

# MAINE STATE LEGISLATURE

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## ACTIVITY SHEET

COMMITTEE: CRIMINAL JUSTICE AND PUBLIC SAFETY

LD #: 393

TITLE: "AN ACT RELATING TO DEATH BENEFITS FOR CERTAIN LAW  
ENFORCEMENT OFFICERS AND AMENDING THE DEFINITION OF  
EMERGENCY VEHICLES"

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HEARING DATE: 4/3/2009

WORK SESSION DATES: 4/9/2009

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REPORTED OUT DATE: 5/5/2009

COMMITTEE REPORT: OTP-AM

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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**Legislative Document**

**No. 393**

S.P. 135

In Senate, February 5, 2009

### **An Act Relating to Death Benefits for Certain Law Enforcement Officers**

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GERZOFKY of Cumberland.  
Cosponsored by Representative HASKELL of Portland and  
Senators: ALFOND of Cumberland, DIAMOND of Cumberland, GOODALL of Sagadahoc,  
Representative: DAVIS of Sangerville.

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

**Sec. 1. 25 MRSA §1611, sub-§5**, as amended by PL 2005, c. 519, Pt. XXX, §1, is further amended to read:

**5. 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, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, liquor enforcement officer forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152 or marine patrol officer in this State.

## SUMMARY

Under current law, a state benefit of \$50,000 is paid to the family of an eligible law enforcement officer who has died in the line of duty. This bill expands the list of eligible law enforcement officers to include forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety and motor vehicle investigators appointed by the Secretary of State. This bill also removes an obsolete reference to liquor enforcement officers.

STATE OF MAINE  
124TH LEGISLATURE

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LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

Sen. Stanley J. Gerzofsky, Senate Chair

Rep. Anne M. Haskell, House Chair

PUBLIC HEARING: Friday, April 03, 2009, 10:00 AM, Room 436 State House

- (L.D. 995) Bill "An Act To Improve Purchasing for the Department of Corrections" (SP0374) (Presented by Senator GERZOFSKY of Cumberland) (Cosponsored by Senator DAVIS of Cumberland, Senator NUTTING of Androscoggin, Representative SCHATZ of Blue Hill, Representative BURNS of Whiting, Representative HANLEY of Gardiner, Representative HASKELL of Portland, Representative LAJOIE of Lewiston, Representative PLUMMER of Windham, Representative WHEELER, SR. of Kittery)
- (L.D. 1067) Bill "Resolve, To Establish a Blue Ribbon Commission To Study Methods of Protecting Emergency Medical Services Personnel during the Transportation of Persons with Mental Illness" (HP0734) (EMERGENCY) (Presented by Representative TUTTLE, JR. of Sanford)
- (L.D. 847) Bill "An Act Authorizing Statewide Mutual Aid among First Responder Agencies" (HP0583)
- (L.D. 393) Bill "An Act Relating to Death Benefits for Certain Law Enforcement Officers" (SP0135) (Presented by Senator GERZOFSKY of Cumberland) (Cosponsored by Senator ALFOND of Cumberland, Senator DIAMOND of Cumberland, Senator GOODALL of Sagadahoc, Representative HASKELL of Portland, Representative DAVIS, SR. of Sangerville)
- (L.D. 915) Bill "An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety" (HP0633) (Presented by Representative HASKELL of Portland) (Cosponsored by Senator GERZOFSKY of Cumberland, Representative SYKES of Harrison)
- (L.D. 815) Bill "An Act To Require the Collection of DNA from a Person under Certain Circumstances" (HP0551) (Presented by Representative CELLI of Brewer) (Cosponsored by Representative BICKFORD of Auburn, Representative DAVIS, SR. of Sangerville, Representative HAMPER of Oxford, Representative WAGNER of Lyman, Representative WEAVER of York)

CONTACT PERSON:

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Fern Neilson  
100 State House Station  
Augusta, ME 04333-0100  
287-1122

**Joint Standing Committee on Criminal Justice and Public Safety**

Date: 4/3/09

[illegible]

**TESTIMONY OF CRAIG A. POULIN**  
**REPRESENTING THE MAINE STATE LAW ENFORCEMENT**  
**ASSOCIATION**

**LD 393**

**AN ACT RELATING TO BENEFITS FOR CERTAIN LAW**  
**ENFORCEMENT OFFICERS**

**Public Hearing before The Joint Standing Committee on Criminal Justice and  
Public Safety**

**Room 436, State House**

**April 3, 2009, 10:00 A.M.**

GOOD MORNING SENATOR GERZOSKY, REPRESENTATIVE HASKELL AND DISTINGUISHED MEMBERS OF THE JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY. I AM CRAIG POULIN AND AM HERE THIS MORNING REPRESENTING THE MAINE STATE LAW ENFORCEMENT ASSOCIATION IN SUPPORT OF LD 393. THIS BILL WILL ALLOW THE LAW ENFORCEMENT DEATH BENEFIT ESTABLISHED UNDER TITLE 25 CHAPTER 195-A, TO BE AVAILABLE TO THE SURVIVORS OF AN OFFICER WHO, GOD FORBID, MAKES THE ULTIMATE SACRIFICE, BUT PRESENTLY IS NOT COVERED BY THE LINE-OF-DUTY DEATH BENEFIT. IT REQUIRES AN AMENDMENT TO THE CURRENT DEFINITION OF "LAW ENFORCEMENT OFFICER", MAKING IT CONSISTENT WITH THE DEFINITION OF LAW ENFORCEMENT OFFICER AS USED BY THE CRIMINAL JUSTICE ACADEMY. THIS IS NOT A CHANGE IN PUBLIC POLICY BUT RATHER AN INCLUSION OF THIS GROUP OF STATE LAW ENFORCEMENT PROFESSIONALS, ACTUALLY THEIR SURVIVORS, WHO HAVE FOR WHATEVER REASON BEEN OVERLOOKED AS BENEFICIARIES.

