

2025 SB 396 Public Safety Officer - Performance of

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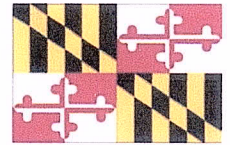
Position: FAV



CLYDE BOATWRIGHT
STATE PRESIDENT

Maryland State Lodge
FRATERNAL ORDER OF POLICE

8302 COVE ROAD, BALTIMORE, MD 21222



KENNY SCHUBERT
SECRETARY

EARL KRATSCH
TREASURER

February 3, 2025

SB 396 - Public Safety Officer – Performance of Duties – Death and Disability Benefits

Dear Chairman Guzzone and Distinguished Members of the Budget and Taxation Committee,

The Maryland State Fraternal Order of Police **SUPPORTS** Senate Bill 396 – **Public Safety Officer – Performance of Duties – Death and Disability Benefits.**

SB 396 when enacted will mandate that a public safety officer whose death occurs by suicide shall be presumed to have died as a direct and proximate result of an injury sustained in the performance of duties if the officer was diagnosed by a licensed medical or mental health professional with post-traumatic stress disorder, acute stress disorder, or a trauma-and stress-related disorder and the diagnosis resulted due to the nature and performance of the officers' duties.

SB 396 when enacted will further allow for the members of the Maryland State Firemen's Association, Correctional Officer's Retirement System, Local Fire and Police System, Law Enforcement Officers' Pension System, and the State Police Retirement System to be presumed to be totally and permanently incapacitated for duty and that the condition is directly related to the performance of their duties if diagnosed as written in the paragraph above. This diagnosis shall then be the basis for the member to receive disability benefits or retirement as defined by the individual plans.

I personally want to thank all of the legislators that have submitted and or support this legislation. Over the past few years, the serious issue of mental health and wellbeing of public safety officers has finally become a topic of discussion and the taboo and stigma is slowly fading away. Now that we can openly discuss this issue and seek to get help for the many officers that suffer from emotional and mental issues surrounding the traumas they have seen and been involved in there is hope that we can combat this horrible disease. Our members often see society and life at its worst and the sights, sounds, and emotions they are left to deal with often come with a heavy toll on their mental and physical wellbeing. We are seeing a rise in the efforts and manpower that is now being dedicated towards officer mental health and wellness and that is a positive thing. The price of this mental torture for some officers is PTSD and other stress disorders that ultimately lead to the officer no longer being able to carry out their duties which leads to them having to be separated from service. Some unfortunately turn to suicide to escape the torment they are facing. These two issues lead to a huge impact on the officer and/or their family and **SB 396** will go a long way to help with the financial burdens that will come with the results of a disability retirement or the aftermath of suicide. **SB 396** will show to everyone that the State of Maryland cares about their public safety officers and wants to ensure they and their families who have sacrificed so much are taken care beyond the separation of service.

On behalf of the more than 20,000 Courageous Men and Women of the Maryland Fraternal Order of Police we thank you for your support and ask for your **FAVORABLE** vote on **Senate Bill 396 - Public Safety Officer – Performance of Duties – Death and Disability Benefits.**

Angelo L. Consoli Jr.,
2nd Vice President, FOP, Maryland State Lodge
President, FOP Lodge 89, Prince George's County

Letter for SB396.pdf

Uploaded by: Mike McKay

Position: FAV

MIKE MCKAY
Legislative District 1
Garrett, Allegany, and Washington Counties



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Judicial Proceedings Committee
Executive Nominations Committee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 20, 2025

RE: Fire/EMS Coalition Support for House Bill 76/Senate Bill 396

Dear Chairman Smith/Guzzone, Vice Chairman Waldstreicher/Rosapepe, and Members of the Committee,

The Fire/EMS Coalition would like to express their support for Senate Bill 396: **Public Safety Officer - Performance of Duties - Death and Disability Benefit**. This bill entails altering the circumstances under which certain individuals are presumed to have died as a direct and proximate result of an injury sustained in the performance of duties for purposes of eligibility for death benefits. It also incorporates 911 specialists to become members of the Law Enforcement Officers' Pension System.

