

MAINE STATE LEGISLATURE

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2 Date: 3/16/20

(Filing No. H-762)

3 **CRIMINAL JUSTICE AND PUBLIC SAFETY**

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5 **STATE OF MAINE**

6 **HOUSE OF REPRESENTATIVES**

7 **129TH LEGISLATURE**

8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT "A" to H.P. 1455, L.D. 2044, Bill, "An Act To
10 Increase the Death Benefit for Firefighters, Law Enforcement Officers and Emergency
11 Medical Services Personnel"

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

13 **'An Act To Increase the Death Benefit for Firefighters, Law Enforcement Officers,**
14 **Emergency Medical Services Personnel and Corrections Officers'**

15 Amend the bill by striking out everything after the title and inserting the following:

16 **'Emergency preamble. Whereas,** acts and resolves of the Legislature do not
17 become effective until 90 days after adjournment unless enacted as emergencies; and

18 **Whereas,** firefighters, law enforcement officers, emergency medical services
19 personnel and corrections officers work on a daily basis in situations that serve to
20 advance the public good and to further public purposes but that also put their health and
21 lives at risk; and

22 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
23 the meaning of the Constitution of Maine and require the following legislation as
24 immediately necessary for the preservation of the public peace, health and safety; now,
25 therefore,

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

27 **Sec. 1. 5 MRSA §1532, sub-§6,** as enacted by PL 2005, c. 2, Pt. A, §5 and
28 affected by §14, is amended to read:

29 **6. Death benefits.** The Governor shall allocate funds from the stabilization fund as
30 needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made
31 upon written request of the Chief of the State Police, the State Fire Marshal or, the
32 Director of Maine Emergency Medical Services or the Commissioner of Corrections and
33 after consultation with the State Budget Officer.

34 **Sec. 2. 25 MRSA c. 195-A, headnote** is amended to read:

CHAPTER 195-A

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

Sec. 3. 25 MRSA §1611, sub-§1-A is enacted to read:

1-A. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the United States Department of Labor, Bureau of Labor Statistics.

Sec. 4. 25 MRSA §1611, sub-§1-B is enacted to read:

1-B. Corrections officer. "Corrections officer" means a person who is responsible for the custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to section 2803-A.

Sec. 5. 25 MRSA §1611, sub-§3, as enacted by PL 2001, c. 439, Pt. CCCCC, §4, is repealed and the following enacted in its place:

3. Emergency medical services person. "Emergency medical services person" means a person who is licensed to provide emergency medical treatment under Title 32, chapter 2-B and is serving a public or private agency in an official capacity as an officially recognized or designated employee or member of a rescue squad or ambulance crew, with or without compensation, or who is an employee of an incorporated ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B receiving full or partial financial support from or officially recognized by the State, a municipality or county or an entity created under Title 30-A, chapter 115 or 119 except when the emergency medical service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30-A, chapter 115 or 119.

Sec. 6. 25 MRSA §1612, as amended by PL 2009, c. 421, §3, is further amended to read:

§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 or, in a case in which the director determines under rules adopted pursuant to this section that an emergency medical services person has died while in the line of duty or in a case in which the Commissioner of Corrections determines under rules adopted pursuant to this section that a corrections officer has died while in the line of duty prior to July 1, 2021, the State shall pay a benefit of \$50,000 as follows: \$100,000.

Beginning July 1, 2021 and annually thereafter, the benefit amount must be indexed to the Consumer Price Index whenever there is a percentage increase in the Consumer Price

1 Index from July 1st to June 30th of the previous year. A firefighter, law enforcement
2 officer, emergency medical services person or corrections officer who dies while in the
3 line of duty must be paid the benefit amount as indexed immediately prior to that
4 firefighter's, law enforcement officer's, emergency medical services person's or
5 corrections officer's death. The Department of Administrative and Financial Services
6 shall adopt rules to calculate the annual percentage increase in the death benefit.