CURRENT LAW AFFORDS DEATH BENEFITS TO THE SURVIVORS OF LAW ENFORCEMENT OFFICER, SPECIFICALLY "ACTIVE STATE POLICE OFFICERS, MUNICIPAL OFFICERS, COUNTY SHERIFFS, DEPUTY SHERIFFS, GAME WARDENS, FIRE

MARSHALL INVESTIGATORS, LIQUOR ENFORCEMENT OFFICERS, (NO LONGER EXIST) OR MARINE PATROL OFFICERS OF THE STATE. MOST RECENTLY, THE STATE JUDICIAL MARSHALL AND DEPUTY MARSHALLS WERE INCLUDED.

THE SAME DEATH BENEFIT IS AFFORDED THE SURVIVORS OF FULL AND PART TIME MUNICIPAL FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL, YET A RELATIVELY SMALL GROUP REMAINS EXCLUDED.

AS IT NOW STANDS, THE FOLLOWING OFFICERS ARE EXCLUDED: ATTORNEY GENERAL DETECTIVES, BAXTER STATE PARK RANGERS, CAPITOL SECURITY OFFICERS, CORRECTIONAL INVESTIGATORS, FOREST RANGERS, JUVENILE PROBATION OFFICERS, BUREAU OF MOTOR VEHICLE INVESTIGATORS AND ADULT PROBATION OFFICERS. THESE 200 OFFICERS ARE CURRENTLY THE ONLY FULL TIME LAW ENFORCEMENT PROFESSIONALS EXCLUDED.

EACH OFFICER IN THE 8 GROUPS CURRENTLY EXCLUDED FACE SIMILAR, AND OCCASIONALLY MORE FOCUSED RISK IN THEIR DUTIES, THAN THOSE INCLUDED, ON A GIVEN DAY. WE BELIEVE THIS DISPARITY IS LARGELY DUE TO OVERSIGHT AND VIEW THIS BILL AS THE OPPORTUNITY TO CORRECT IT BY AMENDING THE DEFINITION OF LAW ENFORCEMENT OFFICER UNDER 25MRSA, 1611, SUB5 TO BE TRULY REFLECTIVE OF WHAT WE BELIEVE IS THE SPIRIT AND INTENT OF THE ORIGINAL STATUTE.



THOUGH I AM NOT BY NATURE SUPERSTITIOUS, I AM SOMEHWAT HESITANT TO MENTION THAT THERE HAS NEVER BEEN A LINE-OF-DUTY DEATH AMONGST THE MEMBERS OF THIS GROUP FOR WHICH I AM SEEKING INCLUSION. AND I MENTION THIS ONLY AS AN INDICATOR OF THE PROSPECTIVE FISCAL IMPACT ON THE BUDGET STABILIZATION FUND. THE SAD REALITY IS SOMEONE HAS TO DIE IN THE LINE OF DUTY FOR SOMEONE ELSE TO RECEIVE THE BENEFIT. I GUESS SOMEHOW, THAT'S ALSO THE GOOD NEWS.



THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU. I  
AM HAPPY TO ANSWER ANY QUESTION AND OR OFFER  
ADDITIONAL DETAILS AND WILL BE AVAILABLE FOR WORK  
SESSION.

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## Maine Revised Statutes

 [§1611 PDF](#)
[§1595](#)
**Title 25: INTERNAL**
[§1612](#)
 [§1611 WORD/RTF](#)



### SECURITY AND PUBLIC SAFETY

 [STATUTE SEARCH](#)

### Part 4: STATE POLICE

 [CH. 195-A](#)

### Chapter 195-A: DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREFIGHTERS AND EMERGENCY MEDICAL SERVICES PERSONS WHO DIE WHILE IN THE LINE OF DUTY HEADING: PL 2001, C. 439, PT. CCCCC, §4 (NEW)

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### §1611. Definitions

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As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 439, Pt. CCCC, §4 (NEW).]

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

[ 2001, c. 439, Pt. CCCC, §4 (NEW) .]

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

[ 2001, c. 439, Pt. CCCC, §4 (NEW) .]

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

[ 2001, c. 439, Pt. CCCC, §4 (NEW) .]

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

[ 2001, c. 439, Pt. CCCC, §4 (NEW) .]

**5. 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, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, liquor enforcement officer or marine patrol officer in this State.

[ 2005, c. 519, Pt. XXX, §1 (AMD) .]

#### SECTION HISTORY

2001, c. 439, §CCCCC4 (NEW). 2001, c. 667, §C14 (AMD).

## Maine Revised Statutes

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[STATUTE SEARCH](#)
[Part 4: STATE POLICE](#)
[CH. 195-A](#)

### Chapter 195-A: DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREFIGHTERS AND EMERGENCY MEDICAL SERVICES PERSONS WHO DIE WHILE IN THE LINE OF DUTY HEADING: PL 2001, C. 439, PT. CCCCC, §4 (NEW)

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#### §1612. Death benefit

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##### 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, the State shall pay a benefit of \$50,000 as follows:

A. If there is no surviving child of the firefighter, law enforcement officer or emergency medical services person, to the surviving spouse of the person; [2001, c. 439, Pt. CCCCC, §4 (NEW).]

B. If there is a surviving child or children and a surviving spouse of the firefighter, law enforcement officer or emergency medical services person, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse; [2001, c. 439, Pt. CCCCC, §4 (NEW).]

C. If there is no surviving spouse of the firefighter, law enforcement officer or emergency medical services person, to the child or children in equal shares; or [2001, c. 439, Pt. CCCCC, §4 (NEW).]

D. If there is no surviving child or spouse, to the parent or parents of the firefighter, law enforcement officer or emergency medical services person in equal shares. [2001, c. 439, Pt. CCCCC, §4 (NEW).]

