
By: **Delegates Conway, Bozman, Cane, Eckardt, Elmore, Haddaway,
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Rules suspended

Introduced and read first time: March 9, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the amount of the death benefit for certain public safety
4 employees who are killed or die in the performance of duties on or after a certain
5 date; altering the fiscal year for which the death benefit shall be adjusted in a
6 certain manner; providing for a delayed effective date; and generally relating to
7 death benefits for public safety employees killed 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 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Public Safety**

16 1-202.

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

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

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

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

23 (4) (i) "Law enforcement officer" has the meaning stated in § 3-101 of
24 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 this
20 subsection, a death benefit of [\$50,000] \$125,000 shall be paid to the surviving spouse,
21 child, dependent parent, or estate of each of the following individuals who is killed or
22 dies in the performance of duties on or after July 1, [1989] 2007:

- 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] 2009, and for each following fiscal year, the
28 death 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 (d) of this section.

4 (c) (1) Whenever an individual identified in subsection (b)(1)(i) through (iv)
5 of this section dies as the direct and proximate result of a heart attack or stroke, the
6 individual shall be presumed to have died as a direct and proximate result of a
7 personal injury sustained in the performance of duties if:

8 (i) the individual, while on duty:

9 1. engaged in a situation that involved nonroutine stressful
10 or strenuous physical law enforcement, fire suppression, rescue, hazardous material
11 response, emergency medical services, prison security, disaster relief, or other
12 emergency response activity; or

13 2. participated in a training exercise that involved
14 nonroutine stressful or strenuous physical activity;

15 (ii) the individual died as a result of a heart attack or stroke that
16 the individual suffered:

17 1. while engaging or participating in an activity described in
18 item (i)1 or 2 of this paragraph;

19 2. while still on duty after engaging or participating in an
20 activity described in item (i)1 or 2 of this paragraph; or

21 3. not later than 24 hours after engaging or participating in
22 an activity described in item (i)1 or 2 of this paragraph; and

23 (iii) the presumption is not overcome by competent medical evidence
24 to the contrary.

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

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

31 (i) a law enforcement officer;

32 (ii) a correctional officer;

33 (iii) a volunteer or career firefighter or rescue squad member; or

34 (iv) a sworn member of the office of State Fire Marshal.

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

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

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

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

12 (f) On a case-by-case basis, the Secretary of Public Safety and Correctional
13 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 (g) If the Secretary of Public Safety and Correctional Services determines that
20 the benefits under this section are to be paid, the benefits shall be paid:

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

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

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

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

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

32 (h) Payments under this section shall be made out of money that the Governor
33 includes for that purpose in the State budget.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2007.