WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4396

(By Delegates Swartzmiller and D. Poling)

Passed March 10, 2012
To Take Effect From Passage
AN ACT to amend and reenact §SH-1-1, §SH-1-2 and §SH-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; requiring agencies to notify employees of the possible benefit; encouraging departments to obtain and preserve written designations of beneficiaries; and establishing an effective date of January 1, 2012.

Be it enacted by the Legislature of West Virginia:

That §SH-1-1, §SH-1-2 and §SH-1-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 1. WEST VIRGINIA FIRE, EMS AND LAW-ENFORCEMENT OFFICER SURVIVOR BENEFIT ACT.

§SH-1-1. Title and legislative intent.

(a) This article is known as the “West Virginia Fire, EMS and Law-Enforcement Officer 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, EMS and law-enforcement personnel killed in the performance of their duties.

§SH-1-2. Death benefit for survivors.

(a) In the event a firefighter, EMS or law-enforcement 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, EMS and law-enforcement personnel acting in the performance of his or her duties of any fire, EMS or law-enforcement department certified by the State of West Virginia.

(c) A firefighter, EMS or law-enforcement 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, EMS or law-enforcement department function. This includes training, administration meetings, fire, EMS or law-enforcement incidents, service calls, apparatus, equipment or station maintenance, fundraisers and travel to or from such functions.
(d) Travel includes riding upon or in any apparatus or vehicle which is owned or used by the fire, EMS or law-enforcement 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, EMS or law-enforcement department function or upon the authorization of the chief of the department, agency head or other person in charge.

(e) Certification shall include the name of the certified fire, EMS or law-enforcement program, the name of the deceased firefighter, EMS or law-enforcement provider, the name and address of the beneficiary, any documentation designating a beneficiary or beneficiaries and setting forth the circumstances that qualify the deceased individual for death benefits under this act. Upon receipt of the certification from the certified fire, EMS or law-enforcement program, the state shall, from moneys from the State Treasury, General Fund, pay to the certified fire, EMS or law-enforcement program the sum of $50,000 in the name of the beneficiary of the death benefit. Within five days of receipt of this sum from the state, the fire, EMS or law-enforcement 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, then to the minor children of the firefighter, EMS or law-enforcement 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, EMS or law-enforcement 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
(g) Those individuals who are covered by this article are eligible for only one death benefit payment.

(h) 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.

§SH-1-3. Effective date.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 3rd day of April, 2012.

Governor
PRESENTED TO THE GOVERNOR

MAR 29 2012

Time 1:35 pm