

116TH CONGRESS
1ST SESSION

H. R. 2812

To amend the Omnibus Crime Control and Safe Streets Act of 1968 with respect to payments to certain public safety officers who have become permanently and totally disabled as a result of personal injuries sustained in the line of duty, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2019

Mr. PASCRELL (for himself, Mr. KING of New York, Mr. COURTNEY, Mr. MULLIN, Ms. BROWNLEY of California, Mr. RUTHERFORD, Mr. O'HALLERAN, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 with respect to payments to certain public safety officers who have become permanently and totally disabled as a result of personal injuries sustained in the line of duty, and for other purposes.

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 “Protecting America’s
5 First Responders Act”.

1 **SEC. 2. PAYMENT OF DEATH AND DISABILITY BENEFITS**
2 **UNDER THE PUBLIC SAFETY OFFICERS'**
3 **DEATH BENEFITS PROGRAM.**

4 Section 1201 of title I of the Omnibus Crime Control
5 and Safe Streets Act of 1968 (34 U.S.C. 10281) is amend-
6 ed—

7 (1) in subsection (b), by striking the period at
8 the end and inserting the following: “, unless the
9 claim under this subsection has been pending for
10 more than 1 year, in which case the amount payable
11 shall be the amount that would be payable if the cat-
12 astrophic injury occurred on the date on which the
13 Bureau makes a final determination that the public
14 safety officer is entitled to a benefit payment under
15 this subsection.”;

16 (2) in subsection (c), by striking “\$3,000” and
17 inserting “\$6,000, adjusted in accordance with sub-
18 section (h),”;

19 (3) in subsection (h), by inserting “and the
20 level of the interim benefit payable immediately be-
21 fore such October 1 under subsection (c)” after
22 “subsection (a)”;

23 (4) by striking subsection (i) and inserting the
24 following:

1 “(i) The amount payable under subsection (a), with
2 respect to the death of a public safety officer, shall be the
3 greater of—

4 “(1) the amount payable under that subsection
5 as of the date of death of the public safety officer;
6 or

7 “(2) the amount that would be payable under
8 that subsection if the death of the public safety offi-
9 cer occurred on the date on which the Bureau makes
10 a final determination that the public safety officer is
11 entitled to a benefit payment under that sub-
12 section.”; and

13 (5) in subsection (m), by inserting “, (b),” after
14 “subsection (a)”.

15 **SEC. 3. DEFINITIONS FOR THE PURPOSES OF THE PUBLIC**
16 **SAFETY OFFICERS’ DEATH BENEFITS PRO-**
17 **GRAM.**

18 Section 1204 of title I of the Omnibus Crime Control
19 and Safe Streets Act of 1968 (34 U.S.C. 10284) is amend-
20 ed—

21 (1) by striking paragraph (1) and inserting the
22 following:

23 “(1) ‘catastrophic injury’ means an injury, the
24 direct and proximate consequences of which—

1 “(A) permanently prevent an individual
2 from performing any gainful work; or

3 “(B) cause an individual to become—

4 “(i) parapalegic;

5 “(ii) quadriplegic; or

6 “(iii) blind;”;

7 (2) in paragraph (3), in the matter preceding
8 subparagraph (A), by striking “at the time of the
9 public safety officer’s fatal or catastrophic injury”
10 and inserting “as of the date of the public safety of-
11 ficer’s death from a fatal injury or the date of deter-
12 mination of the public safety officer’s disability from
13 a catastrophic injury”;

14 (3) in paragraph (4), by inserting “, including
15 an individual who, in the capacity of the individual
16 as such a member, engages in scene security or traf-
17 fic management as the primary or only duty of the
18 individual during emergency response” before the
19 semicolon;

20 (4) by redesignating paragraphs (5) through
21 (9) as paragraphs (6) through (10), respectively;
22 and

23 (5) by inserting after paragraph (4) the fol-
24 lowing:

25 “(5) ‘gainful work’—

1 “(A) means any activity usually performed
2 for pay or profit, regardless of whether a profit
3 is realized; and

