

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 291

SENATORS SYPOLT, BALDWIN, MAYNARD, RUCKER, AND

ROBERTS, *original sponsors*

[Passed March 9, 2019; to take effect July 1, 2019]

1 AN ACT to amend and reenact §5H-1-1, §5H-1-2, and §5H-1-3 of the Code of West Virginia,
2 1931, as amended, all relating generally to survivor benefits for emergency response
3 providers; changing the name of the West Virginia Fire and EMS Survivor Benefit Act to
4 the West Virginia Emergency Responders Survivor Benefit Act; making Division of
5 Forestry personnel who die as a proximate result of their participation in wildland fire
6 fighting, emergency response, or disaster response operations eligible for survivor
7 benefits; defining terms; making technical changes; and reorganizing language in the act
8 for clarity.

Be it enacted by the Legislature of West Virginia:

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

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

1 (a) This article is known as the “West Virginia Emergency Responders Survivor Benefit
2 Act.

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

§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.

5 (2) “Emergency response duties” means:

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

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

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

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

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

28 (c) Within 30 days after the death of an eligible emergency responder, the department or
29 agency head shall submit certification of the death to the Governor's Office. Certification of the
30 death shall include the name of the certified fire department, EMS agency, law-enforcement
31 agency, or Division of Forestry program, the name of the deceased emergency responder, the

32 name or names and addresses of the beneficiary or beneficiaries, any documentation designating
33 a beneficiary or beneficiaries, and a description of the circumstances that qualify the deceased
34 individual for survivor benefits under this act.

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

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

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

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

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

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

§5H-1-3. Effective date.

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

To take effect July 1, 2019.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor