

HOUSE BILL 1389

E4

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By: **Delegate Lehman**

Introduced and read first time: February 9, 2024

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety Officer – Performance of Duties – Death Benefit**

3 FOR the purpose of altering circumstances under which certain individuals are presumed
4 to have died as a direct and proximate result of an injury sustained in the
5 performance of duties for purposes of eligibility for death benefits; and generally
6 relating to death benefits and public safety officers.

7 BY repealing and reenacting, with amendments,
8 Article – Public Safety
9 Section 1–202
10 Annotated Code of Maryland
11 (2022 Replacement Volume and 2023 Supplement)

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

14 **Article – Public Safety**

15 1–202.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) (i) “Child” means a natural or adopted, legitimate or illegitimate
18 child or stepchild of the decedent.

19 (ii) “Child” includes a child or stepchild born posthumously.

20 (3) “Correctional officer” has the meaning stated in § 8–201(e)(1) of the
21 Correctional Services Article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) "Emergency medical services provider" has the meaning stated in §
2 13-516 of the Education Article.

3 (5) "Hazardous material" means any substance regulated as a hazardous
4 material under Title 49 of the Code of Federal Regulations.

5 (6) "Hazardous material response team employee" means an employee of
6 the Department of the Environment or a local government agency who is on call 24 hours
7 a day to provide emergency response to a discharge of oil or a release of hazardous material
8 or other emergency response activity.

9 (7) (i) "Law enforcement officer" has the meaning stated in § 1-101 of
10 this title.

11 (ii) "Law enforcement officer" includes:

12 1. an officer who serves in a probationary status; and

13 2. an officer who serves at the pleasure of the appointing
14 authority of a county or municipal corporation.

15 (8) "Performance of duties" includes, in the case of a volunteer or career
16 firefighter, public safety aviation employee, rescue squad member, or hazardous material
17 response team employee:

18 (i) actively participating in fighting a fire;

19 (ii) going to or from a fire;

20 (iii) performing other duties necessary to the operation or
21 maintenance of the fire company;

22 (iv) actively participating in the ambulance, advanced life support,
23 or rescue work of an advanced life support unit or a fire, ambulance, or rescue company,
24 including going to or from an emergency or rescue;

25 (v) providing emergency or rescue assistance, whether acting alone
26 or at the direction of or with a fire, ambulance, or rescue company or advanced life support
27 unit;

28 (vi) actively participating in flight operations as a crew member in a
29 rotary or fixed wing aircraft; and

30 (vii) providing emergency response to a discharge of oil or a release of
31 hazardous material or other emergency response activity.

1 (9) "Public safety aviation employee" includes a pilot and aviation
2 maintenance technician employed by the State.

3 (10) "Stepchild" means a child of the surviving spouse who was living with
4 or dependent for support on the decedent at the time of the decedent's death.

5 (a-1) For purposes of this section, an individual served in the Afghanistan or Iraq
6 conflict if the individual was a member of the uniformed services of the United States who
7 served in:

8 (1) Afghanistan or contiguous air space, as defined in federal regulations,
9 on or after October 24, 2001, and before a terminal date to be prescribed by the United
10 States Secretary of Defense; or

11 (2) Iraq or contiguous waters or air space, as defined in federal regulations,
12 on or after March 19, 2003, and before a terminal date to be prescribed by the United States
13 Secretary of Defense.

14 (b) (1) Except as provided in subsections [(f)(4)] **(G)(3)** and [(j)] **(K)** of this
15 section and subject to [subsection] **SUBSECTIONS (c) AND (F)** of this section and
16 paragraphs (2) and (3) of this subsection, a death benefit of \$125,000 shall be paid to the
17 surviving spouse, child, dependent parent, or estate of each of the following individuals who
18 is killed or dies in the performance of duties on or after January 1, 2006:

19 (i) a law enforcement officer;

20 (ii) a correctional officer;

21 (iii) a volunteer or career firefighter or rescue squad member;

22 (iv) a sworn member of the office of State Fire Marshal;

23 (v) a public safety aviation employee;

24 (vi) a Maryland resident who was a member of the uniformed
25 services of the United States serving in the Afghanistan or Iraq conflict; or

26 (vii) a hazardous material response team employee.

