

# Legislative Analysis

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## **SURVIVOR BENEFIT FOR SPOUSE OF SLAIN POLICE OFFICER**

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**House Bill 4178 as enrolled**  
**Public Act 46 of 2004**  
**Sponsor: Rep. Scott Shackleton**  
**House Committee: Appropriations**  
**Senate Committee: Appropriations**  
**Third Analysis (7-29-04)**

**BRIEF SUMMARY:** The bill would create a new act to provide a death benefit to a surviving spouse or dependents of a public safety officer slain or permanently disabled in the line of duty.

**FISCAL IMPACT:** House Bill 4178 appropriates \$125,000 GF/GP (for the 2003-2004 fiscal year) based on data from a recent 10-year period (1992-2001) of an annual average of 5.1 public safety officers' deaths and/or permanent and total disabilities in the line of duty. It is important to note that these estimates reflect long-term averages and that money in the fund at the close of a fiscal year would remain in the fund; therefore, the total amount of payments could likely fluctuate substantially from year to year. Based on historical figures, annual costs could range from \$50,000 to \$225,000. However, if an incident such as a terrorist event occurred in Michigan and a high number of public safety officers were killed, the costs of the bill would greatly increase.

### **THE APPARENT PROBLEM:**

Survivors of fire fighters, police officers, and emergency medical personnel killed or disabled in the line of duty face more than just the grief of losing a loved one. They face a loss or reduction in income, loss of health insurance, and may find themselves unable to pay funeral expenses. Though the federal government provides a one-time death or disability benefit for state and local police officers, fire fighters, and rescue squad and ambulance drivers, it can take months before a surviving spouse begins to receive any of the available benefits. Further, most states also provide a generous benefit to their public safety officers killed or injured on duty. Reportedly, Michigan is one of the few industrial states with no state-funded death benefit for public safety workers employed by local governments.

The events of September 11, 2001 and the collapse of the World Trade Center towers, which resulted in the deaths and serious injuries of hundreds of police, fire fighters, and emergency workers, have underscored the financial and emotional toll that families of public safety officers experience in the face of tragedy. Many of these families continue to struggle financially, even with the federal benefit. Many feel that since individuals in these professions risk their lives for the public good, that a state-funded death benefit should be created.

## ***THE CONTENT OF THE BILL:***

The bill would create the Public Safety Officers Benefit Act to provide for payment of a \$25,000 survivor benefit to the surviving spouse or dependents, or the estate, of a public safety officer who dies as a direct result of a personal injury sustained in the line of duty. The death benefit would be in addition to any other benefits that the beneficiary received due to the death of the public safety officer. If the officer were permanently and totally disabled, the benefit would go to the spouse, or to any dependents, or to the entity providing care to the disabled officer.

“Public safety officer” would mean an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, rescue squad member, or ambulance crew member. A “law enforcement officer” would mean a person involved in crime and juvenile delinquency control or reduction or enforcement of the criminal law and would include police, corrections, probation, parole, bailiffs, or other similar court officers.

The bill would create the Public Safety Officers Benefit Fund within the Department of Treasury. The fund could receive money or other assets from any source, the state treasurer would direct investments for the fund, and interest and earnings from fund investments would be credited to the fund. Money remaining in the fund at the close of a fiscal year would not lapse to the general fund. The Commission on Law Enforcement Standards (MCOLES) could only expend money from the fund, upon appropriation, to carry out the purposes of the fund. The commission would have to promulgate rules to prescribe standards and rules for the distribution of benefits commensurate with the bill’s purpose.

The bill would also allow an interim benefit of \$3,000 to be paid to the surviving spouse or dependents of a slain law enforcement officer, upon a showing of need, if it appeared that a benefit would be paid under the bill. An interim benefit would be deducted from any final benefit paid, and, if a final benefit is not paid because the death or total disability of the officer is determined not to be covered under the bill, the recipient would be liable for repayment of that amount. However, the bill specifies that the state could waive its right to repayment for all or part of the interim payment if substantial hardship would result to the recipient.

A benefit payment could not be paid under the bill if:

- The personal injury that resulted in death or permanent and total disability was caused by the intentional misconduct of the officer, or by the officer’s intent to bring about the injury;
- The officer was voluntarily intoxicated at the time of the injury;
- The officer was performing his or her duties in a grossly negligent manner at the time of the injury; or,

- The injury was the direct and proximate result of the actions of an individual to whom the benefit would be paid.

Payment of benefits under the bill would be subject to the appropriation of funds by the legislature; for the 2003-2004 fiscal year, the bill would require the legislature to appropriate \$125,000.

The bill would be retroactive and would take effect October 1, 2003.

