

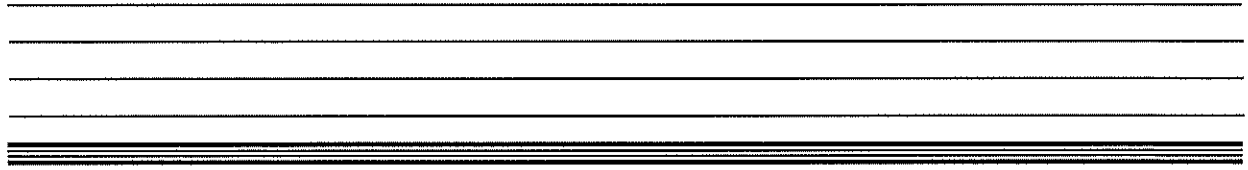
Oversight Division

Committee On Legislative Research

SUNSET REVIEW

PUBLIC SAFETY OFFICER
SURVIVING SPOUSE TAX CREDIT

2018



Sunset Review
PUBLIC SAFETY OFFICER
SURVIVING SPOUSE TAX CREDIT
2018

*Prepared for the Committee on Legislative Research
by the Oversight Division*

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Committee on Legislative Research Oversight Subcommittee

THE COMMITTEE ON LEGISLATIVE RESEARCH, Oversight Division, is an agency of the Missouri General Assembly as established in Chapter 23 of the Revised Statutes of Missouri. The programs and activities of the State of Missouri cost approximately \$26.0 billion annually. Each year the General Assembly enacts laws which add to, delete or change these programs. To meet the demands for more responsive and cost effective state government, legislators need to receive information regarding the status of the programs which they have created and the expenditure of funds which they have authorized. The work of the Oversight Division provides the General Assembly with a means to evaluate state agencies and state programs.

THE COMMITTEE ON LEGISLATIVE RESEARCH is a permanent joint committee of the Missouri General Assembly comprised of the chairman of the Senate Appropriations Committee and nine other members of the Senate and the chairman of the House Budget Committee and nine other members of the House of Representatives. The Senate members are appointed by the President Pro Tem of the Senate and the House members are appointed by the Speaker of the House of Representatives. No more than six members from the House and six members from the Senate may be of the same political party.

Sunset reviews are assigned to the Oversight Division pursuant to Sections 23.250 to 23.298 RSMo. After August 28, 2003, any new program authorized by the General Assembly shall sunset not more than six years after its effective date unless re-authorized by the General Assembly. The Oversight Division shall conduct a performance evaluation of the program as set forth in statute and prepare a written report. The report shall make recommendations on the sunset, continuation, or reorganization of a program.

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**COMMITTEE ON LEGISLATIVE RESEARCH
STATE OF MISSOURI
STATE CAPITOL
JEFFERSON CITY, MISSOURI 65101**

Members of the General Assembly:

The Joint Committee on Legislative Research is required by Section 23.259.1(3), RSMo to conduct a performance evaluation of the Public Safety Office Surviving Spouse tax credit to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The report may include Oversight comments on (1) the sunset, continuation, or reorganization of the program, and on the need for the performance of the functions of the program; (2) the duplication of program functions; (3) the appropriation levels for each program for which sunset or reorganization is recommended; and (4) drafts of legislation necessary to carry out the committee's recommendations pursuant to (1) and (2) above.

We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates. You may obtain a copy of the report from the Oversight Division website at www.legislativeoversight.mo.gov.

Respectfully,

Chair

Purpose/Objectives

The General Assembly has provided by law that the Joint Committee on Legislative Research, Oversight Division conduct performance evaluations of programs subject to the Missouri Sunset Act. The committee shall consider the criteria as listed in Section 23.268, RSMo in determining whether a public need exists for the continuation of a program, or for the performance of the functions of the program. A sunset review is the regular assessment of the continuing need for a state program to exist. A sunset review answers the basic questions of what has happened to this program since its inception and does the State of Missouri continue to “need” the services provided by the program.

The Joint Committee on Legislative Research directed the Oversight Division to conduct a Sunset Review of the Public Safety Office Surviving Spouse Tax Credit, Section 135.090, RSMo. This report provides the status on the Public Safety Officer Surviving Spouse Tax Credit as created by Senate Bill 30 (2007) and fulfills the requirements as established by Section 23.268, RSMo.

The Oversight Division previously reported on this program in 2013, at which time the sunset date on the program was extended to its current date of December 31, 2019.

The Oversight Division review addressed, but was not limited to the following:

1. Compiling and reviewing data related to the program since its inception.
2. Analyzing related events and changes to the program since its inception.

