

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 141**

By Senators Trump, Hamilton, Oliverio, Jeffries,  
Stuart, Clements, Barrett, Phillips, Queen, and  
Maroney

[Introduced January 11, 2023]

1 A BILL to amend and reenact §5H-1-2 and §5H-1-3 of the Code of West Virginia, 1931, as  
2 amended, all relating to adding Division of Corrections and Rehabilitation employees  
3 working at institutions managed by the commissioner to the WV Emergency Responders  
4 Survivor Benefits Act; defining the qualifying acts for eligibility for payment of survivor  
5 benefits for Division of Corrections and Rehabilitation personnel to include, but not be  
6 limited to, training functions, administrative meetings, corrections or parole incidents or  
7 activities, interactions with inmates, former inmates, inmates or former inmates' family or  
8 associates, parolees, former parolees, former parolees' family or associates, and travel to  
9 or from any of these activities; and creating a retroactive effective date of March 14, 2021.

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

**ARTICLE 1. WEST VIRGINIA EMERGENCY RESPONDERS SURVIVOR BENEFIT  
ACT.**

**§5H-1-2. First responder survivor benefit.**

1 (a) *Terms.* — For the purposes of this article, the following terms have the following  
2 meanings:

3 (1) "Emergency responder" means a paid or volunteer firefighter, EMS personnel, law-  
4 enforcement agency personnel, ~~or~~ Division of Forestry personnel, or Division of Corrections and  
5 Rehabilitation personnel assigned to and working at an institution managed by the commissioner  
6 as described in §15A-3-12(a) of this code.

7 (2) "Emergency response duties" means:

8 (A) For a firefighter, EMS provider, or law-enforcement agency personnel, participation in  
9 any role of a fire department, EMS agency, or law-enforcement agency function, including, but not  
10 limited to: Training functions, administrative meetings, fire department, EMS agency, or law-  
11 enforcement incidents or service calls; apparatus, equipment, or station maintenance; and  
12 fundraisers, including travel to or from such functions; ~~and~~

13 (B) For a Division of Forestry employee, participation in Division of Forestry wildland fire  
14 fighting, emergency, or disaster response operations, including, but not limited to, travel to and  
15 from the locations of wildland fires, emergencies, or disasters; and

16 (C) For a Division of Corrections and Rehabilitation employee, participation in any role in  
17 the division, including, but not limited to: Training functions, administrative meetings, corrections  
18 or parole incidents or activities, interactions with inmates, former inmates, inmates or former  
19 inmates' family or associates, parolees, former parolees, former parolees' family, or associates;  
20 and travel to or from any of these activities.

21 (3) "Law-enforcement agency" means any duly authorized state, county, or municipal  
22 organization employing one or more persons whose responsibility is the enforcement of laws of  
23 the state or any county or municipality thereof: *Provided*, That neither the Public Service  
24 Commission nor any state institution of higher education nor any resort area district is a law-  
25 enforcement agency.

26 (4) "Travel" includes riding upon or in any apparatus or vehicle which is owned or used by  
27 the fire department, EMS agency, law-enforcement agency, ~~or~~ the Division of Forestry, the  
28 Division of Corrections and Rehabilitation, or any other vehicle going to, or directly returning from,  
29 an emergency responder's home, place of business, or other place where he or she ~~shall have~~ has  
30 been prior to participating in a fire department function, EMS agency function, law-enforcement  
31 agency function, or a Division of Forestry wildland fire-fighting operation, or upon the authorization  
32 of the chief of the department, agency head, or other person in charge.

33 (b) An emergency responder who dies as a proximate result of the performance of his or  
34 her emergency response duties is eligible for the survivor benefits established by this ~~aet~~ article.

35 (c) Within 30 days after the death of an eligible emergency responder, the department or  
36 agency head shall submit certification of the death to the Governor's Office. Certification of the  
37 death shall include the name of the certified fire department, EMS agency, law-enforcement  
38 agency, ~~or~~ Division of Forestry program, or Division of Corrections and Rehabilitation program, the

39 name of the deceased emergency responder, the name or names and addresses of the  
40 beneficiary or beneficiaries, any documentation designating a beneficiary or beneficiaries, and a  
41 description of the circumstances that qualify the deceased individual for survivor benefits under  
42 this act article.

43 (d) Upon receipt of the certification of the death from the certified fire department, EMS  
44 agency, law-enforcement agency, ~~or~~ Division of Forestry program, or Division of Corrections and  
45 Rehabilitation program, the state shall, from moneys from the State Treasury, General Fund, pay  
46 to the certified fire department, EMS agency, law-enforcement agency, ~~or~~ Division of Forestry  
47 program, or Division of Corrections and Rehabilitation program, the sum of \$100,000 in the name  
48 of the beneficiary or beneficiaries of the emergency responder eligible for the survivor benefit.  
49 Within five days of receipt of this sum from the state, the fire department, EMS agency, law-  
50 enforcement agency, ~~or~~ Division of Forestry Program, or Division of Corrections and Rehabilitation  
51 program, shall pay the sum as a benefit to the surviving designated beneficiary or beneficiaries. If  
52 there is no surviving designated beneficiary, then the sum shall be paid as if the decedent had  
53 designated as beneficiaries those persons who are entitled to inherit the decedent's intestate  
54 estate, in the proportions established by §42-1-3 and §42-1-3a of this code. It is the responsibility  
55 of the certified fire department, EMS agency, law-enforcement agency, or Division of Forestry  
56 program to document the beneficiary or beneficiaries above mentioned for purposes of reporting  
57 to the Governor's Office.

58 (e) Any death ruled by a physician to be a result of an injury sustained during performance  
59 of emergency response duties makes a deceased emergency responder eligible for this benefit,  
60 regardless of when the death occurs.

61 (f) The death of an eligible emergency responder qualifies his or her beneficiaries for only  
62 one state survivor benefit, paid pursuant to the provisions of this section, regardless of the amount.

63 (g) Every department or agency head employing persons to which this article applies shall  
64 provide notice of the benefit provided hereby to such employees and encourage covered

65 employees to provide a written designation of beneficiary to be maintained in the employee's  
66 personnel file.

67 (h) A person applying to the State Fire Marshal for certification as a firefighter shall provide  
68 a written designation of beneficiary using forms and procedures prescribed by the State Fire  
69 Marshal.

70 (i) A person applying to the Commissioner of the Bureau for Public Health for emergency  
71 medical services personnel certification shall provide a written designation of beneficiary using  
72 forms and procedures prescribed by the commissioner.

**§5H-1-3. Effective date.**

1 (a) The effective date for this ~~act~~ article is January 1, 2007. The operation of the  
2 amendments to this article enacted during the year 2012 shall be effective retroactively to January  
3 1, 2012.

4 (b) The operation of the amendments to this article enacted during the 2018 First  
5 Extraordinary Session of the Legislature shall be effective retroactively to January 1, 2018.

6 (c) The operation of the amendments to this article enacted during the regular session of  
7 the Legislature, 2023, shall be effective retroactively to March 14, 2021.