

Union Calendar No. 392

112TH CONGRESS
2^D 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. HINCHEY

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.

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; MISCELLA-**
 8 **NEOUS AMENDMENTS.**

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

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

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

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

17 *(C) by adding at the end the following:*

18 *“(28) the term ‘hearing examiner’ includes any*
 19 *medical or claims examiner.”;*

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

21 *(A) in subsection (a), by striking “follows:”*
 22 *and all that follows and inserting the following:*
 23 *“follows (if the payee indicated is living on the*
 24 *date on which the determination is made)—*

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

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

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

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

14 “(A) to the surviving individual (or indi-
15 viduals, in shares per the designation, or, other-
16 wise, in equal shares) designated by the public
17 safety officer to receive benefits under this sub-
18 section in the most recently executed designation
19 of beneficiary of the public safety officer on file
20 at the time of death with the public safety agen-
21 cy, organization, or unit; or

22 “(B) if there is no individual qualifying
23 under subparagraph (A), to the surviving indi-
24 vidual (or individuals, in equal shares) des-
25 ignated by the public safety officer to receive ben-

1 *efits under the most recently executed life insur-*
2 *ance policy of the public safety officer on file at*
3 *the time of death with the public safety agency,*
4 *organization, or unit;*

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

9 *“(6) if there is no individual qualifying under*
10 *paragraph (1), (2), (3), (4), or (5), to the surviving*
11 *individual (or individuals, in equal shares) who*
12 *would qualify under the definition of the term ‘child’*
13 *under section 1204 but for age.”;*

14 *(B) in subsection (b)—*

15 *(i) by striking “direct result of a cata-*
16 *strophic” and inserting “direct and proxi-*
17 *mate result of a personal”;*

18 *(ii) by striking “pay,” and all that fol-*
19 *lows through “the same” and inserting “pay*
20 *the same”;*

21 *(iii) by striking “in any year” and in-*
22 *serting “to the public safety officer (if living*
23 *on the date on which the determination is*
24 *made)”;*

1 (iv) by striking “in such year, ad-
 2 justed” and inserting “with respect to the
 3 date on which the catastrophic injury oc-
 4 curred, as adjusted”;

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

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

9 (vii) by striking “That these” and all
 10 that follows through the period, and insert-
 11 ing “That the amount payable under this
 12 subsection shall be the amount payable as of
 13 the date of catastrophic injury of such pub-
 14 lic safety officer.”;

15 (C) in subsection (f)—

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

19 (ii) in paragraph (2)—

20 (I) by striking “. Such bene-
 21 ficiaries shall only receive benefits
 22 under such section 8191 that” and in-
 23 serting “, such that beneficiaries shall
 24 receive only such benefits under such
 25 section 8191 as”; and

1 (II) by striking the period at the
2 end and inserting “; or”; and
3 (iii) by adding at the end the fol-
4 lowing:

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

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

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

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

17 “(A) engages in a situation involving non-
18 routine stressful or strenuous physical law en-
19 forcement, fire suppression, rescue, hazardous
20 material response, emergency medical services,
21 prison security, disaster relief, or other emer-
22 gency response activity; or

23 “(B) participates in a training exercise in-
24 volving nonroutine stressful or strenuous phys-
25 ical activity;

1 “(2) the heart attack, stroke, or vascular rupture
2 *commences—*

3 “(A) while the officer is engaged or partici-
4 *pating as described in paragraph (1);*

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

8 “(C) not later than 24 hours after the officer
9 *is engaged or participating as described in para-*
10 *graph (1); and*

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

14 *unless competent medical evidence establishes that the heart*
15 *attack, stroke, or vascular rupture was unrelated to the en-*
16 *gagement or participation or was directly and proximately*
17 *caused by something other than the mere presence of cardio-*
18 *vascular-disease risk factors.”; and*

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

20 “(n) The public safety agency, organization, or unit
21 *responsible for maintaining on file an executed designation*
22 *of beneficiary or executed life insurance policy for purposes*
23 *of subsection (a)(4) shall maintain the confidentiality of the*
24 *designation or policy in the same manner as the agency,*

1 *organization, or unit maintains personnel or other similar*
 2 *records of the public safety officer.”;*

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

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

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

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

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

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

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

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

23 *(B) in paragraph (3)—*

24 *(i) in the matter preceding clause (i)—*

1 (I) by inserting “or permanently
2 and totally disabled” after “deceased”;
3 and

4 (II) by striking “death” and in-
5 serting “fatal or catastrophic injury”;
6 and

7 (ii) by redesignating clauses (i), (ii),
8 and (iii) as subparagraphs (A), (B), and
9 (C), respectively;
10 (C) in paragraph (5)—

11 (i) by striking “post-mortem” each
12 place it appears and inserting “post-in-
13 jury”; and

14 (ii) by redesignating clauses (i) and
15 (ii) as subparagraphs (A) and (B), respec-
16 tively;

17 (D) in paragraph (7), by striking “public
18 employee member of a rescue squad or ambu-
19 lance crew;” and inserting “employee or volun-
20 teer member of a rescue squad or ambulance
21 crew (including a ground or air ambulance serv-
22 ice) that—

23 “(A) is a public agency; or

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

1 “(i) is officially authorized or licensed
2 to engage in rescue activity or to provide
3 emergency medical services; and

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

8 (E) in paragraph (9)—

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

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

15 (iii) in subparagraph (C)(ii), by strik-
16 ing the period and inserting “; or”; and

17 (iv) by adding at the end the following:

18 “(D) a member of a rescue squad or ambu-
19 lance crew who, as authorized or licensed by law
20 and by the applicable agency or entity, is engag-
21 ing in rescue activity or in the provision of
22 emergency medical services.”

