

114TH CONGRESS  
2D SESSION

# H. R. 5123

To ensure that the United States provides for the families of law enforcement officers, firefighters, and other emergency responders who fall in the line of duty.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2016

Mr. PASCRELL (for himself, Mr. REICHERT, Mr. COURTNEY, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To ensure that the United States provides for the families of law enforcement officers, firefighters, and other emergency responders who fall in the line of duty.

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 “Honoring Emergency  
5 Response Officers Benefits Reform Act of 2016” or the  
6 “HERO Benefits Reform Act of 2016”.

1 **SEC. 2. PRESUMPTION THAT OFFICER ACTED PROPERLY.**

2 Section 1202 of title I of the Omnibus Crime Control  
3 and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amend-  
4 ed—

5 (1) by striking “No benefit” and inserting the  
6 following:

7 “(a) IN GENERAL.—No benefit”; and

8 (2) by adding at the end the following:

9 “(b) PRESUMPTION.—In determining whether a ben-  
10 efit is payable under this part, the Bureau shall—

11 “(1) presume that none of the limitations under  
12 subsection (a) apply; and

13 “(2) have the burden of establishing by clear  
14 and convincing evidence that a limitation under sub-  
15 section (a) applies.”.

16 **SEC. 3. BACKLOG OF CLAIMS.**

17 Subpart 1 of part L of title I of the Omnibus Crime  
18 Control and Safe Streets Act of 1968 (42 U.S.C. 3796a)  
19 is amended by adding at the end the following:

20 **“SEC. 1206. APPEALS.**

21 “(a) STANDARD OF REVIEW.—Notwithstanding sec-  
22 tion 706 of title 5, United States Code, or any other provi-  
23 sion of law, in any appeal of a determination of the Bu-  
24 reau to deny a claim under this part, including an appeal  
25 to a hearing officer of the Bureau, to the Director, or to

1 a court of the United States, the reviewing official or court  
2 shall review the determination de novo.

3 “(b) EXCEPTION TO ADMINISTRATIVE EXHAUSTION  
4 REQUIREMENT.—

5 “(1) IN GENERAL.—Notwithstanding section  
6 704 of title 5, United States Code, or any other pro-  
7 vision of law, an individual who files a claim for ben-  
8 efits under this part with the Bureau may file a sub-  
9 sequent claim with the United States Court of Fed-  
10 eral Claims seeking an award of benefits under this  
11 part despite an absence of final agency action with  
12 respect to the original claim filed with the Bureau  
13 if—

14 “(A) the Bureau does not make a deter-  
15 mination with respect to the original claim  
16 within 1 year of the date on which the claim  
17 was filed with the Bureau;

18 “(B)(i) the Bureau denies the original  
19 claim within 1 year of the date on which the  
20 claim was filed with the Bureau;

21 “(ii) the individual appeals the denial  
22 under clause (i) to a hearing officer; and

23 “(iii) the hearing officer does not make a  
24 determination with respect to the original claim

1 within 180 days of the date on which the appeal  
2 was filed under clause (ii); or

3 “(C)(i) the Bureau denies the original  
4 claim within 1 year of the date on which the  
5 claim was filed with the Bureau;

6 “(ii) the individual appeals the denial  
7 under clause (i) to a hearing officer;

8 “(iii) the hearing officer denies the original  
9 claim within 180 days of the date on which the  
10 appeal was filed under clause (ii);

11 “(iv) the individual appeals the denial  
12 under clause (iii) to the Director; and

13 “(v) the Director does not make a deter-  
14 mination with respect to the original claim  
15 within 180 days of the date on which the appeal  
16 was filed under clause (iv).

17 “(2) STANDARD OF REVIEW.—The United  
18 States Court of Federal Claims shall review a claim  
19 filed under paragraph (1) without regard to any de-  
20 termination made by the Bureau, including a hear-  
21 ing officer of the Bureau, with respect to the origi-  
22 nal claim filed with the Bureau.

