

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2780**

BY DELEGATES R. MILLER, ROHRBACH, LOVEJOY, FERRO,  
CANESTRARO, MAYNARD, MARCUM, ELDRIDGE AND  
ROBINSON

[Introduced March 2, 2017; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §5H-1-2 of the Code of West Virginia, 1931, as amended, relating  
 2 to clarifying existing language for those first responders who die as a direct result of their  
 3 duties as a firefighter, EMS or law-enforcement provider.

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

1 That §5H-1-2 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**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 in the performance  
 2 of, or dies as a direct result of his or her duties, the department chief, within thirty days from the  
 3 date of 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 and

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

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

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

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

NOTE: The purpose of this bill is to clarify existing language for those first responders who die as a direct result of their duties as a firefighter, EMS or law-enforcement provider.

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