4 “(B) does not include work performed in a
5 situation in which, after an individual sustains
6 an injury—

7 “(i) the individual—

8 “(I) re-enters the workforce; and

9 “(II) leaves the workforce after
10 less than 90 days because of the in-
11 ability of the individual to overcome
12 the injury;

13 “(ii) because of the injury—

14 “(I) the individual is permitted,
15 in carrying out work, to—

16 “(aa) perform at a lower
17 standard of productivity or effi-
18 ciency than other similarly situ-
19 ated employees;

20 “(bb) work irregular hours;
21 or

22 “(cc) take frequent rest pe-
23 riods; or

24 “(II) the individual is only able
25 to work within a framework of spe-

1 cially arranged circumstances, such as
2 a circumstance in which one or more
3 other individuals are required to assist
4 the individual in preparing for work
5 or travelling to and from work;

6 “(iii)(I) the individual practices a
7 hobby usually performed for pay or profit,
8 regardless of whether a profit is realized;
9 and

10 “(II) the primary intent of the indi-
11 vidual in practicing the hobby described in
12 subclause (I)—

13 “(aa) is physical, mental, or emo-
14 tional rehabilitation of the individual
15 from the injury; and

16 “(bb) is not realization of profit;
17 or

18 “(iv) the individual is given the oppor-
19 tunity to work—

20 “(I) despite the injury of the in-
21 dividual; and

22 “(II) on the basis of—

23 “(aa) a family relationship
24 of the individual;

1 “(bb) a past association of
2 the individual with the employer
3 giving the individual the oppor-
4 tunity to work; or
5 “(cc) any other altruistic
6 reason;”.

7 **SEC. 4. RETROACTIVE APPLICABILITY.**

8 (a) DEFINITIONS.—For the purposes of this sec-
9 tion—

10 (1) the term “covered beneficiary” means an in-
11 dividual who—

12 (A) is, or was, a child or spouse of a cov-
13 ered individual described in paragraph (3)(B);
14 and

15 (B) would have been eligible for edu-
16 cational assistance under subpart 2 of part L of
17 title I of the Omnibus Crime Control and Safe
18 Streets Act of 1968 (34 U.S.C. 10301 et seq.)
19 if the amendments made by section 3 of this
20 Act had been in effect on the date on which the
21 determination described in paragraph (3)(B)(i)
22 of this subsection was made;

23 (2) the term “covered claimant” means an indi-
24 vidual who is a claimant on the estate of a deceased
25 covered individual—

1 (A) described in paragraph (3)(B); and

2 (B) who died on or before the date of en-
3 actment of this Act;

4 (3) the term “covered individual” means—

5 (A) a beneficiary of a benefit under the
6 Public Safety Officers’ Death Benefit Program
7 that was paid—

8 (i) with respect to a death or dis-
9 ability of a public safety officer sustained
10 as the direct or proximate result of a per-
11 sonal injury sustained in the line of duty;
12 and

13 (ii) during the covered period; or

14 (B) a public safety officer who—

15 (i) was determined during the covered
16 period to be ineligible for a benefit pay-
17 ment under section 1201(b) of title I of
18 the Omnibus Crime Control and Safe
19 Streets Act of 1968 (34 U.S.C. 10281(b));
20 and

21 (ii) would have been eligible for a ben-
22 efit payment under subpart L of that title
23 due to the disability of the public safety of-
24 ficer if the amendments made by section 3
25 had been in effect on the date on which the

1 determination described in clause (i) was
2 made;

3 (4) the term “covered period” means the pe-
4 riod—

5 (A) beginning on the date of enactment of
6 title XIII of the Crime Control Act of 1990
7 (Public Law 101–647; 104 Stat. 4834); and

8 (B) ending on the day before the date of
9 enactment of the Protecting America’s First
10 Responders Act;

11 (5) the term “public safety officer” has the
12 meaning given the term in section 1204 of title I of
13 the Omnibus Crime Control and Safe Streets Act of
14 1968 (34 U.S.C. 10284); and

15 (6) the term “Public Safety Officers’ Death
16 Benefit Program” means the program established
17 under part L of title I of the Omnibus Crime Con-
18 trol and Safe Streets Act of 1968 (34 U.S.C. 10281
19 et seq.).

