

SENATE BILL 173

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P4

1998 Regular Session
8lr6188
CF 8lr6189

By: **The President (Administration) and Senators Fry, Middleton, Derr,
Dorman, and Boozer**

Introduced and read first time: January 23, 1998
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: February 17, 1998

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

11 BY repealing and reenacting, with amendments,
12 Article 41 - Governor - Executive and Administrative Departments
13 Section 4-1002
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 1997 Supplement)

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

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

19 4-1002.

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

21 (2) "Law enforcement officer" means:

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

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

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

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

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

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

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

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

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

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

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

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

24 (I) ACTIVELY PARTICIPATING IN FIGHTING A FIRE OR WHILE
25 GOING TO OR FROM A FIRE;

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

28 (III) ACTIVELY PARTICIPATING IN THE AMBULANCE, ADVANCED
29 LIFE SUPPORT, OR RESCUE WORK OF A FIRE, AMBULANCE, OR RESCUE COMPANY OR
30 ADVANCED LIFE SUPPORT UNIT, INCLUDING GOING TO OR FROM THE SCENE OF AN
31 EMERGENCY OR RESCUE; AND

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

1 [(6)] (7) "Stepchild" means a child of the surviving spouse who was
2 living with or dependent for support on the decedent at the time of his death.

3 [(7)] (8) "State Fire Marshal" means any sworn member of the Maryland
4 State Fire Marshal's Office.

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

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

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

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

18 (i) Any workers' compensation benefits;

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

21 (iii) Funeral benefit provided under paragraph (3) of this
22 subsection.

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

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

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

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

36 (1) If the decedent's death was caused by the decedent's intentional
37 misconduct;

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

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

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

7 (1) To the surviving spouse;

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

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

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

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

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

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