## **HOUSE BILL 292** *EMERGENCY BILL*

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Section 32A

Annotated Code of Maryland

2002 Regular Session (2lr0157)

## ENROLLED BILL

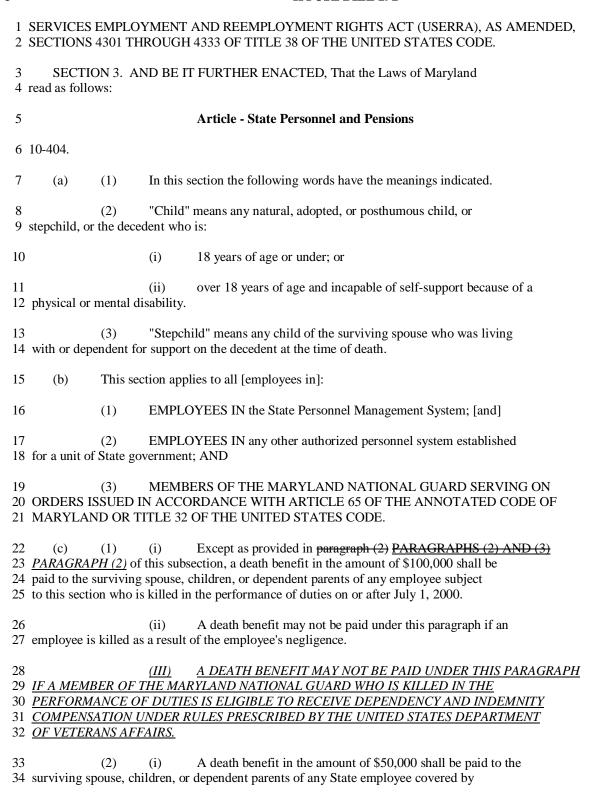
-- Appropriations/Education, Health, and Environmental Affairs --

# Introduced by The Speaker (Administration) and Delegates Rudolph and Hutchins

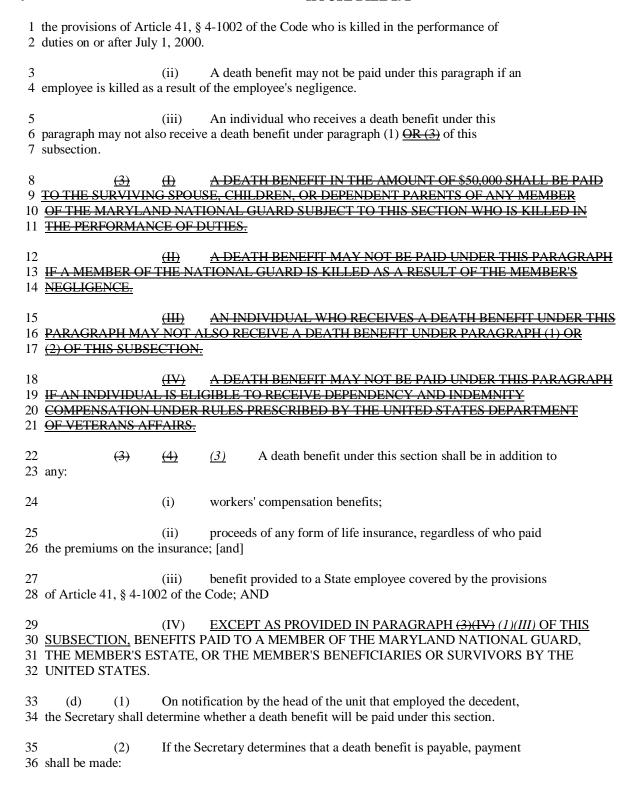
	Read and Examined by Proofreaders:	
		Proofreader.
	I with the Great Seal and presented to the Governor, for his approval this day of at o'clock,M.	Proofreader.
		Speaker.
	CHAPTER	
1 Al	N ACT concerning	
2	Maryland National Guard Readiness Act	
3 FO 4 5 6 7 8 9 10 11	OR the purpose of granting certain members of the Maryland National Guard the same rights and protections as those granted under certain federal laws with regard to certain reemployment rights and civil protections; providing for a certain death benefit for certain members of the Maryland National Guard who are killed in the performance of their duties on or after a certain date; providing for the application of certain provisions of this Act; making certain provisions of this Act severable; making this Act an emergency measure; and generally relating to the rights, protections, and benefits of members of the Maryland National Guard.	
12 B 13	BY repealing Article 65 - Militia	

