

H. B. 4396

(By Delegates Swartzmiller and D. Poling)
[Introduced February 2, 2012; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §5H-1-1 and §5H-1-2 of the Code of West
Virginia, 1931, as amended, all relating to permitting a death
benefit to the families of law-enforcement officers who die in
the performance their duties.

Be it enacted by the Legislature of West Virginia:

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

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

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

(a) This article is known as the "West Virginia Fire, ~~and~~ EMS
and Law-Enforcement Officer Survivor Benefit Act."

(b) It is the intent of the Legislature to provide for the
payment of death benefits to the surviving spouse, designated

1 beneficiary, children or parents of firefighters, ~~and~~ EMS and law-
2 enforcement personnel killed in the performance of their duties.

3 **§5H-1-2. Death benefit for survivors.**

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

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

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

19 (d) Travel includes riding upon or in any apparatus or vehicle
20 which is owned or used by the fire, ~~or~~ EMS or law-enforcement
21 department, or any other vehicle going to or directly returning
22 from a firefighter's home, place of business or other place where
23 he or she shall have been prior to participating in a fire, ~~or~~ EMS
24 or law-enforcement department function or upon the authorization of

1 the chief of the department, agency head or other person in charge.

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

23 (f) Any death ruled by a physician to be a result of an injury
24 sustained during any of the above mentioned performance of fire

1 department, EMS or law-enforcement duties will be eligible for this
2 benefit, even if this death occurs at a later time.

3 (g) Those individuals who are ~~both firefighters and EMS~~
4 ~~personnel~~ covered by this article are eligible for only one death
5 benefit payment.

NOTE: The purpose of this bill is to permit a \$50,000 death benefit to the families of law-enforcement officers who die while performing their duties. The bill adds law-enforcement officers to firefighters and EMS personnel who already qualify for survivor benefits.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.