

SENATE BILL 895

E4

71r3205

By: **Senator DeGrange**

Introduced and read first time: February 21, 2007

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety Employees Killed in the Performance of Duties – Helicopter**
3 **Pilots and Aviation Maintenance Technicians – Death Benefits**

4 FOR the purpose of defining the term “rescue squad member” as it relates to eligibility
5 for certain death benefits and funeral expenses so as to include certain
6 helicopter pilots and aviation maintenance technicians; and generally relating
7 to 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 2006 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
19 illegitimate child or stepchild of the decedent.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) “Child” includes a child or stepchild born posthumously.

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

4 (4) (i) “Law enforcement officer” has the meaning stated in § 3–101
5 of this article.

6 (ii) “Law enforcement officer” includes:

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

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

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

12 (i) actively participating in fighting a fire;

13 (ii) going to or from a fire;

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

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

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

22 **(6) “RESCUE SQUAD MEMBER” INCLUDES A PILOT AND AVIATION**
23 **MAINTENANCE TECHNICIAN EMPLOYED BY THE STATE.**

24 **[(6)] (7)** “Stepchild” means a child of the surviving spouse who was
25 living with or dependent for support on the decedent at the time of the decedent’s
26 death.

1 (a-1) For purposes of this section, an individual served in the Afghanistan or
2 Iraq conflict if the individual was a member of the uniform services of the United
3 States who served in:

4 (1) Afghanistan or contiguous air space, as defined in federal
5 regulations, on or after October 24, 2001, and before a terminal date to be prescribed
6 by the United States Secretary of Defense; or

7 (2) Iraq or contiguous waters or air space, as defined in federal
8 regulations, on or after March 19, 2003, and before a terminal date to be prescribed by
9 the United States Secretary of Defense.

10 (b) (1) Subject to subsection (c) of this section and paragraph (2) of this
11 subsection, a death benefit of \$125,000 shall be paid to the surviving spouse, child,
12 dependent parent, or estate of each of the following individuals who is killed or dies in
13 the performance of duties on or after January 1, 2006:

14 (i) a law enforcement officer;

15 (ii) a correctional officer;

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

17 (iv) a sworn member of the office of State Fire Marshal;

18 (v) a Maryland resident who was a member of the uniform
19 services of the United States serving in the Afghanistan or Iraq conflict.

20 (2) For fiscal year 2009, and for each following fiscal year, the death
21 benefit provided in the prior fiscal year shall be adjusted by any change in the
22 calendar year preceding the fiscal year in the Consumer Price Index (all urban
23 customers – United States city average – all items), as published by the United States
24 Bureau of Labor Statistics.

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

26 (i) any workers' compensation benefits;

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

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

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

5 (i) the individual, while on duty:

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

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

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

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

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

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

20 (iii) the presumption is not overcome by competent medical
21 evidence to the contrary.

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

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

28 (i) a law enforcement officer;

29 (ii) a correctional officer;

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

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

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

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

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

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

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

17 (1) the decedent's death was caused by the decedent's intentional
18 misconduct;

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

20 (3) the decedent's voluntary intoxication was the proximate cause of
21 the decedent's death.

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

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

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

27 (3) (i) for a death benefit under subsection (b) of this section, if no
28 individual is eligible under item (1) or (2) of this subsection, to the decedent's
29 surviving parent, if the parent was a dependent as defined in § 152 of the Internal
30 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
4 subsection, to the decedent's estate.

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

7 (i) A person aggrieved by a final decision of the Secretary of Public Safety
8 and 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 October 1, 2007.