

COMMITTEE SUBSTITUTE

FOR

**H. B. 4396**

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(BY DELEGATES SWARTZMILLER AND D. POLING)

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(Originating in the Committee on Finance)  
[February 27, 2012]

A BILL to amend and reenact §5H-1-1, §5H-1-2 and §5H-1-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing a death benefit to the surviving spouse or designated beneficiary or contingent beneficiaries of law-enforcement officers who die in the performance their duties.

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

That §5H-1-1, §5H-1-2 and §5H-1-3 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.**

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

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

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

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

6 (b) This act includes both paid and volunteer fire, ~~and~~  
7 EMS and law-enforcement personnel acting in the  
8 performance of his or her duties of any fire, ~~or~~ EMS or law-

9 enforcement department certified by the State of West  
10 Virginia.

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

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

27 (e) Certification shall include the name of the certified  
28 fire, ~~or~~ EMS or law-enforcement program, the name of the  
29 deceased firefighter, ~~or~~ EMS or law-enforcement provider,  
30 the name and address of the beneficiary and the  
31 circumstances that qualify the deceased individual for death  
32 benefits under this act. Upon receipt of the certification from  
33 the certified fire, ~~or~~ EMS or law-enforcement program, the  
34 state shall, from moneys from the State Treasury, General  
35 Fund, pay to the certified fire, ~~or~~ EMS or law-enforcement  
36 program the sum of \$50,000 in the name of the beneficiary of  
37 the death benefit. Within five days of receipt of this sum  
38 from the state, the fire, ~~or~~ EMS or law-enforcement program  
39 certified by the state shall pay the sum as a benefit to the  
40 surviving spouse, or designated beneficiary. If there is no  
41 surviving spouse or designated beneficiary, to the minor  
42 children of the firefighter, ~~or~~ EMS or law-enforcement  
43 provider killed in the performance of duty. When no spouse,  
44 designated beneficiary, or minor children survive, the benefit  
45 shall be paid to the parent or parents of the firefighter, or

46 EMS or law-enforcement provider. It is the responsibility of  
 47 the certified fire or EMS program to document the surviving  
 48 spouse or beneficiary for purposes of reporting to the  
 49 Governor's office.

50 (f) Any death ruled by a physician to be a result of an  
 51 injury sustained during any of the above mentioned  
 52 performance of fire department, EMS or law-enforcement  
 53 duties will be eligible for this benefit, even if this death  
 54 occurs at a later time.

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

**§5H-1-3. Effective Date.**

1 The effective date for this act is January 1, 2007. The  
 2 operation of the amendments to this article enacted during the  
 3 year 2012 shall be effective retrospectively to January 1,  
 4 2012.