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

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

A. When the State Fire Marshal determines upon showing of need and prior to final action that the death of a firefighter is a

death for which a benefit will probably be paid, the State Fire Marshal may make an interim benefit payment not exceeding \$3,000 to the individual or individuals entitled to receive a benefit under subsection 1 in the manner set out in subsection 1. [2001, c. 439, Pt. CCCCC, §4 (NEW).]

B. When the chief determines upon showing of need and prior to final action that the death of an officer is a death for which a benefit will probably be paid, the chief may make an interim benefit payment not exceeding \$3,000 to the individual or individuals entitled to receive a benefit under subsection 1 in the manner set out in subsection 1. [2001, c. 439, Pt. CCCCC, §4 (NEW).]

C. When the director determines upon showing of need and prior to final action that the death of an emergency medical services person is a death for which a benefit will probably be paid, the director may make an interim benefit payment not exceeding \$3,000 to the individual or individuals entitled to receive a benefit under subsection 1 in the manner set out in subsection 1. [2001, c. 439, Pt. CCCCC, §4 (NEW).]

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

**3. Deduction of interim payment.** The State Fire Marshal, the chief or the director, 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.

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

**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 may waive all or part of the repayment if that official determines that undue hardship would result from that repayment.

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

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

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

**6. Other benefits.** The \$50,000 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.

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

**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.

[ 2005, c. 2, Pt. A, §12 (AMD); 2005, c. 2, Pt. A, §14 (AFF) .]

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

[ 2001, c. 439, Pt. CCCCC, §4 (NEW) .]

SECTION HISTORY

2001, c. 439, §CCCCC4 (NEW). 2003, c. 451, §X13 (AMD).

2005, c. 2, §A12 (AMD). 2005, c. 2, §A14 (AFF).

*Data for this page extracted on 12/10/2008 02:07:05.*

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**The Revisor's Office cannot provide legal advice or  
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If you need legal advice, please consult a qualified attorney.**

**Office of the Revisor of Statutes**

**7 State House Station**

**State House Room 108**

**Augusta, Maine 04333-0007**

**TESTIMONY OF LTC. ROBERT WILLIAMS  
DEPARTMENT OF PUBLIC SAFETY  
MAINE STATE POLICE**

**In Support of LD 393**

**An Act Relating to Death Benefits for Certain Law Enforcement  
Officers**

**Before the Joint Standing Committee on Criminal Justice  
Hearing: April 3, 2009 at 10:00 a.m. (Rm 436 State House)**

Senator Gerzofsky, Representative Haskell and members of the Joint Standing Committee on Criminal Justice my name is Bob Williams and I am the Deputy Chief of the State Police. I'm here today to speak in support of LD 393, "An Act Relating to Death Benefits for Certain Law Enforcement Officers"

Before I get to the amendment I feel there is a little background that is needed to bring the Committee up to date on why we are offering an amendment. During the first session of the 123<sup>rd</sup> Legislature, LD 832, "A Resolve, Directing the Department of Public Safety To Convene a Working Group To Review the Functioning of College and University Law Enforcement Departments" was presented to this Committee. During the work session the Department was asked, if the bill was voted out ought not to pass would the Department still perform the study? We agreed to and assembled the appropriate people and quickly concluded there were two areas that the University of Maine System Police were left out of; law enforcement death benefits for an in the line of duty death and the authority to practice certain motor vehicle privileges afforded to other law enforcement officers

and agencies. During the short session the Committee was busy dealing with a number of other major issues and asked if the item could be tabled until this session.

LD 393 proposes to add certain additional classifications of law enforcement officers to the death benefits afforded other law enforcement officers. For simplicity I will explain what the amendment does as a whole. The amendment adds certain additional classifications of law enforcement officers to both portions of the law enforcement death benefits. This would be the original list of additional law enforcement officers that LD 393 addressed along with University of Maine System police officers. The two portions of the death benefits are the \$50,000 death benefit to the surviving spouse and/or children and free tuition to surviving children at Maine universities or colleges.

The second item the amendment addresses is it adds vehicles operated by University of Maine System police departments to the definition of an emergency vehicle so they can practice certain privileges that other law enforcement agencies have.

Before I conclude, there are a couple other pieces of information that various members of the Committee have asked about the University of Maine Police Departments and/or officers. There are three university police departments in Maine, the University of Southern Maine with 15 fulltime officers, the University of Maine at Orono with 20 fulltime officers and the University of Maine at Farmington with five fulltime officers. All other universities and colleges in Maine have security officers and this bill would not apply to them. These fulltime University of Maine System police officers hold the same certificate from the Maine Criminal Justice Academy as any other fulltime law enforcement officer in the State of Maine.

Thank you and I would be glad to answer any questions you may have.

**An Act To Amend the Laws Governing University of Maine System Police Officers**  
**124LR0493(01)-1**

Sec. 1. 20-A MRSA §12552, sub-§2, as amended by PL 1997, c. 160, §2, is further amended to read:

**2. Law enforcement officer.** "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, ~~liquor enforcement officer or~~, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152, marine patrol officer or University of Maine System police officer, if employed on a full-time basis in that position in this State.

Sec. 2. 25 MRSA §1611, sub-§5, as amended by PL 2005, c. 518, Pt. XXX, §1, is further amended to read:

**5. 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, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, ~~liquor enforcement officer or~~, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152, marine patrol officer or University of Maine System police officer in this State.

