

112TH CONGRESS  
2D SESSION

# H. R. 4018

To improve the Public Safety Officers' Benefits Program.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2012

Mr. FITZPATRICK (for himself and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To improve the Public Safety Officers' Benefits Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “Public Safety Officers’  
5 Benefits Improvements Act of 2012”.

6 **SEC. 2. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY**

7 **MEDICAL SERVICE PROVIDERS AND CERTAIN**  
8 **TRAINEES; MISCELLANEOUS AMENDMENTS.**

9 (a) IN GENERAL.—Title I of the Omnibus Crime  
10 Control and Safe Streets Act of 1968 (42 U.S.C. 3711  
11 et seq.) is amended—

12 (1) in section 901(a) (42 U.S.C. 3791(a))—

1 (A) in paragraph (26), by striking “and”  
2 at the end;

3 (B) in paragraph (27), by striking the pe-  
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(28) the term ‘hearing examiner’ includes any  
7 medical or claims examiner.”;

8 (2) in section 1201 (42 U.S.C. 3796)—

9 (A) in subsection (a), by striking “fol-  
10 lows:” and all that follows and inserting the fol-  
11 lowing: “follows (if the payee indicated is living  
12 on the date on which the determination is  
13 made)—

14 “(1) if there is no child who survived the public  
15 safety officer, to the surviving spouse of the public  
16 safety officer;

17 “(2) if there is at least 1 child who survived the  
18 public safety officer and a surviving spouse of the  
19 public safety officer, 50 percent to the surviving  
20 child (or children, in equal shares) and 50 percent  
21 to the surviving spouse;

22 “(3) if there is no surviving spouse of the public  
23 safety officer, to the surviving child (or children, in  
24 equal shares);

1           “(4) if there is no surviving spouse of the public  
2 safety officer and no surviving child—

3           “(A) to the surviving individual (or individ-  
4 uals, in shares per the designation, or, other-  
5 wise, in equal shares) designated by the public  
6 safety officer to receive benefits under this sub-  
7 section in the most recently executed designa-  
8 tion of beneficiary of the public safety officer on  
9 file at the time of death with the public safety  
10 agency, organization, or unit; or

11           “(B) if there is no individual qualifying  
12 under subparagraph (A), to the surviving indi-  
13 vidual (or individuals, in equal shares) des-  
14 ignated by the public safety officer to receive  
15 benefits under the most recently executed life  
16 insurance policy of the public safety officer on  
17 file at the time of death with the public safety  
18 agency, organization, or unit;

19           “(5) if there is no individual qualifying under  
20 paragraph (1), (2), (3), or (4), to the surviving par-  
21 ent (or parents, in equal shares) of the public safety  
22 officer; or

23           “(6) if there is no individual qualifying under  
24 paragraph (1), (2), (3), (4), or (5), to the surviving  
25 individual (or individuals, in equal shares) who

1 would qualify under the definition of the term ‘child’  
2 under section 1204 but for age.’;

3 (B) in subsection (b)—

4 (i) by striking “direct result of a cata-  
5 strophic” and inserting “direct and proxi-  
6 mate result of a personal”;

7 (ii) by striking “pay,” and all that fol-  
8 lows through “the same” and inserting  
9 “pay the same”;

10 (iii) by striking “in any year” and in-  
11 sserting “to the public safety officer (if liv-  
12 ing on the date on which the determination  
13 is made)”;

14 (iv) by striking “in such year, ad-  
15 justed” and inserting “with respect to the  
16 date on which the catastrophic injury oc-  
17 curred, as adjusted”;

18 (v) by striking “, to such officer”;

19 (vi) by striking “the total” and all  
20 that follows through “For” and inserting  
21 “for”; and

22 (vii) by striking “That these” and all  
23 that follows through the period, and insert-  
24 ing “That the amount payable under this  
25 subsection shall be the amount payable as

1 of the date of catastrophic injury of such  
2 public safety officer.”;

