
By: **Delegates Conroy, Cadden, Edwards, Gaines, Goodwin, Harrison,
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Introduced and read first time: February 27, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety - Employees Killed in the Performance of Duties - Death**
3 **Benefits**

4 FOR the purpose of altering certain death benefit for certain public safety employees
5 who are killed or die in the performance of duties; providing for the application
6 of this Act; making a certain conforming change; and generally relating to the
7 death benefits for employees who are killed or die in the performance of duties.

8 BY repealing and reenacting, with amendments,
9 Article - Public Safety
10 Section 1-202
11 Annotated Code of Maryland
12 (2003 Volume and 2005 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - State Personnel and Pensions
15 Section 10-404
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2005 Supplement)

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

20 **Article - Public Safety**

21 1-202.

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

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

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

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

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

5 (ii) "Law enforcement officer" includes:

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

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

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

11 (i) actively participating in fighting a fire;

12 (ii) going to or from a fire;

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

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

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

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

23 (b) (1) Subject to subsection (c) of this section and paragraph (2) of this
24 subsection, a death benefit of [\$50,000] \$100,000 shall be paid to the surviving spouse,
25 child, dependent parent, or estate, AND A MONTHLY STIPEND OF \$75 TO THE PARENT
26 OR GUARDIAN OF EACH CHILD UNDER THE AGE OF 18 UNTIL THE CHILD REACHES
27 THE AGE OF 18, of each of the following individuals who is killed or dies in the
28 performance of duties on or after July 1, 1989:

29 (i) a law enforcement officer;

30 (ii) a correctional officer;

31 (III) A FULL-TIME EMPLOYEE OF A STATE CORRECTIONAL
32 FACILITY;

33 (IV) A FULL-TIME STATE PAROLE OR PROBATION OFFICER;

- 1 [(iii)] (V) a volunteer or career firefighter or rescue squad member;
2 or
- 3 [(iv)] (VI) a sworn member of the office of State Fire Marshal.
- 4 (2) For fiscal year 1999, and for each following fiscal year, the death
5 benefit provided in the prior fiscal year shall be adjusted by any change in the
6 calendar year preceding the fiscal year in the Consumer Price Index (all urban
7 customers - United States city average - all items), as published by the United States
8 Bureau of Labor Statistics.
- 9 (3) A death benefit under this subsection is in addition to:
- 10 (i) any workers' compensation benefits;
- 11 (ii) the proceeds of any form of life insurance, regardless of who
12 paid the premiums on the insurance; and
- 13 (iii) the funeral benefit provided under subsection (d) of this section.
- 14 (c) (1) Whenever an individual identified in subsection (b)(1)(i) through
15 [(iv)] (VI) of this section dies as the direct and proximate result of a heart attack or
16 stroke, the individual shall be presumed to have died as a direct and proximate result
17 of a personal injury sustained in the performance of duties if:
- 18 (i) the individual, while on duty:
- 19 1. engaged in a situation that involved nonroutine stressful
20 or strenuous physical law enforcement, fire suppression, rescue, hazardous material
21 response, emergency medical services, prison security, disaster relief, or other
22 emergency response activity; or
- 23 2. participated in a training exercise that involved
24 nonroutine stressful or strenuous physical activity;
- 25 (ii) the individual died as a result of a heart attack or stroke that
26 the individual suffered:
- 27 1. while engaging or participating in an activity described in
28 item (i)1 or 2 of this paragraph;
- 29 2. while still on duty after engaging or participating in an
30 activity described in item (i)1 or 2 of this paragraph; or
- 31 3. not later than 24 hours after engaging or participating in
32 an activity described in item (i)1 or 2 of this paragraph; and
- 33 (iii) the presumption is not overcome by competent medical evidence
34 to the contrary.

1 (2) For purposes of paragraph (1) of this subsection, nonroutine stressful
2 or strenuous physical activity does not include actions of a clerical, administrative, or
3 nonmanual nature.

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

7 (i) a law enforcement officer;

8 (ii) a correctional officer;

9 (III) A FULL-TIME EMPLOYEE OF A STATE CORRECTIONAL
10 FACILITY;

11 (IV) A FULL-TIME STATE PAROLE OR PROBATION OFFICER;

12 [(iii)] (V) a volunteer or career firefighter or rescue squad member;
13 or

14 [(iv)] (VI) a sworn member of the office of State Fire Marshal.

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

18 (e) (1) The Secretary of State shall issue a State flag to the family of a
19 firefighter, policeman, member of the military, or sworn member of the office of State
20 Fire Marshal who is killed in the performance of duty.

21 (2) (i) Except when the deceased is a member of the military, the flag
22 shall be presented to the family of the deceased by the State Senator of the legislative
23 district in which the deceased resided or served.

24 (ii) When the deceased is a member of the military, the flag shall be
25 presented to the family of the deceased by the Department of Veterans Affairs.

26 (f) On a case-by-case basis, the Secretary of Public Safety and Correctional
27 Services may award a death benefit under this section if:

28 (1) the decedent's death was caused by the decedent's intentional
29 misconduct;

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

31 (3) the decedent's voluntary intoxication was the proximate cause of the
32 decedent's death.

