

**Suspend the Rules and Pass the Bill, S. 1511, With an Amendment**

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

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# **S. 1511**

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IN THE SENATE OF THE UNITED STATES

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## **AN ACT**

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 of 2021”.

1 **SEC. 2. PAYMENT OF DEATH AND DISABILITY BENEFITS**  
2 **UNDER PUBLIC SAFETY OFFICERS' DEATH**  
3 **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 (a), in the matter preceding  
8 paragraph (1)—

9 (A) by striking “the Bureau shall pay”;  
10 and

11 (B) by inserting “, and calculated in ac-  
12 cordance with subsection (i), shall be payable by  
13 the Bureau” after “subsection (h)”.

14 (2) in subsection (b)—

15 (A) by striking “the Bureau shall pay the  
16 same benefit” and inserting “a benefit shall be  
17 payable”;

18 (B) by striking “that is payable under sub-  
19 section (a) with respect to the date on which  
20 the catastrophic injury occurred,” and inserting  
21 “in the same amount that would be payable, as  
22 of the date such injury was sustained (includ-  
23 ing”;

24 (C) by inserting “, and calculated in ac-  
25 cordance with subsection (i)), if such deter-

1           mination were a determination under subsection  
2           (a)” before “: Provided, That”; and

3                   (D) by striking “necessary:” and all that  
4           follows and inserting “necessary.”;

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

8           (4) in subsection (h), by striking “subsection  
9           (a)” and inserting “subsections (a) and (b) and the  
10          level of the interim benefit payable immediately be-  
11          fore such October 1 under subsection (c)”;

12          (5) by striking subsection (i) and inserting the  
13          following:

14          “(i) The amount payable under subsections (a) and  
15          (b), with respect to the death or permanent and total dis-  
16          ability of a public safety officer, shall be the greater of—

17                  “(1) the amount payable under the relevant  
18                  subsection as of the date of death or of the cata-  
19                  strophic injury of the public safety officer; or

20                  “(2) in any case in which the claim filed there-  
21                  under has been pending for more than 365 days at  
22                  the time of final determination by the Bureau, the  
23                  amount that would be payable under the relevant  
24                  subsection if the death or the catastrophic injury of  
25                  the public safety officer had occurred on the date on

1 which the Bureau makes such final determination.”;

2 and

3 (6) in subsection (m), by inserting “, (b),” after

4 “subsection (a)”.

5 **SEC. 3. DEFINITIONS WITH RESPECT TO PUBLIC SAFETY**

6 **OFFICERS’ DEATH BENEFITS PROGRAM.**

7 Section 1204 of title I of the Omnibus Crime Control

8 and Safe Streets Act of 1968 (34 U.S.C. 10284) is amend-

9 ed—

10 (1) by redesignating paragraphs (1), (2), (3),

11 (4), (5), (6), (7), (8), and (9) as paragraphs (4),

12 (5), (6), (7), (8), (9), (10), (13), and (14), respec-

13 tively;

14 (2) by striking paragraph (4), as so redesign-

15 nated, and inserting:

16 “(4) ‘catastrophic injury’ means an injury, the

17 direct and proximate result of which is to perma-

18 nently render an individual functionally incapable

19 (including through a directly and proximately result-

20 ing neurocognitive disorder), based on the state of

21 medicine on the date on which the claim is deter-

22 mined by the Bureau, of performing work, including

23 sedentary work: Provided, That, if it appears that a

24 claimant may be functionally capable of performing

25 work—

1           “(A) the Bureau shall disregard work  
2 where any compensation provided is de minimis,  
3 nominal, honorary, or mere reimbursement of  
4 incidental expenses, such as—

5           “(i) work that involves ordinary or  
6 simple tasks, that because of the claimed  
7 disability, the claimant cannot perform  
8 without significantly more supervision, ac-  
9 commodation, or assistance than is typi-  
10 cally provided to an individual without the  
11 claimed disability doing similar work;

12           “(ii) work that involves minimal du-  
13 ties that make few or no demands on the  
14 claimant and are of little or no economic  
15 value to the employer; or

16           “(iii) work that is performed primarily  
17 for therapeutic purposes and aids the  
18 claimant in the physical or mental recovery  
19 from the claimed disability; and

