



Telephone: (517) 373-5383 Fex: (517) 373-1986 TDD: (517) 373-0543

House Bill 4178 (as passed by the House) Sponsor: Representative Scott Shackleton

House Committee: Appropriations

Senate Committee:

Date Completed: 2-25-04

CONTENT

The bill would create the "Public Safety Officers Benefit Act", to do all of the following:

- Require the State, subject to an appropriation, to make a one-time payment of \$25,000 to the spouse, dependents, estate, or caregiver of a public safety officer who dies or is permanently and totally disabled as a result of personal injury sustained in the line of duty, in addition to any other benefit that the beneficiary would receive.
- -- Establish the "Public Safety Officers Benefit Fund" in the Department of Treasury.
- -- Require that the Michigan Commission on Law Enforcement Standards (MCOLES) within the Department of State Police spend money from the Fund and promulgate rules to carry out the purpose of the proposed act.

The bill would define "public safety officer" as any 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. "Law enforcement officer" would mean an individual involved in crime and juvenile delinquency control or reduction or enforcement of criminal law, including police, corrections, probation, parole, bailiffs, or similar court officers. A "firefighter" would be a regularly employed or a volunteer member of a fire department of a city, county, township, village, state university, a community college or a member of the Department of Natural Resources who is employed to fight fires.

"Line of duty" would mean any action that an officer whose primary function is crime control or reduction, enforcement, or fire suppression is require by rule, regulation, or condition of employment to perform, including social, ceremonial or athletic functions to which the officer is assigned or for which the officer is compensated by the public agency. "Line of duty" also would mean any action that an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform. "Permanent and total disability" would mean medically determinable consequences of a catastrophic, line-of-duty injury that permanently prevent a former public safety officer from performing any gainful work.

The bill provides that if it appeared to MCOLES that a benefit would be paid, and if a showing of need were made, MCOLES could make a interim benefit payment of not more than \$3,000 to the eligible recipient. This amount would be deducted from the total amount

of any final benefit paid. In addition, should an interim benefit be paid and the recipient were later found not to be eligible, the State could either require repayment or waive the repayment of all or part of the interim payment if substantial hardship to the recipient would result.

The bill would prohibit payment of a benefit if any of the following applied:

- -- The event that resulted in death or permanent and total disability was caused by intentional misconduct of the public safety officer or by his or her intent to bring about the injury.
- -- The public safety officer was voluntarily intoxicated at the time the personal injury occurred.
- -- The public safety officer was performing his or her duties in a grossly negligent manner at the time of the personal injury.
- -- The injury was the direct and proximate result of the actions of an individual to whom payment would be made under the bill.

The proposed Public Safety Officers Benefit Fund could receive money or other assets from any source, and would have to be credited with interest and earnings from investments. Money in the Fund at the end of the fiscal year would remain in the Fund and not lapse to the General Fund. The bill would require the Legislature to appropriated sufficient money for deposit into the Fund to carry out the purpose of the proposed Act. The bill states that the payment of benefits under the Act would be subject to an appropriation by the Legislature of money necessary to make the payment.

FISCAL IMPACT

The bill would have an indeterminate annual fiscal impact on the State. The bill would require a payment by the State of \$25,000 for each eligible public safety officer who suffered death or permanent and total disability in the line of duty. The incidence of death or permanent and total disability among public safety officers, as defined in the bill, varies widely from year-to-year, though deaths have averaged approximately five per year over the previous decade. Records of public safety officers who have experienced permanent and total disability have been difficult to assemble, but the numbers are thought to be small. In calendar year 2003, three police officers in the State were reported killed in the line of duty and no firefighter deaths were reported. In calendar year 2004, the State already has experienced the death of two public safety officers.

The section of the Department of State Police that would be assigned responsibility for implementing the bill, MCOLES, already administers a survivor college tuition program for fallen police officers and firefighters and is in the process of establishing a data base to identify potential beneficiaries of that program. This section would likely incur some minor additional administrative costs in fulfilling the bill's requirements.

It perhaps would be prudent for the State to appropriate a minimum of \$125,000 on an annual basis to cover what historically has been an average of five deaths per year among public safety officers in the State, with the knowledge that under unforeseeable circumstances (such as a terrorist attack) the fiscal obligation of this proposed program could be considerably higher. (The 9-11-01 attack on New York City took the lives of 343 firefighters and 60 police officers, for example.)

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.