Union Calendar No. 392

112TH CONGRESS
2D Session

H. R. 4018

[Report No. 112–548]

To improve the Public Safety Officers’ Benefits Program.

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

June 25, 2012

Additional sponsors: Mr. GERLACH, Mr. HOLT, Mr. WELCH, Mr. MARINO, Mr. POE of Texas, Mr. DENT, Ms. SCHWARTZ, Mr. MICHAUD, Mr. ROSS of Arkansas, Mr. GRIMM, Mr. LATHAM, Mr. PETERSON, Mr. ANDREWS, Mr. GIBSON, Mr. COLE, Mr. CONYERS, and Mr. HINCHLEY

June 25, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 14, 2012]
A BILL

To improve the Public Safety Officers’ Benefits Program.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY
MEDICAL SERVICE PROVIDERS; MISCELLA-
NEOUS AMENDMENTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Con-
trol and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)
is amended—

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

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

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

(C) by adding at the end the following:
“(28) the term ‘hearing examiner’ includes any
medical or claims examiner.”;

(2) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a), by striking “follows:”
and all that follows and inserting the following:
“follows (if the payee indicated is living on the
date on which the determination is made)—
“(1) if there is no child who survived the public safety officer, to the surviving spouse of the public safety officer;

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

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

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

“(A) to the surviving individual (or individuals, in shares per the designation, or, otherwise, in equal shares) designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

“(B) if there is no individual qualifying under subparagraph (A), to the surviving individual (or individuals, in equal shares) designated by the public safety officer to receive ben-
(B) in subsection (b)—

(i) by striking “direct result of a catastrophic” and inserting “direct and proximate result of a personal”;

(ii) by striking “pay,” and all that follows through “the same” and inserting “pay the same”;

(iii) by striking “in any year” and inserting “to the public safety officer (if living on the date on which the determination is made)”;

efits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit;

“(5) if there is no individual qualifying under paragraph (1), (2), (3), or (4), to the surviving parent (or parents, in equal shares) of the public safety officer; or

“(6) if there is no individual qualifying under paragraph (1), (2), (3), (4), or (5), to the surviving individual (or individuals, in equal shares) who would qualify under the definition of the term ‘child’ under section 1204 but for age.”;
(iv) by striking “in such year, adjusted” and inserting “with respect to the date on which the catastrophic injury occurred, as adjusted”;

(v) by striking “, to such officer”;

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

and

(vii) by striking “That these” and all that follows through the period, and inserting “That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.”;

(C) in subsection (f)—

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

(ii) in paragraph (2)—

(I) by striking “. Such beneficiaries shall only receive benefits under such section 8191 that” and inserting “, such that beneficiaries shall receive only such benefits under such section 8191 as”; and
(II) by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

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

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

“(k) As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if—

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

“(A) engages in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

“(B) participates in a training exercise involving nonroutine stressful or strenuous physical activity;
“(2) the heart attack, stroke, or vascular rupture commences—

“(A) while the officer is engaged or participating as described in paragraph (1);

“(B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or

“(C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and

“(3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer,

unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.”; and

(E) by adding at the end the following:

“(n) The public safety agency, organization, or unit responsible for maintaining on file an executed designation of beneficiary or executed life insurance policy for purposes of subsection (a)(4) shall maintain the confidentiality of the designation or policy in the same manner as the agency,
organization, or unit maintains personnel or other similar
records of the public safety officer.”;

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

(A) by striking “death”, each place it ap-
pears except the second place it appears, and in-
serting “fatal”; and

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

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

(A) in the section heading, by striking
“WHO HAVE DIED IN THE LINE OF DUTY” and
inserting “WHO HAVE SUSTAINED FATAL OR CAT-
ASTROPHIC INJURY IN THE LINE OF DUTY”; and

(B) by striking “who have died in the line
of duty” and inserting “who have sustained fatal
or catastrophic injury in the line of duty”;

(5) in section 1204 (42 U.S.C. 3796b)—

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

(B) in paragraph (3)—

(i) in the matter preceding clause (i)—
(I) by inserting “or permanently and totally disabled” after “deceased”; and

(II) by striking “death” and inserting “fatal or catastrophic injury”; and

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

(C) in paragraph (5)—

(i) by striking “post-mortem” each place it appears and inserting “post-injury”; and

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(D) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—
“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) engages in rescue activities or provides emergency medical services as part of an official emergency response system;”;

and

(E) in paragraph (9)—

(i) in subparagraph (A), by striking “as a chaplain, or as a member of a rescue squad or ambulance crew;” and inserting “or as a chaplain;”;

(ii) in subparagraph (B)(ii), by striking “or” after the semicolon;

(iii) in subparagraph (C)(ii), by striking the period and inserting “; or”; and

(iv) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity, is engaging in rescue activity or in the provision of emergency medical services.”

