

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4371

By Delegates Steele, Barrett, Reynolds, Smith, Wamsley,

Kelly, D. and Hott

[By Request of the Division of Corrections &
Rehabilitation]

[Introduced January 25, 2022; Referred
to the Select Committee on Jails and Prisons then
Finance]

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 Survivor Benefits Act; defining
 4 the qualifying acts for eligibility for payment of survivor benefits for Division of Corrections
 5 and Rehabilitation personnel to include but not be limited to, training functions,
 6 administrative meetings, corrections or parole incidents or activities, interactions with
 7 inmates, former inmates, inmates or former inmates' family or associates, parolees, former
 8 parolees, former parolees' family or associates, and travel to or from any of these
 9 activities; and creating a retroactive effective date of March 14, 2020.

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 ~~(4)~~ "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)~~ (1) For a firefighter, EMS provider, or law-enforcement agency personnel, participation
 9 in any role of a fire department, EMS agency, or law-enforcement agency function, including, but
 10 not 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)~~ (2) For a Division of Forestry employee, participation in Division of Forestry wildland
14 fire fighting, emergency, or disaster response operations, including, but not limited to, travel to
15 and from the locations of wildland fires, emergencies, or disasters; and

16 (3) 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, or any
28 other vehicle going to, or directly returning from, an emergency responder's home, place of
29 business, or other place where he or she ~~shall have~~ has been prior to participating in a fire
30 department function, EMS agency function, law-enforcement agency function, or a Division of
31 Forestry wildland fire-fighting operation, or upon the authorization of the chief of the department,
32 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 ~~act~~ 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, the name of the deceased emergency responder, the

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

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

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

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

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

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

68 (i) A person applying to the Commissioner of the Bureau for Public Health for emergency
69 medical services personnel certification shall provide a written designation of beneficiary using
70 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 2022 Regular
7 Session of the Legislature shall be effective retroactively to March 14, 2020.

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NOTE: The purpose of this bill is to add Division of Corrections and Rehabilitation employees who work at institutions managed by the Commissioner to the Survivor Benefits Act; define the qualifying acts for eligibility for payment of survivor benefits for Division of Corrections and Rehabilitation personnel to include but not be limited to training functions, administrative meetings, corrections or parole incidents or activities, interactions with inmates, former inmates, inmates or former inmates' family or associates, parolees, former parolees, former parolees' family or associates, and travel to or from any of these activities; and create a retroactive effective date of March 14, 2020.

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