

EMERGENCY AND LAW ENFORCEMENT PERSONNEL DEATH BENEFITS ACT

Act of Jun. 24, 1976, P.L. 424, No. 101

Cl. 40

AN ACT

Providing for the payment of death benefits to the surviving spouse or children or parents of firefighters, ambulance service or rescue squad members, law enforcement officers or National Guard members who die as a result of the performance of their duties. (Title amended Oct. 6, 2005, P.L.319, No.59)

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. (a) In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member, member of the Pennsylvania Civil Air Patrol or National Guard member dies as a result of the performance of his duties, an application, including a certification of death, shall be made to the department within three years of the date of such death by any of the following:

(1) A political subdivision.

(2) A Commonwealth agency.

(3) In the case of National Guard members, the Adjutant General.

(4) In the case of a member of a Commonwealth law enforcement agency, the agency head.

(5) In the case of a campus police officer, the university or college president.

(6) Any survivor eligible for payment of benefits under this act or individual authorized to act on the survivor's behalf.

(7) In the case of the Pennsylvania Civil Air Patrol, the State Commander.

((a) amended October 26, 2016, P.L.886, No.110)

(a.1) A firefighter, ambulance service or rescue squad member, law enforcement officer, certified hazardous material response team member, member of the Pennsylvania Civil Air Patrol or National Guard member who suffers a fatal heart attack or stroke while on duty or not later than 24 hours after participating in a physical training exercise or responding to an emergency is presumed to have died as a result of the performance of his duties for purposes of this act.

((a.1) amended October 26, 2016, P.L.886, No.110)

(b) A volunteer firefighter shall be deemed to be acting in the performance of his duties for the purposes of this act going to or directly returning from a fire which the fire company or fire department attended including travel from and direct return to a firefighter's home, place of business or other place where he or she shall have been when he or she received the call or alarm or while participating in instruction fire drills in which the fire department or fire company shall have participated or while repairing or doing other work about or on the fire apparatus or buildings and grounds of the fire company or fire department upon the authorization of the chief of the fire company or fire department or other person in charge or while answering any emergency calls for any purpose or while riding upon the fire apparatus which is owned or used by the fire company or fire department or while performing any other duties of such fire company or fire department as authorized by the municipality or while performing duties imposed by

section 15, act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.

(c) A volunteer ambulance service, certified hazardous material response team or rescue squad member or member of the Pennsylvania Civil Air Patrol shall be deemed to be acting in the performance of his duties for the purposes of this act going to or directly returning from an emergency which the ambulance service, certified hazardous material response team, rescue squad or member of the Pennsylvania Civil Air Patrol attended including travel from and direct return to an ambulance service, certified hazardous material response team, rescue squad or Pennsylvania Civil Air Patrol member's home, place of business or other place where he or she shall have been when he or she received the call or alarm or while participating in drills in which the ambulance service, certified hazardous material response team, rescue squad or Pennsylvania Civil Air Patrol shall have participated or while repairing or doing other work about or on any emergency vehicle or buildings and grounds of the ambulance service, certified hazardous material response team, rescue squad or Pennsylvania Civil Air Patrol upon the authorization of the chief of the ambulance service, certified hazardous material response team, rescue squad or Pennsylvania Civil Air Patrol or other person in charge while answering any emergency calls for any purpose or while riding upon any vehicles which are owned or used by the ambulance service, certified hazardous material response team, rescue squad or Pennsylvania Civil Air Patrol.

((c) amended October 26, 2016, P.L.886, No.110)

(d) Upon receipt of such certification, the Commonwealth shall, from moneys payable out of the General Fund, pay to the surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer.

(e) The Commonwealth of Pennsylvania shall pay out of the General Fund to the surviving spouse or, if there is no surviving spouse, the minor children of a National Guard member, certified hazardous material response team member, member of the Pennsylvania Civil Air Patrol, volunteer firefighter, ambulance service or rescue squad member who died as a result of the performance of his duties the sum of \$100,000, adjusted in accordance with subsection (f) of this section. When no spouse or minor children survive, the benefit shall be paid to the parent or parents of such National Guard member, certified

hazardous material response team member, member of the Pennsylvania Civil Air Patrol, volunteer firefighter, ambulance service or rescue squad member. The benefit shall be payable whether or not the National Guard member or certified hazardous material response team member, member of the Pennsylvania Civil Air Patrol, volunteer firefighter, ambulance service or rescue squad member died as a result of the performance of his duty within the Commonwealth of Pennsylvania.