7 The State shall pay the benefit as follows:

8 A. If there is no surviving child of the firefighter, law enforcement officer or,
9 emergency medical services person or corrections officer, to the surviving spouse of
10 the person;

11 B. If there is a surviving child or children and a surviving spouse of the firefighter,
12 law enforcement officer or, emergency medical services person or corrections officer,
13 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;

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

17 D. If there is no surviving child or spouse, to the parent or parents of the firefighter,
18 law enforcement officer or, emergency medical services person or corrections officer
19 in equal shares.

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

21 A. When the State Fire Marshal determines upon showing of need and prior to final
22 action that the death of a firefighter is a death for which a benefit will probably be
23 paid, the State Fire Marshal may make an interim benefit payment not exceeding
24 \$3,000 to the individual or individuals entitled to receive a benefit under subsection 1
25 in the manner set out in subsection 1.

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

31 C. When the director determines upon showing of need and prior to final action that
32 the death of an emergency medical services person is a death for which a benefit will
33 probably be paid, the director may make an interim benefit payment not exceeding
34 \$3,000 to the individual or individuals entitled to receive a benefit under subsection 1
35 in the manner set out in subsection 1.

36 D. When the Commissioner of Corrections determines upon showing of need and
37 prior to final action that the death of a corrections officer is a death for which a
38 benefit will probably be paid, the commissioner may make an interim benefit
39 payment not exceeding \$3,000 to the individual or individuals entitled to receive a
40 benefit under subsection 1 in the manner set out in subsection 1.

41 **3. Deduction of interim payment.** The State Fire Marshal, the chief or, the director
42 or the Commissioner of Corrections, as the case may be, shall deduct the amount of an

interim payment made pursuant to subsection 2 from the amount of any final benefit paid to the individual or individuals entitled to receive a benefit under subsection 1.

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

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

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

7. Payment from the Maine Budget Stabilization Fund. Benefits are payable from the Maine Budget Stabilization Fund as provided in Title 5, section 1532, subsection 6. If funds in the Maine Budget Stabilization Fund are insufficient to pay a death benefit when due, the benefit must be paid as soon as a sufficient balance exists.

8. Rulemaking. The State Fire Marshal, the chief and, the Emergency Medical Services' Board and the Department of Corrections shall adopt rules to carry out the purposes of this section, except that the Department of Administrative and Financial Services shall adopt rules as required by subsection 1. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. The amendment changes the title to "An Act To Increase the Death Benefit for Firefighters, Law Enforcement Officers, Emergency Medical Services Personnel and Corrections Officers" and adds an emergency preamble and emergency clause to the bill. The amendment extends the death benefit to corrections officers and to emergency medical services personnel who serve in private emergency medical services agencies. The amendment increases the death benefit from \$50,000 to \$100,000 for a law enforcement officer, firefighter, emergency medical services person or corrections officer who dies while in the line of duty prior to July 1, 2021. For deaths occurring on or after July 1, 2021, the Department of Administrative and Financial Services is required to adopt rules to annually calculate an increase in the death benefit based on the previous year's increase in the Consumer Price Index.

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/06/20 *MRC*

129th MAINE LEGISLATURE

LD 2044

LR 2722(02)

An Act To Increase the Death Benefit for Firefighters, Law Enforcement Officers and Emergency Medical Services Personnel

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

A (H-762)

Fiscal Note

Potential current biennium cost increase - Maine Budget Stabilization Fund

Fiscal Detail and Notes

Expanding the list of those eligible for the death benefit, increasing the death benefit amount from \$50,000 to \$100,000 and indexing the benefit amount to the Consumer Price Index will reduce the balance in the Maine Budget Stabilization Fund. The exact amount by fiscal year cannot be determined at this time and will depend on the number of eligible individuals who die in the line of duty. Any additional costs to the Department of Administrative and Financial Services to adopt rules to annually calculate an increase in the death benefit based on the previous year's increase in the Consumer Price Index are expected to be minor and can be absorbed within existing budgeted resources.