20           “(B) the claimant shall be presumed, ab-  
21 sent clear and convincing medical evidence to  
22 the contrary as determined by the Bureau, to  
23 be functionally incapable of performing such  
24 work if the direct and proximate result of the  
25 injury renders the claimant—

1 “(i) blind;

2 “(ii) parapalegic; or

3 “(iii) quadriplegic;”;

4 (3) in paragraph (6), as so redesignated, by  
5 striking “at the time of the public safety officer’s  
6 fatal or catastrophic injury” and inserting “at the  
7 time of the public safety officer’s death or fatal in-  
8 jury (in connection with any claim predicated upon  
9 such death or injury) or the date of the public safety  
10 officer’s catastrophic injury or of the final deter-  
11 mination by the Bureau of any claim predicated  
12 upon such catastrophic injury”;

13 (4) in paragraph (7), as so redesignated, by in-  
14 serting “, including an individual who, as such a  
15 member, engages in scene security or traffic man-  
16 agement as the primary or only duty of the indi-  
17 vidual during emergency response” before the semi-  
18 colon;

19 (5) in paragraph (9), as so redesignated by  
20 striking “(delinquency).,” and inserting “(delin-  
21 quency),”;

22 (6) in paragraph (13), as so redesignated, by  
23 inserting “, and includes (as may be prescribed by  
24 regulation hereunder) a legally organized volunteer  
25 fire department that is a nonprofit entity and pro-

1       vides services without regard to any particular rela-  
2       tionship (such as a subscription) a member of the  
3       public may have with such a department” before the  
4       semicolon;

5               (7) in paragraph (14), as so redesignated,—

6                       (A) by striking subparagraph (A) and in-  
7                       serting:

8                       “(A) an individual serving a public agency  
9                       in an official capacity, with or without com-  
10                      pensation, as a law enforcement officer, as a  
11                      firefighter, or as a chaplain: Provided, That  
12                      (notwithstanding section 1205(b)(2) or (3)) the  
13                      Bureau shall, absent clear and convincing evi-  
14                      dence to the contrary as determined by the Bu-  
15                      reau, deem the actions outside of jurisdiction  
16                      taken by any such law enforcement officer or  
17                      firefighter, to have been taken while serving  
18                      such public agency in such capacity, in any case  
19                      in which the principal legal officer of such pub-  
20                      lic agency, and the head of such agency, to-  
21                      gether, certify that such actions—

22                               “(i) were not unreasonable;

23                               “(ii) would have been within the au-  
24                              thority and line of duty of such law en-  
25                              forcement officer or such firefighter to

1 take, had they been taken in a jurisdiction  
2 where such law enforcement officer or fire-  
3 fighter was authorized to act, in the ordi-  
4 nary course, in an official capacity; and

5 “(iii) would have resulted in the pay-  
6 ment of full line-of-duty death or disability  
7 benefits (as applicable), if any such bene-  
8 fits typically were payable by (or with re-  
9 spect to or on behalf of) such public agen-  
10 cy, as of the date the actions were taken;”;

11 (B) by redesignating subparagraphs (B),  
12 (C), (D), and (E) as subparagraphs (C), (D),  
13 (E), and (F), respectively;

14 (C) by inserting after subparagraph (A),  
15 the following new subparagraph:

16 “(B) a candidate officer who is engaging in  
17 an activity or exercise that itself is a formal or  
18 required part of the program in which the can-  
19 didate officer is enrolled or admitted, as pro-  
20 vided in this section;”;

21 (D) by striking subparagraph (E), as so  
22 redesignated, and inserting the following:

23 “(E) a member of a rescue squad or ambu-  
24 lance crew who, as authorized or licensed by  
25 law and by the applicable agency or entity, is



1           engaging in rescue activity or in the provision  
2           of emergency medical services: Provided, That  
3           (notwithstanding section 1205(b)(2) or (3)) the  
4           Bureau shall, absent clear and convincing evi-  
5           dence to the contrary as determined by the Bu-  
6           reau, deem the actions outside of jurisdiction  
7           taken by any such member to have been thus  
8           authorized or licensed, in any case in which the  
9           principal legal officer of such agency or entity,  
10          and the head of such agency or entity, together,  
11          certify that such actions—

12                       “(i) were not unreasonable;

13                       “(ii) would have been within the au-  
14                       thority and line of duty of such member to  
15                       take, had they been taken in a jurisdiction  
16                       where such member was authorized or li-  
17                       censed by law and by a pertinent agency or  
18                       entity to act, in the ordinary course; and

