

## CHAPTER 203

(Senate Bill 895)

AN ACT concerning

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

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

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 1–202

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

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

### **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**

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

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

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

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

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

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

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

- (i) a law enforcement officer;
- (ii) a correctional officer;
- (iii) a volunteer or career firefighter or rescue squad member;
- (iv) a sworn member of the office of State Fire Marshal;
- (v) **A PUBLIC SAFETY AVIATION EMPLOYEE; OR**

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

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

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

- (i) any workers' compensation benefits;
- (ii) the proceeds of any form of life insurance, regardless of who paid the premiums on the insurance; and

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

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

(i) the individual, while on duty:

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

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

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

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

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

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

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

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

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

- (i) a law enforcement officer;
- (ii) a correctional officer;
- (iii) a volunteer or career firefighter or rescue squad member;
- (IV) A PUBLIC SAFETY AVIATION EMPLOYEE;** or
- ~~(iv)~~ **(V)** a sworn member of the office of State Fire Marshal.

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

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

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

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

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

- (1) the decedent's death was caused by the decedent's intentional misconduct;
- (2) the decedent intended to bring about the decedent's death; or
- (3) the decedent's voluntary intoxication was the proximate cause of the decedent's death.

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

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

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

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

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

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

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

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

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

**Approved by the Governor, April 24, 2007.**