Scope

The Oversight Division obtained and reviewed information from the Department of Revenue on the Public Safety Officer Surviving Spouse Tax Credit from 2007 through June 2018.

Methodology

The Oversight Division obtained information on the Public Safety Officer Surviving Spouse Tax Credit through correspondence and interviews with the Department of Revenue. The Department of Labor and Industrial Relations and the Department of Higher Education provided information on other survivor benefits available to spouses.

Legislative History

Senate Bill 30 (2007) created the Public Safety Officer Surviving Spouse Tax Credit in Section 135.090, RSMo. The program allows the surviving spouse of a qualified public safety officer who was killed in the line of duty to claim a refundable tax credit equal to the amount of property taxes paid by the surviving spouse on the surviving spouse's homestead.

The provisions in Section 135.090, RSMo included an automatic sunset six years from the effective date; and the program was to sunset on August 28, 2013, unless the program was re-authorized by an act of the General Assembly.

Senate Bill 979 (2008) changed Section 135.090, RSMo, to allow a surviving spouse to claim the credit for each tax year beginning the year of death of the public safety officer until such time as the surviving spouse remarries. This bill did not change the sunset date.

In 2013, the Oversight Division published a sunset review report on the Surviving Spouse Tax Credit which was scheduled to sunset on August 28, 2013. Senate Bills Nos. 20, 15 & 19 (2013) extended the sunset to December 31, 2019 along with adding language to clarify that the Department of Revenue is not limited or impaired from redeeming tax credits authorized before the sunset date or for the surviving spouse from redeeming previously issued credits after the sunset date.

HB 1355 (2018) was passed into law and expanded those eligible for the program to include emergency medical responders; however, it did not change the sunset date of December 31, 2019. While several bills during the 2018 legislative session were introduced to extend the sunset date of the Surviving Spouse Tax Credit, none were adopted.

Program

The Public Safety Office Surviving Spouse Tax Credit program allows the surviving spouse of a public safety officer killed in the line of duty to claim a refundable tax credit against individual income taxes imposed by Chapter 143, in an amount equal to the property taxes paid on the surviving spouse's homestead (a dwelling in Missouri surrounded by up to five acres, is used as a home and is not occupied by more than two families). The surviving spouse may claim the credit each year until such time as the surviving spouse remarries. The tax credit is refundable; therefore, if the tax credit amount exceeds the amount of tax due from the surviving spouse, the excess will be refunded to the taxpayer. There is no cap on this program.

Section 135.090, RSMo, defines an eligible public safety officer as "any firefighter, police officer, capitol police officer, parole officer, probation officer, correctional employee, water

patrol officer, park ranger, conservation officer, commercial motor vehicle enforcement officer, emergency medical responder, as defined in section 190.100, emergency medical technician, first responder, or highway patrolman employed by the State of Missouri or a political subdivision thereof who is killed in the line of duty, unless the death was the result of the officer's own misconduct, or abuse of alcohol or drugs.” HB 1355 (2018) added emergency medical responders, as defined in section 190.100, to the list of those eligible.

Individuals claiming the credit must complete the Miscellaneous Income Tax Credits form (MO-TC) and the Public Safety Officer Surviving Spouse Credit form (MO-SSC), and attach those forms and a copy of their paid property tax receipt to their individual income tax return. If the homestead includes more than five acres, only a portion of the property tax paid is eligible for the tax credit and an Assessor Certification (FORM 948) must be attached to document the applicable percentage.

The Department considers the definition of homestead to be the dwelling or residence of the claimant. Therefore, they would not allow a claimant to claim the credit if they have left the state. The Department confirmed that no returns have been filed in which this credit was awarded to an address out of state.

Claims Processing

With the following responses, officials from the DOR state they perform a manual review of each claim submitted each year .

“In the initial year of the claim, the surviving spouse is permitted to file a Married Filing Combined return with their deceased spouse. The technician reviewing the claim would ensure the ‘deceased’ indicator is checked on the return. The individual processing the claim would then verify that the Form SSC has been completed correctly.”

“If not completed correctly, the Department would disallow the credit and request a completed copy of Form SSC.”

“The processor would verify the deceased individual in fact passed away in the line of duty using the [Officer Down Memorial Page] website and the [National Fallen Firefighter Foundation] website.”

“If a property tax receipt is not included, the technician would request the claimant provide a copy of the receipt, and may also research the county collector's website to verify property taxes paid. The technician would ask the claimant to supply additional documentation to substantiate the claim if any required information cannot be verified.”

