

SENATE BILL 173

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P4

1998 Regular Session
(8lr6188)

ENROLLED BILL
-- Finance/Appropriations --

Introduced by **The President (Administration) and Senators Fry, Middleton,
Derr, Dorman, and Boozer**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

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 *certain children, parents, or* the estate of certain public safety and
7 emergency services personnel under certain circumstances; defining certain
8 terms; requiring a certain death benefit to be adjusted to reflect a certain
9 change in a certain index; altering a certain definition; making stylistic changes;
10 providing for the application of this Act; and generally relating to death benefits
11 for public safety and emergency services personnel.

12 BY repealing and reenacting, with amendments,
13 Article 41 - Governor - Executive and Administrative Departments
14 Section 4-1002
15 Annotated Code of Maryland

1 (1997 Replacement Volume and 1997 Supplement)

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

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

5 4-1002.

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

7 (2) "Law enforcement officer" means:

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

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

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

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

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

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

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

19 (i) ~~Eighteen years of age or under; or~~

20 (ii) ~~Over eighteen years of age and incapable of self-support~~
21 ~~because of physical or mental disability.~~

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

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

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

31 (I) ACTIVELY PARTICIPATING IN FIGHTING A FIRE OR WHILE
32 GOING TO OR FROM A FIRE;

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

3 (III) ACTIVELY PARTICIPATING IN THE AMBULANCE, ADVANCED
4 LIFE SUPPORT, OR RESCUE WORK OF A FIRE, AMBULANCE, OR RESCUE COMPANY OR
5 ADVANCED LIFE SUPPORT UNIT, INCLUDING GOING TO OR FROM THE SCENE OF AN
6 EMERGENCY OR RESCUE; AND

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

10 [(6)] (7) "Stepchild" means a child of the surviving spouse who was
11 living with or dependent for support on the decedent at the time of his death.

12 [(7)] (8) "State Fire Marshal" means any sworn member of the Maryland
13 State Fire Marshal's Office.

14 (b) (1) (I) A death benefit shall be paid to the surviving spouse, children,
15 [or] dependent parents, OR ESTATE of any law enforcement officer of the State or of
16 any political subdivision of the State, any sheriff or deputy sheriff, any correctional
17 officer, any volunteer or [professional] CAREER firefighter or rescue squad member
18 or any State Fire Marshal, who is killed or dies in the performance of duties on or
19 after July 1, 1989.

20 (II) The amount of the benefit shall be \$50,000.

21 (III) FOR FISCAL YEAR 1999 AND EACH FISCAL YEAR THEREAFTER,
22 THE DEATH BENEFIT PROVIDED IN THE PRIOR FISCAL YEAR SHALL BE ADJUSTED BY
23 THE CHANGE FOR THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN THE
24 CONSUMER PRICE INDEX (ALL URBAN CUSTOMERS - UNITED STATES CITY AVERAGE
25 - ALL ITEMS) AS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.

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

27 (i) Any workers' compensation benefits;

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

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

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

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) ~~(I) IN THE CASE OF A DEATH BENEFIT UNDER SUBSECTION (B)~~
21 ~~OF THIS SECTION, IF~~ there is no surviving spouse, or children, to the surviving parent
22 or parents, if the parent was a dependent as defined in § 152 of the Internal Revenue
23 Code; OR

24 ~~(II) IN THE CASE OF ANY OTHER PAYMENT UNDER THIS SECTION,~~
25 ~~IF THERE IS NO SURVIVING SPOUSE OR CHILDREN, TO THE SURVIVING PARENT OR~~
26 ~~PARENTS; OR~~

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

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect July 1, 1998 and shall be applicable to any law enforcement officer, sheriff or
3 deputy sheriff, correctional officer, volunteer or career firefighter or rescue squad
4 member, or State Fire Marshal who is killed or dies in the performance of duties on or
5 after ~~January 1, 1996~~ September 1, 1995.