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By: **Senators Munson, Astle, Brinkley, DeGrange, Dyson, Hafer, Hughes,  
Jones, McFadden, Ruben, and Stoltzfus**

Introduced and read first time: February 3, 2006

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety - Officer or Emergency Personnel Death in Line of Duty -**  
3 **Death Benefit**

4 FOR the purpose of increasing a certain death benefit paid to the surviving spouse,  
5 child, dependent parent, or estate of a certain individual who is killed or dies in  
6 the performance of duties; providing for the application of this Act; and  
7 generally relating to death benefits for certain individuals who are killed or die  
8 in the line of duty.

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.

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

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

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

24 (4) (i) "Law enforcement officer" has the meaning stated in § 3-101 of  
25 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] \$100,000 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:

- 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 (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 be  
2 construed to apply retroactively to January 1, 2006, and shall be applied to and  
3 interpreted to affect the death benefit of any individual covered by this section who  
4 was killed or died in the performance of duties on or after that date.

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