Sec. 3. 29-A MRSA §2054, sub-§1, ¶B, as amended by PL 2007, c. 348, §18, is further amended to read:

B. "Authorized emergency vehicle" means any one of the following vehicles:

- (1) An ambulance;
- (2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;
- (3) A Bureau of Marine Patrol vehicle operated by a coastal warden;



- (4) A Department of Conservation vehicle operated by a forest ranger;
- (5) A Department of Conservation vehicle used for forest fire control;
- (6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;
- (7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;
- (8) A Department of Public Safety vehicle operated by a capital security officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;
- (9) An emergency medical service vehicle;
- (10) A fire department vehicle;
- (11) A hazardous material response vehicle, including a vehicle designed to respond to a weapon of mass destruction;
- (12) A railroad police vehicle;
- (13) A sheriff's department vehicle;
- (14) A State Police or municipal police department vehicle;
- (15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when authorized by the sheriff;
- (16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an assistant or deputy chief or a town forest fire warden;
- (17) A vehicle operated by a qualified deputy sheriff or other qualified individual to perform court security-related functions and services as authorized by the State Court Administrator pursuant to Title 4, section 17, subsection 15;
- (18) A Federal Government vehicle operated by a federal law enforcement officer;
- (19) A vehicle operated by a municipal rescue chief, deputy chief or assistant chief ;
- (20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; ~~and~~
- (21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator, ~~and~~
- (22) A University of Maine System vehicle operated by a University of Maine System police officer.

**Amendment to LD 393 "An Act Relating to Death Benefits for Certain Law Enforcement Officers" – sponsored by Senator Stan Gerzofsky**

Sec. 1. 20-A MRSA §12552, sub-§2, as amended by PL 1997, c. 160, §2, is further amended to read:

**2. Law enforcement officer.** "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, ~~liquor enforcement officer or~~, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152, marine patrol officer or University of Maine System police officer, if employed on a full-time basis in that position in this State.

Sec. 2. 25 MRSA §1611, sub-§5, as amended by PL 2005, c. 518, Pt. XXX, §1, is further amended to read:

**5. 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, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, ~~liquor enforcement officer or~~, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152, marine patrol officer or University of Maine System police officer in this State.

Sec. 3. 29-A MRSA §2054, sub-§1, ¶B, as amended by PL 2007, c. 348, §18, is further amended to read:

B. "Authorized emergency vehicle" means any one of the following vehicles:

- (1) An ambulance;
- (2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;
- (3) A Bureau of Marine Patrol vehicle operated by a coastal warden;

- (4) A Department of Conservation vehicle operated by a forest ranger;
- (5) A Department of Conservation vehicle used for forest fire control;
- (6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;
- (7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;
- (8) A Department of Public Safety vehicle operated by a capital security officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;
- (9) An emergency medical service vehicle;
- (10) A fire department vehicle;
- (11) A hazardous material response vehicle, including a vehicle designed to respond to a weapon of mass destruction;
- (12) A railroad police vehicle;
- (13) A sheriff's department vehicle;
- (14) A State Police or municipal police department vehicle;
- (15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when authorized by the sheriff;
- (16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an assistant or deputy chief or a town forest fire warden;
- (17) A vehicle operated by a qualified deputy sheriff or other qualified individual to perform court security-related functions and services as authorized by the State Court Administrator pursuant to Title 4, section 17, subsection 15;
- (18) A Federal Government vehicle operated by a federal law enforcement officer;
- (19) A vehicle operated by a municipal rescue chief, deputy chief or assistant chief ;
- (20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; and
- (21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator, and
- (22) A University of Maine System vehicle operated by a University of Maine System police officer.

Committee: CRJ

LA: ATB

File Name: G:\COMMITTEES\CRJ\AMENDMTS\124th 1st\078802.doc(4/30/2009 9:28:00 PM)

LR (item)#: 078802

New Title?: No

Add Emergency?: No

Date: May 1, 2009

Committee Amendment “ ” to LD 393, An Act Relating to Death Benefits for Certain Law Enforcement Officers

## **CHANGE THE TITLE TO REFLECT UMS EMERGENCY VEHICLES?**

Amend the bill by inserting a new section 1 as follows:

‘Sec. 1. 20-A MRSA §12552, sub-§2 is amended to read:

**2. Law enforcement officer.** "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, ~~liquor-enforcement officer~~ forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a law enforcement officer [motor vehicle investigator] appointed by the Secretary of State pursuant to Title 29-A, section 152, a military security police officer appointed by the Adjutant General, a University of Maine System police officer or marine patrol officer if employed on a full-time basis in that position in this State.

Amend the bill in section 1, line 14 by striking out “motor vehicle investigator” and replacing it with the following: ‘law enforcement officer’

Amend the bill in section 1, line 15 by inserting after “section 152” the following: ‘, a military security police officer appointed by the Adjutant General, a University of Maine System police officer’

Amend the bill by adding a new section 3 as follows:

‘Sec. 3. 29-A MRSA §2054, sub-§1, ¶B, sub-¶¶20 and 21 are amended to read:

(20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; and

(21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator; and

Amend the bill by adding a new section 4 as follows:

'Sec. 4. 29-A MRSA §2054, sub-§1, ¶B, sub-¶22 is enacted to read:

(22). A University of Maine System vehicle operated by a University of Maine System police officer.'

Amend the bill to renumber consecutively.

### SUMMARY

This amendment makes a number of changes to the bill:

1. It adds a University of Maine System police officer and a military security police officer appointed by Adjutant General of the Maine Army National Guard to the definition of law enforcement officer so that the families of those officers are eligible for death benefits in the event that an officer dies in the line of duty.
2. It adds forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety, law enforcement officers appointed by the Secretary of State, military security police officer appointed by Adjutant General of the Maine Army National Guard and University of Maine System police officers to the definition of law enforcement officer in Title 20-A so that survivors would receive tuition benefits to Maine colleges and universities in the event that one of these officers died in the line of duty. It also removes liquor enforcement officers from the definition because they no longer exist.
3. It clarifies that law enforcement officers appointed by the Secretary of State are eligible rather than motor vehicle investigators so that both the investigators and their supervisors are eligible for benefits.
4. It adds University of Maine System vehicles operated by a University of Maine System policy officer to the definition of "authorized emergency vehicle".

