WEST VIRGINIA CODE CHAPTER 5H ARTICLE 1

WV Legislature

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

(a) This article is known as the "West Virginia Emergency Responders Survivor Benefit Act.

(b) It is the intent of the Legislature to provide for the payment of survivor benefits to the surviving spouse, designated beneficiary, children, or parents of firefighters, EMS personnel, law-enforcement agency personnel, and Division of Forestry personnel killed in the performance of their emergency response duties.

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

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

(1) "Emergency responder" means a paid or volunteer firefighter, EMS personnel, law-enforcement agency personnel, or Division of Forestry personnel.

(2) "Emergency response duties" means:

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

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

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

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

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

(c) Within 30 days after the death of an eligible emergency responder, the department or agency head shall submit certification of the death to the Governor’s Office. Certification of the death shall include the name of the certified fire department, EMS agency, law-enforcement agency, or Division of Forestry program, the name of the deceased emergency responder, the name or names and addresses of the beneficiary or beneficiaries, any documentation designating a beneficiary or beneficiaries, and a description of the circumstances that qualify the deceased individual for survivor benefits under this act.

(d) Upon receipt of the certification of the death from the certified fire department, EMS

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

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

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

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

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

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

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§5H-1-3. Effective date.

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

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

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