

HOUSE BILL 89

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1998 Regular Session
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(PRE-FILED)

By: **Chairman, Appropriations Committee (Departmental - Public Safety
and Correctional Services)**

Requested: October 20, 1997

Introduced and read first time: January 14, 1998

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Death Benefits and Funeral Expenses - Public Safety Personnel**

3 FOR the purpose of clarifying that certain death and funeral benefits shall be paid to
4 surviving family members of State and county employees who are responsible
5 for the care, custody, control, or supervision of persons placed under community
6 supervision.

7 BY repealing and reenacting, with amendments,
8 Article 41 - Governor - Executive and Administrative Departments
9 Section 4-1002
10 Annotated Code of Maryland
11 (1997 Replacement Volume and 1997 Supplement)

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

14 **Article 41 - Governor - Executive and Administrative Departments**

15 4-1002.

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

17 (2) "Law enforcement officer" means:

18 (i) A law enforcement officer as defined in Article 27, § 727 of the
19 Code;

20 (ii) An officer serving in a probationary status;

21 (iii) An officer who serves at the pleasure of the appointing
22 authority of a county, incorporated municipality, or Baltimore City;

23 (iv) The security force of the Department of General Services;

1 (v) The special police of the Department of Health and Mental
2 Hygiene who are commissioned police officers; and

3 (vi) A sheriff or deputy sheriff of Baltimore City.

4 (3) "Children" means any natural, illegitimate, adopted, or posthumous
5 children or stepchildren of the decedent who are:

6 (i) Eighteen years of age or under; or

7 (ii) Over eighteen years of age and incapable of self-support
8 because of physical or mental disability.

9 (4) "Correctional officer" means a member of a correctional unit who is
10 responsible for the investigation, care, custody, control, or supervision of persons
11 confined to places of incarceration OR PLACED UNDER COMMUNITY SUPERVISION.

12 (5) "Correctional unit" means any State or county governmental
13 organization which has by statute, ordinance, or court order the responsibility for the
14 care, control, and supervision of inmates in correctional [institutions for]
15 INSTITUTIONS, FOR persons declared to be parolees or for persons placed on probation
16 or suspension of sentence.

17 (6) "Stepchild" means a child of the surviving spouse who was living with
18 or dependent for support on the decedent at the time of his death.

19 (7) "State Fire Marshal" means any sworn member of the Maryland
20 State Fire Marshal's Office.

21 (b) (1) A death benefit shall be paid to the surviving spouse, children, or
22 dependent parents of any law enforcement officer of the State or of any political
23 subdivision of the State, any sheriff or deputy sheriff, any correctional officer, any
24 volunteer or professional firefighter or rescue squad member or any State Fire
25 Marshal, who is killed or dies in the performance of duties on or after July 1, 1989.
26 The amount of the benefit shall be \$50,000.

27 (2) This death benefit shall be in addition to:

28 (i) Any workers' compensation benefits;

29 (ii) The proceeds of any form of life insurance, regardless of who
30 paid the premiums on the insurance; or

31 (iii) Funeral benefit provided under paragraph (3) of this
32 subsection.

33 (3) (i) Reasonable funeral expenses, not to exceed \$10,000, shall be
34 paid to the surviving spouse, children, or dependent parents of a law enforcement
35 officer, correctional officer, volunteer or professional firefighter or rescue squad
36 member, or State Fire Marshal who is killed or dies in the line of duty.

1 (ii) The funeral benefit provided by this paragraph shall be reduced
2 by the amount of any related workers' compensation benefits paid under the
3 provisions of § 9-689 of the Labor and Employment Article.

4 (c) The payments for which this section provides shall be made out of funds
5 which the Governor may appropriate for that purpose in the State budget.

6 (d) The Secretary of Public Safety and Correctional Services may award a
7 death benefit under this section under any of the following circumstances provided
8 the decision is made on a case-by-case basis:

9 (1) If the decedent's death was caused by the decedent's intentional
10 misconduct;

11 (2) If the decedent intended to bring about the decedent's death; or

12 (3) If the decedent's voluntary intoxication was the proximate cause of
13 the decedent's death.

14 (e) Upon a determination by the Secretary of the Department of Public Safety
15 and Correctional Services that the benefits provided for in this section are to be paid,
16 payment shall be made as follows:

17 (1) To the surviving spouse;

18 (2) If there is no surviving spouse, to the surviving child or children of
19 the decedent in equal shares; or

20 (3) If there is no surviving spouse, or children, to the surviving parent or
21 parents, if the parent was a dependent as defined in § 152 of the Internal Revenue
22 Code.

23 (f) (1) Any person aggrieved by a final decision of the Secretary under this
24 section may apply for judicial review.

25 (2) The appeal shall be made as provided for review of final decisions in
26 Title 10, Subtitle 2 of the State Government Article of the Code.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 1998.