**Title 20-A, Chapter 429: TUITION WAIVER AT STATE POST-SECONDARY EDUCATIONAL INSTITUTIONS**

**20-A §12551. PURPOSE**

In recognition of the indispensable public service role that firefighters, law enforcement officers and emergency medical services persons play in the well-being of the people of this State, it is the purpose of this chapter to provide for assistance to the children and spouses of firefighters, law enforcement officers and emergency medical services persons who are killed in the line of duty so that these children and spouses may have the opportunity to pursue a degree at one of the state postsecondary educational institutions.

**20-A §12552. DEFINITIONS**

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

**1. Firefighter.** "Firefighter" means a person who is an active member of a municipal fire department in this State or a volunteer firefighters' association in this State and who aids in the extinguishing of fires, regardless of whether he has administrative or other duties as a member of the department or association.

**1-A. Authority.** "Authority" means the Finance Authority of Maine.

**1-B. Emergency medical service.** "Emergency medical service" means a nonprofit, 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.

**1-C. 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 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 emergency medical service as defined in subsection 1-B.

**2. Law enforcement officer.** "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, liquor enforcement officer or marine patrol officer, if employed on a full-time basis in that position in this State.

**2-A. Public agency.** "Public agency" means a governmental entity as defined in Title 14, section 8102, subsection 2 or a political subdivision as defined in Title 14, section 8102, subsection 3.

**3. State post-secondary educational institution.** "Post-secondary educational institution" means the University of Maine System, the Maine Maritime Academy and the community colleges.

**20-A §12553. TUITION WAIVER**

The child or spouse of a firefighter, law enforcement officer or emergency medical services person who has been killed or who has received an injury during the performance of that firefighter's, law

enforcement officer's or emergency medical services person's duties, which results in death, may attend, as provided in this section, any state postsecondary educational institution free of tuition charges.

**1. Eligibility of a child.** The child of a firefighter, law enforcement officer or emergency medical services person is eligible for tuition waiver under this chapter if the child is:

- A. The natural or legally adopted child of a firefighter, law enforcement officer or emergency medical services person;
- B. Is less than 21 years old at the time of the death of the parent who is a firefighter, law enforcement officer or emergency medical services person;
- C. A Maine resident;
- D. A high school graduate or has attained equivalent certification; and
- E. Accepted for admission to a state postsecondary educational institution.

**1-A. Eligibility of a spouse.** The spouse of a firefighter, law enforcement officer or emergency medical services person is eligible for tuition waiver under this chapter if the spouse is:

- A. Legally married to the firefighter, law enforcement officer or emergency medical services person at the time of the firefighter's, law enforcement officer's or emergency medical services person's death;
- B. A Maine resident;
- C. A high school graduate or has attained equivalent certification; and
- D. Accepted for admission to a state postsecondary educational institution.

**2. Limitation.** The tuition waiver provided by this chapter is limited to undergraduate degree programs and is limited to not more than 5 years of full-time enrollment or its equivalent.

**3. Continuation.** The tuition waiver provided by this chapter is awarded on a yearly basis and continues to be available, if the child or spouse is otherwise eligible under this section, as long as the child or spouse remains in good academic standing at a state institution.

## **20-A §12554. ADMINISTRATION**

**1. Application.** A person desiring tuition waiver under this chapter may apply to the authority for determination of eligibility. Application must be on forms and in a manner prescribed by rule of the authority.

**2. Decision.** The authority shall determine whether an applicant is eligible and notify the applicant. The authority shall also notify the state post-secondary educational institution at which the person is accepted of the eligibility of that child for tuition waiver. Unless notified by the authority of a change in the student's eligibility, the institution may not bill an eligible student for tuition during that school year.

### **3. Rules.**

**Title 25, Chapter 195-A: DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREFIGHTERS AND EMERGENCY MEDICAL SERVICES PERSONS WHO DIE WHILE IN THE LINE OF DUTY**

**25 §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. Director.** "Director" means the Director of Maine Emergency Medical Services as defined in Title 32, section 83, subsection 10-A.

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

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

**5. 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, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, liquor enforcement officer or marine patrol officer in this State.

**25 §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, the State shall pay a benefit of \$50,000 as follows:

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

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

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

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

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

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

B. When the chief determines upon showing of need and prior to final action that the death of an



officer is a death for which a benefit will probably be paid, the chief may make an interim benefit payment not exceeding \$3,000 to the individual or individuals entitled to receive a benefit under subsection 1 in the manner set out in subsection 1.

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

**3. Deduction of interim payment.** The State Fire Marshal, the chief or the director, 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 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 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.

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

**OFFICE OF POLICY AND LEGAL ANALYSIS  
BILL ANALYSIS**

**LD 393**        **An Act Relating to Death Benefits for Certain Law Enforcement Officers (Gerzofsky)**

**TO:**            **Members, Joint Standing Committee on Criminal Justice and Public Safety**

**FROM:**        **Anna Broome, Legislative Analyst**

**DATE:**        **April 5, 2009**

**SUMMARY**

Under current law, a state benefit of \$50,000 is paid to the family of an eligible law enforcement officer who has died in the line of duty. This bill expands the list of eligible law enforcement officers to include forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety and motor vehicle investigators appointed by the Secretary of State. This bill also removes an obsolete reference to liquor enforcement officers.

**Amendments requested:** add UMS police officer to the definition of “law enforcement officer” in Title 25; add to the definition of law enforcement officer in Title 20-A so that survivors also receive the tuition benefit to Maine’s universities; and amend the definition in Title 29-A so that “authorized emergency vehicle” includes University of Maine system vehicles driven by University of Maine system police officers.

