To improve the Public Safety Officers’ Benefits Program.

IN THE SENATE OF THE UNITED STATES
OCTOBER 12, 2011
Mr. Leahy (for himself, Ms. Mikulski, Ms. Landrieu, and Mr. Cardin) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL
To improve the Public Safety Officers’ Benefits Program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Public Safety Officers’ Benefits Improvements Act of 2011”.

SEC. 2. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS AND CERTAIN TRAINEES; MISCELLANEOUS AMENDMENTS.
(a) In General.—Title I of the Omnibus Crime Control 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 period 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 sub-
section in the most recently executed designa-
tion 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 indi-
vidual (or individuals, in equal shares) des-
ignated by the public safety officer to receive
benefits 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 par-
ent (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.’’;

(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)”;

(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 bene-

ficiaries shall only receive benefits

under such section 8191 that” and in-

serting “, 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 fol-

lowing:

“(3) payments under the September 11th Vic-

tim 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 offi-

cer shall be presumed to constitute a personal injury with-
in 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 appears except the second place it appears, and inserting “fatal”; and

(B) in paragraph (1), by striking “or catastrophic 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 CATASTROPHIC 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) by redesignating paragraphs (1) through (9) as paragraphs (2) through (10), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

“(1) ‘candidate-officer’ means an individual who is officially enrolled or admitted, as a cadet or trainee, in an officially recognized, formal program of instruction or training (such as a police or fire academy) that is solely and specifically intended to result, directly or immediately upon completion, in—

“(A) commissioning as a law enforcement officer;

“(B) conferral of authority to engage in fire suppression (as an officer or employee of a public fire department or as an officially recog-
nized or designated member of a legally orga-
nized volunteer fire department); or

“(C) the granting of official authorization
or license to engage in rescue activity or in the
provision of emergency medical services as a
member of a rescue squad or ambulance crew
that is (or is a part of) the agency or entity
sponsoring the enrollment or admission of the
individual;”;

(C) in paragraph (2), as so redesignated,
by striking “consequences of an injury that”
and inserting “an injury, the direct and proxim-
ate consequences of which”;

(D) in paragraph (4), as so redesignated—

(i) in the matter preceding clause

(i)—

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

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

and

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

(C), respectively;
(E) in paragraph (6), as so redesignated—

(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;

(F) in paragraph (8), as so redesignated, 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—"

"(i) is a public agency; or

"(ii) 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) is officially designated as a prehospital emergency medical response agency;"; and

(G) in paragraph (10), as so redesignated—
(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 a semicolon; 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 (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services; or

“(E) a candidate-officer who is engaging in an activity or exercise—

“(i) that is a formal or required part of the program described in paragraph (1); and

“(ii) that poses or is designed to simulate situations that pose significant dangers, threats, or hazards.”;
(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”;

(9) in section 1213(b)(2) (42 U.S.C. 3796d–2(b)(2)), 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) 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”;

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

(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 2011, 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 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 may be accepted by the Bureau as prima
facie evidence of the facts asserted in the certific-

That, on and after the date of enactment
of the Public Safety Officers’ Benefits Improvements Act
of 2011, 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 reg-
ulations promulgated by the Bureau under such part (or
any such statute) before, on, or after the date of enact-
ment of the Public Safety Officers’ Benefits Improvements
Act of 2011 shall apply to any matter pending on, or filed
or accruing after, the effective date specified in the regu-
lations, except as the Bureau may 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 Bu-
reau 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(8) 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.

(3) Candidate-officers.—For a candidate-officer (as defined in section 1204(1) of the 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 the date of enactment of this Act.