

HOUSE BILL 1405

E4

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By: **Chair, Appropriations Committee (By Request - Departmental - Environment)**

Introduced and read first time: February 25, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety Employees Killed in the Performance of Duties - Department**
3 **of the Environment Employees - Death Benefits**

4 FOR the purpose of making certain employees of the Department of the Environment
5 who are killed or die in the performance of certain duties eligible for certain
6 death benefits and funeral expenses under certain circumstances; and generally
7 relating to death benefits for certain Department of the Environment employees
8 who are killed or die in the performance of duties.

9 BY repealing and reenacting, with amendments,
10 Article - Public Safety
11 Section 1-202
12 Annotated Code of Maryland
13 (2003 Volume and 2008 Supplement)

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

16 **Article - Public Safety**

17 1-202.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (4) (i) "Law enforcement officer" has the meaning stated in § 3-101
4 of this article.

5 (ii) "Law enforcement officer" includes:

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

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

9 (5) "Performance of duties" includes, in the case of a volunteer or
10 career firefighter, public safety aviation employee, **HAZARDOUS MATERIALS**
11 **EMERGENCY RESPONSE TEAM MEMBER EMPLOYED BY THE STATE, HAZARDOUS**
12 **MATERIALS TRANSPORTATION COMPLIANCE INSPECTOR EMPLOYED BY THE**
13 **STATE, RADIOLOGICAL HEALTH ASSESSMENT AND FIELD INVESTIGATION TEAM**
14 **MEMBER EMPLOYED BY THE STATE**, or rescue squad member:

15 (i) actively participating in fighting a fire;

16 (ii) going to or from a fire;

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

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

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

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

27 **(VII) PROVIDING EMERGENCY ASSISTANCE, WHETHER**
28 **ACTING ALONE OR AT THE REQUEST OR DIRECTION OF A FIRE, AMBULANCE, OR**
29 **RESCUE COMPANY OR LAW ENFORCEMENT OFFICER, DURING A HAZARDOUS**
30 **MATERIALS EMERGENCY RESPONSE, A HAZARDOUS MATERIALS**
31 **TRANSPORTATION INCIDENT OR INVESTIGATION, AN EMERGENCY**
32 **RADIOLOGICAL HEALTH ASSESSMENT OR FIELD INVESTIGATION, OR OTHER**
33 **EMERGENCY RESPONSE ACTIVITY.**

1 (6) "Public safety aviation employee" includes a pilot and aviation
2 maintenance technician employed by the State.

3 (7) "Stepchild" means a child of the surviving spouse who was living
4 with or dependent for support on the decedent at the time of the decedent's death.

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

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

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

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

18 (i) a law enforcement officer;

19 (ii) a correctional officer;

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

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

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

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

25 **(VII) A HAZARDOUS MATERIALS EMERGENCY RESPONSE**
26 **TEAM MEMBER;**

27 **(VIII) A HAZARDOUS MATERIALS TRANSPORTATION**
28 **COMPLIANCE INSPECTOR; OR**

29 **(IX) A RADIOLOGICAL HEALTH ASSESSMENT AND FIELD**
30 **INVESTIGATION TEAM MEMBER.**

31 (2) For fiscal year 2009, and for each following fiscal year, the death
32 benefit provided in the prior fiscal year shall be adjusted by any change in the

1 calendar year preceding the fiscal year in the Consumer Price Index (all urban
2 customers – United States city average – all items), as published by the United States
3 Bureau of Labor Statistics.

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

5 (i) any workers' compensation benefits;

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

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

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

14 (i) the individual, while on duty:

15 1. engaged in a situation that involved nonroutine
16 stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous
17 material response, **HAZARDOUS MATERIALS TRANSPORTATION INCIDENT**
18 **RESPONSE OR INVESTIGATION, EMERGENCY RADIOLOGICAL HEALTH**
19 **ASSESSMENT OR FIELD INVESTIGATION**, emergency medical services, prison
20 security, disaster relief, 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

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

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

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

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

7 (i) a law enforcement officer;

8 (ii) a correctional officer;

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

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

11 (V) **A HAZARDOUS MATERIALS EMERGENCY RESPONSE**
12 **TEAM MEMBER;**

13 (VI) **A HAZARDOUS MATERIALS TRANSPORTATION**
14 **COMPLIANCE INSPECTOR;**

15 (VII) **A RADIOLOGICAL HEALTH ASSESSMENT AND FIELD**
16 **INVESTIGATION TEAM MEMBER; OR**

17 [(v)] (VIII) a sworn member of the office of State Fire Marshal.

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

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

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

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

30 (f) On a case-by-case basis, the Secretary of Public Safety and Correctional
31 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, 2009.