

MAINE STATE LEGISLATURE

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R. 018

L.D. 1465

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1096, L.D. 1465, Bill, "An Act to Provide a Death Benefit to the Survivors of a Law Enforcement Officer or Firefighter Killed in the Line of Duty"

Amend the bill by striking out the title and substituting the following:

'An Act to Provide a Death Benefit to the Survivors of a Law Enforcement Officer, Firefighter or Emergency Medical Services Person Killed in the Line of Duty'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 5 MRSA §1507, sub-§5-C is enacted to read:

5-C. Death benefits. The Governor shall allocate funds from the account as needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made upon written request of the Chief of the State Police, State Fire Marshal or Director of Maine Emergency Medical Services, and after consultation with the State Budget Officer.

Sec. 2. 5 MRSA §18005, sub-§2, as amended by PL 1991, c. 885, Pt. E, §12 and affected by §47, is further amended to read:

2. Workers' compensation or similar law. The amount payable under this article must be reduced by any amount received

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2 by the surviving spouse and dependent child or dependent children
3 under former Title 39, the Workers' Compensation Act or Title
4 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a
5 similar law. For purposes of this article, a death benefit paid
6 to a law enforcement officer, firefighter or emergency medical
7 services person under Title 25, chapter 195-A is not considered a
8 benefit paid under a "similar law" and may not be used to reduce
9 the amount payable under this article.

10 A. Lump-sum settlements of benefits that would reduce the
11 accidental death benefits under this subsection must be
12 prorated on a monthly basis in an equitable manner
13 prescribed by the board.

14 B. The prorated lump-sum settlement amounts must reduce the
15 accidental death benefits payable monthly under this article.

16
17 **Sec. 3. 5 MRSA §18605, sub-§2**, as amended by PL 1991, c. 885,
18 Pt. E, §16 and affected by §47, is further amended to read:

19
20 **2. Workers' compensation or similar law.** The amount payable
21 under this article must be reduced by any amount received by the
22 surviving spouse and dependent child or dependent children under
23 former Title 39, the Workers' Compensation Act or Title 39-A,
24 Part 1, the Maine Workers' Compensation Act of 1992, or a similar
25 law. For purposes of this article, a death benefit paid to a law
26 enforcement officer, firefighter or emergency medical services
27 person under Title 25, chapter 195-A is not considered a benefit
28 paid under a "similar law" and may not be used to reduce the
29 amount payable under this article.

30
31 A. Lump-sum settlements of benefits that would reduce the
32 accidental death benefits under this subsection must be
33 prorated on a monthly basis in an equitable manner
34 prescribed by the board.

35 B. The prorated lump-sum settlement amounts must reduce the
36 accidental death benefits payable monthly under this article.

37
38 **Sec. 4. 25 MRSA c. 195-A** is enacted to read:

39
40 **CHAPTER 195-A**

41
42 **DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREFIGHTERS**
43 **AND EMERGENCY MEDICAL SERVICES PERSONS WHO DIE**
44 **WHILE IN THE LINE OF DUTY**

45
46 **§1611. Definitions**

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2 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

4 1. Chief. "Chief" means the Chief of the State Police.

6 2. Director. "Director" means the Director of Maine
Emergency Medical Services as defined in Title 32, section 83,
8 subsection 10-A.

10 3. Emergency medical services person. "Emergency medical
services person" has the same meaning as in Title 20-A, section
12 12552, subsection 1-C.

14 4. Firefighter. "Firefighter" means an active municipal
firefighter or an active volunteer firefighter, as defined in
16 Title 30-A, section 3151.

18 5. Law enforcement officer or officer. "Law enforcement
officer" or "officer" means an active state police officer,
20 municipal police officer, county sheriff, deputy sheriff, game
warden, fire marshal, liquor enforcement officer or marine patrol
22 officer in this State.