“If the property tax receipt was attached and verified, the processor would continue reviewing the claim.”

“The processor would make sure that the individual has not since re-married. If re-married, the claim would be disallowed. If not remarried, the individual would continue processing the claim. The verification of re-marriage would be done so on the tax return itself. The taxpayer must file indicating their marital status.”

“If the Department determines that the claim was filed incorrectly, the Department would adjust the taxpayer's return and bill the taxpayer for any underpayment or refund what is owed, less the credit.”

“If the Department determines that the claim was filed correctly, they would allow the claim on the return and push the return through the system to post and issue a refund or balance due.”

Program Activity

Department of Revenue officials state they do not have any information which would allow them to predict the future use of the program in any given year. The Department was able to provide the following information regarding the number of credits claimed and the amounts redeemed for each fiscal year.

YEAR	CLAIMS FILED	CREDITS REDEEMED	AVERAGE CREDIT PER CLAIM
FY 2009	fewer than 7	\$9,583	N.A.
FY 2010	12	\$22,363	\$1,864
FY 2011	11	\$16,861	\$1,533
FY 2012	14	\$32,793	\$2,342
FY 2013	34	\$61,132	\$1,798
FY 2014	37	\$76,533	\$2,068
FY 2015	22	\$70,941	\$3,225
FY 2016	34	\$117,554	\$3,457
FY 2017	33	\$89,502	\$2,712

Source: Department of Revenue

TAX YEAR	SMALLEST CLAIM	LARGEST CLAIM
2008	\$2,609	\$3,218
2009	\$775	\$2,940
2010	\$1,214	\$3,062
2011	\$460	\$23,151*
2012	\$659	\$4,454
2013	\$301	\$5,744
2014	\$796	\$47,246*
2015	\$703	\$21,129*
2016	\$31	\$8,919
2017	\$537	\$4,937

Source: Department of Revenue

* Oversight confirmed with the Department of Revenue that these payments were verified and accurate based on the circumstances of the claimant.

Oversight reviewed the Missouri Law Enforcement Officer Memorial and the Missouri Fire Association Memorial which shows the number of Public Safety Officers that died in the line of duty in each of the following calendar years reported to the memorials:

CALENDER YEAR	NUMBER OF MO LAW ENFORCEMENT OFFICERS KILLED	BREAKDOWN OF LOCAL OR STATE OFFICERS	NUMBER OF MO FIRE FIGHTERS KILLED	BREAKDOWN OF LOCAL OR STATE FIRE PERSONNEL
2007	7	Locals	0	
2008	7	Locals	7	Locals
2009	3	2-Locals, 1 MHP	3	Locals
2010	7	6- Locals, 1 MHP	2	Locals
2011	6	4- Locals, 1 MHP, 1 DOC,	3	Locals
2012	1	Locals	3	Locals
2013	2	Locals	3	Locals
2014	2	Locals	2	Locals
2015	5	4- Locals, 1 MHP	4	Locals
2016	2	Locals	2	Locals
2017	2	Locals	N/A	
2018	2 as of printing	Locals	N/A	

Source: Memorial websites

According to their website, the Officer Down Memorial Page, Inc. (ODMP) “is a non-profit organization dedicated to honoring America's fallen law enforcement heroes. More than 22,000 officers have made the ultimate sacrifice in the United States since 1791, and it is with great honor that the ODMP preserves their memories within its pages.” Since 1791, there have been 671 total deaths in Missouri.

The Department of Public Safety states there are currently in Missouri:

- 14,865 Commissioned Peace Officers
- 2,059 Reserves - have full authority but work less than 30 hours/week
- 7,636 individuals who are licensed but not working

The Department of Corrections state they believe the term “correctional employee” would include all staff of the DOC. They have 11,233 FTE budgeted for FY 2019. Additionally, two of their employees have died in the line of duty since this program began.

The Missouri Highway Patrol has 1,243 FTE that could be eligible for this benefit. Four of their employees have died in the line of duty since this program began.

The Department of Natural Resources assume they have 45 FTE that could be eligible for this benefit. No park rangers have died in the line of duty.

The Missouri Capitol Police assume they have 34 FTE that could be eligible for this benefit. They have not had any lose their life in the line of duty since the program began.

The Department of Conservation has 200 POST-certified agents and none have lost their life in the line of duty since the program began.

The Division of Fire Safety assume their staff is not included in the definition of “public safety officer” and therefore none of their staff is eligible.