**TESTIMONY  
Proponents**

- A number of LEOs overlooked with respect to death benefits available to survivors of officers killed in the line of duty; this meets the spirit of the original statute.
- All of these officers can face similar and focused risk as those included in the definition. If killed while assisting local police, wouldn’t receive benefits.
- University of Maine police are sworn academy-trained police officers – at UMO, USM and UMF; others have security officers. Mutual aid agreements with Police Depts in Portland, Gorham and Westbrook.
- Forest rangers and Capitol security officers have powers of arrests.
- 4 DoC investigative officers – fulltime sworn academy-trained investigators.
- Death benefit includes \$50,000 payment to family (from budget stabilization fund) and free tuition to surviving children at Maine’s public universities.
- Extremely rare to have a death in the line of duty among these groups but survivors should receive benefits if it happened.
- 123<sup>rd</sup> Legislature requested working group on college law enforcement – this bill comes from that working group – death benefits and motor vehicle privileges the

major areas where college LEOs are left out.

**POTENTIAL ISSUES OR TECHNICAL PROBLEMS:**

Amendments requested to 20-A (tuition benefits in Maine universities) and 29-A (authorized emergency vehicle definition)?

**ADDITIONAL INFORMATION NEEDED BY COMMITTEE:**

Definition of “die while in the line of duty”. DPS, Maine State Police rules:

**Chapter 19: DIED WHILE IN THE LINE OF DUTY DEATH BENEFITS FOR  
LAW ENFORCEMENT OFFICERS**

**Died while in the line of duty.** “Died while in the line of duty” means to cease to be alive or to sustain an injury or illness that results in death as a result of the performance of a law enforcement officer’s official duty.

**FISCAL IMPACT:**

OFPR: Potential current biennium cost increase to the Maine Budget Stabilization Fund. Expanding the list of those eligible for the \$50,000 death benefit paid out of the Stabilization Fund may reduce the balance in the fund. The exact amount by fiscal year cannot be determined and will depend on how many die in the line of duty.

**An Act To Amend the Laws Governing University of Maine System Police Officers**  
**124LR0493(01)-1**

**Sec. 1.** 20-A MRSA §12552, sub-§2, as amended by PL 1997, c. 160, §2, is further amended to read:

**2. Law enforcement officer.** "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, ~~liquor enforcement officer or~~, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152, marine patrol officer or University of Maine System police officer, if employed on a full-time basis in that position in this State.

**Sec. 2.** 25 MRSA §1611, sub-§5, as amended by PL 2005, c. 518, Pt. XXX, §1, is further amended to read:

**5. 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, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, ~~liquor enforcement officer or~~, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator appointed by the Secretary of State pursuant to Title 29-A, section 152, marine patrol officer or University of Maine System police officer in this State.

**Sec. 3.** 29-A MRSA §2054, sub-§1, ¶B, as amended by PL 2007, c. 348, §18, is further amended to read:

**B.** "Authorized emergency vehicle" means any one of the following vehicles:

- (1) An ambulance;
- (2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;
- (3) A Bureau of Marine Patrol vehicle operated by a coastal warden;

- (4) A Department of Conservation vehicle operated by a forest ranger;
- (5) A Department of Conservation vehicle used for forest fire control;
- (6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;
- (7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;
- (8) A Department of Public Safety vehicle operated by a capital security officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;
- (9) An emergency medical service vehicle;
- (10) A fire department vehicle;
- (11) A hazardous material response vehicle, including a vehicle designed to respond to a weapon of mass destruction;
- (12) A railroad police vehicle;
- (13) A sheriff's department vehicle;
- (14) A State Police or municipal police department vehicle;
- (15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when authorized by the sheriff;
- (16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an assistant or deputy chief or a town forest fire warden;
- (17) A vehicle operated by a qualified deputy sheriff or other qualified individual to perform court security-related functions and services as authorized by the State Court Administrator pursuant to Title 4, section 17, subsection 15;
- (18) A Federal Government vehicle operated by a federal law enforcement officer;
- (19) A vehicle operated by a municipal rescue chief, deputy chief or assistant chief ;
- (20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; ~~and~~
- (21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator, ~~and~~
- (22) A University of Maine System vehicle operated by a University of Maine System police officer.

16            **DEPARTMENT OF PUBLIC SAFETY**

222          **BUREAU OF MAINE STATE POLICE**

**Chapter 19: DIED WHILE IN THE LINE OF DUTY DEATH BENEFITS FOR LAW  
ENFORCEMENT OFFICERS**

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**SUMMARY:** This chapter outlines the procedures governing the award of death benefits to the child, spouse or parent of a law enforcement officer who dies while in the line of duty.

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**SECTION 1. DEFINITIONS**

1. Chief. "Chief" means the Chief of the State Police.
2. Child. "Child" means any natural born or unborn child, legally adopted child or stepchild of a law enforcement officer who, at the time of the law enforcement officer's death, is:
  - A. Conceived or less than 19 years of age;
  - B. 19 or more years of age, but less than 25 years of age, and accepted for admission or enrolled full-time in a postsecondary educational institution; or
  - C. 19 or more years of age and is incapable of self-support because of a physical or mental disability.
3. Died while in the line of duty. "Died while in the line of duty" means to cease to be alive or to sustain an injury or illness that results in death as a result of the performance of a law enforcement officer's official duty.
4. Law enforcement officer or officer. "Law enforcement officer" or "officer" means a law enforcement officer or officer as defined in 25 M.R.S.A. §1611, sub-§5.
5. Official duty. "Official duty" means an action that a law enforcement officer is authorized or obligated by law, rule, regulation or condition of employment or service to perform.
6. Parent. "Parent" means the natural or adoptive mother or father, or stepmother or stepfather, whose parental rights have not been terminated and who contributed significantly to the upbringing of a law enforcement officer.

7. Spouse. "Spouse" means a person who is legally married to a law enforcement officer at the time of the law enforcement officer's death.
8. Under the influence. "Under the influence" means under the influence of alcohol, a drug other than alcohol, a combination of drugs, a combination of alcohol and drugs or having a blood alcohol level of .08% or more.

