

HOUSE BILL 787

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9lr1235
CF SB 177

By: **Delegates Conway, Malone, Beitzel, Cane, DeBoy, Mathias, and Rudolph**
Introduced and read first time: February 11, 2009
Assigned to: Appropriations

A BILL ENTITLED

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 are eligible for certain death benefits and funeral expenses; defining
5 certain terms; and generally relating to benefits for emergency responders.

6 BY repealing and reenacting, with amendments,
7 Article - Public Safety
8 Section 1-202
9 Annotated Code of Maryland
10 (2003 Volume and 2008 Supplement)

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

13 **Article - Public Safety**

14 1-202.

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

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) **“HAZARDOUS MATERIAL” MEANS ANY SUBSTANCE**
 2 **REGULATED AS A HAZARDOUS MATERIAL UNDER TITLE 49 OF THE CODE OF**
 3 **FEDERAL REGULATIONS.**

4 (5) **“HAZARDOUS MATERIAL RESPONDER” MEANS ANY**
 5 **INDIVIDUAL EMPLOYED BY THE STATE OR A LOCAL GOVERNMENT AGENCY**
 6 **WHOSE PRIMARY DUTIES DIRECTLY INVOLVE HAZARDOUS MATERIALS.**

7 [(4)] (6) (i) “Law enforcement officer” has the meaning stated in §
 8 3–101 of this article.

9 (ii) “Law enforcement officer” includes:

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

13 [(5)] (7) “Performance of duties” includes, in the case of a volunteer
 14 or career firefighter, public safety aviation employee, [or] rescue squad member,
 15 **HAZARDOUS MATERIALS RESPONDER, OR EMPLOYEE OF THE HARFORD**
 16 **COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION:**

17 (i) actively participating in fighting a fire;

18 (ii) going to or from a fire;

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

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

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

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

29 **(VII) PERFORMING DUTIES DIRECTLY INVOLVING**
 30 **HAZARDOUS MATERIALS.**

31 [(6)] (8) “Public safety aviation employee” includes a pilot and
 32 aviation maintenance technician employed by the State.

1 [(7)] **(9)** “Stepchild” means a child of the surviving spouse who was
2 living with or dependent for support on the decedent at the time of the decedent’s
3 death.

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

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

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

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

17 (i) a law enforcement officer;

18 (ii) a correctional officer;

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

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

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

22 (vi) a Maryland resident who was a member of the uniform
23 services of the United States serving in the Afghanistan or Iraq conflict;

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

25 **(VIII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY**
26 **MEDICAL SERVICES FOUNDATION.**

27 (2) For fiscal year 2009, 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:

- 1 (i) any workers' compensation benefits;
- 2 (ii) the proceeds of any form of life insurance, regardless of who
3 paid the premiums on the insurance; and
- 4 (iii) the funeral benefit provided under subsection (d) of this
5 section.

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

- 10 (i) the individual, while on duty:
- 11 1. engaged in a situation that involved nonroutine
12 stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous
13 material response, emergency medical services, prison security, disaster relief, flight
14 operations as a crew member in a rotary or fixed wing aircraft, or other emergency
15 response activity; or
- 16 2. participated in a training exercise that involved
17 nonroutine stressful or strenuous physical activity;

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

- 20 1. while engaging or participating in an activity
21 described in item (i)1 or 2 of this paragraph;
- 22 2. while still on duty after engaging or participating in
23 an activity described in item (i)1 or 2 of this paragraph; or
- 24 3. not later than 24 hours after engaging or
25 participating in an activity described in item (i)1 or 2 of this paragraph; and

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

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

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

- 1 (i) a law enforcement officer;
- 2 (ii) a correctional officer;
- 3 (iii) a volunteer or career firefighter or rescue squad member;
- 4 (iv) a public safety aviation employee; [or]
- 5 (v) a sworn member of the office of State Fire Marshal;

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

7 **(VII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY**
8 **MEDICAL SERVICES FOUNDATION.**

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

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

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

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

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

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

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

26 (3) the decedent's voluntary intoxication was the proximate cause of
27 the decedent's death.

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

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

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

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

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

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

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

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

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