The Fire/EMS Coalition supports Senate Bill 396 for the benefit of the families left behind in the unfortunate event of the death of first responders in the line of duty. We also are in full support of 911 specialists becoming members of LEOPS as they are an integral part of our emergency services.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike McKay".

Senator Mike McKay
Representing the Appalachia Region of Maryland
Serving Garrett, Allegany, and Washington Counties

Voting Organizations:

Maryland Fire Chief's Association (MFCA)
Maryland State Firemen's Association (MSFA)
State Fire Marshal (OSFM)
Maryland Fire Rescue Institute (MFRI)
Maryland Institute for Emergency Medical Services System (MIEMMS)
Metro Fire Chief's Association
Professional Firefighters of Maryland

Our Mission Statement

The Maryland Fire/EMS Coalition unites Republicans and Democrats in support of fire/emergency services legislation that benefit all first responders. Becoming a member does not require taking positions on legislation;

rather Coalition members are asked to offer support in a way that best benefits fire/emergency services in their respective Legislative Districts.

My Testimony B&T.pdf

Uploaded by: Mike McKay

Position: FAV

MIKE MCKAY
Legislative District 1
Garrett, Allegany, and Washington Counties



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Judicial Proceedings Committee
Executive Nominations Committee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 23, 2025

Dear Chairman Guzzone, Vice Chairman Rosapepe, and Members of the Committee,

My name is Samuel Joseph Lawrence, and I am actually Senator McKay's Chief of Staff. But today, I am not a Chief of Staff, but a former Frederick Police Dispatcher and I am advocating for SB396. A very brief history about me: I joined the Frederick Police Department in September 2017 in their Police Academy but around November/December of the same year I became a Dispatcher in their department. I actually had Senator Folden as one of my many instructors and then, when I moved to Dispatch, I would dispatch him to calls for service if I was working during his shift.

In my brief time as a dispatcher, I was blessed to have only a few calls that stuck in my mind or bothered me. I would say I was a very white cloud as most calls were routine thankfully. But there are a few that I still think about and wonder about, like when there were children that ran away or went missing. I didn't experience anything too horrendous but everyone I worked with were long time veterans of their work and experienced calls that involved things like shootings, domestic violence, or sexual assaults. I'm not a hero and never was, I just did the best I could when I was there to help Frederick Police. But my coworkers and those officers WERE and ARE heroes and they taught me so much about life and the world. They deserve the help that this bill can provide for their families as well as themselves. I left that department when I was very young and wished I had been able to do more and have always felt some sort of shame that I wasn't able to be better. So, if there is one thing I can do for them, it's to advocate for the Frederick Police Dispatchers and every dispatcher across Maryland.

Thank you for hearing my story.

Sincerely,

Samuel Joseph Lawrence
usa751@comcast.net
443-564-0262

SB396 - Senate JPR.pdf

Uploaded by: Mike McKay

Position: FAV

MIKE MCKAY
Legislative District 1
Garrett, Allegany, and Washington Counties



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Judicial Proceedings Committee
Executive Nominations Committee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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Joint Committees
Administrative, Executive,
and Legislative Review
Children, Youth, and Families
Program Open Space and Agricultural
Land Preservation

Williamsport Office
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Williamsport Town Hall
Williamsport, Maryland

Senate Bill 396 – Public Safety Officer – Performance of Duties – Death and Disability Benefits

January 22, 2025

Dear Chairman Smith, Vice Chairman Waldstreicher, and Members of the Committee,

I am writing to strongly endorse the passage of Senate Bill 396. What this bill will do is it will incorporate 911 specialists to become members of the Law Enforcement Officers' Pension System. The bill will also alter the circumstances under which certain individuals are presumed to have died as a direct and proximate result of an injury sustained in the performance of duties for purposes of eligibility for death benefits.

