

HOUSE BILL 268

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P4

1998 Regular Session
8lr6189
CF 8lr6188

By: **The Speaker (Administration) and Delegates Conway, Malone, Linton,
Bozman, Moe, Guns, W. Baker, Rudolph, Slade, Wood, V. Mitchell, Stull,
and Owings**

Introduced and read first time: January 28, 1998

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety and Emergency Services Personnel - Death Benefits**

3 FOR the purpose of requiring the State to pay a certain amount of death benefits and
4 funeral benefits if a firefighter or rescue squad member is killed or dies under
5 certain circumstances; requiring certain death benefits and funeral benefits to
6 be paid to the estate of certain public safety and emergency services personnel
7 under certain circumstances; defining certain terms; making stylistic changes;
8 providing for the application of this Act; and generally relating to death benefits
9 for public safety and emergency services personnel.

10 BY repealing and reenacting, with amendments,
11 Article 41 - Governor - Executive and Administrative Departments
12 Section 4-1002
13 Annotated Code of Maryland
14 (1997 Replacement Volume and 1997 Supplement)

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

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

18 4-1002.

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

20 (2) "Law enforcement officer" means:

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

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

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

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

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

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

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

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

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

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

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

17 (6) "PERFORMANCE OF DUTIES" INCLUDES, IN THE CASE OF A
18 VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD MEMBER:

19 (I) ACTIVELY PARTICIPATING IN FIGHTING A FIRE OR WHILE
20 GOING TO OR FROM A FIRE;

21 (II) PERFORMING OTHER DUTIES NECESSARY TO THE OPERATION
22 OR MAINTENANCE OF THE FIRE COMPANY;

23 (III) ACTIVELY PARTICIPATING IN THE AMBULANCE, ADVANCED
24 LIFE SUPPORT, OR RESCUE WORK OF A FIRE, AMBULANCE, OR RESCUE COMPANY OR
25 ADVANCED LIFE SUPPORT UNIT; AND

26 (IV) PROVIDING EMERGENCY OR RESCUE ASSISTANCE, WHETHER
27 ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE, OR RESCUE
28 COMPANY OR ADVANCED LIFE SUPPORT UNIT.

29 [(6)] (7) "Stepchild" means a child of the surviving spouse who was
30 living with or dependent for support on the decedent at the time of his death.

31 [(7)] (8) "State Fire Marshal" means any sworn member of the Maryland
32 State Fire Marshal's Office.

33 (b) (1) A death benefit shall be paid to the surviving spouse, children, [or]
34 dependent parents, OR ESTATE of any law enforcement officer of the State or of any
35 political subdivision of the State, any sheriff or deputy sheriff, any correctional officer,
36 any volunteer or [professional] CAREER firefighter or rescue squad member or any

1 State Fire Marshal, who is killed or dies in the performance of duties on or after July
2 1, 1989. The amount of the benefit shall be \$50,000.

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

4 (i) Any workers' compensation benefits;

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

7 (iii) Funeral benefit provided under paragraph (3) of this
8 subsection.

9 (3) (i) Reasonable funeral expenses, not to exceed \$10,000, shall be
10 paid to the surviving spouse, children, [or] dependent parents, OR ESTATE of a law
11 enforcement officer, correctional officer, volunteer or [professional] CAREER
12 firefighter or rescue squad member, or State Fire Marshal who is killed or dies in the
13 [line of duty] PERFORMANCE OF DUTIES.

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

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

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

22 (1) If the decedent's death was caused by the decedent's intentional
23 misconduct;

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

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

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

30 (1) To the surviving spouse;

31 (2) If there is no surviving spouse, to the surviving child or children of
32 the decedent in equal shares; [or]

33 (3) If there is no surviving spouse, or children, to the surviving parent or
34 parents, if the parent was a dependent as defined in § 152 of the Internal Revenue
35 Code; OR

1 (4) IF THERE IS NO SURVIVING SPOUSE, CHILDREN, OR DEPENDENT
2 PARENTS, TO THE ESTATE OF THE DECEDENT.

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

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect July 1, 1998 and shall be applicable to any law enforcement officer, sheriff or
9 deputy sheriff, correctional officer, volunteer or career firefighter or rescue squad
10 member, or State Fire Marshal who is killed or dies in the performance of duties on or
11 after January 1, 1996.