24 §1612. Death benefit

26 1. Amount; recipients. In a case in which the chief
determines under rules adopted pursuant to this section that a
28 law enforcement officer has died while in the line of duty or in
a case in which the State Fire Marshal determines under rules
30 adopted pursuant to this section that a firefighter has died
while in the line of duty or in a case in which the director
32 determines under rules adopted pursuant to this section that an
emergency medical services person has died while in the line of
34 duty, the State shall pay a benefit of \$50,000 as follows:

36 A. If there is no surviving child of the firefighter, law
enforcement officer or emergency medical services person, to
38 the surviving spouse of the person;

40 B. If there is a surviving child or children and a
surviving spouse of the firefighter, law enforcement officer
42 or emergency medical services person, 1/2 to the surviving
child or children in equal shares and 1/2 to the surviving
44 spouse;

46 C. If there is no surviving spouse of the firefighter, law
enforcement officer or emergency medical services person, to
48 the child or children in equal shares; or

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2 D. If there is no surviving child or spouse, to the parent
3 or parents of the firefighter, law enforcement officer or
4 emergency medical services person in equal shares.

6 2. Interim benefit payment. Interim benefits may be paid
7 as follows.

8 A. When the State Fire Marshal determines upon showing of
9 need and prior to final action that the death of a
10 firefighter is a death for which a benefit will probably be
11 paid, the State Fire Marshal may make an interim benefit
12 payment not exceeding \$3,000 to the individual or
13 individuals entitled to receive a benefit under subsection 1
14 in the manner set out in subsection 1.

16 B. When the chief determines upon showing of need and prior
17 to final action that the death of an officer is a death for
18 which a benefit will probably be paid, the chief may make an
19 interim benefit payment not exceeding \$3,000 to the
20 individual or individuals entitled to receive a benefit
21 under subsection 1 in the manner set out in subsection 1.

22 C. When the director determines upon showing of need and
23 prior to final action that the death of an emergency medical
24 services person is a death for which a benefit will probably
25 be paid, the director may make an interim benefit payment
26 not exceeding \$3,000 to the individual or individuals
27 entitled to receive a benefit under subsection 1 in the
28 manner set out in subsection 1.

30 3. Deduction of interim payment. The State Fire Marshal,
31 the chief or the director, as the case may be, shall deduct the
32 amount of an interim payment made pursuant to subsection 2 from
33 the amount of any final benefit paid to the individual or
34 individuals entitled to receive a benefit under subsection 1.

36 4. Repayment of interim payment; waiver. If a final
37 benefit is not paid, the recipient or recipients of any interim
38 payment under subsection 2 are liable for repayment of the amount
39 received. The State Fire Marshal in the case of a firefighter,
40 the chief in the case of a law enforcement officer or the
41 director in the case of an emergency medical services person may
42 waive all or part of the repayment if that official determines
43 that undue hardship would result from that repayment.

44 5. Execution or attachment prohibited. A benefit paid
45 under this section is not subject to execution or attachment.

46 6. Other benefits. The \$50,000 benefit payable under this
47 section may not be considered a benefit paid under "similar law"
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2 for purposes of Title 5, sections 18005 and 18605 and may not be
3 used to reduce any accidental death benefit amount payable under
4 those provisions or under any other provision of law.

6 7. Payment from State Contingent Account. Benefits are
7 payable from the State Contingent Account as provided in Title 5,
8 section 1507.

10 8. Rulemaking. The State Fire Marshal, the chief and the
11 Emergency Medical Services' Board shall adopt rules to carry out
12 the purposes of this section. Rules adopted pursuant to this
13 section are routine technical rules as defined in Title 5,
14 chapter 375, subchapter II-A.'

16 Further amend the bill by inserting at the end before the
17 summary the following:

18 **FISCAL NOTE**

20 Authorizing the Governor's Contingency Account to be used
21 for the payment of certain death benefits will have the effect of
22 depleting the account by \$50,000 for each benefit paid. Each
23 depletion of the account will require additional resources of an
24 equal amount from the unappropriated surplus of the General Fund
25 at the close of each fiscal year. The amounts can not be
26 determined at this time.'

28 **SUMMARY**

30 This amendment provides for payment of a death benefit to an
31 emergency medical services person who dies while in the line of
32 duty as well as to firefighters and law enforcement officers who
33 die while in the line of duty. The Director of Maine Emergency
34 Medical Services makes the determination of when a benefit is to
35 be paid for an emergency medical services person, in accordance
36 with rules adopted by the Emergency Medical Services' Board. The
37 amendment provides that the benefit is paid from the State
38 Contingent Account. The amendment adds a fiscal note to the bill.

COMMITTEE AMENDMENT