

**ENROLLED BILL**

-- Budget and Taxation/Economic Matters --

Introduced by **Senators Della, DeGrange, Giannetti, and Jimeno**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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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 Employees Killed in Performance of Duties - Death Benefits -**  
3 **Heart Attack or Stroke**

4 FOR the purpose of ~~altering the amount of the death benefit for certain individuals~~  
5 ~~who are killed or die in the performance of duties~~; providing that an a certain  
6 individual who dies from a heart attack or stroke shall be presumed to have died  
7 in the performance of duties under certain circumstances; clarifying a certain  
8 term; and generally relating to death benefits for employees killed in the  
9 performance of duties.

10 BY repealing and reenacting, with amendments,  
11 Article - Public Safety  
12 Section 1-202  
13 Annotated Code of Maryland  
14 (2003 Volume and 2004 Supplement)

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

3 **Article - Public Safety**

4 1-202.

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

6 (2) (i) "Child" means a natural or adopted, legitimate or illegitimate  
7 child or stepchild of the decedent.

8 (ii) "Child" includes a child or stepchild born posthumously.

9 (3) "Correctional officer" has the meaning stated in § 8-201(e)(1) of the  
10 Correctional Services Article.

11 (4) (i) "Law enforcement officer" has the meaning stated in § 3-101 of  
12 this article.

13 (ii) "Law enforcement officer" includes:

14 1. an officer who serves in a probationary status; and

15 2. an officer who serves at the pleasure of the appointing  
16 authority of a county or municipal corporation.

17 (5) "Performance of duties" includes, in the case of a volunteer or career  
18 firefighter or rescue squad member:

19 (i) actively participating in fighting a fire;

20 (ii) going to or from a fire;

21 (iii) performing other duties necessary to the operation or  
22 maintenance of the fire company;

23 (iv) actively participating in the ambulance, advanced life support,  
24 or rescue work of an advanced life support unit or a fire, ambulance, or rescue  
25 company, including going to or from an emergency or rescue; and

26 (v) providing emergency or rescue assistance, whether acting alone  
27 or at the direction of or with a fire, ambulance, or rescue company or advanced life  
28 support unit.

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

31 (b) (1) Subject to SUBSECTION (C) OF THIS SECTION AND paragraph (2) of  
32 this subsection, a death benefit of {\$50,000} ~~125,000~~ shall be paid to the surviving

1 spouse, child, dependent parent, or estate of each of the following individuals who is  
2 killed or dies in the performance of duties on or after July 1, 1989:

- 3 (i) a law enforcement officer;
- 4 (ii) a correctional officer;
- 5 (iii) a volunteer or career firefighter or rescue squad member; or
- 6 (iv) a sworn member of the office of State Fire Marshal.

7 (2) For fiscal year 1999, and for each following fiscal year, the death  
8 benefit provided in the prior fiscal year shall be adjusted by any change in the  
9 calendar year preceding the fiscal year in the consumer price index (all urban  
10 customers - United States city average - all items), as published by the United States  
11 Bureau of Labor Statistics.

12 (3) A death benefit under this subsection is in addition to:

- 13 (i) any workers' compensation benefits;
- 14 (ii) the proceeds of any form of life insurance, regardless of who  
15 paid the premiums on the insurance; and
- 16 (iii) the funeral benefit provided under subsection [(c)] (D) of this  
17 section.

18 (c) (1) WHENEVER AN INDIVIDUAL IDENTIFIED IN SUBSECTION (B)(1)(I)  
19 THROUGH (IV) OF THIS SECTION DIES AS THE DIRECT AND PROXIMATE RESULT OF A  
20 HEART ATTACK OR STROKE, THE INDIVIDUAL SHALL BE PRESUMED TO HAVE DIED  
21 AS A DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED IN THE  
22 PERFORMANCE OF DUTIES IF:

23 (I) THE INDIVIDUAL, WHILE ON DUTY:

24 1. ENGAGED IN A SITUATION THAT INVOLVED NONROUTINE  
25 STRESSFUL OR STRENUOUS PHYSICAL LAW ENFORCEMENT, FIRE SUPPRESSION,  
26 RESCUE, HAZARDOUS MATERIAL RESPONSE, EMERGENCY MEDICAL SERVICES,  
27 PRISON SECURITY, DISASTER RELIEF, OR OTHER EMERGENCY RESPONSE ACTIVITY;  
28 OR

29 2. PARTICIPATED IN A TRAINING EXERCISE THAT INVOLVED  
30 NONROUTINE STRESSFUL OR STRENUOUS PHYSICAL ACTIVITY;

31 (II) THE INDIVIDUAL DIED AS A RESULT OF A HEART ATTACK OR  
32 STROKE THAT THE INDIVIDUAL SUFFERED:

33 1. WHILE ENGAGING OR PARTICIPATING IN AN ACTIVITY  
34 DESCRIBED IN ITEM (I)1 OR 2 OF THIS PARAGRAPH;



1       [(f)]     (G)     If the Secretary of Public Safety and Correctional Services  
2 determines that the benefits under this section are to be paid, the benefits shall be  
3 paid:

4               (1)     to the decedent's surviving spouse;

5               (2)     if no individual is eligible under item (1) of this subsection, to each  
6 surviving child of the decedent in equal shares;

7               (3)     (i)     for a death benefit under subsection (b) of this section, if no  
8 individual is eligible under item (1) or (2) of this subsection, to the decedent's  
9 surviving parent, if the parent was a dependent as defined in § 152 of the Internal  
10 Revenue Code; or

11               (ii)    for any other benefit under this section, if no individual is  
12 eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

13               (4)     if no individual is eligible under item (1), (2), or (3) of this subsection,  
14 to the decedent's estate.

15       [(g)]     (H)     Payments under this section shall be made out of money that the  
16 Governor includes for that purpose in the State budget.

17       [(h)]     (I)     A person aggrieved by a final decision of the Secretary of Public  
18 Safety and Correctional Services under this section may seek judicial review as  
19 provided for review of final decisions in Title 10, Subtitle 2 of the State Government  
20 Article.

21       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2005.