27 (2) For fiscal year 2009, and for each following fiscal year, the death benefit
28 provided in the prior fiscal year shall be adjusted by any change in the calendar year
29 preceding the fiscal year in the Consumer Price Index (All Urban Consumers – United
30 States City Average – All Items), as published by the United States Bureau of Labor
31 Statistics.

1 (3) (i) Except as provided in subparagraphs (ii) and (iii) of this
2 paragraph, an application for a death benefit under this subsection shall be submitted
3 within 3 years after the death of the decedent.

4 (ii) If the decedent died before June 1, 2010, an application for a
5 death benefit under this subsection shall be submitted on or before May 31, 2013.

6 (iii) An application for a death benefit under subsection [(f)(4)] **(G)(3)**
7 of this section shall be submitted within 3 years of the finding of evidence that the death of
8 the decedent resulted from an act committed against the decedent by another due to the
9 nature and performance of the decedent's duties.

10 (4) A death benefit under this subsection is in addition to:

11 (i) any workers' compensation benefits;

12 (ii) the proceeds of any form of life insurance, regardless of who paid
13 the premiums on the insurance; and

14 (iii) the funeral benefit provided under subsection (d) of this section.

15 (5) On receiving notice of the death of an individual described in paragraph
16 (1) of this subsection, the Department of Public Safety and Correctional Services shall take
17 reasonable steps to notify potential recipients of the potential death benefits available
18 under this subsection:

19 (i) when the Department receives notice of the death; and

20 (ii) again 1 year after the date of the death, if an application for a
21 death benefit with respect to the death of the decedent has not been submitted.

22 (c) (1) Whenever an individual identified in subsection (b)(1)(i) through (v)
23 and (vii) of this section dies as the direct and proximate result of a heart attack or stroke,
24 the individual shall be presumed to have died as a direct and proximate result of a personal
25 injury sustained in the performance of duties if:

26 (i) the individual, while on duty:

27 1. engaged in a situation that involved nonroutine stressful
28 or strenuous physical law enforcement, fire suppression, rescue, response to a discharge of
29 oil or a release of hazardous material, emergency medical services, prison security, disaster
30 relief, flight operations as a crew member in a rotary or fixed wing aircraft, or other
31 emergency response activity; or

32 2. participated in a training exercise that involved
33 nonroutine stressful or strenuous physical activity;

1 (ii) the individual died as a result of a heart attack or stroke that the
2 individual suffered:

3 1. while engaging or participating in an activity described in
4 item (i)1 or 2 of this paragraph;

5 2. while still on duty after engaging or participating in an
6 activity described in item (i)1 or 2 of this paragraph; or

7 3. not later than 24 hours after engaging or participating in
8 an activity described in item (i)1 or 2 of this paragraph; and

9 (iii) the presumption is not overcome by competent medical evidence
10 to the contrary.

11 (2) For purposes of paragraph (1) of this subsection, nonroutine stressful
12 or strenuous physical activity does not include actions of a clerical, administrative, or
13 nonmanual nature.

14 (d) (1) Except as provided in subsection [(j)] (K) of this section, reasonable
15 funeral expenses, not exceeding \$10,000, shall be paid to the surviving spouse, child,
16 parent, or estate of each of the following individuals who is killed or dies in the performance
17 of duties:

18 (i) a law enforcement officer;

19 (ii) a correctional officer;

20 (iii) a volunteer or career firefighter or rescue squad member;

21 (iv) a public safety aviation employee;

22 (v) a sworn member of the office of State Fire Marshal; or

23 (vi) a hazardous material response team employee.

24 (2) The funeral benefit under this subsection shall be reduced by the
25 amount of any related workers' compensation benefits paid under § 9-689 of the Labor and
26 Employment Article.

27 (e) (1) The Secretary of State shall issue a State flag to the family of a
28 firefighter, policeman, member of the military, sworn member of the office of State Fire
29 Marshal, or professional or volunteer emergency medical services provider who is killed in
30 the performance of duty.

