

Legislative Analysis



PUBLIC SAFETY OFFICER LINE OF DUTY DEATH BENEFITS: CONTINUE HEALTH CARE BENEFITS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 218 (H-4)
Sponsor: Sen. Wayne Schmidt
Committee: Appropriations

Analysis available at
<http://www.legislature.mi.gov>

Complete to 9-8-16

SUMMARY

Senate Bill 218 (H-4) would amend the Public Safety Officers Benefit Act (2004 PA 46) to provide up to five years of health care coverage to the surviving spouse and dependents of public safety officers who die in the line of duty.

Under the current provisions of the Public Safety Officers Benefit Act, if a public safety officer dies or is totally and permanently disabled as the direct and proximate result of a personal injury sustained in the line of duty, the officer's surviving spouse and dependents are eligible for a one-time payment of \$25,000. The act defines "public safety officer" to mean 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.

Continued Medical Benefits

Senate Bill 218 (H-4) would require the state to provide the surviving spouse and dependent children of public safety officers who die as a result of a direct and proximate result of a personal injury sustained in the line of duty on or after the bill's effective date with up to five years of coverage through a medical benefit plan that is comparable to the medical benefit plan offered to retired State Police troopers.¹ For surviving spouses the coverage would cease when (s)he is eligible for Medicare, if eligibility is reached prior to the five years of state-provided coverage expiring.

The coverage would not have to be provided at any time during which the surviving spouse or dependent child qualified for and received comparable coverage under a medical benefit plan offered by another source. Additionally, coverage would not be provided to the surviving spouse or dependent child who would receive benefits under a medical benefit plan through a retirement system administered by the state.

Coverage for dependent children would also cease if a dependent child reached the limiting age or after another terminating event in the same manner as is provided under the medical benefit plan provided to retired State Police troopers.² If, however, the

¹ http://www.michigan.gov/documents/mdcs/Retiree_State_Police_Rates_473174_7.pdf.

² http://www.michigan.gov/ormsmp/0,4652,7-224-40621_41942_41956---,00.html. ORS notes that dependent children remain eligible for health benefits through the month in which they turn 25 years of age or graduate, whichever comes first, if unmarried. Otherwise dependent coverage ends in the month they turn 19 years of age.

federal Affordable Care Act (42 USC 300gg-14) requires that the coverage be provided more broadly, coverage under the bill would be provided in a manner that complies with those requirements.³

The bill defines dependent child to mean an unmarried natural or adopted child, a stepchild, or a child under the age of 18 if the officer was awarded full legal guardianship. The child of a dependent child receiving coverage under the bill would not be eligible for coverage.

Under the bill, a "medical benefit plan" would be defined as a plan that is established and maintained by a carrier or one or more public employers to provide for the payment of medical, optical, or dental benefits to public employees, including, but not limited to, hospital and physician services, prescription drugs, and related benefits.

The DTMB Office of Retirement Services (ORS) would be responsible for administering the provisions of the bill. The office would have sole discretion to determine whether the benefits provided under the bill are comparable to the benefits provided to State Police retirees.

Covered Public Safety Officers

The act defines "public safety officer" to include individuals serving a public agency, in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or member of a rescue squad or ambulance crew. The act further defines "member of a rescue squad or ambulance crew" to mean an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew. SB 218 (H-4) would revise the definition of "member of a rescue squad or ambulance crew" to also include emergency medical technicians, medical first responders, and paramedics, as defined in Part 209 of the Public Health Code.

Additionally, the bill would clarify that the term "firefighters" includes firefighters from any authority, district, board, or other entity created by one or more cities, villages, townships, or counties.

FISCAL IMPACT:

State Impact: The bill would have a significant fiscal impact on the state, due to the increase in state expenditures necessary to provide continued medical coverage and in the direct cost of administering the program. Based on long-term averages, the estimated costs could be up to \$60,000 in the first year. After the fifth year, the costs can be expected reach equilibrium and would remain at an estimated \$400,000 per year, annually adjusted for inflation. However, these projections, are based upon "worst case scenario" presumptions, and therefore should be viewed as the high-end of cost expectations.

³ This provision requires that a group health plan and a health insurance issuer offering group or individual health insurance coverage that provides dependent coverage of children to continue to make such coverage available for an adult child until the child turns 26 years of age. Generally, this requirement does not apply to retiree health plans.

Continued Medical Coverage

Available data on public safety officer line of duty fatalities indicate that there have been 20 firefighters and 23 police officers killed in the line of duty over the last decade (2005-2014). This equates to an average of 4.3 deaths per year.

Michigan Law Enforcement Officers and Firefighters Killed in the Line of Duty

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total	Average
Police	4	3	1	1	2	3	5	1	2	1	23	2.3
Firefighters	2	1	5	2	0	1	1	3	3	2	20	2
Total	6	4	6	3	2	4	6	4	5	3	43	4.3

Notes: The Bureau of Labor Statistics reports that there were no publicly employed EMT or paramedic deaths in the State between 2011 and 2014. Prior years' data are not available.

*Sources: Law enforcement officer data were retrieved on May 13, 2016 from the FBI Uniform Crime Reporting database: <https://www.fbi.gov/about-us/cjis/ucr/ucr>
Firefighter data were retrieved on May 13, 2016 from the U.S. Fire Administration website: <https://www.usfa.fema.gov/data/>*

In providing continued medical coverage to the surviving spouse and dependents of public safety officers killed in the line of duty, the bill would increase state expenditures, depending on the number of officers that die in the line of duty, their specific family characteristics, the ability of surviving family members to obtain medical coverage through other sources, and the amount/level of benefits provided. While the bill expands the definition of "member of a rescue squad or ambulance crew" to include EMTs, medical first responders, and paramedics, the bill doesn't eliminate the requirement that that these individuals must be public employees. Many EMS workers are actually private employees and would continue to be ineligible for assistance under the act, including continued medical coverage provided under the bill.

