

**WEST VIRGINIA LEGISLATURE**  
**2018 FIRST EXTRAORDINARY SESSION**

**Introduced**

**Senate Bill 1002**

**FISCAL  
NOTE**

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced May 20, 2018]

1 A BILL to amend and reenact §5H-1-2 of the Code of West Virginia, 1931, as amended, as  
 2 contained in Chapter 211, Acts of the Legislature, Regular Session, 2018, relating to the  
 3 West Virginia Fire, EMS, and Law-Enforcement Officer Survivor Benefit Act; creating a  
 4 retroactive effective date; deleting a one-payment requirement for the benefit; requiring  
 5 benefit distribution be consistent with the intestate statutes when no beneficiary  
 6 documents are found; requiring the fire, EMS, or law-enforcement program to provide  
 7 documentation of surviving spouse, descendants, or parents of the decedent; and  
 8 correcting terms for consistency of requirements.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 5H. SURVIVOR BENEFITS.**

**ARTICLE 1. WEST VIRGINIA FIRE, EMS, AND LAW-ENFORCEMENT OFFICER  
SURVIVOR BENEFIT ACT.**

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

1 (a) In the event a firefighter, EMS, or law-enforcement provider dies as a proximate result  
 2 of the performance of, his or her duties, the department chief, within 30 days from the date of  
 3 death shall submit certification of the death to the Governor’s Office.

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

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

12 (d) Travel includes riding upon or in any apparatus or vehicle which is owned or used by

13 the fire, EMS, or law-enforcement department, or any other vehicle going to or directly returning  
14 from a firefighter's home, place of business, or other place where he or she shall have been prior  
15 to participating in a fire, EMS, or law-enforcement department function, or upon the authorization  
16 of the chief of the department, agency head, or other person in charge.

17 (e) Certification shall include the name of the certified fire, EMS, or law-enforcement  
18 program, the name of the deceased firefighter, EMS, or law-enforcement provider, the name or  
19 names and address of the beneficiary or beneficiaries, any documentation designating a  
20 beneficiary or beneficiaries, and setting forth the circumstances that qualify the deceased  
21 individual for death benefits under this act. Upon receipt of the certification from the certified fire,  
22 EMS, or law-enforcement program, the state shall, from moneys from the State Treasury, General  
23 Fund, pay to the certified fire, EMS, or law-enforcement program the sum of \$100,000 in the name  
24 of the beneficiary or beneficiaries of the death benefit. Within five days of receipt of this sum from  
25 the state, the fire, EMS, or law-enforcement program certified by the state shall pay the sum as a  
26 benefit to the surviving spouse or designated beneficiary or beneficiaries. If there is no surviving  
27 ~~spouse or designated beneficiary, then to the minor children of the firefighter, EMS, or law-~~  
28 ~~enforcement provider who died as a proximate result of the performance of his or her duties.~~  
29 ~~When no spouse, designated beneficiary, or minor children survive, the benefit shall be paid to~~  
30 ~~the parent or parents of the firefighter, EMS, or law-enforcement provider~~ the death benefit will be  
31 paid in a manner in accordance with §42-1-3 and §42-1-3a. It is the responsibility of the certified  
32 fire, ~~or~~ EMS, or law-enforcement program to document the ~~surviving spouse or~~ beneficiary,  
33 beneficiaries, spouse, descendants or parents for purposes of reporting to the Governor's Office.

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

37 (g) Those individuals who are covered by this article are eligible for only one state death  
38 benefit, ~~payment~~ regardless of the amount.

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

43 (i) Any person making application for certification as a firefighter to which this section  
44 applies shall provide a written designation of beneficiary using forms and procedures prescribed  
45 by the State Fire Marshal. Any person making application for emergency medical services  
46 personnel certification to which this section applies shall provide a written designation of  
47 beneficiary using forms and procedures prescribed by the Commissioner of the Bureau for Public  
48 Health.

49 (j) The operation of the amendments to this section enacted during the 2018 Regular  
50 Session and 2018 First Extraordinary Session of the Legislature shall be effective retroactively to  
51 January 1, 2018.

NOTE: The purpose of this bill is to amend the West Virginia Fire, EMS, and Law-Enforcement Officer Survivor Benefit Act as modified by Enrolled Committee Substitute for Senate Bill 625 to allow for a retroactive effective date of January 1, 2018, eliminate a one-payment requirement, and provide for a distribution consistent with intestate statutes if there is no beneficiary document by the decedent.

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