## **SECTION 2. DEATH BENEFIT – AMOUNT AND RECEIPT**

1. If the Chief determines that a law enforcement officer 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 law enforcement officer, to the surviving spouse;
  - B. If there is a surviving child or children and a surviving spouse of the law enforcement officer, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;
  - C. If there is no surviving spouse of the law enforcement officer, to the child or children in equal shares; or
  - D. If there is no surviving child or spouse, to the parent or parents of the law enforcement officer in equal shares.

## **SECTION 3. LIMITATION ON BENEFIT**

1. Notwithstanding a determination by the Chief that a law enforcement officer died while in the line of duty, a benefit may not be paid:
  - A. If the death or the injury or illness that resulted in the death was caused by the intentional misconduct of the law enforcement officer or by the law enforcement officer's intention to bring about the death or the injury or illness that resulted in the death;
  - B. If the law enforcement officer was voluntarily under the influence at the time of the death or the injury or contracting of the illness that resulted in the death and being under the influence was a substantial contributing factor in the death or the injury or illness that resulted in the death;
  - C. If the law enforcement officer was performing in a grossly negligent manner at the time of the death or the injury or contracting of the illness that resulted in the death; or

- D. To any person who would otherwise be entitled to a benefit pursuant to 25 M.R.S.A. c. 195-A and this chapter, if the person's actions were a substantial contributing factor to the death of the law enforcement officer.
- E. If the potentially eligible child, spouse or parent dies prior to actual receipt of this death benefit.

#### **SECTION 4. FILING REQUEST FOR BENEFIT**

1. A person who is potentially eligible to receive these benefits, or a person authorized to request benefits acting as an agent of a potentially eligible person, must forward a written request to the Chief for a State of Maine Application for Line of Duty Death Benefit within 90 days of the law enforcement officer's death. The 90 day period may be extended by the Chief for good cause shown.
2. Upon receipt of the written request for a State of Maine Application for Line of Duty Death Benefit, the Chief shall provide an application package and questionnaire that must be completed and returned within 30 days of receipt by the applicant. The 30 day period may be extended by the Chief for good cause shown.

#### **SECTION 5. DETERMINATION OF ELIGIBILITY FOR BENEFIT**

1. Upon receipt of a completed State of Maine Application for Line of Duty Death Benefit, the Chief shall appoint a review panel consisting of at least three, but not more than five, persons knowledgeable in law enforcement official duties.
2. The review panel shall convene to review the application, investigate the circumstances surrounding the death and make a written recommendation to approve or deny the application to the Chief within 30 days. If the Chief determines that further investigation is necessary, the Chief may extend the review period.
3. The Chief, after review of the recommendation, shall make the determination to approve or deny the application in a timely manner. The Chief's determination is the final agency decision.



## **SECTION 6. INTERIM BENEFITS**

1. The Chief may make interim benefits payments in accordance with and subject to the limitations outlined in 25 M.R.S.A. §1612.

## **SECTION 7. APPEAL**

1. An appeal of the final agency decision may be filed in accordance with the Administrative Procedure Act, 5 M.R.S.A. c. 375, sub-c. VII.
- 

STATUTORY AUTHORITY: 25 M.R.S.A. §1612.8

EFFECTIVE DATE:

November 9, 2002 - filing 2002-421



# 124th MAINE LEGISLATURE

LD 393

LR 788(01)

## An Act Relating to Death Benefits for Certain Law Enforcement Officers

### Preliminary Fiscal Impact Statement for Original Bill

Sponsor: Sen. Gerzofsky of Cumberland

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

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### Preliminary Fiscal Impact Statement

Potential current biennium cost increase - Maine Budget Stabilization Fund

#### Fiscal Detail and Notes

Expanding the list of those eligible for the \$50,000 death benefit paid out of the Maine Budget Stabilization Fund may reduce the balance in that fund. The exact amount by fiscal year can not be determined at this time and will depend on the number of eligible individuals who die in the line of duty.

2013

L.D. 393

Date:

(Filing No. S- )

## CRIMINAL JUSTICE AND PUBLIC SAFETY

Reproduced and distributed under the direction of the Secretary of the Senate.

### STATE OF MAINE

### SENATE

### 124TH LEGISLATURE

### FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 135, L.D. 393, Bill, "An Act Relating to Death Benefits for Certain Law Enforcement Officers"

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

**'An Act Relating to Death Benefits for Certain Law Enforcement Officers and Amending the Definition of Emergency Vehicles'**

Amend the bill by inserting after the enacting clause and before section 1 the following:

**'Sec. 1. 20-A MRSA §12552, sub-§2,** as amended by PL 1997, c. 160, §2, is further amended to read:

**2. Law enforcement officer.** "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, ~~liquor enforcement officer~~ forest ranger, Baxter State Park ranger, detective employed by the Office of the Attorney General pursuant to Title 5, section 202, person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, juvenile community corrections officer as described in Title 34-A, section 5602, probation officer, security officer appointed by the Commissioner of Public Safety pursuant to Title 25, section 2908, motor vehicle investigator or supervisor appointed by the Secretary of State pursuant to Title 29-A, section 152, military security police officer appointed by the Adjutant General, University of Maine System police officer or marine patrol officer, if employed on a full-time basis in that position in this State.'

