

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### Senate Bill 489

FISCAL  
NOTE

BY SENATORS BOSO, STOLLINGS, TAKUBO, UNGER,  
RUCKER, WELD, BALDWIN, SYPOLT, JEFFRIES, CLINE, AND  
MARONEY

[Introduced February 6, 2018; Referred  
to the Committee on Government Organization; and then  
to the Committee on Finance]

1 A BILL to amend and reenact §5H-1-2 of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §11-21-25, all relating to  
 3 creating the West Virginia Volunteer First Responder Act of 2018; increasing the death  
 4 benefit for survivors of firefighters, EMS, or law-enforcement providers killed in the  
 5 performance of his or her duties; and authorizing a tax credit for certain volunteers.

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

**CHAPTER 5H. SURVIVOR BENEFITS.**

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

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

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

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

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

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

18 (e) Certification shall include the name of the certified fire, EMS or law-enforcement  
19 program, the name of the deceased firefighter, EMS or law-enforcement provider, the name and  
20 address of the beneficiary, any documentation designating a beneficiary or beneficiaries and  
21 setting forth the circumstances that qualify the deceased individual for death benefits under this  
22 act. Upon receipt of the certification from the certified fire, EMS, or law-enforcement program, the  
23 state shall, from moneys from the State Treasury, General Fund, pay to the certified fire, EMS, or  
24 law-enforcement program the sum of ~~\$50,000~~ \$100,000 in the name of the beneficiary of the  
25 death benefit. Within five days of receipt of this sum from the state, the fire, EMS, or law-  
26 enforcement program certified by the state shall pay the sum as a benefit to the surviving spouse  
27 or designated beneficiary. If there is no surviving spouse or designated beneficiary, then to the  
28 minor children of the firefighter, EMS, or law-enforcement provider ~~killed~~ who died in the  
29 performance of duty. When no spouse, designated beneficiary, or minor children survive, the  
30 benefit shall be paid to the parent or parents of the firefighter, EMS, or law-enforcement provider.  
31 It is the responsibility of the certified fire or EMS program to document the surviving spouse or  
32 beneficiary for purposes of reporting to the Governor's Office.

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

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

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

## **CHAPTER 11. TAXATION.**

### **ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-25. Volunteer first responder credit.**

1           (a) This section may be cited as the “West Virginia Volunteer First Responder Act of 2018.”

2           (b) As used in this section:

3           (1) “Volunteer first responder” is an individual who contributes time and energy to a  
4 volunteer fire company, fire department, rescue squad, or ambulance service without  
5 compensation or for a per-call stipend.

6           (2) Activities include responding to a call for service to the company generated from the  
7 public safety answering point, or emergency telecommunications center, and training sessions in  
8 a calendar year. For the purpose of determining training session participation, first responders  
9 successfully completing training occurring outside the department shall receive an activity credit  
10 for each two hours of training received.

11           (c) A credit is allowed against an individual’s personal income tax liability under this article  
12 for involvement in:

13           (1) At least 55 percent of the fire company’s or emergency medical service’s activities, of  
14 \$1,000;

15           (2) Less than 55 percent and at least 45 percent of the fire company’s or emergency  
16 medical services’ activities, of \$800;

17           (3) Less than 45 percent and at least 35 percent of the fire company’s or emergency  
18 medical services’ activities, of \$600;

19           (4) Less than 35 percent and at least 25 percent of the fire company’s or emergency  
20 medical services’ activities, of \$400; and

21           (5) Less than 25 percent and at least 15 percent of the fire company’s or emergency  
22 medical services’ activities, of \$200.

23           (c) Certification of the level of activity participation shall be by sworn statement by the chief  
24 officer of the volunteer fire company, fire department, rescue squad, or ambulance service and  
25 witnessed by a notary public.

26 (d) The tax credit under this article is not refundable but excess credits may be carried  
27 forward for not more than 10 years for consideration on future tax returns.

28 (e) The Tax Commissioner shall develop forms for use by the volunteer fire company, fire  
29 department, rescue squad or ambulance service company's chief officer documenting total  
30 number of calls by and the number of training activities conducted in the department, the number  
31 of calls responded to by the volunteer, the number of training activity credits earned by the  
32 volunteer, and the ratio of cumulative number of calls responded to and training activities by the  
33 volunteer to the cumulative total number of calls for service by the department and training  
34 activities conducted within the department during the calendar year.

NOTE: The purpose of this bill is to create the West Virginia Volunteer First Responder Act of 2018. The bill increases the death benefit for survivors of firefighters, EMS, or law-enforcement providers killed in the performance of his or her duties and authorizes a tax credit for certain volunteers.

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