Our 911 specialists and dispatchers are integral to our emergency services, and they are the true first responders when the call is made, and information is provided. For everything they do, deserve to be a part of the Law Enforcement Officers' Pension System. Families left behind in the unfortunate events of death also deserve the benefits brought forth in this bill.

I thank you for your time and I urge a favorable report.

Sincerely,

A handwritten signature in black ink that reads "Mike McKay".

Senator Mike McKay
Representing the Appalachia Region of Maryland
Serving Garrett, Allegany, and Washington Counties

SB 396 testimony 2.pdf

Uploaded by: Robert Phillips

Position: FAV

MARYLAND STATE FIREFIGHTERS ASSOCIATION

*Representing the Volunteer Fire, Rescue and Emergency Medical Services Personnel
-a 501(c)3 Organization*



Legislative Committee

17 State Circle
Annapolis MD, 21401
Chair: Robert Phillips
Email: rfcchief48@gmail.com
Cell: 443-205-5030
Office: 410-974-2222

SB 396: Public Safety Officer – Performance of Duties – Death and Disability Benefits

My name is Chief Robert Phillips, and I am the Legislative Committee Chair for the Maryland State Firefighters Association (MSFA)

I wish to present testimony in support of **Senate Bill 396: Public Safety Officer – Performance of Duties – Death and Disability Benefits**

The MSFA is in full support of this bill. This bill will add the classification of "9-1-1 specialist" to a list of benefits that are now available to other first responders. This bill also includes language that would allow disability benefits to be made payable to volunteers for injury due to Post-Traumatic Stress Disorder, Acute Stress Disorder or a Trauma and Stress related Disorder if diagnosed by certain qualified people and the cause of the disorder was from the performance of their normal duties.

Mental health issues are a leading cause of death and injury to the first responders today and we see this being a bigger issue in the future. Being able to prevent it will be a step forward but for now we need to assist those who have already been affected.

Thank you and I would be glad to answer any questions you might have

Respectfully:

Robert Phillips

Robert Phillips

Respectfully:

MCPA-MSA_SB 396 Performance of Duties_Death and Di

Uploaded by: Samira Jackson

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Guy Guzzone., Chair and
Members of the Budget & Taxation Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 5, 2025

RE: **SB 396 Public Safety Officer – Performance of Duties – Death and Disability Benefits**

POSITION: **SUPPORT**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT SB 396**. As introduced, this bill changes the eligibility requirements for a public safety death benefit award for an individual who commits suicide. As written, this bill will expand benefits for families of fallen public safety officers and public safety officers who suffer from a disability or from post-traumatic stress syndrome (PTSD). Additionally, this bill authorizes certain 9-1-1 specialists to qualify as members of the Law Enforcement Officers' Pension System as employees of a participating governmental unit.

The intent of SB 396 is to align with recent changes to the federal Public Safety Officers' Benefits Program. In 2022, federal legislation passed to expand coverage to include mental health conditions such as post-traumatic stress disorder (PTSD), disabilities caused by attempted suicides, and deaths caused by officer suicides.

Regardless of the agency or uniform worn, the men and women of law enforcement and other public safety occupations have stepped forward on behalf of the citizens of their communities and of our State. Each one has taken an oath, a promise, to put the well-being of others first. As we have seen all too often, these professionals put their lives and safety on the line each shift they work. The situations they encounter are traumatic, take an emotional toll, and unfortunately, in some cases, may result in an officer taking his or her own life. When these situations occur, families struggle as well.

SB 396 recognizes and honors the sacrifice of public safety officers and their families. MCPA and MSA believe this is warranted and appropriate considering the dangerous work these individuals perform throughout their careers and their dedication to service and protection of the public.

For these reasons, MCPA and MSA **SUPPORT SB 396** and urge a **FAVORABLE** report.