23 (6) in section 1205 (42 U.S.C. 3796c), by adding
24 at the end the following:

1 “(d) *Unless expressly provided otherwise, any reference*
 2 *in this part to any provision of law not in this part shall*
 3 *be understood to constitute a general reference under the*
 4 *doctrine of incorporation by reference, and thus to include*
 5 *any subsequent amendments to the provision.”;*

6 (7) *in each of subsections (a) and (b) of section*
 7 *1212 (42 U.S.C. 3796d–1), sections 1213 and 1214*
 8 *(42 U.S.C. 3796d–2 and 3796d–3), and subsections*
 9 *(b) and (c) of section 1216 (42 U.S.C. 3796d–5), by*
 10 *striking “dependent” each place it appears and in-*
 11 *serting “person”;*

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

13 (A) *in subsection (a)—*

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

18 (ii) *in paragraph (3), by striking “re-*
 19 *duced by” and all that follows through “(B)*
 20 *the amount” and inserting “reduced by the*
 21 *amount”;*

22 (B) *in subsection (c)—*

23 (i) *in the subsection heading, by strik-*
 24 *ing “DEPENDENT”; and*

25 (ii) *by striking “dependent”;*

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

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

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

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

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

15 (b) *AMENDMENT RELATED TO EXPEDITED PAYMENT*
 16 *FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE PREVEN-*
 17 *TION, INVESTIGATION, RESCUE, OR RECOVERY EFFORTS*
 18 *RELATED TO A TERRORIST ATTACK.*—Section 611(a) of the
 19 *Uniting and Strengthening America by Providing Appro-*
 20 *priate Tools Required to Intercept and Obstruct Terrorism*
 21 *(USA PATRIOT ACT) Act of 2001 (42 U.S.C. 3796c–1(a))*
 22 *is amended by inserting “or an entity described in section*
 23 *1204(7)(B) of the Omnibus Crime Control and Safe Streets*
 24 *Act of 1968 (42 U.S.C. 3796b(7)(B))” after “employed by*
 25 *such agency”.*

1 (c) *TECHNICAL AND CONFORMING AMENDMENT.*—*Sec-*
 2 *tion 402(l)(4)(C) of the Internal Revenue Code of 1986 is*
 3 *amended—*

4 (1) *by striking “section 1204(9)(A)” and insert-*
 5 *ing “section 1204(10)(A)”;* and

6 (2) *by striking “42 U.S.C. 3796b(9)(A)” and in-*
 7 *serting “42 U.S.C. 3796b(10)(A)”.*

8 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS; DETERMINA-**
 9 **TIONS; APPEALS.**

10 *The matter under the heading “PUBLIC SAFETY OFFI-*
 11 *CERS BENEFITS” under the heading “OFFICE OF JUSTICE*
 12 *PROGRAMS” under title II of division B of the Consolidated*
 13 *Appropriations Act, 2008 (Public Law 110–161; 121 Stat.*
 14 *1912; 42 U.S.C. 3796c–2) is amended—*

15 (1) *by striking “decisions” and inserting “deter-*
 16 *minations”;*

17 (2) *by striking “(including those, and any re-*
 18 *lated matters, pending)”;* and

19 (3) *by striking the period at the end and insert-*
 20 *ing the following: “: Provided further, That, on and*
 21 *after the date of enactment of the Public Safety Offi-*
 22 *cers’ Benefits Improvements Act of 2012, as to each*
 23 *such statute—*

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

1 “(2) payment (other than payment made pursu-
2 ant to section 611 of the Uniting and Strengthening
3 America by Providing Appropriate Tools Required to
4 Intercept and Obstruct Terrorism (USA PATRIOT
5 ACT) Act of 2001 (42 U.S.C. 3796c–1)) shall be made
6 only upon a determination by the Bureau that the
7 facts legally warrant the payment;

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

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

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

1 *after the date on which the Bureau serves notice of the final*
 2 *determination: Provided further, That any regulations pro-*
 3 *mulgated by the Bureau under such part (or any such stat-*
 4 *ute) before, on, or after the date of enactment of the Public*
 5 *Safety Officers' Benefits Improvements Act of 2012 shall*
 6 *apply to any matter pending on, or filed or accruing after,*
 7 *the effective date specified in the regulations, except as the*
 8 *Bureau may, consistent with the interests of justice, indi-*
 9 *cate otherwise."*

10 **SEC. 4. EFFECTIVE DATE.**

11 (a) *IN GENERAL.*—*Except as provided in subsection*
 12 *(b), the amendments made by this Act shall—*

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

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

19 (b) *EXCEPTIONS.*—

20 (1) *RESCUE SQUADS AND AMBULANCE CREWS.*—
 21 *For a member of a rescue squad or ambulance crew*
 22 *(as defined in section 1204(7) of title I of the Omni-*
 23 *bus Crime Control and Safe Streets Act of 1968, as*
 24 *amended by this Act), the amendments made by this*

1 *Act shall apply to injuries sustained on or after June*
2 *1, 2009.*

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

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