Oversight also notes that once a surviving spouse claims this credit, they remain eligible for the credit until they remarry. Therefore, redemptions may or may not be expected to grow over time due to claimants' filing status.

Finally, Oversight notes that the Department of Revenue has not established any regulations for this program, and stated that they have not asked for any statutory changes nor do they believe the program would need any changes if it is extended.

Other Benefits Available to Surviving Spouses

Oversight notes that in addition to this tax credit, there are other state and local benefits programs that a surviving spouse and their family may be eligible to receive, such as the following:

The Missouri Workers' Compensation program provides the family or estate of a deceased public safety officer, as defined in the Surviving Spouse Tax Credit program, would be eligible for Workers' Compensation death benefits. The amount of a Workers' Compensation death benefit is calculated using a formula found in Chapter 287 of RSMo. The spouse benefit continues until the surviving spouse remarries, while the benefits to other dependents of a public safety officer continue until the dependents no longer qualify under the Workers' Compensation program law.

The Missouri Line of Duty Compensation program was created in 2009 in Section 287.243, RSMo. In this program, the estate of a law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter who was killed in the line of duty may claim a one-time \$25,000 benefit payment from the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation. The Line of Duty Compensation Fund (0939) receives all its funding from General Revenue.

The Department of Labor and Industrial Relations provided the following numbers for the Line of Duty Compensation program. Currently ten claims are pending the completion of verification paperwork.

FY 2014	10 claims = \$250,000
FY 2015	2 claims = \$50,000
FY 2016	5 claims = \$125,000
FY 2017	6 claims = \$150,000
FY 2018	2 claims = \$50,000
FY 2019	1 claim = \$25,000

The Department of Higher Education provides the Kids Chance and the Public Service Office Survivor Grant separate scholarship opportunities for surviving spouses and their children.

The Kids Chance Scholarship Program established in Section 173.254, RSMo is available to children of public safety officers who were seriously injured or died in the line of duty. The scholarship helps cover some of the cost of tuition at an in-state public university. The scholarship receives its funding from a \$50,000 transfer from the Director of Workers Compensation to the Kids Chance Scholarship Fund (0878). The following shows how much has been paid out recently:

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Total Disbursed	\$11,250	\$9,000	\$8,000	\$9,000	\$8,600
Total Number of Recipients	5	3	2	2	2
Number of Recipients - Death	1	2	1	0	0
Number of Recipients- Disability	4	1	1	2	0

Source: Department of Higher Education

The Department also offers the Public Service Officer Survivor Grant program established in Section 173.260, RSMo that provides tuition assistance to certain public employees and their families if the employee is killed or permanently and totally disabled in the line of duty. This grant helps provide some in-state tuition assistance at a public university in Missouri. The funding for the grant is from General Revenue. The following provides information on the amount of grants provided:

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Total Disbursed	\$84,151	\$73,003	\$77,807	\$121,226	\$106,634
Number of Recipients	17	14	14	21	20
Number of Recipients- Death	11	9	9	14	14
Number of Recipients- Disability	6	5	5	7	6
Number of Recipients- Children	17	14	14	21	20
Number of Recipients- Spouses	0	0	0	0	0

Source: Department of Higher Education

Additionally, some local pension systems for the police and fire officials provide a death benefit and other community groups, such as Backstoppers and the Missouri Peace Officer's Association, provide financial assistance for public safety officers that are killed in the line of duty.

Summary

Possible options available to the Missouri General Assembly include letting the program expire, extending the sunset of the program, or removing the sunset language:

1. First, the General Assembly could allow the program to sunset on December 31, 2019, by taking no further action regarding the program. This would increase General Revenue collections by approximately \$100,000 annually that is claimed under the tax credit.
2. Second, the General Assembly could extend the sunset date by passing legislation. Due to the previous extension of the sunset date, there is no requirement for the number of years that the program can be extended. This would continue the current General Revenue reductions of approximately \$100,000 annually.
3. Third, the General Assembly could remove the sunset language from this program. This would continue the current General Revenue reductions of approximately \$100,000 annually.

Oversight notes the purpose of the program is to provide a benefit for surviving spouses of public safety officers killed in the line of duty. The program is providing that service and the Department of Revenue states they do not need additional changes to continue implementing the program.

Oversight notes there is currently no cap on this program. While the average credit per claim historically between FY 2009 - FY 2017 has been approximately \$2,450, there have been claims as high as \$47,246. Since the tax credit is refundable, Oversight notes the General Assembly may want to consider changing the credit to put in place a per-credit cap to prevent outliers.

Oversight recommends this program be allowed to continue and that the sunset language be removed.