IN~~  
5 ~~ACCORDANCE WITH § 9-682 OF THIS SUBTITLE.~~

6       (f)       (1)     Except as provided in paragraph (2) of this subsection, if a surviving  
7 spouse who is wholly dependent remarries, payment to the surviving spouse shall  
8 stop on the date of remarriage, even if \$45,000 has not been paid.

9                   (2)     If a surviving spouse who is wholly dependent remarries and does not  
10 have dependent children at the time of the remarriage, the employer or its insurer  
11 shall continue to make payments to the surviving spouse for 2 years after the date of  
12 the remarriage.

13       (g)       If a surviving child continues to be wholly dependent after the total  
14 amount of \$45,000 has been paid, the employer or its insurer shall continue to make  
15 payments at the same weekly rate during the total dependency of the surviving child.

16       (h)       Except as provided in subsection (i) of this section, if a child who is wholly  
17 dependent at the time of death becomes wholly or partly self-supporting, the  
18 employer or its insurer shall continue to pay death benefits until \$45,000 has been  
19 paid.

20       (i)       (1)     Except as provided in paragraphs (2) and (3) of this subsection, the  
21 employer or its insurer shall continue to make payments to, or for the benefit of, a  
22 surviving child until the child reaches 18 years of age.

23                   (2)     The employer or its insurer shall continue to make payments to, or  
24 for the benefit of, a child who is 18 years old or older for the period of dependency if:

25                           (i)     the child is wholly dependent on the deceased covered employee;  
26 and

27                           (ii)    incapable of self-support because of mental or physical  
28 disability or other sufficient reason as determined by the Commission.

29                   (3)     The employer or its insurer shall continue to make payments to, or  
30 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching  
31 the age of 18 if:

32                           (i)     the child is attending school on a full-time basis; and

33                           (ii)    the school offers an educational program or a vocational  
34 training program, that is accredited or approved by the State Department of  
35 Education.

36       (j)       The Commission has continuing jurisdiction to:

- 1 (1) determine whether a surviving spouse or child has become wholly or  
2 partly self-supporting;
- 3 (2) suspend or terminate payments of compensation; and
- 4 (3) reinstate payments of compensation that have been suspended or  
5 terminated.
- 6 9-682.

7 ~~(a) If there are no individuals who were totally dependent on the deceased~~  
8 ~~covered employee at the time of death, but there are individuals who were partly~~  
9 ~~dependent, the employer or its insurer shall pay death benefit in accordance with this~~  
10 ~~section.~~

11 (A) THE EMPLOYER OR ITS INSURER SHALL PAY A DEATH BENEFIT IN  
12 ACCORDANCE WITH THIS SECTION IF:

13 (1) THERE ARE NO INDIVIDUALS WHO WERE WHOLLY DEPENDENT ON  
14 THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH, BUT THERE ARE  
15 INDIVIDUALS WHO WERE PARTLY DEPENDENT; OR

16 (2) A SURVIVING SPOUSE WHO WAS WHOLLY DEPENDENT ON THE  
17 DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH BECOMES PARTLY  
18 SELF-SUPPORTING.

19 (b) (1) The maximum weekly death benefit payable under this section shall  
20 equal two-thirds of the average weekly wage of the deceased covered employee, but  
21 may not exceed two-thirds of the State average weekly wage.

22 (2) The weekly death benefit payable under this section shall be the  
23 percentage of the maximum weekly death benefit under paragraph (1) of this  
24 subsection that:

25 (i) the weekly earnings of the deceased covered employee bears to  
26 the combined weekly earnings of the deceased covered employee and the partly  
27 dependent individuals; and

28 (ii) does not exceed the maximum weekly death benefit.

29 (c) Except as otherwise provided in this section, the employer or its insurer  
30 shall pay the weekly death benefit:

31 (1) for the period of partial dependency; or

32 (2) until \$60,000 has been paid, INCLUDING ANY PAYMENTS MADE  
33 DURING A PERIOD OF TOTAL DEPENDENCY UNDER § 9-681 OF THIS SUBTITLE.

34 (d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who  
35 is partly dependent remarries and does not have dependent children at the time of the

1 remarriage, the employer or its insurer shall make payments to the surviving spouse  
2 for 2 years after the date of the remarriage.

3           (2)       The total of the payments made before the remarriage may not  
4 exceed \$60,000.

5       (e)       (1)       Except as provided in paragraphs (2) and (3) of this subsection, the  
6 employer or its insurer shall continue to make payments to, or for the benefit of, a  
7 surviving child until the child reaches 18 years of age.

8           (2)       If a child who is 18 years old or older remains partly dependent on  
9 the deceased covered employee, the employer or its insurer shall continue to make  
10 payments in accordance with subsections (b) and (c) of this section.

11           (3)       The employer or its insurer shall continue to make payments to, or  
12 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching  
13 the age of 18 if:

14                   (i)       the child is attending school on a full-time basis; and

15                   (ii)       the school offers an educational program or a vocational  
16 training program and the program is accredited or approved by the Maryland State  
17 Department of Education.

18       SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this  
19 Act relating to wholly dependent spouses who become partly self-supporting shall  
20 apply only to those wholly dependent spouses who become partly self-supporting on  
21 or after October 1, 2003.

22       ~~SECTION 3.~~ SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
23 effect October 1, 2003.