

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1465

H.P. 1096

House of Representatives, March 8, 2001

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**An Act to Provide a Death Benefit to the Survivors of a Law  
Enforcement Officer or Firefighter Killed in the Line of Duty.**

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Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative ANDREWS of York.

Cosponsored by Representatives: DUPLESSIE of Westbrook, RICHARDSON of Brunswick,  
Senator DAVIS of Piscataquis, Senator SMALL of Sagadahoc and  
Representatives: BERRY of Livermore, CARR of Lincoln, COLLINS of Wells, LESSARD of  
Topsham, PINKHAM of Lamoine, TOBIN of Dexter, USHER of Westbrook, Senator:  
MARTIN of Aroostook.

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3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §18005, sub-§2**, as amended by PL 1991, c. 885,  
Pt. E, §12 and affected by §47, is further amended to read:

6 **2. Workers' compensation or similar law.** The amount  
7 payable under this article must be reduced by any amount received  
8 by the surviving spouse and dependent child or dependent children  
9 under former Title 39, the Workers' Compensation Act or Title  
10 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a  
11 similar law. For purposes of this article, a death benefit paid  
12 to a law enforcement officer or firefighter under Title 25,  
13 chapter 195-A is not considered a benefit paid under a "similar  
14 law" and may not be used to reduce the amount payable under this  
15 article.

16 A. Lump-sum settlements of benefits that would reduce the  
17 accidental death benefits under this subsection must be  
18 prorated on a monthly basis in an equitable manner  
19 prescribed by the board.

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

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

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

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

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

39 **Sec. 3. 25 MRSA c. 195-A** is enacted to read:

40 **CHAPTER 195-A**

41 **DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS AND**

**FIREFIGHTERS WHO DIE WHILE  
IN THE LINE OF DUTY**

**§1611. Definitions**

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

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

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

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

**§1612. Death benefit**

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

A. If there is no surviving child of the firefighter or law enforcement officer, to the surviving spouse of the firefighter or law enforcement officer;

B. If there is a surviving child or children and a surviving spouse, 1/2 to the surviving child or children of the firefighter or law enforcement officer in equal shares and 1/2 to the surviving spouse;

C. If there is no surviving spouse, to the child or children of the firefighter or law enforcement officer in equal shares; or

D. If there is no surviving child or spouse of the firefighter or law enforcement officer, to the parent or parents of the firefighter or law enforcement officer in equal shares.

2           **2. Interim benefit payment.** Interim benefits may be paid  
as follows.

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

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

18           **3. Deduction of interim payment.** The State Fire Marshal or  
20 **the chief, as the case may be, shall deduct the amount of an**  
**interim payment made pursuant to subsection 2 from the amount of**  
22 **any final benefit paid to the individual or individuals entitled**  
**to receive a benefit under subsection 1.**

24           **4. Repayment of interim payment; waiver.** If a final  
26 **benefit is not paid, the recipient or recipients of any interim**  
**payment under subsection 2 are liable for repayment of the amount**  
28 **received. The State Fire Marshal, the case of a firefighter, or**  
**the chief, in the case of a law enforcement officer may waive all**  
30 **or part of the repayment if the State Fire Marshal or chief, as**  
**the case may be, determines that undue hardship would result from**  
32 **that repayment.**

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

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

42           **7. Rulemaking.** The State Fire Marshal and the chief shall  
44 **adopt rules to carry out the purposes of this section. Rules**  
**adopted pursuant to this section are routine technical rules as**  
46 **defined in Title 5, chapter 375, subchapter II-A.**

## SUMMARY

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4       This bill provides a \$50,000 death benefit to the survivors  
of a law enforcement officer or firefighter killed in the line of  
duty.