

112TH CONGRESS
1ST SESSION

S. 1696

To improve the Public Safety Officers' Benefits Program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 12, 2011

Mr. LEAHY (for himself, Ms. MIKULSKI, Ms. LANDRIEU, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the Public Safety Officers' Benefits Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Public Safety Officers'
5 Benefits Improvements Act of 2011".

6 **SEC. 2. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY**

7 **MEDICAL SERVICE PROVIDERS AND CERTAIN**

8 **TRAINEES; MISCELLANEOUS AMENDMENTS.**

9 (a) IN GENERAL.—Title I of the Omnibus Crime
10 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
11 et seq.) is amended—

1 (1) in section 901(a) (42 U.S.C. 3791(a))—

2 (A) in paragraph (26), by striking “and”
3 at the end;

4 (B) in paragraph (27), by striking the pe-
5 riod at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(28) the term ‘hearing examiner’ includes any
8 medical or claims examiner.”;

9 (2) in section 1201 (42 U.S.C. 3796)—

10 (A) in subsection (a), by striking “fol-
11 lows:” and all that follows and inserting the fol-
12 lowing: “follows (if the payee indicated is living
13 on the date on which the determination is
14 made)—

15 “(1) if there is no child who survived the public
16 safety officer, to the surviving spouse of the public
17 safety officer;

18 “(2) if there is at least 1 child who survived the
19 public safety officer and a surviving spouse of the
20 public safety officer, 50 percent to the surviving
21 child (or children, in equal shares) and 50 percent
22 to the surviving spouse;

23 “(3) if there is no surviving spouse of the public
24 safety officer, to the surviving child (or children, in
25 equal shares);

1 “(4) if there is no surviving spouse of the public
2 safety officer and no surviving child—

3 “(A) to the surviving individual (or individ-
4 uals, in shares per the designation, or, other-
5 wise, in equal shares) designated by the public
6 safety officer to receive benefits under this sub-
7 section in the most recently executed designa-
8 tion of beneficiary of the public safety officer on
9 file at the time of death with the public safety
10 agency, organization, or unit; or

11 “(B) if there is no individual qualifying
12 under subparagraph (A), to the surviving indi-
13 vidual (or individuals, in equal shares) des-
14 ignated by the public safety officer to receive
15 benefits under the most recently executed life
16 insurance policy of the public safety officer on
17 file at the time of death with the public safety
18 agency, organization, or unit;

19 “(5) if there is no individual qualifying under
20 paragraph (1), (2), (3), or (4), to the surviving par-
21 ent (or parents, in equal shares) of the public safety
22 officer; or

23 “(6) if there is no individual qualifying under
24 paragraph (1), (2), (3), (4), or (5), to the surviving
25 individual (or individuals, in equal shares) who

1 would qualify under the definition of the term ‘child’
2 under section 1204 but for age.’;

3 (B) in subsection (b)—

4 (i) by striking “direct result of a cata-
5 strophic” and inserting “direct and proxi-
6 mate result of a personal”;

7 (ii) by striking “pay,” and all that fol-
8 lows through “the same” and inserting
9 “pay the same”;

10 (iii) by striking “in any year” and in-
11 sserting “to the public safety officer (if liv-
12 ing on the date on which the determination
13 is made)”;

14 (iv) by striking “in such year, ad-
15 justed” and inserting “with respect to the
16 date on which the catastrophic injury oc-
17 curred, as adjusted”;

18 (v) by striking “, to such officer”;

19 (vi) by striking “the total” and all
20 that follows through “For” and inserting
21 “for”; and

22 (vii) by striking “That these” and all
23 that follows through the period, and insert-
24 ing “That the amount payable under this
25 subsection shall be the amount payable as

1 of the date of catastrophic injury of such
2 public safety officer.”;

3 (C) in subsection (f)—

4 (i) in paragraph (1), by striking “, as
5 amended (D.C. Code, sec. 4–622); or” and
6 inserting a semicolon;