3 (C) in subsection (f)—

4 (i) in paragraph (1), by striking “, as  
5 amended (D.C. Code, sec. 4–622); or” and  
6 inserting a semicolon;

7 (ii) in paragraph (2)—

8 (I) by striking “. Such bene-  
9 ficiaries shall only receive benefits  
10 under such section 8191 that” and in-  
11 sserting “, such that beneficiaries shall  
12 receive only such benefits under such  
13 section 8191 as”; and

14 (II) by striking the period at the  
15 end and inserting “; or”; and

16 (iii) by adding at the end the fol-  
17 lowing:

18 “(3) payments under the September 11th Vic-  
19 tim Compensation Fund of 2001 (49 U.S.C. 40101  
20 note; Public Law 107–42).”;

21 (D) by amending subsection (k) to read as  
22 follows:

23 “(k) As determined by the Bureau, a heart attack,  
24 stroke, or vascular rupture suffered by a public safety offi-  
25 cer shall be presumed to constitute a personal injury with-

1 in the meaning of subsection (a), sustained in the line of  
2 duty by the officer and directly and proximately resulting  
3 in death, if—

4 “(1) the public safety officer, while on duty—

5 “(A) engages in a situation involving non-  
6 routine stressful or strenuous physical law en-  
7 forcement, fire suppression, rescue, hazardous  
8 material response, emergency medical services,  
9 prison security, disaster relief, or other emer-  
10 gency response activity; or

11 “(B) participates in a training exercise in-  
12 volving nonroutine stressful or strenuous phys-  
13 ical activity;

14 “(2) the heart attack, stroke, or vascular rup-  
15 ture commences—

16 “(A) while the officer is engaged or partici-  
17 pating as described in paragraph (1);

18 “(B) while the officer remains on that duty  
19 after being engaged or participating as de-  
20 scribed in paragraph (1); or

21 “(C) not later than 24 hours after the offi-  
22 cer is engaged or participating as described in  
23 paragraph (1); and

1           “(3) the heart attack, stroke, or vascular rup-  
2           ture directly and proximately results in the death of  
3           the public safety officer,  
4 unless competent medical evidence establishes that the  
5 heart attack, stroke, or vascular rupture was unrelated to  
6 the engagement or participation or was directly and proxi-  
7 mately caused by something other than the mere presence  
8 of cardiovascular-disease risk factors.”; and

9           (E) by adding at the end the following:

10          “(n) The public safety agency, organization, or unit  
11 responsible for maintaining on file an executed designation  
12 of beneficiary or executed life insurance policy for pur-  
13 poses of subsection (a)(4) shall maintain the confiden-  
14 tiality of the designation or policy in the same manner  
15 as the agency, organization, or unit maintains personnel  
16 or other similar records of the public safety officer.”;

17          (3) in section 1202 (42 U.S.C. 3796a)—

18           (A) by striking “death”, each place it ap-  
19 pears except the second place it appears, and  
20 inserting “fatal”; and

21           (B) in paragraph (1), by striking “or cata-  
22 strophic injury” the second place it appears and  
23 inserting “, disability, or injury”;

24          (4) in section 1203 (42 U.S.C. 3796a-1)—

1 (A) in the section heading, by striking  
2 **“WHO HAVE DIED IN THE LINE OF DUTY”**  
3 and inserting **“WHO HAVE SUSTAINED**  
4 **FATAL OR CATASTROPHIC INJURY IN THE**  
5 **LINE OF DUTY”**; and

6 (B) by striking “who have died in the line  
7 of duty” and inserting “who have sustained  
8 fatal or catastrophic injury in the line of duty”;  
9 (5) in section 1204 (42 U.S.C. 3796b)—

10 (A) in paragraph (1), by striking “con-  
11 sequences of an injury that” and inserting “an  
12 injury, the direct and proximate consequences  
13 of which”;

14 (B) in paragraph (3)—

15 (i) in the matter preceding clause

16 (i)—

17 (I) by inserting “or permanently  
18 and totally disabled” after “de-  
19 ceased”; and

