WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2801

(By Delegates Moye, Mahan, Kessler and Sumner)

Passed March 10, 2007

In Effect from Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §5H-1-1, §5H-1-2, and §5H-1-3, all relating to providing a death benefit to the families of firefighters and EMS personnel who are killed as a result of an injury arising out of and in the course of performance of official duties or arising out of any activity on or off duty in the capacity of a firefighter or EMS provider; establishing an effective date; and establishing the processes to get the death benefits and the funding source.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new chapter, designated §5H-1-1, §5H-1-2, and §5H-1-3, all to read as follows:
CHAPTER 5H. SURVIVOR BENEFITS.

ARTICLE 1. WEST VIRGINIA FIRE AND EMS SURVIVOR BENEFIT ACT.

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

(a) This article is known as the “West Virginia Fire and EMS Survivor Benefit Act.”

(b) It is the intent of the Legislature to provide for the payment of death benefits to the surviving spouse, designated beneficiary, children or parents of firefighters and EMS personnel killed in the performance of their duties.

§5H-1-2. Death benefit for survivors.

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

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

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

(d) Travel includes riding upon any apparatus which is owned or used by the fire or EMS department, or any other vehicle going to or directly returning from a firefighter’s home, place of business or other place where he or she shall have been prior to participating in a fire or EMS department function or upon the authorization of the chief of the department or other person in charge.
(c) Certification shall include the name of the certified fire or EMS program, the name of the deceased firefighter or EMS provider, the name and address of the beneficiary and the circumstances that qualify the deceased individual for death benefits under this act. Upon receipt of the certification from the certified fire or EMS program, the state shall, from moneys from the State Treasury, General Fund, pay to the certified fire or EMS program the sum of fifty thousand dollars in the name of the beneficiary of the death benefit. Within five days of receipt of this sum from the state, the fire or EMS program certified by the state shall pay the sum as a benefit to the surviving spouse, or designated beneficiary. If there is no surviving spouse or designated beneficiary, to the minor children of the firefighter or EMS provider killed in the performance of duty. When no spouse, designated beneficiary, or minor children survive, the benefit shall be paid to the parent or parents of the firefighter or EMS provider. It is the responsibility of the certified fire or EMS program to document the surviving spouse or beneficiary for purposes of reporting to the Governor’s office.

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

(g) Those individuals who are both fire fighters and EMS personnel are eligible for only one death benefit payment.

§5H-1-3. Effective Date

The effective date for this act is the first day of January, two thousand seven.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 21st day of December, 2007.

Governor