19                       “(iii) would have resulted in the pay-  
20                       ment of full line-of-duty death or disability  
21                       benefits (as applicable), if any such bene-  
22                       fits typically were payable by (or with re-  
23                       spect to or on behalf of) such applicable  
24                       agency or entity, as of the date the action  
25                       was taken;”;

1 (8) by inserting before paragraph (4), as so re-  
2 designated, the following new paragraphs:

3 “(1) ‘action outside of jurisdiction’ means an  
4 action, not in the course of any compensated em-  
5 ployment involving either the performance of public  
6 safety activity or the provision of security services,  
7 by a law enforcement officer, firefighter, or member  
8 of a rescue squad or ambulance crew that—

9 “(A) was taken in a jurisdiction where—

10 “(i) the law enforcement officer or  
11 firefighter then was not authorized to act,  
12 in the ordinary course, in an official capac-  
13 ity; or

14 “(ii) the member of a rescue squad or  
15 ambulance crew then was not authorized  
16 or licensed to act, in the ordinary course,  
17 by law or by the applicable agency or enti-  
18 ty;

19 “(B) then would have been within the au-  
20 thority and line of duty of—

21 “(i) a law enforcement officer or a  
22 firefighter to take, who was authorized to  
23 act, in the ordinary course, in an official  
24 capacity, in the jurisdiction where the ac-  
25 tion was taken; or

1           “(ii) a member of a rescue squad or  
2           ambulance crew to take, who was author-  
3           ized or licensed by law and by a pertinent  
4           agency or entity to act, in the ordinary  
5           course, in the jurisdiction where the action  
6           was taken; and

7           “(C) was, in an emergency situation that  
8           presented an imminent and significant danger  
9           or threat to human life or of serious bodily  
10          harm to any individual, taken—

11          “(i) by a law enforcement officer—

12                 “(I) to prevent, halt, or respond  
13                 to the immediate consequences of a  
14                 crime (including an incident of juve-  
15                 nile delinquency); or

16                 “(II) while engaging in a rescue  
17                 activity or in the provision of emer-  
18                 gency medical services;

19          “(ii) by a firefighter—

20                 “(I) while engaging in fire sup-  
21                 pression; or

22                 “(II) while engaging in a rescue  
23                 activity or in the provision of emer-  
24                 gency medical services; or

1                   “(iii) by a member of a rescue squad  
2                   or ambulance crew, while engaging in a  
3                   rescue activity or in the provision of emer-  
4                   gency medical services;

5                   “(2) ‘candidate officer’ means an individual who  
6                   is enrolled or admitted, as a cadet or trainee, in a  
7                   formal and officially established program of instruc-  
8                   tion or of training (such as a police or fire academy)  
9                   that is specifically intended to result upon comple-  
10                  tion, in the—

11                  “(A) commissioning of such individual as a  
12                  law enforcement officer;

13                  “(B) conferral upon such individual of offi-  
14                  cial authority to engage in fire suppression (as  
15                  an officer or employee of a public fire depart-  
16                  ment or as an officially recognized or des-  
17                  ignated member of a legally organized volunteer  
18                  fire department); or

19                  “(C) granting to such individual official  
20                  authorization or license to engage in a rescue  
21                  activity, or in the provision of emergency med-  
22                  ical services, as a member of a rescue squad, or  
23                  as a member of an ambulance crew that is (or  
24                  is a part of) the agency or entity that is spon-  
25                  soring the individual’s enrollment or admission;

1           “(3) ‘blind’ means an individual who has cen-  
2           tral visual acuity of 20/200 or less in the better eye  
3           with the use of a correcting lens or whose eye is ac-  
4           companied by a limitation in the fields of vision such  
5           that the widest diameter of the visual field subtends  
6           an angle no greater than 20 degrees;” and

7           (9) in the matter following paragraph (10), as  
8           so redesignated, by inserting the following new para-  
9           graphs:

10           “(11) ‘neurocognitive disorder’ means a dis-  
11           order that is characterized by a clinically significant  
12           decline in cognitive functioning and may include  
13           symptoms and signs such as disturbances in mem-  
14           ory, executive functioning (that is, higher-level cog-  
15           nitive processes, such as, regulating attention, plan-  
16           ning, inhibiting responses, decision-making), visual-  
17           spatial functioning, language, speech, perception, in-  
18           sight, judgment, or an insensitivity to social stand-  
19           ards; and

20           “(12) ‘sedentary work’ means work that—

21           “(A) involves lifting articles weighing no  
22           more than 10 pounds at a time or occasionally  
23           lifting or carrying articles such as docket files,  
24           ledgers, or small tools; and

1           “(B) despite involving sitting on a regular  
2           basis, may require walking or standing on an  
3           occasional basis.”.

