

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENGROSSED

Senate Bill 680

BY SENATORS TRUMP, HAMILTON, AND BALDWIN

[Introduced February 18, 2022; referred
to the Committee on Finance]

1 A BILL to amend and reenact §5H-1-2 and §5H-1-3 of the Code of West Virginia, 1931, as
2 amended, all relating to adding Division of Corrections and Rehabilitation employees
3 working at institutions managed by the commissioner to the WV Emergency Responders
4 Survivor Benefits Act; defining the qualifying acts for eligibility for payment of survivor
5 benefits for Division of Corrections and Rehabilitation personnel to include, but not be
6 limited to, training functions, administrative meetings, corrections or parole incidents or
7 activities, interactions with inmates, former inmates, inmates or former inmates' family or
8 associates, parolees, former parolees, former parolees' family or associates, and travel to
9 or from any of these activities; and creating a retroactive effective date of March 14, 2020.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. WEST VIRGINIA EMERGENCY RESPONDERS SURVIVOR BENEFIT
ACT.**

§5H-1-2. First responder survivor benefit.

1 (a) *Terms.* — For the purposes of this article, the following terms have the following
2 meanings:

3 (1) "Emergency responder" means a paid or volunteer firefighter, EMS personnel, law-
4 enforcement agency personnel, ~~or~~ Division of Forestry personnel, or Division of Corrections and
5 Rehabilitation personnel assigned to and working at an institution managed by the commissioner
6 as described in §15A-3-12(a) of this code.

7 (2) "Emergency response duties" means:

8 (A) For a firefighter, EMS provider, or law-enforcement agency personnel, participation in
9 any role of a fire department, EMS agency, or law-enforcement agency function, including, but
10 not limited to: Training functions; administrative meetings; fire department, EMS agency, or law-
11 enforcement incidents or service calls; apparatus, equipment, or station maintenance; and
12 fundraisers, including travel to or from such functions; ~~and~~

13 (B) For a Division of Forestry employee, participation in Division of Forestry wildland fire
14 fighting, emergency, or disaster response operations, including, but not limited to, travel to and
15 from the locations of wildland fires, emergencies, or disasters; and

16 (C) For a Division of Corrections and Rehabilitation employee, participation in any role in
17 the division, including, but not limited to: Training functions; administrative meetings; corrections
18 or parole incidents or activities; interactions with inmates, former inmates, inmates or former
19 inmates' family or associates, parolees, former parolees, former parolees' family, or associates;
20 and travel to or from any of these activities.

21 (3) "Law-enforcement agency" means any duly authorized state, county, or municipal
22 organization employing one or more persons whose responsibility is the enforcement of laws of
23 the state or any county or municipality thereof: *Provided*, That neither the Public Service
24 Commission nor any state institution of higher education nor any resort area district is a law-
25 enforcement agency.

26 (4) "Travel" includes riding upon or in any apparatus or vehicle which is owned or used by
27 the fire department, EMS agency, law-enforcement agency, ~~or~~ the Division of Forestry, the
28 Division of Corrections and Rehabilitation, or any other vehicle going to, or directly returning from,
29 an emergency responder's home, place of business, or other place where he or she ~~shall have~~
30 has been prior to participating in a fire department function, EMS agency function, law-
31 enforcement agency function, or a Division of Forestry wildland fire-fighting operation, or upon
32 the authorization of the chief of the department, agency head, or other person in charge.

33 (b) An emergency responder who dies as a proximate result of the performance of his or
34 her emergency response duties is eligible for the survivor benefits established by this ~~act~~ article.

35 (c) Within 30 days after the death of an eligible emergency responder, the department or
36 agency head shall submit certification of the death to the Governor's Office. Certification of the
37 death shall include the name of the certified fire department, EMS agency, law-enforcement
38 agency, ~~or~~ Division of Forestry program, or Division of Corrections and Rehabilitation program,

39 the name of the deceased emergency responder, the name or names and addresses of the
40 beneficiary or beneficiaries, any documentation designating a beneficiary or beneficiaries, and a
41 description of the circumstances that qualify the deceased individual for survivor benefits under
42 this act article.

43 (d) Upon receipt of the certification of the death from the certified fire department, EMS
44 agency, law-enforcement agency, ~~or~~ Division of Forestry program, or Division of Corrections and
45 Rehabilitation program, the state shall, from moneys from the State Treasury, General Fund, pay
46 to the certified fire department, EMS agency, law-enforcement agency, ~~or~~ Division of Forestry
47 program, or Division of Corrections and Rehabilitation program, the sum of \$100,000 in the name
48 of the beneficiary or beneficiaries of the emergency responder eligible for the survivor benefit.
49 Within five days of receipt of this sum from the state, the fire department, EMS agency, law-
50 enforcement agency, ~~or~~ Division of Forestry Program, or Division of Corrections and
51 Rehabilitation program, shall pay the sum as a benefit to the surviving designated beneficiary or
52 beneficiaries. If there is no surviving designated beneficiary, then the sum shall be paid as if the
53 decedent had designated as beneficiaries those persons who are entitled to inherit the decedent's
54 intestate estate, in the proportions established by §42-1-3 and §42-1-3a of this code. It is the
55 responsibility of the certified fire department, EMS agency, law-enforcement agency, or Division
56 of Forestry program to document the beneficiary or beneficiaries above mentioned for purposes
57 of reporting to the Governor's Office.

58 (e) Any death ruled by a physician to be a result of an injury sustained during performance
59 of emergency response duties makes a deceased emergency responder eligible for this benefit,
60 regardless of when the death occurs.

61 (f) The death of an eligible emergency responder qualifies his or her beneficiaries for only
62 one state survivor benefit, paid pursuant to the provisions of this section, regardless of the
63 amount.

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

68 (h) A person applying to the State Fire Marshal for certification as a firefighter shall provide
69 a written designation of beneficiary using forms and procedures prescribed by the State Fire
70 Marshal.

71 (i) A person applying to the Commissioner of the Bureau for Public Health for emergency
72 medical services personnel certification shall provide a written designation of beneficiary using
73 forms and procedures prescribed by the commissioner.

§5H-1-3. Effective date.

1 (a) The effective date for this ~~act~~ article is January 1, 2007. The operation of the
2 amendments to this article enacted during the year 2012 shall be effective retroactively to January
3 1, 2012.

4 (b) The operation of the amendments to this article enacted during the 2018 First
5 Extraordinary Session of the Legislature shall be effective retroactively to January 1, 2018.

6 (c) The operation of the amendments to this article enacted during the regular session of
7 the Legislature, 2022, shall be effective retroactively to March 14, 2020.