

# **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

# **E N R O L L E D**

COMMITTEE SUBSTITUTE

FOR

## **H. B. 4396**

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(BY DELEGATES SWARTZMILLER AND D. POLING)

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[Passed March 10, 2012; to take effect from passage.]

AN ACT to amend and reenact §5H-1-1, §5H-1-2 and §5H-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 §5H-1-1, §5H-1-2 and §5H-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.**

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

1 (a) This article is known as the “West Virginia Fire, EMS  
2 and Law-Enforcement Officer Survivor Benefit Act.”

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

**§5H-1-2. Death benefit for survivors.**

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

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

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

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

26 (e) Certification shall include the name of the certified  
27 fire, EMS or law-enforcement program, the name of the  
28 deceased firefighter, EMS or law-enforcement provider, the  
29 name and address of the beneficiary, any documentation  
30 designating a beneficiary or beneficiaries and setting forth the  
31 circumstances that qualify the deceased individual for death  
32 benefits under this act. Upon receipt of the certification from  
33 the certified fire, EMS or law-enforcement program, the state  
34 shall, from moneys from the State Treasury, General Fund,  
35 pay to the certified fire, EMS or law-enforcement program  
36 the sum of \$50,000 in the name of the beneficiary of the  
37 death benefit. Within five days of receipt of this sum from  
38 the state, the fire, EMS or law-enforcement program certified  
39 by the state shall pay the sum as a benefit to the surviving  
40 spouse or designated beneficiary. If there is no surviving  
41 spouse or designated beneficiary, then to the minor children  
42 of the firefighter, EMS or law-enforcement provider killed in  
43 the performance of duty. When no spouse, designated  
44 beneficiary, or minor children survive, the benefit shall be  
45 paid to the parent or parents of the firefighter, EMS or law-  
46 enforcement provider. It is the responsibility of the certified  
47 fire or EMS program to document the surviving spouse or  
48 beneficiary for purposes of reporting to the Governor's  
49 office.

50 (f) Any death ruled by a physician to be a result of an  
51 injury sustained during any of the above mentioned

52 performance of fire department, EMS or law-enforcement  
53 duties will be eligible for this benefit, even if this death  
54 occurs at a later time.

55 (g) Those individuals who are covered by this article are  
56 eligible for only one death benefit payment.

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

**§5H-1-3. Effective date.**

1 The effective date for this act is January 1, 2007. The  
2 operation of the amendments to this article enacted during the  
3 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.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect from passage.

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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 \_\_\_\_\_, 2012.

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*Governor*