7 (ii) in paragraph (2)—

8 (I) by striking “. Such bene-
9 ficiaries shall only receive benefits
10 under such section 8191 that” and in-
11 sserting “, such that beneficiaries shall
12 receive only such benefits under such
13 section 8191 as”; and

14 (II) by striking the period at the
15 end and inserting “; or”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(3) payments under the September 11th Vic-
19 tim Compensation Fund of 2001 (49 U.S.C. 40101
20 note; Public Law 107–42).”;

21 (D) by amending subsection (k) to read as
22 follows:

23 “(k) As determined by the Bureau, a heart attack,
24 stroke, or vascular rupture suffered by a public safety offi-
25 cer shall be presumed to constitute a personal injury with-

1 in the meaning of subsection (a), sustained in the line of
2 duty by the officer and directly and proximately resulting
3 in death, if—

4 “(1) the public safety officer, while on duty—

5 “(A) engages in a situation involving non-
6 routine stressful or strenuous physical law en-
7 forcement, fire suppression, rescue, hazardous
8 material response, emergency medical services,
9 prison security, disaster relief, or other emer-
10 gency response activity; or

11 “(B) participates in a training exercise in-
12 volving nonroutine stressful or strenuous phys-
13 ical activity;

14 “(2) the heart attack, stroke, or vascular rup-
15 ture commences—

16 “(A) while the officer is engaged or partici-
17 pating as described in paragraph (1);

18 “(B) while the officer remains on that duty
19 after being engaged or participating as de-
20 scribed in paragraph (1); or

21 “(C) not later than 24 hours after the offi-
22 cer is engaged or participating as described in
23 paragraph (1); and

1 “(3) the heart attack, stroke, or vascular rup-
2 ture directly and proximately results in the death of
3 the public safety officer,
4 unless competent medical evidence establishes that the
5 heart attack, stroke, or vascular rupture was unrelated to
6 the engagement or participation or was directly and proxi-
7 mately caused by something other than the mere presence
8 of cardiovascular-disease risk factors.”; and

9 (E) by adding at the end the following:

10 “(n) The public safety agency, organization, or unit
11 responsible for maintaining on file an executed designation
12 of beneficiary or executed life insurance policy for pur-
13 poses of subsection (a)(4) shall maintain the confiden-
14 tiality of the designation or policy in the same manner
15 as the agency, organization, or unit maintains personnel
16 or other similar records of the public safety officer.”;

17 (3) in section 1202 (42 U.S.C. 3796a)—

18 (A) by striking “death”, each place it ap-
19 pears except the second place it appears, and
20 inserting “fatal”; and

21 (B) in paragraph (1), by striking “or cata-
22 strophic injury” the second place it appears and
23 inserting “, disability, or injury”;

24 (4) in section 1203 (42 U.S.C. 3796a-1)—

1 (A) in the section heading, by striking
 2 **“WHO HAVE DIED IN THE LINE OF DUTY”**
 3 and inserting **“WHO HAVE SUSTAINED**
 4 **FATAL OR CATASTROPHIC INJURY IN THE**
 5 **LINE OF DUTY”**; and

6 (B) by striking “who have died in the line
 7 of duty” and inserting “who have sustained
 8 fatal or catastrophic injury in the line of duty”;
 9 (5) in section 1204 (42 U.S.C. 3796b)—

10 (A) by redesignating paragraphs (1)
 11 through (9) as paragraphs (2) through (10), re-
 12 spectively;

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

15 “(1) ‘candidate-officer’ means an individual who
 16 is officially enrolled or admitted, as a cadet or train-
 17 ee, in an officially recognized, formal program of in-
 18 struction or training (such as a police or fire acad-
 19 emy) that is solely and specifically intended to re-
 20 sult, directly or immediately upon completion, in—

21 “(A) commissioning as a law enforcement
 22 officer;

23 “(B) conferral of authority to engage in
 24 fire suppression (as an officer or employee of a
 25 public fire department or as an officially recog-

1 nized or designated member of a legally orga-
2 nized volunteer fire department); or

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

10 (C) in paragraph (2), as so redesignated,
11 by striking “consequences of an injury that”
12 and inserting “an injury, the direct and proxi-
13 mate consequences of which”;

