

WEST VIRGINIA LEGISLATURE
2018 FIRST EXTRAORDINARY SESSION

ENROLLED

House Bill 102

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Passed May 21, 2018; in effect June 8, 2018.]

1 AN ACT to amend and reenact §5H-1-2 of the Code of West Virginia, 1931, as amended, as
2 contained in Chapter 211, Acts of the Legislature, Regular Session, 2018, relating to the
3 West Virginia Fire, EMS, and Law-Enforcement Officer Survivor Benefit Act; creating a
4 retroactive effective date; deleting a one-payment requirement for the benefit; requiring
5 benefit distribution be consistent with the intestate statutes when no beneficiary
6 documents are found; requiring the fire, EMS, or law-enforcement program to provide
7 documentation of surviving spouse, descendants or parents of the decedent; and
8 correcting terms for consistency of requirements.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5H. SURVIVOR BENEFITS.

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

§5H-1-2. Death benefit for survivors.

1 (a) In the event a firefighter, EMS, or law-enforcement provider dies as a proximate result
2 of the performance of, his or her duties, the department chief, within 30 days from the date of
3 death shall submit certification of the death to the Governor's Office.

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

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

12 (d) Travel includes riding upon or in any apparatus or vehicle which is owned or used by
13 the fire, EMS, or law-enforcement department, or any other vehicle going to or directly returning
14 from a firefighter's home, place of business, or other place where he or she shall have been prior
15 to participating in a fire, EMS, or law-enforcement department function, or upon the authorization
16 of the chief of the department, agency head, or other person in charge.

17 (e) Certification shall include the name of the certified fire, EMS, or law-enforcement
18 program, the name of the deceased firefighter, EMS, or law-enforcement provider, the name or
19 names and address of the beneficiary or beneficiaries, any documentation designating a
20 beneficiary or beneficiaries, and setting forth the circumstances that qualify the deceased
21 individual for death benefits under this act. Upon receipt of the certification from the certified fire,
22 EMS, or law-enforcement program, the state shall, from moneys from the State Treasury, General
23 Fund, pay to the certified fire, EMS, or law-enforcement program the sum of \$100,000 in the name
24 of the beneficiary or beneficiaries of the death benefit. Within five days of receipt of this sum from
25 the state, the fire, EMS, or law-enforcement program certified by the state shall pay the sum as a
26 benefit to the surviving designated beneficiary or beneficiaries. If there is no surviving designated
27 beneficiary, then the sum shall be paid as if the decedent had designated as beneficiaries those
28 persons who are entitled to inherit the decedent's intestate estate, in the proportions established
29 by §42-1-3 and §42-1-3a of this Code. It is the responsibility of the certified fire, EMS, or law-
30 enforcement program to document the beneficiary or beneficiaries above mentioned for purposes
31 of reporting to the Governor's Office.

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

35 (g) Those individuals who are covered by this article are eligible for only one state death
36 benefit, paid pursuant to the provisions of this section, regardless of the amount.

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

41 (i) Any person making application for certification as a firefighter to which this section
42 applies shall provide a written designation of beneficiary using forms and procedures prescribed
43 by the State Fire Marshal. Any person making application for emergency medical services
44 personnel certification to which this section applies shall provide a written designation of
45 beneficiary using forms and procedures prescribed by the Commissioner of the Bureau for Public
46 Health.

47 (j) The operation of the amendments to this section enacted during the 2018 Regular
48 Session and 2018 First Extraordinary Session of the Legislature shall be effective retroactively to
49 January 1, 2018.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect June 8, 2018.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor