

HOUSE BILL 787

E4, K1

(9lr1235)

ENROLLED BILL

—Appropriations / Budget and Taxation—

Introduced by **Delegates Conway, Malone, Beitzel, Cane, DeBoy, Mathias, and ~~Rudolph~~ Rudolph, Aumann, Bates, Bohanan, Branch, G. Clagett, Gaines, Guzzone, Jones, Proctor, Sophocleus, Stocksdales, and Wood**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Emergency Responders - Death Benefits and Funeral Expenses**

3 FOR the purpose of providing that certain individuals employed as emergency
4 responders for the Department of the Environment are eligible for certain death
5 benefits and funeral expenses; defining certain terms; requiring the Department
6 of the Environment to place in reserve each fiscal year a certain amount to pay
7 a certain death benefit under certain circumstances; and generally relating to
8 benefits for emergency responders for the Department of the Environment.

9 BY repealing and reenacting, with amendments,
10 Article – Public Safety
11 Section 1–202
12 Annotated Code of Maryland

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.

Italics indicate opposite chamber / conference committee amendments.



1 (2003 Volume and 2008 Supplement)

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

4 **Article – Public Safety**

5 1–202.

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

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

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

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

12 (4) **“HAZARDOUS MATERIAL” MEANS ANY SUBSTANCE**
13 **REGULATED AS A HAZARDOUS MATERIAL UNDER TITLE 49 OF THE CODE OF**
14 **FEDERAL REGULATIONS.**

15 (5) **“HAZARDOUS MATERIAL ~~RESPONDER~~ RESPONSE TEAM**
16 **EMPLOYEE” MEANS ANY INDIVIDUAL EMPLOYED BY THE STATE OR A LOCAL**
17 **GOVERNMENT AGENCY WHOSE PRIMARY DUTIES DIRECTLY INVOLVE**
18 **HAZARDOUS MATERIALS AN EMPLOYEE OF THE DEPARTMENT OF THE**
19 **ENVIRONMENT WHO IS ON CALL 24 HOURS A DAY TO PROVIDE EMERGENCY**
20 **RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF HAZARDOUS MATERIAL**
21 **OR OTHER EMERGENCY RESPONSE ACTIVITY.**

22 [(4)] (6) (i) “Law enforcement officer” has the meaning stated in §
23 3–101 of this article.

24 (ii) “Law enforcement officer” includes:

- 25 1. an officer who serves in a probationary status; and
- 26 2. an officer who serves at the pleasure of the appointing
27 authority of a county or municipal corporation.

28 [(5)] (7) “Performance of duties” includes, in the case of a volunteer
29 or career firefighter, public safety aviation employee, [or] rescue squad member, **OR**
30 **~~HAZARDOUS MATERIALS RESPONDER, OR EMPLOYEE OF THE HARFORD~~**

1 ~~COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ MATERIAL RESPONSE
2 TEAM EMPLOYEE:

3 (i) actively participating in fighting a fire;

4 (ii) going to or from a fire;

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

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

10 (v) providing emergency or rescue assistance, whether acting
11 alone or at the direction of or with a fire, ambulance, or rescue company or advanced
12 life support unit; [and]

13 (vi) actively participating in flight operations as a crew member
14 in a rotary or fixed wing aircraft; **AND**

15 ~~(VII) PERFORMING DUTIES DIRECTLY INVOLVING~~
16 ~~HAZARDOUS MATERIALS~~ PROVIDING EMERGENCY RESPONSE TO A DISCHARGE
17 OF OIL OR A RELEASE OF HAZARDOUS MATERIAL OR OTHER EMERGENCY
18 RESPONSE ACTIVITY.

19 [(6)] **(8)** "Public safety aviation employee" includes a pilot and
20 aviation maintenance technician employed by the State.

21 [(7)] **(9)** "Stepchild" means a child of the surviving spouse who was
22 living with or dependent for support on the decedent at the time of the decedent's
23 death.

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

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

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

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

5 (i) a law enforcement officer;

6 (ii) a correctional officer;

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

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

9 (v) a public safety aviation employee; [or]

10 (vi) a Maryland resident who was a member of the uniform
 11 services of the United States serving in the Afghanistan or Iraq conflict; **OR**

12 **(VII) A HAZARDOUS MATERIAL RESPONDER; OR**

13 ~~**(VIII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY**~~
 14 ~~**MEDICAL SERVICES FOUNDATION RESPONSE TEAM EMPLOYEE.**~~

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

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

21 (i) any workers' compensation benefits;

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

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

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

30 (i) the individual, while on duty:

1 engaged in a situation that involved nonroutine
 2 stressful or strenuous physical law enforcement, fire suppression, rescue, **RESPONSE**
 3 **TO A DISCHARGE OF OIL OR A RELEASE OF** hazardous material ~~response~~,
 4 emergency medical services, prison security, disaster relief, flight operations as a crew
 5 member in a rotary or fixed wing aircraft, or other emergency response activity; or

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

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

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

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

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

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

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

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

24 (i) a law enforcement officer;

25 (ii) a correctional officer;

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

27 (iv) a public safety aviation employee; [or]

28 (v) a sworn member of the office of State Fire Marshal; **OR**

29 **(VI) A HAZARDOUS MATERIAL RESPONDER; OR**

30 ~~(VII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY~~
 31 ~~MEDICAL SERVICES FOUNDATION RESPONSE TEAM EMPLOYEE.~~

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 Labor
3 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
8 flag shall be presented to the family of the deceased by the State Senator of the
9 legislative district in which the deceased resided or served.

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

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

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

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

18 (3) the decedent's voluntary intoxication was the proximate cause of
19 the decedent's death.

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

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

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

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

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

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

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the
7 Environment shall place in reserve each fiscal year from a combination of the State
8 Hazardous Substance Control Fund and the Oil Disaster Containment, Cleanup &
9 Contingency Fund the amount needed to pay for one death benefit for a hazardous
10 material response team employee, as provided for under § 1-202 of the Public Safety
11 Article, as enacted by Section 1 of this Act, for the purpose of covering the death
12 benefit, and, in the event of the death of a hazardous material response team employee
13 who qualifies for payment of the death benefit, shall pay to the Department of ~~Budget~~
14 ~~and Management~~ Public Safety and Correctional Services the funds required to pay
15 the benefit.

16 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.