20 (II) by striking “death” and in-  
21 serting “fatal or catastrophic injury”;

22 and

23 (ii) by redesignating clauses (i), (ii),  
24 and (iii) as subparagraphs (A), (B), and  
25 (C), respectively;

1 (C) in paragraph (5)—

2 (i) by striking “post-mortem” each  
3 place it appears and inserting “post-in-  
4 jury”; and

5 (ii) by redesignating clauses (i) and  
6 (ii) as subparagraphs (A) and (B), respec-  
7 tively;

8 (D) in paragraph (7), by striking “public  
9 employee member of a rescue squad or ambu-  
10 lance crew;” and inserting “employee or volun-  
11 teer member of a rescue squad or ambulance  
12 crew (including a ground or air ambulance serv-  
13 ice) that—

14 “(A) is a public agency; or

15 “(B) is (or is a part of) a nonprofit entity  
16 serving the public that—

17 “(i) is officially authorized or licensed  
18 to engage in rescue activity or to provide  
19 emergency medical services; and

20 “(ii) is officially designated as a  
21 prehospital emergency medical response  
22 agency;”; and

23 (E) in paragraph (9)—

24 (i) in subparagraph (A), by striking  
25 “as a chaplain, or as a member of a rescue

1 squad or ambulance crew;” and inserting  
2 “or as a chaplain;”;

3 (ii) in subparagraph (B)(ii), by strik-  
4 ing “or” after the semicolon;

5 (iii) in subparagraph (C)(ii), by strik-  
6 ing the period and inserting a semicolon;

7 and

8 (iv) by adding at the end the fol-  
9 lowing:

10 “(D) a member of a rescue squad or am-  
11 bulance crew who, as authorized or licensed by  
12 law and by the applicable agency or entity (and  
13 as designated by such agency or entity), is en-  
14 gaging in rescue activity or in the provision of  
15 emergency medical services.”

16 (6) in section 1205 (42 U.S.C. 3796c), by add-  
17 ing at the end the following:

18 “(d) Unless expressly provided otherwise, any ref-  
19 erence in this part to any provision of law not in this part  
20 shall be understood to constitute a general reference under  
21 the doctrine of incorporation by reference, and thus to in-  
22 clude any subsequent amendments to the provision.”;

23 (7) in each of subsections (a) and (b) of section  
24 1212 (42 U.S.C. 3796d–1), sections 1213 and 1214  
25 (42 U.S.C. 3796d–2 and 3796d–3), and subsections

1 (b) and (c) of section 1216 (42 U.S.C. 3796d-5), by  
2 striking “dependent” each place it appears and in-  
3 sserting “person”;

4 (8) in section 1212 (42 U.S.C. 3796d-1)—

5 (A) in subsection (a)—

6 (i) in paragraph (1), in the matter  
7 preceding subparagraph (A), by striking  
8 “Subject” and all that follows through “,  
9 the” and inserting “The”; and

10 (ii) in paragraph (3), by striking “re-  
11 duced by” and all that follows through  
12 “(B) the amount” and inserting “reduced  
13 by the amount”;

14 (B) in subsection (c)—

15 (i) in the subsection heading, by strik-  
16 ing “DEPENDENT”; and

17 (ii) by striking “dependent”;

18 (9) in paragraphs (2) and (3) of section  
19 1213(b) (42 U.S.C. 3796d-2(b)), by striking “de-  
20 pendent’s” each place it appears and inserting “per-  
21 son’s”;

22 (10) in section 1216 (42 U.S.C. 3796d-5)—

23 (A) in subsection (a), by striking “each de-  
24 pendent” each place it appears and inserting “a  
25 spouse or child”; and

1 (B) by striking “dependents” each place it  
2 appears and inserting “a person”; and

3 (11) in section 1217(3)(A) (42 U.S.C. 3796d–  
4 6(3)(A)), by striking “described in” and all that fol-  
5 lows and inserting “an institution of higher edu-  
6 cation, as defined in section 102 of the Higher Edu-  
7 cation Act of 1965 (20 U.S.C. 1002); and”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
9 Section 402(l)(4)(C) of the Internal Revenue Code of  
10 1986 is amended—

11 (1) by striking “section 1204(9)(A)” and in-  
12 serting “section 1204(10)(A)”; and

13 (2) by striking “42 U.S.C. 3796b(9)(A)” and  
14 inserting “42 U.S.C. 3796b(10)(A)”.