4 **SEC. 4. DUE DILIGENCE IN PAYING BENEFIT CLAIMS**  
5           **UNDER PUBLIC SAFETY OFFICERS’ DEATH**  
6           **BENEFITS PROGRAM.**

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

11           “(1) may use available investigative tools, in-  
12          cluding subpoenas, to—

13           “(A) adjudicate or to expedite the proc-  
14          essing of the benefit claim, if the Bureau deems  
15          such use to be necessary to adjudicate or con-  
16          ducive to expediting the adjudication of such  
17          claim; and

18           “(B) obtain information or documentation  
19          from third parties, including public agencies, if  
20          the Bureau deems such use to be necessary to  
21          adjudicate or conducive to expediting the adju-  
22          dication of a claim; and

23           “(2) may not abandon the benefit claim unless  
24          the Bureau has used investigative tools, including  
25          subpoenas, to obtain the information or documenta-

1 tion deemed necessary to adjudicate such claim by  
2 the Bureau under subparagraph (1)(B).”.

3 **SEC. 5. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF**  
4 **CERTAIN PUBLIC SAFETY OFFICERS.**

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

10 **SEC. 6. TECHNICAL CORRECTION.**

11 Section 1205(e)(3)(B) of the Omnibus Crime Control  
12 and Safe Streets Act of 1968 (34 U.S.C. 10285(e)(3)(B))  
13 is amended by striking “subparagraph (B)(ix)” and in-  
14 serting “subparagraph (I)”.

15 **SEC. 7. SUBPOENA POWER.**

16 Section 806 of title I of the Omnibus Crime Control  
17 and Safe Streets Act of 1968 (34 U.S.C. 10225) is amend-  
18 ed—

19 (1) by inserting “Attorney General, the” before  
20 the “Bureau of Justice Assistance”;

21 (2) by striking “may appoint” and inserting  
22 “may appoint (to be assigned or employed on an in-  
23 terim or as-needed basis) such hearing examiners  
24 (who shall, if so designated by the Attorney General,  
25 be understood to be comprised within the meaning

1 of “special government employee” under section 202  
2 of title 18, United States Code”);

3 (3) by striking “under this chapter. The” and  
4 inserting “or other law. The Attorney General, the”;  
5 and

6 (4) by inserting “conduct examinations” after  
7 “examine witnesses,”.

8 **SEC. 8. EFFECTIVE DATE; APPLICABILITY.**

9 (a) IN GENERAL.—Except as otherwise provided in  
10 this section, the amendments made by this Act shall take  
11 effect on the date of enactment of this Act.

12 (b) APPLICABILITY.—

13 (1) CERTAIN INJURIES.—The amendments  
14 made to paragraphs (2) and (7) of section 1204 of  
15 title I of the Omnibus Crime Control and Safe  
16 Streets Act of 1968 (34 U.S.C. 10284) shall apply  
17 with respect to injuries occurring on or after Janu-  
18 ary 1, 2008.

19 (2) MATTERS PENDING.—Except as provided in  
20 paragraph (1), the amendments made by this Act  
21 shall apply to any matter pending, before the Bu-  
22 reau or otherwise, on the date of enactment of this  
23 Act, or filed (consistent with pre-existing effective  
24 dates) or accruing after that date.

25 (c) EFFECTIVE DATE FOR WTC RESPONDERS.—



1           (1) CERTAIN NEW CLAIMS.—Not later than two  
2 years after the effective date of this Act, a WTC re-  
3 sponder may file a claim, under section 1201(b) of  
4 title I of the Omnibus Crime Control and Safe  
5 Streets Act of 1968 (34 U.S.C. 10281(b)), that is  
6 predicated on a personal injury sustained in the line  
7 of duty by such responder as a result of the Sep-  
8 tember 11, 2001, attacks, where—

9           (A) no claim under such section 1201(b)  
10 so predicated has previously been filed; or

11           (B) a claim under such section 1201(b) so  
12 predicated had previously been denied, in a  
13 final agency determination, on the basis (in  
14 whole or in part) that the claimant was not to-  
15 tally disabled.