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

15 (i) in the matter preceding clause

16 (i)—

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

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

22 and

23 (ii) by redesignating clauses (i), (ii),
24 and (iii) as subparagraphs (A), (B), and
25 (C), respectively;

1 (E) in paragraph (6), as so redesignated—

2 (i) by striking “post-mortem” each
3 place it appears and inserting “post-in-
4 jury”; and

5 (ii) by redesignating clauses (i) and
6 (ii) as subparagraphs (A) and (B), respec-
7 tively;

8 (F) in paragraph (8), as so redesignated,
9 by striking “public employee member of a res-
10 cue squad or ambulance crew;” and inserting
11 “employee or volunteer member of a rescue
12 squad or ambulance crew (including a ground
13 or air ambulance service) that—

14 “(i) is a public agency; or

15 “(ii) is (or is a part of) a nonprofit
16 entity serving the public that—

17 “(I) is officially authorized or li-
18 censed to engage in rescue activity or
19 to provide emergency medical services;
20 and

21 “(II) is officially designated as a
22 prehospital emergency medical re-
23 sponse agency;”; and

24 (G) in paragraph (10), as so redesi-
25 gnated—

1 (i) in subparagraph (A), by striking
2 “as a chaplain, or as a member of a rescue
3 squad or ambulance crew;” and inserting
4 “or as a chaplain;”;

5 (ii) in subparagraph (B)(ii), by strik-
6 ing “or” after the semicolon;

7 (iii) in subparagraph (C)(ii), by strik-
8 ing the period and inserting a semicolon;
9 and

10 (iv) by adding at the end the fol-
11 lowing:

12 “(D) a member of a rescue squad or am-
13 bulance crew who, as authorized or licensed by
14 law and by the applicable agency or entity (and
15 as designated by such agency or entity), is en-
16 gaging in rescue activity or in the provision of
17 emergency medical services; or

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

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

23 “(ii) that poses or is designed to sim-
24 ulate situations that pose significant dan-
25 gers, threats, or hazards.”;

1 (6) in section 1205 (42 U.S.C. 3796c), by add-
2 ing at the end the following:

3 “(d) Unless expressly provided otherwise, any ref-
4 erence in this part to any provision of law not in this part
5 shall be understood to constitute a general reference under
6 the doctrine of incorporation by reference, and thus to in-
7 clude any subsequent amendments to the provision.”;

8 (7) in each of subsections (a) and (b) of section
9 1212 (42 U.S.C. 3796d-1), sections 1213 and 1214
10 (42 U.S.C. 3796d-2 and 3796d-3), and subsections
11 (b) and (c) of section 1216 (42 U.S.C. 3796d-5), by
12 striking “dependent” each place it appears and in-
13 serting “person”;

14 (8) in section 1212 (42 U.S.C. 3796d-1)—

15 (A) in subsection (a)—

16 (i) in paragraph (1), in the matter
17 preceding subparagraph (A), by striking
18 “Subject” and all that follows through “,
19 the” and inserting “The”; and

20 (ii) in paragraph (3), by striking “re-
21 duced by” and all that follows through
22 “(B) the amount” and inserting “reduced
23 by the amount”;

24 (B) in subsection (c)—

1 (i) in the subsection heading, by strik-
2 ing “DEPENDENT”; and

3 (ii) by striking “dependent”;

4 (9) in section 1213(b)(2) (42 U.S.C. 3796d-
5 2(b)(2)), by striking “dependent’s” each place it ap-
6 pears and inserting “person’s”;

7 (10) in section 1216 (42 U.S.C. 3796d-5)—

8 (A) in subsection (a), by striking “each de-
9 pendent” each place it appears and inserting “a
10 spouse or child”; and

11 (B) by striking “dependents” each place it
12 appears and inserting “a person”; and

13 (11) in section 1217(3)(A) (42 U.S.C. 3796d-
14 6(3)(A)), by striking “described in” and all that fol-
15 lows and inserting “an institution of higher edu-
16 cation, as defined in section 102 of the Higher Edu-
17 cation Act of 1965 (20 U.S.C. 1002); and”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 Section 402(l)(4)(C) of the Internal Revenue Code of
20 1986 is amended—

21 (1) by striking “section 1204(9)(A)” and in-
22 serting “section 1204(10)(A)”; and

23 (2) by striking “42 U.S.C. 3796b(9)(A)” and
24 inserting “42 U.S.C. 3796b(10)(A)”.