- 1 (1998 Replacement Volume and 2001 Supplement)
- 2 BY adding to
- 3 Article 65 Militia
- 4 Section 32A
- 5 Annotated Code of Maryland
- 6 (1998 Replacement Volume and 2001 Supplement)
- 7 BY repealing and reenacting, with amendments,
- 8 Article State Personnel and Pensions
- 9 Section 10-404
- 10 Annotated Code of Maryland
- 11 (1997 Replacement Volume and 2001 Supplement)
- 12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 13 MARYLAND, That Section(s) 32A of Article 65 Militia of the Annotated Code of
- 14 Maryland be repealed.
- 15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
- 16 read as follows:
- 17 Article 65 Militia
- 18 32A.
- 19 (A) (1) THE FOLLOWING PROVISIONS OF FEDERAL LAW SHALL BE ADOPTED
- 20 AS STATE LAW AND APPLIED TO MEMBERS OF THE MARYLAND ARMY NATIONAL
- 21 GUARD AND THE MARYLAND AIR NATIONAL GUARD.
- 22 (2) THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 (SSCRA), AS
- 23 AMENDED, SECTIONS 501 THROUGH 593 OF TITLE 50 OF THE UNITED STATES CODE,
- 24 SHALL APPLY ONLY WHEN MEMBERS OF THE MARYLAND ARMY NATIONAL GUARD
- 25 AND THE MARYLAND AIR NATIONAL GUARD ARE ORDERED TO MILITARY DUTY
- 26 UNDER THIS ARTICLE, OR UNDER TITLE 10 OR TITLE 32 OF THE UNITED STATES
- 27 CODE, FOR A PERIOD OF 14 CONSECUTIVE DAYS OR LONGER.
- 28 (3) THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT
- 29 RIGHTS ACT (USERRA), AS AMENDED, SECTIONS 4301 THROUGH 4333 OF TITLE 38 OF
- 30 THE UNITED STATES CODE, SHALL APPLY WHEN MEMBERS OF THE MARYLAND ARMY
- 31 NATIONAL GUARD AND THE MARYLAND AIR NATIONAL GUARD ARE ORDERED TO
- 32 MILITARY DUTY UNDER THIS ARTICLE, OR UNDER TITLE 10 OR TITLE 32 OF THE
- 33 UNITED STATES CODE, FOR ANY PERIOD OF TIME.
- 34 (B) ALL RIGHTS GRANTED TO MEMBERS OF THE MARYLAND NATIONAL
- 35 GUARD BY THIS SECTION SHALL BE IN ADDITION TO, AND HELD DISTINCT FROM, ANY
- 36 AND ALL RIGHTS GRANTED TO THEM BY FEDERAL LAW, INCLUDING THE SOLDIERS'
- 37 AND SAILORS' CIVIL RELIEF ACT OF 1940 (SSCRA), AS AMENDED, SECTIONS 501
- 38 THROUGH 593 OF TITLE 50 OF THE UNITED STATES CODE AND THE UNIFORMED

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in

1			(i)	to the surviving spouse;			
2 3	equal shares	; or	(ii)	if there is no surviving spouse, to the surviving children, in			
	(iii) if there is no surviving spouse or children, to the surviving parent or parents, if the parent was a dependent as defined in § 152 of the Internal Revenue Code.						
7 8	(e) A death benefit under this section shall be paid out of funds which the Governor may appropriate for that purpose in the State budget.						
9	(f)	(f) A decision of the Secretary under this section:					
10		(1)	is the fir	nal administrative decision; and			
11 12	Governmen	(2) t Article.	is not su	abject to appeal under Title 10, Subtitle 2 of the State			
	SECTION 4. AND BE IT FURTHER ENACTED, That the provisions of Section 3 of this Act shall be construed retroactively and applied to any member of the Maryland National Guard who died on or after September 11, 2001.						
18 19 20	SECTION 5. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.						
24 25	SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take  seffect July 1, 2002 is an emergency measure, is necessary for the immediate  preservation of the public health or safety, has been passed by a yea and nay vote  supported by three-fifths of all the members elected to each of the two Houses of the  General Assembly, and shall take effect from the date it is enacted.						