
By: **Senators Della, DeGrange, Giannetti, and Jimeno**

Introduced and read first time: February 11, 2005

Assigned to: Rules

A BILL ENTITLED

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 individual
6 who dies from a heart attack or stroke shall be presumed to have died in the
7 performance of duties under certain circumstances; clarifying a certain term;
8 and generally relating to death benefits for employees killed in the performance
9 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)

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

17 **Article - Public Safety**

18 1-202.

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

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

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

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

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

- 1 (ii) "Law enforcement officer" includes:
- 2 1. an officer who serves in a probationary status; and
- 3 2. an officer who serves at the pleasure of the appointing
- 4 authority of a county or municipal corporation.

5 (5) "Performance of duties" includes, in the case of a volunteer or career

6 firefighter or rescue squad member:

- 7 (i) actively participating in fighting a fire;
- 8 (ii) going to or from a fire;
- 9 (iii) performing other duties necessary to the operation or
- 10 maintenance of the fire company;
- 11 (iv) actively participating in the ambulance, advanced life support,
- 12 or rescue work of an advanced life support unit or a fire, ambulance, or rescue
- 13 company, including going to or from an emergency or rescue; and
- 14 (v) providing emergency or rescue assistance, whether acting alone
- 15 or at the direction of or with a fire, ambulance, or rescue company or advanced life
- 16 support unit.

17 (6) "Stepchild" means a child of the surviving spouse who was living with

18 or dependent for support on the decedent at the time of the decedent's death.

19 (b) (1) Subject to SUBSECTION (C) OF THIS SECTION AND paragraph (2) of

20 this subsection, a death benefit of [\$50,000] \$125,000 shall be paid to the surviving

21 spouse, child, dependent parent, or estate of each of the following individuals who is

22 killed or dies in the performance of duties on or after July 1, 1989:

- 23 (i) a law enforcement officer;
- 24 (ii) a correctional officer;
- 25 (iii) a volunteer or career firefighter or rescue squad member; or
- 26 (iv) a sworn member of the office of State Fire Marshal.

27 (2) For fiscal year 1999, and for each following fiscal year, the death

28 benefit provided in the prior fiscal year shall be adjusted by any change in the

29 calendar year preceding the fiscal year in the consumer price index (all urban

30 customers - United States city average - all items), as published by the United States

31 Bureau of Labor Statistics.

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

- 33 (i) any workers' compensation benefits;

1 (ii) the proceeds of any form of life insurance, regardless of who
2 paid the premiums on the insurance; and

3 (iii) the funeral benefit provided under subsection [(c)] (D) of this
4 section.

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

10 (I) THE INDIVIDUAL, WHILE ON DUTY:

11 1. ENGAGED IN A SITUATION THAT INVOLVED NONROUTINE
12 STRESSFUL OR STRENUOUS PHYSICAL LAW ENFORCEMENT, FIRE SUPPRESSION,
13 RESCUE, HAZARDOUS MATERIAL RESPONSE, EMERGENCY MEDICAL SERVICES,
14 PRISON SECURITY, DISASTER RELIEF, OR OTHER EMERGENCY RESPONSE ACTIVITY;
15 OR

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

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

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

22 2. WHILE STILL ON DUTY AFTER ENGAGING OR
23 PARTICIPATING IN AN ACTIVITY DESCRIBED IN ITEM (I)1 OR 2 OF THIS PARAGRAPH;
24 OR

25 3. NOT LATER THAN 24 HOURS AFTER ENGAGING OR
26 PARTICIPATING IN AN ACTIVITY DESCRIBED IN ITEM (I)1 OR 2 OF THIS PARAGRAPH;
27 AND

28 (III) THE PRESUMPTION IS NOT OVERCOME BY COMPETENT
29 MEDICAL EVIDENCE TO THE CONTRARY.

30 (2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION,
31 NONROUTINE STRESSFUL OR STRENUOUS PHYSICAL ACTIVITY DOES NOT INCLUDE
32 ACTIONS OF A CLERICAL, ADMINISTRATIVE, OR NONMANUAL NATURE.

33 (D) (1) Reasonable funeral expenses, not exceeding \$10,000, shall be paid to
34 the surviving spouse, child, parent, or estate of each of the following individuals who
35 is killed or dies in the performance of duties:

36 (i) a law enforcement officer;

- 1 (ii) a correctional officer;
- 2 (iii) a volunteer or career firefighter or rescue squad member; or
- 3 (iv) a sworn member of the office of State Fire Marshal.

4 (2) The funeral benefit under this subsection shall be reduced by the
5 amount of any related workers' compensation benefits paid under § 9-689 of the
6 Labor and Employment Article.

7 [(d)] (E) (1) The Secretary of State shall issue a State flag to the family of a
8 firefighter, policeman, or sworn member of the office of State Fire Marshal who is
9 killed in the performance of duty.

10 (2) The flag shall be presented to the family of the deceased by the State
11 Senator of the legislative district in which the deceased resided or served.

12 [(e)] (F) On a case-by-case basis, the Secretary of Public Safety and
13 Correctional Services may award a death benefit under this section if:

14 (1) the decedent's death was caused by the decedent's intentional
15 misconduct;

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

17 (3) the decedent's voluntary intoxication was the proximate cause of the
18 decedent's death.

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

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

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

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

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

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

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

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

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