

**Suspend the Rules and Pass the Bill, H.R. 4018, with An Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4018

To improve the Public Safety Officers' Benefits Program.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2012

Mr. FITZPATRICK (for himself and Mr. SMITH of Texas) introduced the following bill; which was 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 title may be cited as the "Public Safety Officers'  
5 Benefits Improvements Act of 2012".

1 **SEC. 2. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY**  
2 **MEDICAL SERVICE PROVIDERS; MISCELLA-**  
3 **NEOUS AMENDMENTS.**

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

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

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

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

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

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

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

16 (A) in subsection (a), by striking “fol-  
17 lows:” and all that follows and inserting the fol-  
18 lowing: “follows (if the payee indicated is living  
19 on the date on which the determination is  
20 made)—

21 “(1) if there is no child who survived the public  
22 safety officer, to the surviving spouse of the public  
23 safety officer;

24 “(2) if there is at least 1 child who survived the  
25 public safety officer and a surviving spouse of the  
26 public safety officer, 50 percent to the surviving

1 child (or children, in equal shares) and 50 percent  
2 to the surviving spouse;

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

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

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

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

24 “(5) if there is no individual qualifying under  
25 paragraph (1), (2), (3), or (4), to the surviving par-

1 ent (or parents, in equal shares) of the public safety  
2 officer; or

3 “(6) if there is no individual qualifying under  
4 paragraph (1), (2), (3), (4), or (5), to the surviving  
5 individual (or individuals, in equal shares) who  
6 would qualify under the definition of the term ‘child’  
7 under section 1204 but for age.”;

8 (B) in subsection (b)—

9 (i) by striking “direct result of a cata-  
10 strophic” and inserting “direct and proxi-  
11 mate result of a personal”;

12 (ii) by striking “pay,” and all that fol-  
13 lows through “the same” and inserting  
14 “pay the same”;

15 (iii) by striking “in any year” and in-  
16 sserting “to the public safety officer (if liv-  
17 ing on the date on which the determination  
18 is made)”;

19 (iv) by striking “in such year, ad-  
20 justed” and inserting “with respect to the  
21 date on which the catastrophic injury oc-  
22 curred, as adjusted”;

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

1 (vi) by striking “the total” and all  
2 that follows through “For” and inserting  
3 “for”; and

4 (vii) by striking “That these” and all  
5 that follows through the period, and insert-  
6 ing “That the amount payable under this  
7 subsection shall be the amount payable as  
8 of the date of catastrophic injury of such  
9 public safety officer.”;

10 (C) in subsection (f)—

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

14 (ii) in paragraph (2)—

15 (I) by striking “. Such bene-  
16 ficiaries shall only receive benefits  
17 under such section 8191 that” and in-  
18 serting “, such that beneficiaries shall  
19 receive only such benefits under such  
20 section 8191 as”; and

21 (II) by striking the period at the  
22 end and inserting “; or”; and

23 (iii) by adding at the end the fol-  
24 lowing:

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

4           (D) by amending subsection (k) to read as  
5           follows:

6           “(k) As determined by the Bureau, a heart attack,  
7           stroke, or vascular rupture suffered by a public safety offi-  
8           cer shall be presumed to constitute a personal injury with-  
9           in the meaning of subsection (a), sustained in the line of  
10          duty by the officer and directly and proximately resulting  
11          in death, if—

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

13                  “(A) engages in a situation involving non-  
14                  routine stressful or strenuous physical law en-  
15                  forcement, fire suppression, rescue, hazardous  
16                  material response, emergency medical services,  
17                  prison security, disaster relief, or other emer-  
18                  gency response activity; or

19                  “(B) participates in a training exercise in-  
20                  volving nonroutine stressful or strenuous phys-  
21                  ical activity;

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

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

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

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

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

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

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

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

1 (A) by striking “death”, each place it ap-  
2 pears except the second place it appears, and  
3 inserting “fatal”; and

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

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

8 (A) in the section heading, by striking  
9 “WHO HAVE DIED IN THE LINE OF DUTY” and  
10 inserting “WHO HAVE SUSTAINED FATAL OR  
11 CATASTROPHIC INJURY IN THE LINE OF DUTY”;  
12 and

13 (B) by striking “who have died in the line  
14 of duty” and inserting “who have sustained  
15 fatal or catastrophic injury in the line of duty”;

16 (5) in section 1204 (42 U.S.C. 3796b)—

17 (A) in paragraph (1), by striking “con-  
18 sequences of an injury that” and inserting “an  
19 injury, the direct and proximate consequences  
20 of which”;

21 (B) in paragraph (3)—

22 (i) in the matter preceding clause

23 (i)—

1 (I) by inserting “or permanently  
2 and totally disabled” after “de-  
3 ceased”; and

4 (II) by striking “death” and in-  
5 serting “fatal or catastrophic injury”;  
6 and

7 (ii) by redesignating clauses (i), (ii),  
8 and (iii) as subparagraphs (A), (B), and  
9 (C), respectively;  
10 (C) in paragraph (5)—

11 (i) by striking “post-mortem” each  
12 place it appears and inserting “post-in-  
13 jury”; and

14 (ii) by redesignating clauses (i) and  
15 (ii) as subparagraphs (A) and (B), respec-  
16 tively;

17 (D) in paragraph (7), by striking “public  
18 employee member of a rescue squad or ambu-  
19 lance crew;” and inserting “employee or volun-  
20 teer member of a rescue squad or ambulance  
21 crew (including a ground or air ambulance serv-  
22 ice) that—

23 “(A) is a public agency; or

24 “(B) is (or is a part of) a nonprofit entity  
25 serving the public that—

1 “(i) is officially authorized or licensed  
2 to engage in rescue activity or to provide  
3 emergency medical services; and

4 “(ii) engages in rescue activities or  
5 provides emergency medical services as  
6 part of an official emergency response sys-  
7 tem;” and

8 (E) in paragraph (9)—

9 (i) in subparagraph (A), by striking  
10 “as a chaplain, or as a member of a rescue  
11 squad or ambulance crew;” and inserting  
12 “or as a chaplain;”;

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

15 (iii) in subparagraph (C)(ii), by strik-  
16 ing the period and inserting “; or”; and

17 (iv) by adding at the end the fol-  
18 lowing:

19 “(D) a member of a rescue squad or am-  
20 bulance crew who, as authorized or licensed by  
21 law and by the applicable agency or entity, is  
22 engaging in rescue activity or in the provision  
23 of emergency medical services.”