1 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS; DETER-**
2 **MINATIONS; APPEALS.**

3 The matter under the heading “PUBLIC SAFETY OF-
4 FICERS BENEFITS” under the heading “OFFICE OF JUS-
5 TICE PROGRAMS” under title II of division B of the Con-
6 solidated Appropriations Act, 2008 (Public Law 110–161;
7 121 Stat. 1912; 42 U.S.C. 3796c–2) is amended—

8 (1) by striking “decisions” and inserting “de-
9 terminations”;

10 (2) by striking “(including those, and any re-
11 lated matters, pending)”; and

12 (3) by striking the period at the end and insert-
13 ing the following: “: *Provided further*, That, on and
14 after the date of enactment of the Public Safety Of-
15 ficers’ Benefits Improvements Act of 2011, as to
16 each such statute—

17 “(1) the provisions of section 1001(a)(4) of
18 such title I (42 U.S.C. 3793(a)(4)) shall apply;

19 “(2) payment shall be made only upon a deter-
20 mination by the Bureau that the facts legally war-
21 rant the payment;

22 “(3) any reference to section 1202 of such title
23 I shall be deemed to be a reference to paragraphs
24 (2) and (3) of such section 1202; and

25 “(4) a certification submitted under any such
26 statute may be accepted by the Bureau as prima

1 facie evidence of the facts asserted in the certifi-
2 cation:

3 *Provided further,* That, on and after the date of enactment
4 of the Public Safety Officers' Benefits Improvements Act
5 of 2011, no appeal shall bring any final determination of
6 the Bureau before any court for review unless notice of
7 appeal is filed (within the time specified herein and in the
8 manner prescribed for appeal to United States courts of
9 appeals from United States district courts) not later than
10 90 days after the date on which the Bureau serves notice
11 of the final determination: *Provided further,* That any reg-
12 ulations promulgated by the Bureau under such part (or
13 any such statute) before, on, or after the date of enact-
14 ment of the Public Safety Officers' Benefits Improvements
15 Act of 2011 shall apply to any matter pending on, or filed
16 or accruing after, the effective date specified in the regula-
17 tions, except as the Bureau may indicate otherwise.”.

18 **SEC. 4. EFFECTIVE DATE.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (b), the amendments made by this Act shall—

21 (1) take effect on the date of enactment of this
22 Act; and

23 (2) apply to any matter pending, before the Bu-
24 reau of Justice Assistance or otherwise, on the date

1 of enactment of this Act, or filed or accruing after
2 that date.

3 (b) EXCEPTIONS.—

4 (1) RESCUE SQUADS AND AMBULANCE
5 CREWS.—For a member of a rescue squad or ambu-
6 lance crew (as defined in section 1204(8) of title I
7 of the Omnibus Crime Control and Safe Streets Act
8 of 1968, as amended by this Act), the amendments
9 made by this Act shall apply to injuries sustained on
10 or after June 1, 2009.

11 (2) HEART ATTACKS, STROKES, AND VASCULAR
12 RUPTURES.—Section 1201(k) of title I of the Omni-
13 bus Crime Control and Safe Streets Act of 1968, as
14 amended by this Act, shall apply to heart attacks,
15 strokes, and vascular ruptures sustained on or after
16 December 15, 2003.

17 (3) CANDIDATE-OFFICERS.—For a candidate-
18 officer (as defined in section 1204(1) of the title I
19 of the Omnibus Crime Control and Safe Streets Act
20 of 1968, as amended by this Act), the amendments
21 made by this Act shall apply to injuries sustained on
22 or after the date of enactment of this Act.

○