Total costs to the State for one individual with dependent children are approximately \$14,000 per year. This includes health, dental, and vision coverage equivalent to what is available to a State Police retiree with children beginning October 1, 2016⁴. Adjusting for inflation, these costs rise to approximately \$15,000 in the first year⁵. This amount multiplied by the average number of public safety officer deaths over the past decade, yields a first-year cost of approximately \$63,000. Assuming the inflation and death rates remain the same, the costs will reach equilibrium after five years, resulting in an average annual cost of approximately \$412,000, annually adjusted for inflation.

These estimates assume that all deceased public safety officers were married with children, their survivors do not have available alternative coverage, their survivors remain on the plan for the entirety of the five years that would be allowed under statute, and the healthcare costs of their survivors are approximately the same as that of the

⁴ Estimates use rates for "self and children" for FY 2016-17 retiree health, dental, and vision, as reported by the Civil Service Commission – Employee Benefits Division;

http://www.michigan.gov/documents/mdcs/State_Police_Retiree_Rates_529673_7.pdf accessed September 6, 2016.

⁵ According to ORS, the inflation rate for medical care is approximately 6.8% as of September 7, 2016. However, the Bureau of Labor Statistics reports an average annual healthcare inflation rate of approximately 3.3% between 2006 and 2015; http://data.bls.gov/timeseries/CUUR0000SAM?output_view=pct_12mths: accessed September 6, 2016.

average retiree. Additionally, these estimates do not account for any unforeseen disaster or terrorist attack resulting in a higher casualty rate among public safety officers.

PSOB \$25,000 Payment

Expanding the definition of "member of a rescue squad or ambulance crew" to include licensed emergency first responders (e.g., EMTs) would likely have minimal, if any, fiscal impact on the existing one-time \$25,000 payment payable to the surviving spouse and dependents of a public safety officer killed in the line of duty. The definition of "public safety officer" currently includes members of a "rescue squad" and "ambulance crew." Although those terms are undefined in the act, they would seem to already include the emergency medical personnel listed in the bill.

In its annual reports for the last several years, the Michigan Commission on Law Enforcement Standards (MCOLES) does not report any benefits being paid out because of a line of duty death of a member of a rescue squad or ambulance crew.

Additionally, the inclusion of authorities, boards, districts, and other entities in the definition of "firefighter" appears to be clarifying in nature, rather than expanding the eligibility for benefits under the act.⁶

Administrative Costs

The PSOB Act is administered by the Michigan State Police (Michigan Commission on Law Enforcement Standards), which requires less than one full-time equivalent position (FTE) to administer the PSOB Act. The bill would nominally increase MCOLES's administrative responsibilities, as the agency could determine initial eligibility for health benefits provided under the bill concurrently with its determination on the eligibility for the existing lump-sum payment.

The bill specifies that administration of the health benefits would be the responsibility of the DTMB Office of Retirement Services. At a minimum, ORS's responsibilities would include the collection of the spouse's/dependent's share of monthly insurance premiums. Establishing the structure of the benefits – carriers, coverage, and rates – would likely require some work on the part of the DTMB Civil Service Commission (Employee Benefits Division), as well.

Local Impact: The bill could reduce expenditures of local units of government, to the extent that they have policies and contracts in place that provide for the continuation of health insurance to the surviving spouse and other dependents of officers killed in the line of duty. The availability of state-paid health benefits would allow local units to temporarily stop that practice (if one exists) and shift those costs onto the state. Any resulting cost savings would likely be minimal for any individual local government.

⁶ State financial data indicate that previously, MCOLES has provided the lump-sum \$25,000 PSOB payment to the surviving spouse of a fallen volunteer firefighter employed by a fire authority.

ADDITIONAL INFORMATION:

Definition of "Personal Injury"

Benefits are provided under the act if the death or disability is the direct and proximate result of a personal injury sustained in the line of duty. MCOLES administrative rules define "personal injury" to mean any traumatic injury, as well as diseases which are caused by or result from such an injury, heart attack or stroke, but not an occupational disease. The rules further define "traumatic injury" to mean a wound or condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain. An "occupational disease" is a disease which routinely constitutes a special hazard in, or is commonly regarded as being concomitant to, the officer's occupation.

The rules further provide that if an officer died as the direct and proximate result of a heart attack or stroke, the officer is presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty, if the following apply:

- The officer, while on duty, engaged in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or participated in a training exercise that involved non-routine stressful or strenuous physical activity.
- The officer died as a result of a heart attack or stroke suffered in one of the following time frames related to an activity described above: (1) while engaging or participating in the activity; (2) while still on duty after engaging or participating in the activity; or (3) not more than 24 hours after engaging or participating in the activity.

Federal PSOB Benefits

Under the federal Public Safety Officers' Benefit Act of 1976 (42 USC 3796 et seq.), the federal government, through the Department of Justice, provides death, disability, and education benefits to public safety officers and their surviving spouses. The federal PSOB program provides a one-time lump sum death benefit to the surviving spouse and dependents of public safety officers whose death is the direct and proximate result of a traumatic injury sustained in the line of duty or from certain line-of-duty heart attacks, strokes, or vascular ruptures. The amount of the death benefit was increased to \$250,000 in 2001, and is adjusted annually for inflation. For deaths occurring after October 1, 2013, the benefit paid is \$333,605. [For further information see, www.psob.gov/.]

MCOLES administrative rules state that if it is unable to make a conclusive determination on a claimant's eligibility for state PSOB benefits, it may wait for and rely upon determination on a claimant's eligibility for federal PSOB benefits.

Fiscal Analyst: Kent Dell

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