

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4396**

5  
6 (By Delegates Swartzmiller and D. Poling)

7 [Passed March 10, 2012; in effect from passage.]

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9  
10 AN ACT to amend and reenact §5H-1-1, §5H-1-2 and §5H-1-3 of the  
11 Code of West Virginia, 1931, as amended, all relating to  
12 authorizing a death benefit to the surviving spouse or  
13 designated beneficiary or contingent beneficiaries of law-  
14 enforcement officers who die in the performance their duties;  
15 requiring agencies to notify employees of the possible  
16 benefit; encouraging departments to obtain and preserve  
17 written designations of beneficiaries; and establishing an  
18 effective date of January 1, 2012.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §5H-1-1, §5H-1-2 and §5H-1-3 of the Code of West Virginia,  
21 1931, as amended, be amended and reenacted, all to read as follows:

22 **ARTICLE 1. WEST VIRGINIA FIRE, EMS AND LAW-ENFORCEMENT OFFICER**  
23 **SURVIVOR BENEFIT ACT.**

24 **§5H-1-1. Title and legislative intent.**

25 (a) This article is known as the "West Virginia Fire, EMS and

1 Law-Enforcement Officer Survivor Benefit Act.”

2 (b) It is the intent of the Legislature to provide for the  
3 payment of death benefits to the surviving spouse, designated  
4 beneficiary, children or parents of firefighters, EMS and law-  
5 enforcement personnel killed in the performance of their duties.

6 **§5H-1-2. Death benefit for survivors.**

7 (a) In the event a firefighter, EMS or law-enforcement  
8 provider is killed in the performance of his or her duties, the  
9 department chief, within thirty days from the date of death shall  
10 submit certification of the death to the Governor’s office.

11 (b) This act includes both paid and volunteer fire, EMS and  
12 law-enforcement personnel acting in the performance of his or her  
13 duties of any fire, EMS or law-enforcement department certified by  
14 the State of West Virginia.

15 (c) A firefighter, EMS or law-enforcement provider is  
16 considered to be acting in the performance of his or her duties for  
17 the purposes of this act when he or she is participating in any  
18 role of a fire, EMS or law-enforcement department function. This  
19 includes training, administration meetings, fire, EMS or law-  
20 enforcement incidents, service calls, apparatus, equipment or  
21 station maintenance, fundraisers and travel to or from such  
22 functions.

23 (d) Travel includes riding upon or in any apparatus or vehicle  
24 which is owned or used by the fire, EMS or law-enforcement  
25 department, or any other vehicle going to or directly returning  
26 from a firefighter’s home, place of business or other place where

1 he or she shall have been prior to participating in a fire, EMS or  
2 law-enforcement department function or upon the authorization of  
3 the chief of the department, agency head or other person in charge.

4 (e) Certification shall include the name of the certified  
5 fire, EMS or law-enforcement program, the name of the deceased  
6 firefighter, EMS or law-enforcement provider, the name and address  
7 of the beneficiary, any documentation designating a beneficiary or  
8 beneficiaries and setting forth the circumstances that qualify the  
9 deceased individual for death benefits under this act. Upon  
10 receipt of the certification from the certified fire, EMS or law-  
11 enforcement program, the state shall, from moneys from the State  
12 Treasury, General Fund, pay to the certified fire, EMS or law-  
13 enforcement program the sum of \$50,000 in the name of the  
14 beneficiary of the death benefit. Within five days of receipt of  
15 this sum from the state, the fire, EMS or law-enforcement program  
16 certified by the state shall pay the sum as a benefit to the  
17 surviving spouse or designated beneficiary. If there is no  
18 surviving spouse or designated beneficiary, then to the minor  
19 children of the firefighter, EMS or law-enforcement provider killed  
20 in the performance of duty. When no spouse, designated  
21 beneficiary, or minor children survive, the benefit shall be paid  
22 to the parent or parents of the firefighter, EMS or law-enforcement  
23 provider. It is the responsibility of the certified fire or EMS  
24 program to document the surviving spouse or beneficiary for  
25 purposes of reporting to the Governor's office.

26 (f) Any death ruled by a physician to be a result of an injury

1 sustained during any of the above mentioned performance of fire  
2 department, EMS or law-enforcement duties will be eligible for this  
3 benefit, even if this death occurs at a later time.

4 (g) Those individuals who are covered by this article are  
5 eligible for only one death benefit payment.

6 (h) Every department or agency head employing persons to which  
7 this article applies shall provide notice of the benefit provided  
8 hereby to such employees and encourage covered employees to provide  
9 a written designation of beneficiary to be maintained in the  
10 employee's personnel file.

11 **§5H-1-3. Effective date.**

12 The effective date for this act is January 1, 2007. The  
13 operation of the amendments to this article enacted during the year  
14 2012 shall be effective retroactively to January 1, 2012.