

SFA



BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

OCT 16 1989

Mich. State Law Library

Senate Bill 47 (Substitute S-1 as passed by the Senate)
Sponsor: Senator George Z. Hart
Committee: State Affairs, Tourism, and Transportation

Date Completed: 8-31-89

RATIONALE

Law enforcement personnel such as police officers, fire fighters, and conservation officers are exposed to many life threatening situations while performing their mandated duty to protect the general public. The death of an officer in the line of duty can place a significant financial burden on the surviving spouse who often must assume sole responsibility for providing for the needs of the family. According to the Bureau of Justice in the U.S. Department of Justice, nine police officers, two fire fighters, and two corrections officers were killed in the line of duty in this State in 1988. Although, according to some, each bargaining unit of law enforcement personnel has a benefit package for its members, the benefits may not be enough to help with the medical or educational needs of the officer's children. Moreover, there reportedly is no uniformity of benefits; some families of slain officers can or do receive less financial assistance than others, regardless of their needs. Some contend that friends of the family and fellow officers often have held raffles or other fund raising events to provide some financial support to an officer's children for medical or educational expenses not covered by a benefits package. Such efforts, however, do not provide the stable source of financial support that the officer presumably would provide for the family if he or she were alive. It has been suggested, therefore, that efforts be made to provide a uniform survivor benefit in the form of financial assistance to children of law enforcement officers killed in the line of duty.

CONTENT

The bill would create a new act to provide survivor benefits to children of certain public safety officers killed during an act of duty and to create within the Department of Treasury the Public Safety Officers' Surviving Children Fund, which would be funded by annual appropriations by the Legislature. The term "public safety officer" would apply to law enforcement officers including sheriffs, deputy sheriffs, Capitol security officers, conservation officers, motor carrier officers, or other governmental employees serving in a similar capacity, and regularly employed or volunteer fire fighters, except persons who serve as fire fighters solely by virtue of occupying another office or position. The bill, which would take effect October 1, 1990, would not apply unless money was appropriated for survivor benefits.

Specifically, the bill would provide for an annual survivor benefit of \$5,000 to be paid on September 1 of each year to a child of an eligible public safety officer who died during or following the fiscal year ending on September 30, 1987, as a direct and proximate result of personal injury sustained while engaged in an "act of duty", i.e., an act arising out of or in the course of the officer's work responsibilities or pertinent or incidental to them, including responding to a medical alarm, regardless of time or place. To be eligible for the benefit, the child would have to be a natural, adopted, or posthumous offspring of a deceased public safety officer or his or her surviving spouse. The child also would have to be or have been

S.B. 47 (8-31-89)

18 years old or less at the time of the officer's death and, except for posthumous children, substantially reliant for support on the income of the officer.

The annual benefit could not be paid to a child after he or she became 18 years old but if the child turned 18 before the September 1 payment, the child would receive that portion of the payment that would have accrued if the payment had been made in equal monthly installments. The benefit would not be subject to offset by any other benefit payable from any other source, garnishment, execution, attachment or State or local taxation.

The annual benefit would not be paid to a surviving child if the death of the officer were caused by the intentional misconduct of the officer or by the officer's intention to bring about his or her own death, if the voluntary intoxication of the officer by alcohol, drugs, or other substances were the proximate cause of his or her death, or if the child's actions were a substantial contributing factor in the officer's death.

The Department of Treasury would be required to determine eligibility for survivor benefits and to administer the bill. A claimant who was dissatisfied with a determination of the Department would be entitled to an administrative hearing under the Administrative Procedures Act.

A surviving parent or guardian of a child who claimed that the child was eligible for a survivor benefit would be required to file a claim with the Department not later than August 1 of the fiscal year following the date of the officer's death. A claim could be filed on behalf of the child claiming eligibility by the law enforcement agency or fire department that employed the officer at the time of his or her death. The Department for good cause could extend the time for filing for up to one year after the date of the officer's death. If a claim were not made in accordance with the bill, the surviving child would be barred from receiving a survivor benefit.

If the Department determined upon a showing of need and before taking final action on a claim, that the surviving child would probably be paid a survivor benefit, the Department

could make an interim benefit payment of up to \$3,000 per child to the parent or guardian of the child entitled to the benefit. The amount of the payment would be deducted from the amount of the benefit paid from the Fund for that fiscal year on behalf of the child. If the Department determined that the child was not entitled to a survivor benefit, the parent or guardian of the child would be liable for repayment of the amount of the benefit paid. The Department, however, could waive all or part of the repayment, taking into consideration any hardship that would result if the repayment were required.

FISCAL IMPACT

The bill could result in a potential minimum increased cost to State government of between \$85,000 and \$105,000. This would be a new program and the anticipated cost to the State would depend on 1) the amount specifically appropriated in the budget process, 2) the number of eligible public safety officers who lost their lives in the line of duty, and 3) the number of surviving children under 18 years old.

According to the U.S. Federal Bureau of Investigation, nine law enforcement officers (Federal, State, and local) lost their lives in the line of duty in 1987. Assuming each officer had one child under 18 years of age, the cost to the State would be \$45,000. Using the U.S. Department of Justice figures of 13 officers killed in 1988, the cost to the State would be \$65,000. The cost to the State in future years would be expected to increase since the payments would be made annually until the child reached 18, and additional deaths over time would result in increased payments. The Department of Treasury estimates it would require 1 FTE and \$40,000 to administer the program.

ARGUMENTS

Supporting Argument

A uniform survivor benefit for children of law enforcement officers killed in the line of duty would provide welcome financial assistance to the beleaguered surviving spouses who often must assume sole responsibility for providing for the needs of their children. The least the

State should do for the families of men and women who have given their lives to protect and defend its citizens is to help ensure that the children of these officers have the kind of future the officers would want them to have.

Opposing Argument

Since the bill would provide for benefits to be paid to children of local as well as State law enforcement officers, it raises the questions: To what extent, if any, should the State appropriate funds for the families of local law enforcement officers? Does not the responsibility to provide for such dependents properly rest with the local governmental unit?

Legislative Analyst: L. Burghardt
Fiscal Analyst: G. Cutler

A8990/S47A

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.