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SB396 Public Safety Officers PTSD Disability Presu

Uploaded by: Anne Gawthrop

Position: FWA



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Baltimore, MD 21202-6700

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STATE RETIREMENT
and PENSION SYSTEM

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**Testimony in Support with Amendments for Senate Bill 396
Public Safety Officer - Performance of Duties - Death and Disability Benefits
Senate Budget and Tax Committee
February 5, 2025
2:00 P.M.**

**Anne Gawthrop
Director of Legislative Affairs
State Retirement Agency**

The Board of Trustees for the State Retirement and Pension System (System) wishes to express its support with amendments for Senate Bill 396, Public Safety Officer - Performance of Duties - Death and Disability Benefits.

Senate Bill 396 would, in part, establish a presumption that a member of the Correctional Officers' Retirement System (CORS), the Law Enforcement Officers' Pension System (LEOPS), or the State Police Retirement System (SPRS) is totally and permanently incapacitated for duty as the natural and proximate result of an accident that occurred in the actual performance of duty for members of the CORS, or arising out of or in the course of the actual performance of duty for members of the LEOPS or SPRS and will be awarded an accidental/special disability if the System's Medical Board certifies that:

1. the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;
2. the member was diagnosed by a licensed medical or mental health professional with post-traumatic stress disorder (PTSD), acute stress disorder, or a trauma- and stress-related disorder;
3. the diagnosis under item (2) resulted due to the nature and performance of the normal duties of the member's position;
4. the incapacity is likely to be permanent; and
5. the member should be retired.

Additional provisions of Senate Bill 396 allow 9-1-1 specialists employed by a participating governmental unit to participate in the LEOPS if their employer joins the LEOPS.

Post Traumatic Stress Disorder Presumption for Accidental or Special Disability Benefits

Currently, provisions of the State Personnel and Pensions Article addressing the award of an accidental or special disability benefit (line of duty disability benefit) for members of the CORS, LEOPS, and SPRS, provide, in part, that a member may receive an accidental or special disability benefit if the System's Medical Board determines the member is *mentally* or physically incapacitated from the further performance of the normal duties of the member's position. There is no provision in the CORS, LEOPS, or SPRS disability provisions that excludes a member from claiming they are mentally incapacitated from

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the further performance of the normal duties of their position as a result of PTSD, acute stress disorder, or a trauma– and stress–related disorder.

The State Retirement Agency (Agency) does not track disability applications by the mental or physical incapacity from which members claim to be suffering; however, we did manually review each disability application that was filed by members of the CORS, LEOPS, and SPRS, from July 1, 2023 through December 31, 2024. From this review, we were able to compile the following data.

LEOPS

- 19 total disability recommendations by the Medical Board were sent to the Board, five of which had a PTSD diagnosis
 - One applicant claimed ordinary disability (non-line of duty) and was approved
 - Four applicants claimed accidental disability and all were approved

CORS

- 70 total disability recommendations by the Medical Board were sent to the Board, six were for PTSD or trauma and stress related disorder
 - Four applicants claimed accidental disability and all were approved
 - One applicant claimed ordinary disability and was approved
 - One claimed accidental disability, but was denied and approved for ordinary disability

SPRS

- 15 total disability recommendations by the Medical Board were sent to the Board, one is for PTSD and has not been resolved at this time

We believe that based on these findings over the last 18 months, there does not appear to be any justification for the addition of a presumption. In fact, as evidenced by the findings of these claims, the Agency is unaware of any cases where a member claimed to be mentally incapacitated due to PTSD, acute stress disorder, or a trauma– and stress–related disorder, and benefits were inappropriately denied in the absence of a presumption. Accordingly, we believe that it would appear unnecessary to create a presumption for these conditions. Rather, we would recommend that the Committee consider adding a reporting requirement that the Agency continue to track disability claims for PTSD, acute stress disorder, or a trauma– and stress–related disorder and annually report their findings to the Joint Committee on Pensions each interim.