20 (b) APPLICABILITY.—The amendments made by sec-
21 tions 2 and 3 shall apply to a death or disability of a public
22 safety officer sustained as the direct or proximate result
23 of a personal injury sustained in the line of duty—

24 (1) subject to subsection (c), during the covered
25 period; or

1 (2) on or after the date of enactment of this
2 Act.

3 (c) PAYMENT.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 upon application of a covered individual, covered
6 beneficiary, or covered claimant, the Bureau of Jus-
7 tice Assistance shall make a lump sum payment to
8 the covered individual, covered beneficiary, or cov-
9 ered claimant in the amount equal to the difference,
10 if any, between—

11 (A) in the case of a covered individual—

12 (i) the amount of the total benefit
13 payment the covered individual would have
14 received under the Public Safety Officers'
15 Death Benefit Program as of the date of
16 the lump sum payment, if the amendments
17 made by sections 2 and 3 had been in ef-
18 fect on the date on which the covered indi-
19 vidual—

20 (I) received the final benefit pay-
21 ment under the Public Safety Offi-
22 cers' Death Benefit Program; or

23 (II) was determined to be ineli-
24 gible for a benefit payment under sec-
25 tion 1201(b) of title I of the Omnibus

1 Crime Control and Safe Streets Act of
2 1968 (34 U.S.C. 10281(b)); and

3 (ii) the amount of the total benefit
4 payment the covered individual received
5 under the Public Safety Officers' Death
6 Benefit Program before the date of enact-
7 ment of this Act;

8 (B) in the case of a covered beneficiary,
9 the amount of the total benefit payment the
10 covered beneficiary would have received under
11 subpart 2 of part L of title I of the Omnibus
12 Crime Control and Safe Streets Act of 1968
13 (34 U.S.C. 10301 et seq.) if the amendments
14 made by section 3 of this Act had been in effect
15 on the date on which the determination de-
16 scribed in subsection (a)(3)(B)(i) of this section
17 was made; and

18 (C) in the case of a covered claimant, the
19 amount of the total benefit payment the covered
20 individual on whose estate the covered claimant
21 is a claimant would have received under the
22 Public Safety Officers' Death Benefit Program
23 as of the date of the lump sum payment, if the
24 amendments made by sections 2 and 3 had
25 been in effect on the date on which the deter-

1 mination described in subsection (a)(3)(B)(i) of
2 this section was made.

3 (2) APPLICATION.—A covered individual desir-
4 ing a lump sum payment under paragraph (1) shall
5 apply to the Bureau of Justice Assistance for such
6 lump sum payment not later than 3 years after the
7 date of enactment of this Act.

8 **SEC. 5. DUE DILIGENCE IN PAYING BENEFIT CLAIMS**
9 **UNDER THE PUBLIC SAFETY OFFICERS'**
10 **DEATH BENEFITS PROGRAM.**

11 Section 1206(b) of title I of the Omnibus Crime Con-
12 trol and Safe Streets Act of 1968 (34 U.S.C. 10288(b))
13 is amended by striking “the Bureau may not” and all that
14 follows and inserting the following: “the Bureau—

15 “(1) shall use all available investigative tools,
16 including subpoenas, to—

17 “(A) expedite the processing of the benefit
18 claim; and

19 “(B) obtain necessary information or docu-
20 mentation from third parties, including public
21 agencies; and

22 “(2) may not abandon the benefit claim unless
23 the Bureau has used the investigative tools available
24 to the Bureau to obtain the necessary information or
25 documentation, including subpoenas.”.

1 **SEC. 6. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF**
2 **PUBLIC SAFETY OFFICERS KILLED OR DIS-**
3 **ABLED IN THE LINE OF DUTY.**

4 Section 1216(b) of title I of the Omnibus Crime Con-
5 trol and Safe Streets Act of 1968 (34 U.S.C. 10306(b))
6 is amended, in the first sentence, by striking “may” and
7 inserting “shall”.

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