1 (2) (i) Except when the deceased is a member of the military, the flag
2 shall be presented to the family of the deceased by the State Senator of the legislative
3 district in which the deceased resided or served.

4 (ii) When the deceased is a member of the military, the flag shall be
5 presented to the family of the deceased by the Department of Veterans Affairs.

6 **(F) AN INDIVIDUAL IDENTIFIED IN SUBSECTION (B)(1)(I) THROUGH (VII) OF**
7 **THIS SECTION SHALL BE PRESUMED TO HAVE DIED AS A DIRECT AND PROXIMATE**
8 **RESULT OF AN INJURY SUSTAINED IN THE PERFORMANCE OF DUTIES IF:**

9 **(1) (I) THE INDIVIDUAL WAS DIAGNOSED BY A LICENSED MEDICAL**
10 **OR MENTAL HEALTH PROFESSIONAL WITH POST-TRAUMATIC STRESS DISORDER,**
11 **ACUTE STRESS DISORDER, OR A TRAUMA- AND STRESS-RELATED DISORDER; AND**

12 **(II) THE DIAGNOSIS UNDER ITEM (I) OF THIS ITEM RESULTED**
13 **DUE TO THE NATURE AND PERFORMANCE OF THE INDIVIDUAL'S DUTIES; AND**

14 **(2) THE INDIVIDUAL'S DEATH OCCURS BY SUICIDE.**

15 **[(f)] (G)** On a case-by-case basis, the Secretary of Public Safety and
16 Correctional Services may award a death benefit under this section if:

17 (1) the decedent's death was caused by the decedent's intentional
18 misconduct;

19 (2) [the decedent intended to bring about the decedent's death;

20 (3)] the decedent's voluntary intoxication was the proximate cause of the
21 decedent's death; or

22 **[(4)] (3)** additional evidence arises that the decedent's death resulted
23 from an act committed against the decedent by another due to the nature and performance
24 of the decedent's duties.

25 **[(g)] (H)** If the Secretary of Public Safety and Correctional Services determines
26 that the benefits under this section are to be paid, the benefits shall be paid:

27 (1) to the decedent's surviving spouse;

28 (2) if no individual is eligible under item (1) of this subsection, to each
29 surviving child of the decedent in equal shares;

30 (3) (i) for a death benefit under subsection (b) of this section, if no
31 individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving
32 parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

1 (ii) for any other benefit under this section, if no individual is eligible
2 under item (1) or (2) of this subsection, to the decedent's surviving parent; or

3 (4) if no individual is eligible under item (1), (2), or (3) of this subsection,
4 to the decedent's estate.

5 **[(h)] (I)** Payments under this section shall be made out of money that the
6 Governor includes for that purpose in the State budget.

7 **[(i)] (J)** A person aggrieved by a final decision of the Secretary of Public Safety
8 and Correctional Services under this section may seek judicial review as provided for review
9 of final decisions in Title 10, Subtitle 2 of the State Government Article.

10 **[(j)] (K)** (1) This subsection applies only to a death benefit under subsection
11 (b) of this section or a funeral benefit under subsection (d) of this section payable on behalf
12 of a hazardous material response team employee employed by a local government agency.

13 (2) (i) A death benefit or funeral benefit may only be paid if the local
14 government agency that employs the hazardous material response team employee
15 maintains in reserve the amount needed to pay for one death benefit and one funeral
16 expense for a hazardous material response team employee.

17 (ii) If the Secretary of Public Safety and Correctional Services
18 determines that a death benefit or funeral benefit is to be paid, the local government agency
19 that employed the hazardous material response team employee shall pay to the
20 Department of Public Safety and Correctional Services the funds required to pay the
21 benefit.

22 (3) (i) A local government agency is not required to place funds in
23 reserve under paragraph (2)(i) of this subsection.

24 (ii) If a local government agency does not place funds in reserve
25 under paragraph (2)(i) of this subsection, a death benefit or funeral benefit as provided for
26 under this subsection may not be paid.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2024.