16           (2) CLAIMS FOR A DECEASED WTC RE-  
17 SPONDER.—Not later than two years after the effec-  
18 tive date of this Act, a claim may be filed, construc-  
19 tively under section 1201(a) of title I of the Omni-  
20 bus Crime Control and Safe Streets Act of 1968 (34  
21 U.S.C. 10281(a)), where a WTC responder who oth-  
22 erwise could have filed a claim pursuant to para-  
23 graph (1) has died before such effective date (or dies  
24 not later than 365 days after such effective date), or  
25 where a WTC responder has filed such a claim but

1 dies while it is pending before the Bureau: Provided,  
2 That—

3 (A) no claim under such section 1201(a)  
4 otherwise shall have been filed, or determined,  
5 in a final agency determination; and

6 (B) if it is determined, in a final agency  
7 determination, that a claim under such para-  
8 graph (1) would have been payable had the  
9 WTC responder not died, then the WTC re-  
10 sponder shall irrebutably be presumed (solely  
11 for purposes of determining to whom benefits  
12 otherwise pursuant to such paragraph (1) may  
13 be payable under the claim filed constructively  
14 under such section 1201(a)) to have died as the  
15 direct and proximate result of the injury on  
16 which the claim under such paragraph (1)  
17 would have been predicated.

18 (3) DIFFERENCE IN BENEFIT PAY.—In the  
19 event that a claim under section 1201(b) of title I  
20 of the Omnibus Crime Control and Safe Streets Act  
21 of 1968 (34 U.S.C. 10281(b)) and predicated on an  
22 injury sustained in the line of duty by a WTC re-  
23 sponder as a result of the September 11, 2001, at-  
24 tacks was approved, in a final agency determination,  
25 before the effective date of this Act, the Bureau

1 shall, upon application filed (not later than three  
2 years after such effective date of this Act) by the  
3 payee (or payees) indicated in subparagraphs (A) or  
4 (B), pay a bonus in the amount of the difference (if  
5 any) between the amount that was paid pursuant to  
6 such determination and the amount that would have  
7 been payable had the amendments made by this Act,  
8 other than those indicated in subsection (b)(1), been  
9 in effect on the date of such determination—

10 (A) to the WTC responder, if living on the  
11 date the application is determined, in a final  
12 agency determination; or

13 (B) if the WTC responder is not living on  
14 the date indicated in subparagraph (A), to the  
15 individual (or individuals), if living on such  
16 date, to whom benefits would have been payable  
17 on such date under section 1201(a) of such title  
18 I (34 U.S.C. 10281(a)) had the application  
19 been, instead, a claim under such section  
20 1201(a).

21 (4) SPECIAL LIMITED RULE OF CONSTRUC-  
22 TION.—A claim filed pursuant to paragraph (1) or  
23 (2) shall be determined as though the date of cata-  
24 strophic injury of the public safety officer were the

1 date of enactment of this Act, for purposes of deter-  
2 mining the amount that may be payable.

3 **SEC. 9. SAFEGUARDING AMERICA'S FIRST RESPONDERS.**

4 Section 3 of Safeguarding America's First Respond-  
5 ers Act of 2020 (Public Law 116-157) is amended—

6 (1) in subsection (a)(1), by striking “between  
7 January 1, 2020, and December 31, 2021” and in-  
8 serting “during the period beginning on January 1,  
9 2020, and ending on the termination date” and

10 (2) in subsection (b)(1), by striking “between  
11 January 1, 2020, and December 31, 2021” and in-  
12 serting “during the period beginning on January 1,  
13 2020, and ending on the termination date”; and

14 (3) by adding at the end the following:

15 “(c) TERMINATION DATE.—For purposes of this sec-  
16 tion, the term ‘termination date’ means the earlier of—

17 “(1) the date on which the public health emer-  
18 gency declared by the Secretary of Health and  
19 Human Services under section 319 of the Public  
20 Health Service Act (42 U.S.C. 247d) on January  
21 31, 2020, with respect to the Coronavirus Disease  
22 (COVID-19), expires; and

23 “(2) December 31, 2023.”.