Amend the bill in section 1 in subsection 5 in the 2nd to last line (page 1, line 14 in L.D.) by inserting after the following: "motor vehicle investigator" the following: 'or supervisor'

Amend the bill in section 1 in subsection 5 in the last line (page 1, line 15 in L.D.) by inserting after the following: "section 152" the following: 'a military security police officer appointed by the Adjutant General, a University of Maine System police officer'

1 Amend the bill by inserting after section 1 the following:

2 **'Sec. 2. 29-A MRSA §2054, sub-§1, ¶B,** as amended by PL 2007, c. 348, §18, is  
3 further amended to read:

4 B. "Authorized emergency vehicle" means any one of the following vehicles:

5 (1) An ambulance;

6 (2) A Baxter State Park Authority vehicle operated by a Baxter State Park  
7 ranger;

8 (3) A Bureau of Marine Patrol vehicle operated by a coastal warden;

9 (4) A Department of Conservation vehicle operated by a forest ranger;

10 (5) A Department of Conservation vehicle used for forest fire control;

11 (6) A Department of Corrections vehicle used for responding to the escape of or  
12 performing the high-security transfer of a prisoner, juvenile client or juvenile  
13 detainee;

14 (7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;

15 (8) A Department of Public Safety vehicle operated by a capital security officer  
16 appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine  
17 Drug Enforcement Agency officer;

18 (9) An emergency medical service vehicle;

19 (10) A fire department vehicle;

20 (11) A hazardous material response vehicle, including a vehicle designed to  
21 respond to a weapon of mass destruction;

22 (12) A railroad police vehicle;

23 (13) A sheriff's department vehicle;

24 (14) A State Police or municipal police department vehicle;

25 (15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when  
26 authorized by the sheriff;

27 (16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an  
28 assistant or deputy chief or a town forest fire warden;

29 (17) A vehicle operated by a qualified deputy sheriff or other qualified  
30 individual to perform court security-related functions and services as authorized  
31 by the State Court Administrator pursuant to Title 4, section 17, subsection 15;

32 (18) A Federal Government vehicle operated by a federal law enforcement  
33 officer;

34 (19) A vehicle operated by a municipal rescue chief, deputy chief or assistant  
35 chief;

(20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; and

(21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator; and

(22) A University of Maine System vehicle operated by a University of Maine System police officer.'

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

### SUMMARY

This amendment makes a number of changes to the bill.

1. It adds forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety, motor vehicle investigators or supervisors appointed by the Secretary of State, military security police officers appointed by the Adjutant General and University of Maine System police officers to the definition of "law enforcement officer" in the Maine Revised Statutes, Title 20-A so that survivors would receive tuition benefits to Maine colleges and universities in the event that one of these officers died in the line of duty. It also removes liquor enforcement officers from the definition because they no longer exist.

2. It adds a University of Maine System police officer and a military security police officer appointed by the Adjutant General to the definition of "law enforcement officer" so that the families of those officers are eligible for death benefits in the event that an officer dies in the line of duty.

3. It clarifies that supervisors of motor vehicle investigators appointed by the Secretary of State are eligible for benefits.

4. It adds University of Maine System vehicles operated by a University of Maine System police officer to the definition of "authorized emergency vehicle."

5. It changes the title.

### FISCAL NOTE REQUIRED

(See attached)



Approved: 04/30/09 *MAC*

# 124th MAINE LEGISLATURE

LD 393

LR 788(02)

## An Act Relating to Death Benefits for Certain Law Enforcement Officers

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

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### Fiscal Note

Potential current biennium cost increase - Maine Budget Stabilization Fund

#### Fiscal Detail and Notes

Expanding the list of those eligible for the \$50,000 death benefit paid out of the Maine Budget Stabilization Fund may reduce the balance in that fund. The exact amount by fiscal year can not be determined at this time and will depend on the number of eligible individuals who die in the line of duty.

# VOTING TALLY SHEET

For LDs or Confirmation

LD #:

393

Committee: Joint Standing Committee on Criminal Justice & Public Safety

Date:

4/9/09

Motion:

OTPA

Motion by:

Rep Hanley

Seconded by:

Rep. Burns

| Those Voting<br>in Favor of the<br>Motion | Recommendation of those opposed to the<br>Motion |     |        |           |          | Absent | Abstain |
|-------------------------------------------|--------------------------------------------------|-----|--------|-----------|----------|--------|---------|
|                                           | ONTP                                             | OTP | OTP-AM | New Draft | Re-Refer |        |         |

## Senators

|                   |       |  |  |  |  |  |  |
|-------------------|-------|--|--|--|--|--|--|
| 1. Stan Geizofsky | X     |  |  |  |  |  |  |
| 2. John Nutting   | X JMD |  |  |  |  |  |  |
| 3. Gerald Davis   | X     |  |  |  |  |  |  |

## Representatives

|                    |       |  |  |  |  |  |  |
|--------------------|-------|--|--|--|--|--|--|
| 1. Anne Haskell    | X     |  |  |  |  |  |  |
| 2. Stephen Hanley  | X     |  |  |  |  |  |  |
| 3. Michel Lajoie   | X     |  |  |  |  |  |  |
| 4. Chris Greeley   | X     |  |  |  |  |  |  |
| 5. James Schatz    | X     |  |  |  |  |  |  |
| 6. Gary Plummer    | X     |  |  |  |  |  |  |
| 7. David Burns     | X     |  |  |  |  |  |  |
| 8. Walter Wheeler  | rew X |  |  |  |  |  |  |
| 9. Veronica Magnan | X     |  |  |  |  |  |  |
| 10. Rick Sykes     | X     |  |  |  |  |  |  |
| TOTALS             | 13    |  |  |  |  |  |  |

# SENATE REPORT

**THE COMMITTEE ON Criminal Justice and Public Safety**

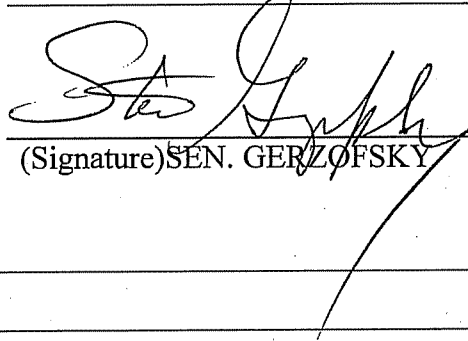
to which was referred the following:

An Act Relating to Death Benefits for Certain Law Enforcement Officers

S.P. 135

L.D. 393

has had the same under consideration, and asks leave to report that the same  
OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT “ ”



(Signature) SEN. GERZOFSKY

of Cumberland  
For the Committee

(Type)  
Rep. of (Town) and/or Sen. of (County)

(Signatures)

# SENATE REPORT

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