15 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS; DETER-**  
16 **MINATIONS; APPEALS.**

17 The matter under the heading “PUBLIC SAFETY OF-  
18 FICERS BENEFITS” under the heading “OFFICE OF JUS-  
19 TICE PROGRAMS” under title II of division B of the Con-  
20 solidated Appropriations Act, 2008 (Public Law 110–161;  
21 121 Stat. 1912; 42 U.S.C. 3796e–2) is amended—

22 (1) by striking “decisions” and inserting “de-  
23 terminations”;

24 (2) by striking “(including those, and any re-  
25 lated matters, pending)”; and

1           (3) by striking the period at the end and insert-  
2           ing the following: “: *Provided further*, That, on and  
3           after the date of enactment of the Public Safety Of-  
4           ficers’ Benefits Improvements Act of 2012, as to  
5           each such statute—

6           “(1) the provisions of section 1001(a)(4) of  
7           such title I (42 U.S.C. 3793(a)(4)) shall apply;

8           “(2) payment shall be made only upon a deter-  
9           mination by the Bureau that the facts legally war-  
10          rant the payment;

11          “(3) any reference to section 1202 of such title  
12          I shall be deemed to be a reference to paragraphs  
13          (2) and (3) of such section 1202; and

14          “(4) a certification submitted under any such  
15          statute may be accepted by the Bureau as prima  
16          facie evidence of the facts asserted in the certifi-  
17          cation:

18 *Provided further*, That, on and after the date of enactment  
19 of the Public Safety Officers’ Benefits Improvements Act  
20 of 2012, no appeal shall bring any final determination of  
21 the Bureau before any court for review unless notice of  
22 appeal is filed (within the time specified herein and in the  
23 manner prescribed for appeal to United States courts of  
24 appeals from United States district courts) not later than  
25 90 days after the date on which the Bureau serves notice

1 of the final determination: *Provided further*, That any reg-  
2 ulations promulgated by the Bureau under such part (or  
3 any such statute) before, on, or after the date of enact-  
4 ment of the Public Safety Officers' Benefits Improvements  
5 Act of 2012 shall apply to any matter pending on, or filed  
6 or accruing after, the effective date specified in the regula-  
7 tions, except as the Bureau may indicate otherwise.”.

8 **SEC. 4. EFFECTIVE DATE.**

9 (a) IN GENERAL.—Except as provided in subsection  
10 (b), the amendments made by this title shall—

11 (1) take effect on the date of enactment of this  
12 Act; and

13 (2) apply to any matter pending, before the Bu-  
14 reau of Justice Assistance or otherwise, on the date  
15 of enactment of this Act, or filed or accruing after  
16 that date.

17 (b) EXCEPTIONS.—

18 (1) RESCUE SQUADS AND AMBULANCE  
19 CREWS.—For a member of a rescue squad or ambu-  
20 lance crew (as defined in section 1204(8) of title I  
21 of the Omnibus Crime Control and Safe Streets Act  
22 of 1968, as amended by this title), the amendments  
23 made by this title shall apply to injuries sustained  
24 on or after June 1, 2009.

1           (2) HEART ATTACKS, STROKES, AND VASCULAR  
2           RUPTURES.—Section 1201(k) of title I of the Omni-  
3           bus Crime Control and Safe Streets Act of 1968, as  
4           amended by this title, shall apply to heart attacks,  
5           strokes, and vascular ruptures sustained on or after  
6           December 15, 2003.

○