Moreover, we are concerned with the proposed language requiring a presumption based on the diagnosis of a treating physician. By statute, the Medical Board independently makes medical determinations following a review of all of the evidence, and where helpful, following an independent medical evaluation. This provision would strip the Medical Board of its authority and allow the award of disability based simply on a treating doctor’s diagnosis.

9-1-1 Specialists Joining LEOPS

Currently, individuals serving as 9-1-1 specialists participate in the Employees’ Pension System (EPS), if their employer participates in the EPS as a participating governmental unit. Eligibility for retirement in the EPS is either age 62 with five years of service if the member commenced service in the EPS prior to July 1, 2011, or age 65 with 10 years of service if the member commenced service in the EPS on or after July 1, 2011. Eligibility for retirement in the LEOPS is age 50 with five years of service if the member commenced service in the LEOPS prior to July 1, 2011, or age 50 with 10 years of service if the member commenced service in the LEOPS on or after July 1, 2011. Additionally, a member of LEOPS may also

be eligible to retire after accruing 25 years of service, regardless of age or when the member was enrolled in the LEOPS.

The technical definition for “normal retirement age” as provided for by the Internal Revenue Service (IRS) states that it is the age that is not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed. The IRS has issued proposed regulations that address the definition of normal service retirement age for qualified governmental pension plans, specifically addressing normal retirement age for public safety officers.

The IRS proposed regulations provide that a normal retirement age under a governmental plan would be permissible if the period of service used is reasonable and uniformly applicable, and a normal retirement age lower than age 65 represents the age at which employees customarily retire in the industry. Additionally, the proposed regulations include several sets of safe harbors which would allow for a normal service retirement age lower than age 65, with specific safe harbors for qualified public safety employees. For these employees, the proposed safe harbors are:

- age 50;
- combined age and years of service totaling 70 or more; or
- any age with 20 years of service.

Section 72(t)(10)(B) of the Internal Revenue Code defines a qualified public safety employee as any employee of a state or political subdivision of a state who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such state or political subdivision.

In the absence of final regulations, governmental plans must continue to comply with pre-ERISA vesting requirements. Under those rules, the normal retirement age is ordinarily age 65, and a plan may specify a lower age only if this lower age would be an age which employees customarily retire in the particular industry.

The issue of moving 9-1-1 specialists has been before this Committee in the past (Senate Bill 700 of 2024 and Senate Bill 822 of 2022). When Senate Bill 822 was introduced, tax counsel for the System reviewed the definition of a 9-1-1 specialist under §1-301(n) of the Public Safety Article, which includes language stating that a 9-1-1 specialist’s duties include:

- receiving and processing 9-1-1 requests for emergency services;
- other support functions directly related to 9-1-1 requests for emergency services; or
- dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency.

After reviewing this definition, the System’s tax counsel expressed concern that these duties would not satisfy the definition of a qualified public safety employee under I.R.C. § 72(t)(10)(B). Additionally, there was a concern that providing 9-1-1 specialists a normal retirement at age 50 or after accruing 25 years of service, regardless of age, is not consistent with the normal retirement age at which other equivalent positions (other non-qualified public safety employees) customarily retire in the industry.

Based on this advice, we believe that permitting 9-1-1 specialists to receive a normal retirement after reaching age 50 or after accruing 25 years of service, regardless of age, would violate the I.R.S. proposed regulations addressing normal retirement age. Therefore, adding 9-1-1 specialists who do not meet the definition of "qualified public safety employees," will present tax qualification issues for the System. We would urge the Committee to remove these provisions from Senate Bill 396.

We appreciate being given the opportunity to share our support for Senate Bill 396 with amendments and discuss our proposed amendments with the Committee. We stand ready to provide any further information or services the Committee might request regarding Senate Bill 396.