33 (g) [If] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF the Secretary
34 of Public Safety and Correctional Services determines that the benefits under this
35 section are to be paid, the benefits shall be paid:

- 1 (1) to the decedent's surviving spouse;
- 2 (2) if no individual is eligible under item (1) of this subsection, to each
3 surviving child of the decedent in equal shares;
- 4 (3) (i) for a death benefit under subsection (b) of this section, if no
5 individual is eligible under item (1) or (2) of this subsection, to the decedent's
6 surviving parent, if the parent was a dependent as defined in § 152 of the Internal
7 Revenue Code; or
- 8 (ii) for any other benefit under this section, if no individual is
9 eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or
- 10 (4) if no individual is eligible under item (1), (2), or (3) of this subsection,
11 to the decedent's estate.
- 12 (h) Payments under this section shall be made out of money that the Governor
13 includes for that purpose in the State budget.
- 14 (i) A person aggrieved by a final decision of the Secretary of Public Safety and
15 Correctional Services under this section may seek judicial review as provided for
16 review of final decisions in Title 10, Subtitle 2 of the State Government Article.

17 **Article - State Personnel and Pensions**

18 10-404.

- 19 (a) (1) In this section the following words have the meanings indicated.
- 20 (2) "Child" means any natural, adopted, or posthumous child, or
21 stepchild, or the decedent who is:
- 22 (i) 18 years of age or under; or
- 23 (ii) over 18 years of age and incapable of self-support because of a
24 physical or mental disability.
- 25 (3) "Stepchild" means any child of the surviving spouse who was living
26 with or dependent for support on the decedent at the time of death.
- 27 (b) This section applies to all:
- 28 (1) employees in the State Personnel Management System;
- 29 (2) employees in any other authorized personnel system established for a
30 unit of State government; and
- 31 (3) members of the Maryland National Guard serving on orders issued in
32 accordance with Title 13 of the Public Safety Article or Title 32 of the United States
33 Code.

1 (c) (1) (i) Except as provided in paragraph (2) of this subsection, a death
2 benefit in the amount of \$100,000 shall be paid to the surviving spouse, children, or
3 dependent parents of any employee subject to this section who is killed in the
4 performance of duties on or after July 1, 2000.

5 (ii) A death benefit may not be paid under this paragraph if an
6 employee is killed as a result of the employee's negligence.

7 (iii) A death benefit may not be paid under this paragraph if a
8 member of the Maryland National Guard who is killed in the performance of duties is
9 eligible to receive dependency and indemnity compensation under rules prescribed by
10 the United States Department of Veterans Affairs.

11 (2) (i) A death benefit in the amount of \$50,000 shall be paid to the
12 surviving spouse, children, or dependent parents of any State employee covered by
13 the provisions of § 1-202 of the Public Safety Article who is killed in the performance
14 of duties on or after July 1, 2000.

15 (ii) A death benefit may not be paid under this paragraph if an
16 employee is killed as a result of the employee's negligence.

17 (iii) An individual who receives a death benefit under this
18 paragraph may not also receive a death benefit under paragraph (1) of this
19 subsection.

20 (3) A death benefit under this section shall be in addition to any:

21 (i) workers' compensation benefits;

22 (ii) proceeds of any form of life insurance, regardless of who paid
23 the premiums on the insurance;

24 (iii) benefit provided to a State employee covered by the provisions
25 of § 1-202 of the Public Safety Article; and

26 (iv) except as provided in paragraph (1)(iii) of this subsection,
27 benefits paid to a member of the Maryland National Guard, the member's estate, or
28 the member's beneficiaries or survivors by the United States.

29 (d) (1) On notification by the head of the unit that employed the decedent,
30 the Secretary shall determine whether a death benefit will be paid under this section.

31 (2) If the Secretary determines that a death benefit is payable, payment
32 shall be made:

33 (i) to the surviving spouse;

34 (ii) if there is no surviving spouse, to the surviving children, in
35 equal shares; or

1 (iii) if there is no surviving spouse or children, to the surviving
2 parent or parents, if the parent was a dependent as defined in § 152 of the Internal
3 Revenue Code.

4 (e) A death benefit under this section shall be paid out of funds which the
5 Governor may appropriate for that purpose in the State budget.

6 (f) A decision of the Secretary under this section:

7 (1) is the final administrative decision; and

8 (2) is not subject to appeal under Title 10, Subtitle 2 of the State
9 Government Article.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed to apply only prospectively and may not be applied or interpreted to have
12 any effect on or application to the calculation of any death benefit before the effective
13 date of this Act. The new death benefit established by this Act shall be paid to the
14 surviving spouse, child, dependent parent, or estate of the law enforcement officer,
15 correctional officer, full-time employee of a State correctional facility, full-time State
16 parole and probation officer, volunteer or career firefighter or rescue squad member,
17 or sworn member of the office of State Fire Marshal killed on or after July 1, 2006.
18 The death benefit paid to the surviving spouse, child, dependent parent, or estate of a
19 law enforcement officer, correctional officer, volunteer or career firefighter or rescue
20 squad member, or sworn member of the office of State Fire Marshal who died on or
21 after July 1, 1989, but before July 1, 2006, is the benefit provided under State law as
22 of June 30, 2006.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2006.