

SENATE BILL 895

E4

71r3205

By: **Senator DeGrange**

Introduced and read first time: February 21, 2007

Assigned to: Rules

Re-referred to: Budget and Taxation, March 2, 2007

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2007

CHAPTER _____

1 AN ACT concerning

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

5 FOR the purpose of ~~defining the term “rescue squad member” as it relates~~ including
6 certain public safety aviation employees within certain provisions relating to
7 eligibility for certain death benefits and funeral expenses ~~so as to include~~
8 ~~certain helicopter pilots and aviation maintenance technicians~~; and generally
9 relating to death benefits for public safety employees killed in the performance
10 of duties.

11 BY repealing and reenacting, with amendments,
12 Article – Public Safety
13 Section 1–202
14 Annotated Code of Maryland
15 (2003 Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Public Safety

1–202.

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

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

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

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

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

(ii) “Law enforcement officer” includes:

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

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

(5) “Performance of duties” includes, in the case of a volunteer or career firefighter, **PUBLIC SAFETY AVIATION EMPLOYEE**, or rescue squad member:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

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

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

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit; **AND**

1 (VI) ACTIVELY PARTICIPATING IN FLIGHT OPERATIONS AS A
2 CREW MEMBER IN A ROTARY OR FIXED WING AIRCRAFT.

3 (6) ~~“RESCUE SQUAD MEMBER~~ PUBLIC SAFETY AVIATION
4 EMPLOYEE” INCLUDES A PILOT AND AVIATION MAINTENANCE TECHNICIAN
5 EMPLOYED BY THE STATE.

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

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

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

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

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

22 (i) a law enforcement officer;

23 (ii) a correctional officer;

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

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

26 (v) A PUBLIC SAFETY AVIATION EMPLOYEE; OR

27 (VI) a Maryland resident who was a member of the uniform
28 services of the United States serving in the Afghanistan or Iraq conflict.

1 (2) For fiscal year 2009, and for each following fiscal year, the death
2 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
11 section.

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

16 (i) the individual, while on duty:

17 1. engaged in a situation that involved nonroutine
18 stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous
19 material response, emergency medical services, prison security, disaster relief,
20 **FLIGHT OPERATIONS AS A CREW MEMBER IN A ROTARY OR FIXED WING**
21 **AIRCRAFT**, or other emergency response activity; or

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

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

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

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

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

3 (iii) the presumption is not overcome by competent medical
4 evidence to the contrary.

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

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

11 (i) a law enforcement officer;

12 (ii) a correctional officer;

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

14 **(IV) A PUBLIC SAFETY AVIATION EMPLOYEE;** or

15 ~~(iv)~~ **(V)** a sworn member of the office of State Fire Marshal.

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

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

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

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

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

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

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

4 (3) the decedent's voluntary intoxication was the proximate cause of
5 the decedent's death.

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

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

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

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

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

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

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

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

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