(e) amended October 26, 2016, P.L.886, No.110)

(f) On July 1, 2006, and each July 1 thereafter, the Commonwealth shall adjust the level of the benefit payable immediately before July 1 under subsections (d) and (e) of this section to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the United States Department of Commerce, Bureau of Labor Statistics, occurring in the one-year period ending on January 1 immediately preceding July 1.

(g) A National Guard member shall be deemed to be acting in the performance of his duties for the purposes of this act when:

(1) his death occurs in an official duty status authorized under 51 Pa.C.S. § 508 (relating to active State duty for emergency); or

(2) going directly to or from the place of such duties. (1 amended Oct. 9, 2009, P.L.588, No.51)

Compiler's Note: Section 3 of Act 1 of 2015, which amended section 1(a), provided that the amendment shall apply to an individual whose date of death occurs before, on or after the effective date of section 3.

Compiler's Note: Section 4 of Act 59 of 2005, which amended section 1(a), (d), (e) and (f) and added (a.1), provided that the amendment of section 1 shall apply retroactively to include any certificate of death of an eligible firefighter, ambulance service or rescue squad member, law enforcement officer or National Guard member who died as a result of the performance of his or her duties filed on or after December 15, 2003.

Section 2. The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise: (Intro. par. added July 2, 2007, P.L.68, No.21)

"Certified hazardous material response team member" means a person who is part of a group of individuals who are certified and organized by a Commonwealth agency, a local agency or a regional hazardous material organization for the primary purpose of providing emergency response services which is dispatched by a public safety answering point to mitigate actual or potential immediate threats to public health and the environment in response to the release or threat of a release of a hazardous material, which is certified, trained and equipped in accordance with the act of December 7, 1990 (P.L.639, No.165), known as the Hazardous Material Emergency Planning and Response Act. Hazardous material response team members who are dispatched by a public safety answering point may also be certified to perform stabilization actions needed to remove threats to public health and the environment from hazardous material releases. A member of a for-profit hazardous material response team that was not dispatched by a public safety answering point, is acting as an agent on behalf of the spiller or responsible party or is responsible for post-emergency or nonemergency response hazardous materials/hazardous waste clean-up activities is not

eligible for compensation that is provided for under this act.
(Def. added July 2, 2007, P.L.68, No.21)

"Department" means the Department of General Services of the Commonwealth. (Def. added May 13, 2015, P.L.1, No.1)

"Firefighter, ambulance service or rescue squad member or law enforcement officer" means a firefighter; a member of a volunteer fire company; a member of an ambulance service or rescue squad; a peace officer as defined in 18 Pa.C.S. § 501 (relating to definitions); a public servant concerned in official detention as defined in 18 Pa.C.S. § 5121 (relating to escape); an officer or employee of a State correctional institution; guards or employees of county jails and prisons; or any other law enforcement officer employed by the Commonwealth or a political subdivision. (Def. amended May 13, 2015, P.L.1, No.1)

"Public safety answering point" means the Pennsylvania Emergency Management Agency-approved first point at which calls for emergency assistance from individuals are answered, operated 24 hours a day. (Def. added July 2, 2007, P.L.68, No.21)

(2 amended Oct. 6, 2005, P.L.319, No.59)

Section 2.1. This act shall be broadly construed to grant benefits to firefighters, ambulance service or rescue squad members, law enforcement officers or National Guard personnel for deaths related to the performance of their duties.

(2.1 amended Apr. 2, 2002, P.L.213, No.20)

Section 3. This act shall take effect immediately and its provisions shall be retroactive to January 1, 1976 and shall be applicable to the deaths of all firefighters, ambulance service or rescue squad members and law enforcement personnel dying on and after said date as the direct result of injuries sustained in the performance of their duties, regardless of the date when such injuries occurred.

(3 amended Oct. 16, 1981, P.L.295, No.102)