### ***BACKGROUND INFORMATION:***

The federal Public Safety Officers' Benefits Act was enacted in 1976 to provide for a \$50,000 survivor benefit for state and local law enforcement officers and firefighters killed in the line of duty. Later, the provisions were expanded to include federal officers and firefighters, as well as rescue squad and ambulance workers. The benefit amount was raised in 1988 to \$100,000 and indexed to the Consumer Price Index; the benefit amount for fiscal year 2001 was \$151,635.

In fiscal year 2000, the federal government paid 180 benefits under the act (total payments equaled \$2.6 million). Of this total, 119 benefits were paid for police officers killed or disabled in the line of duty, 45 for fire fighters, and 13 for other categories of individuals covered under the program.

The term "permanently and totally disabled" is defined under House Bill 4178 the same as in the federal statute. Under federal law, the term is strictly interpreted; the most current available data indicate that six such benefits were paid in fiscal year 1998 and five in 1999.

The survivors of Michigan State Police troopers killed in the line of duty receive a death benefit of twice the trooper's current salary. In addition to the death benefit, under the Michigan State Police Retirement Act, survivors of troopers killed in the line of duty are eligible to receive a lifetime pension benefit of 60 percent of an officer's final average compensation, paid monthly, with a special monthly benefit of \$100 payable to surviving children until age 18. A survivor also receives up to \$1,500 to help with funeral expenses. A similar provision provides a monthly benefit to officers with a duty-incurred disability. However, for both the death and the disability benefit, the retirement allowance payable under this provision, when added to the applicable statutory worker's compensation benefits, cannot exceed the average annual salary paid to the officer for the two years immediately prior to death or disability.

Under the Fire Fighters and Police Officers Retirement Act, which governs workers employed by local municipalities, a duty death pension or disability benefit is also available for the survivors of those killed or injured in the line of duty. The pension, which is equal to the weekly payments available under the Worker's Disability Compensation Act, is payable upon termination of the worker's compensation benefits. A surviving spouse would be eligible for benefits for the length of his or her life or until

remarriage; a dependent child would receive benefits until his or her 18th birthday or until he or she married. However, a municipality has the option whether or not to participate in this benefit program. Further, whether or not there would be an additional one-time death benefit for municipally-employed police officers, fire fighters, or rescue personnel would be part of the contract negotiated between the municipality and the appropriate collective bargaining unit. Therefore, death benefits may vary from municipality to municipality, or not be available at all.

## ***ARGUMENTS:***

### ***For:***

Reportedly, Michigan ranks ninth in the nation for in-line-of-duty deaths, yet is one of the few large states with no state-funded death or disability benefit for police, fire fighters, or rescue squad and ambulance workers who are killed or injured in the line of duty. Reportedly, it is difficult or costly for people in these high-risk professions to obtain adequate life insurance to provide for their survivors in the event of a premature death or crippling injury. Though eligible for a \$150,000 benefit under a federal program, the benefit is split evenly between a surviving spouse and children – meaning that the spouse receives \$75,000 and the remaining \$75,000 is split between the children. This leaves a spouse with a small sum by today's standards to settle funeral expenses, cover mortgage payments, and so on.

Plus, though survivors of state police officers killed or disabled receive a death benefit of twice their loved one's salary, such a loss may still result in a significant change in life style, increased child care expenses, and health care expenses, among other things. Survivors of public safety officers employed by local units of government may face a tougher road since participation in the Fire Fighters and Police Officers Retirement Act, which provides a duty death pension, is optional; therefore, locally employed officers may only be eligible for short-term worker's compensation benefits. Also, since one-time death benefits are a collective bargaining issue, death benefits, if existing at all, could vary significantly from municipality to municipality. In light of the sacrifice that these professionals are willing to make for the good of the public safety, and in light of the fact that many of these professionals are not paid salaries commensurate with the risk of their jobs, it is only fitting that Michigan join with the other states and recognize the worth of our public safety officers by creating a one-time death or disability benefit.

### ***For:***

The bill would create a modest death or permanent disability benefit of \$25,000. Most other states of Michigan's size have death benefits of \$100,000 or more; Texas provides a death benefit of \$250,000. It is time for the state to honor the risk that these men and women place themselves in each day, and to honor the potential sacrifice that they are willing to make in order to make Michigan a better and safer place to live and do business.

***Against:***

Though the bill admittedly is a noble attempt to honor police officers, fire fighters, and emergency personnel, the facts remain that the state is still facing a budgetary shortfall. The legislative and executive branches are already scrambling to fund existing programs, let alone find the resources to create new ones. Since it is unknown how long state revenues will be in a downturn, perhaps it is premature to enact a bill requiring the legislature to appropriate funds to implement that bill when no funding source has been identified.

***Response:***

Since on average about five public safety officers are lost in Michigan each year, the bill would result in only a modest increase in state costs – about \$125,000 a year. It would seem to be a small price to pay for a tremendous boost to the morale of public safety officers and their families.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.