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

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

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

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

13 (A) in subsection (a)—

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

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

22 (B) in subsection (c)—

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

25 (ii) by striking “dependent”;

1           (9) in paragraphs (2) and (3) of section  
2           1213(b) (42 U.S.C. 3796d–2(b)), by striking “de-  
3           pendent’s” each place it appears and inserting “per-  
4           son’s”;

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

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

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

11          (11) in section 1217(3)(A) (42 U.S.C. 3796d–  
12          6(3)(A)), by striking “described in” and all that fol-  
13          lows and inserting “an institution of higher edu-  
14          cation, as defined in section 102 of the Higher Edu-  
15          cation Act of 1965 (20 U.S.C. 1002); and”.

16          (b) AMENDMENT RELATED TO EXPEDITED PAY-  
17          MENT FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE  
18          PREVENTION, INVESTIGATION, RESCUE, OR RECOVERY  
19          EFFORTS RELATED TO A TERRORIST ATTACK.—Section  
20          611(a) of the Uniting and Strengthening America by Pro-  
21          viding Appropriate Tools Required to Intercept and Ob-  
22          struct Terrorism (USA PATRIOT ACT) Act of 2001 (42  
23          U.S.C. 3796c–1(a)) is amended by inserting “or an entity  
24          described in section 1204(7)(B) of the Omnibus Crime

1 Control and Safe Streets Act of 1968 (42 U.S.C.  
2 3796b(7)(B))” after “employed by such agency”.

3 (c) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Section 402(l)(4)(C) of the Internal Revenue Code of  
5 1986 is amended—

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

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

10 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS; DETER-**  
11 **MINATIONS; APPEALS.**

12 The matter under the heading “PUBLIC SAFETY OF-  
13 FICERS BENEFITS” under the heading “OFFICE OF JUS-  
14 TICE PROGRAMS” under title II of division B of the Con-  
15 solidated Appropriations Act, 2008 (Public Law 110–161;  
16 121 Stat. 1912; 42 U.S.C. 3796c–2) is amended—

17 (1) by striking “decisions” and inserting “de-  
18 terminations”;

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

21 (3) by striking the period at the end and insert-  
22 ing the following: “: *Provided further*, That, on and  
23 after the date of enactment of the Public Safety Of-  
24 ficers’ Benefits Improvements Act of 2012, as to  
25 each such statute—

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

3           “(2) payment (other than payment made pursu-  
4 ant to section 611 of the Uniting and Strengthening  
5 America by Providing Appropriate Tools Required to  
6 Intercept and Obstruct Terrorism (USA PATRIOT  
7 ACT) Act of 2001 (42 U.S.C. 3796c–1)) shall be  
8 made only upon a determination by the Bureau that  
9 the facts legally warrant the payment;

10           “(3) any reference to section 1202 of such title  
11 I shall be deemed to be a reference to paragraphs  
12 (2) and (3) of such section 1202; and

13           “(4) a certification submitted under any such  
14 statute (other than a certification submitted pursu-  
15 ant to section 611 of the Uniting and Strengthening  
16 America by Providing Appropriate Tools Required to  
17 Intercept and Obstruct Terrorism (USA PATRIOT  
18 ACT) Act of 2001 (42 U.S.C. 3796c–1)) may be ac-  
19 cepted by the Bureau as prima facie evidence of the  
20 facts asserted in the certification:

21 *Provided further*, That, on and after the date of enactment  
22 of the Public Safety Officers’ Benefits Improvements Act  
23 of 2012, no appeal shall bring any final determination of  
24 the Bureau before any court for review unless notice of  
25 appeal is filed (within the time specified herein and in the

1 manner prescribed for appeal to United States courts of  
2 appeals from United States district courts) not later than  
3 90 days after the date on which the Bureau serves notice  
4 of the final determination: *Provided further*, That any reg-  
5 ulations promulgated by the Bureau under such part (or  
6 any such statute) before, on, or after the date of enact-  
7 ment of the Public Safety Officers' Benefits Improvements  
8 Act of 2012 shall apply to any matter pending on, or filed  
9 or accruing after, the effective date specified in the regula-  
10 tions.”.

11 **SEC. 4. EFFECTIVE DATE.**

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

14 (1) take effect on the date of enactment of this  
15 Act; and

16 (2) apply to any matter pending, before the Bu-  
17 reau of Justice Assistance or otherwise, on the date  
18 of enactment of this Act, or filed or accruing after  
19 that date.

20 (b) EXCEPTIONS.—

21 (1) RESCUE SQUADS AND AMBULANCE  
22 CREWS.—For a member of a rescue squad or ambu-  
23 lance crew (as defined in section 1204(7) of title I  
24 of the Omnibus Crime Control and Safe Streets Act  
25 of 1968, as amended by this Act), the amendments

1       made by this Act shall apply to injuries sustained on  
2       or after June 1, 2009.

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