

UNOFFICIAL COPY OF HOUSE BILL 1722
EMERGENCY BILL

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CF SB 388

By: **Delegates Conway, Bozman, Cane, Eckardt, Elmore, Haddaway,
Smigiel, Sossi, and Walkup**

Rules suspended

Introduced and read first time: March 9, 2006

Assigned to: Rules and Executive Nominations

Re-referred to: Appropriations, March 13, 2006

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2006

CHAPTER _____

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;~~ making this Act an
7 emergency measure; and generally relating to death benefits for public safety
8 employees killed in the performance of duties.

9 BY repealing and reenacting, with amendments,
10 Article - Public Safety
11 Section 1-202
12 Annotated Code of Maryland
13 (2003 Volume and 2005 Supplement)

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

16 **Article - Public Safety**

17 1-202.

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

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

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

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

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

8 (ii) "Law enforcement officer" includes:

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

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

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

14 (i) actively participating in fighting a fire;

15 (ii) going to or from a fire;

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

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

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

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

26 (b) (1) Subject to subsection (c) of this section and paragraph (2) of this
27 subsection, a death benefit of [~~\$50,000~~] \$125,000 shall be paid to the surviving spouse,
28 child, dependent parent, or estate of each of the following individuals who is killed or
29 dies in the performance of duties on or after ~~July~~ JANUARY 1, [1989] ~~2007~~ 2006:

30 (i) a law enforcement officer;

31 (ii) a correctional officer;

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

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

1 (2) For fiscal year [1999] 2009, and for each following fiscal year, the
2 death benefit provided in the prior fiscal year shall be adjusted by any change in the
3 calendar year preceding the fiscal year in the Consumer Price Index (all urban
4 customers - United States city average - all items), as published by the United States
5 Bureau of Labor Statistics.

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

7 (i) any workers' compensation benefits;

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

10 (iii) the funeral benefit provided under subsection (d) of this section.

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

15 (i) the individual, while on duty:

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

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

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

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

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

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

30 (iii) the presumption is not overcome by competent medical evidence
31 to the contrary.

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

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

4 (i) a law enforcement officer;

5 (ii) a correctional officer;

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

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

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

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

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

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

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

21 (1) the decedent's death was caused by the decedent's intentional
22 misconduct;

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

24 (3) the decedent's voluntary intoxication was the proximate cause of the
25 decedent's death.

26 (g) If the Secretary of Public Safety and Correctional Services determines that
27 the benefits under this section are to be paid, the benefits shall be paid:

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

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

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

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

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

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~
11 ~~July 1, 2007~~ is an emergency measure, is necessary for the immediate preservation of
12 the public health or safety, has been passed by a yea and nay vote supported by
13 three-fifths of all the members elected to each of the two Houses of the General
14 Assembly, and shall take effect from the date it is enacted.