(6) in section 1205 (42 U.S.C. 3796c), by adding at the end the following:
“(d) Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference under the doctrine of incorporation by reference, and thus to include any subsequent amendments to the provision.”;

(7) in each of subsections (a) and (b) of section 1212 (42 U.S.C. 3796d–1), sections 1213 and 1214 (42 U.S.C. 3796d–2 and 3796d–3), and subsections (b) and (c) of section 1216 (42 U.S.C. 3796d–5), by striking “dependent” each place it appears and inserting “person”;

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

(A) in subsection (a)—

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

(ii) in paragraph (3), by striking “reduced by” and all that follows through “(B) the amount” and inserting “reduced by the amount”;

(B) in subsection (c)—

(i) in the subsection heading, by striking “DEPENDENT”; and

(ii) by striking “dependent”;

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(9) in paragraphs (2) and (3) of section 1213(b) (42 U.S.C. 3796d–2(b)), by striking “dependent’s” each place it appears and inserting “person’s”;

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

(A) in subsection (a), by striking “each dependent” each place it appears and inserting “a spouse or child”; and

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

(11) in section 1217(3)(A) (42 U.S.C. 3796d–6(3)(A)), by striking “described in” and all that follows and inserting “an institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and”.

(b) Amendment Related to Expedited Payment for Public Safety Officers Involved in the Prevention, Investigation, Rescue, or Recovery Efforts Related to a Terrorist Attack.—Section 611(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 3796c–1(a)) is amended by inserting “or an entity described in section 1204(7)(B) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(7)(B))” after “employed by such agency”.
(c) Technical and Conforming Amendment.—Section 402(l)(4)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking “section 1204(9)(A)” and inserting “section 1204(10)(A)”; and

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

SEC. 3. Authorization of Appropriations; Determinations; Appeals.

The matter under the heading “Public Safety Officers Benefits” under the heading “Office of Justice Programs” under title II of division B of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1912; 42 U.S.C. 3796c–2) is amended—

(1) by striking “decisions” and inserting “determinations”; and

(2) by striking “(including those, and any related matters, pending)”;

(3) by striking the period at the end and inserting the following: “: Provided further, That, on and after the date of enactment of the Public Safety Officers’ Benefits Improvements Act of 2012, as to each such statute—

“(1) the provisions of section 1001(a)(4) of such title I (42 U.S.C. 3793(a)(4)) shall apply;
“(2) payment (other than payment made pursuant to section 611 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 3796c–1)) shall be made only upon a determination by the Bureau that the facts legally warrant the payment;

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

“(4) a certification submitted under any such statute (other than a certification submitted pursuant to section 611 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 3796c–1)) may be accepted by the Bureau as prima facie evidence of the facts asserted in the certification:

Provided further, That, on and after the date of enactment of the Public Safety Officers’ Benefits Improvements Act of 2012, no appeal shall bring any final determination of the Bureau before any court for review unless notice of appeal is filed (within the time specified herein and in the manner prescribed for appeal to United States courts of appeals from United States district courts) not later than 90 days
after the date on which the Bureau serves notice of the final determination: Provided further, That any regulations promulgated by the Bureau under such part (or any such statute) before, on, or after the date of enactment of the Public Safety Officers’ Benefits Improvements Act of 2012 shall apply to any matter pending on, or filed or accruing after, the effective date specified in the regulations, except as the Bureau may, consistent with the interests of justice, indicate otherwise.”.

SEC. 4. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall—

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

(2) apply to any matter pending, before the Bureau of Justice Assistance or otherwise, on the date of enactment of this Act, or filed or accruing after that date.

(b) Exceptions.—

(1) Rescue Squads and Ambulance Crews.—For a member of a rescue squad or ambulance crew (as defined in section 1204(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act), the amendments made by this
Act shall apply to injuries sustained on or after June 1, 2009.

(2) **Heart Attacks, Strokes, and Vascular Ruptures.**—Section 1201(k) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, shall apply to heart attacks, strokes, and vascular ruptures sustained on or after December 15, 2003.
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JUNE 25, 2012
Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.