23 “(3) DETERMINATION OF WHETHER ORIGINAL  
24 CLAIM IS COMPLETE.—For purposes of determining  
25 whether an individual is eligible to file a claim under

1 paragraph (1), the United States Court of Federal  
2 Claims shall determine the date on which the origi-  
3 nal claim was filed with the Bureau without regard  
4 to whether the Bureau has deemed the application  
5 that forms the basis of the original claim to be in-  
6 complete and thus not constitute an official claim.”.

7 **SEC. 4. TRANSPARENCY.**

8 Subpart 1 of part L of title I of the Omnibus Crime  
9 Control and Safe Streets Act of 1968 (42 U.S.C. 3796a),  
10 as amended by section 3, is amended by adding at the  
11 end the following:

12 **“SEC. 1207. ANNUAL REPORT.**

13 “Not later than 60 days after the last day of each  
14 fiscal year, the Bureau shall submit to Congress and pub-  
15 lish publically on the website of the Bureau a report that  
16 includes—

17 “(1) the number of claims filed under this part  
18 during the fiscal year, broken down by—

19 “(A) the type of benefit sought, meaning  
20 death, disability, educational benefit, and any  
21 combination thereof; and

22 “(B) the type of public safety officer to  
23 which each claim pertains;

24 “(2) the number of claims filed that were  
25 granted during the fiscal year;

1           “(3) the number of claims filed that were de-  
2           nied during the fiscal year, broken down by the rea-  
3           son for denial; and

4           “(4) the number of claims filed as of the last  
5           day of the fiscal year, broken down by—

6                   “(A) the date on which each claim was  
7                   filed; and

8                   “(B) the reason why the Bureau has been  
9                   unable to render a decision.

10          The Attorney General shall make such report pub-  
11          lically available over the Internet.”.

12 **SEC. 5. EXTENDING PUBLIC SAFETY OFFICER DEATH BENE-**  
13 **FITS TO FIRE POLICE AND FIRE INVESTIGA-**  
14 **TORS.**

15          (a) IN GENERAL.—Section 1204 of title I of the Om-  
16          nibus Crime Control and Safe Streets Act of 1968 (42  
17          U.S.C. 3796b) is amended—

18                   (1) by redesignating paragraphs (5) through  
19                   (9) as paragraphs (7) through (11), respectively;

20                   (2) in paragraph (11)(A), as so redesignated,  
21                   by inserting “as a fire police officer, fire investi-  
22                   gator” after “firefighter,”; and

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

1           “(5) ‘fire police officer’ includes an individual  
2       who—

3           “(A) is serving in accordance with State or  
4       local law as an officially recognized or des-  
5       ignated member of a legally organized public  
6       safety agency;

7           “(B) is not a law enforcement officer, a  
8       firefighter, a chaplain, or a member of a rescue  
9       squad or ambulance crew described in para-  
10      graph (10)(A); and

11          “(C) is officially authorized to provide  
12      scene security or direct traffic—

13           “(i) in response to any fire drill, fire  
14      call, or other fire, rescue, or police emer-  
15      gency; or

16           “(ii) at a planned special event;

17          “(6) ‘fire investigator’ includes any individual  
18      who—

19           “(A) is serving in accordance with State or  
20      local law as an officially recognized or des-  
21      ignated member of a legally organized public  
22      safety agency; and

23           “(B) is officially authorized to conduct, co-  
24      ordinate and complete fire and explosion inves-  
25      tigations;”.

1           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
2 Section 611(a) of the Uniting and Strengthening America  
3 by Providing Appropriate Tools Required to Intercept and  
4 Obstruct Terrorism Act of 2001 (42 U.S.C. 3796c–1(a))  
5 is amended—

6           (1) by striking “section 1204(7)(B)” and in-  
7 sserting “section 1204(8)(B)”; and

8           (2) by striking “(42 U.S.C. 3796b(7)(B))” and  
9 inserting “(42 U.S.C. 3796b(8)(B))”.

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