

**VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES**

# **Line of Duty Benefits Training**

**TARGET GROUP:** Law Enforcement and Public Safety Officers

Revised: October 2016

**TRAINING OBJECTIVE:**

To provide training to any law enforcement or public safety officer entitled to benefits under § 9.1-407 of the Code of Virginia concerning the benefits available to himself/herself or his/her beneficiary in the case of disability or death in the line of duty.

## 1. Introduction

Whenever a law enforcement or public safety officer is killed or severely wounded in the line of duty, the tragedy not only affects the officer and his immediate family, but also the department and even the community. While we all would rather avoid a situation like this, the reality is that it could very well happen to you or someone in your department. This document contains information that may be valuable to you and to members of your family if you should be killed or severely wounded in the line of duty. You should become thoroughly familiar with the information presented and discuss it with your family.

## 2. Training for Law Enforcement and Public Safety Officers

The *Code of Virginia* requires that all law enforcement and public safety officers receive training regarding the benefits available to them and their beneficiary. Specifically § [9.1-407](#) requires the following:

- i. Any law enforcement or public safety officer entitled to benefits under this Chapter shall receive training within 30 days of his/her employment, and again every two years thereafter, concerning the benefits available to him/herself or his/her beneficiary in case of disability or death in the line of duty.
- ii. The Secretary of Public Safety and Homeland Security shall develop training information to be distributed to agencies and localities with employees subject to this Chapter.
- iii. The agency or locality **shall** be responsible for providing the training. Such training shall not count towards in-service training requirements for law enforcement officers pursuant to § [9.1-102](#) and shall include but not be limited to, the general rules for intestate succession described in § [64.2-200](#) that may be applicable to the distribution of benefits provided under § [9.1-402](#).

## 3. Line of Duty Act Code of Virginia (§§ 9.1-400 et seq.)

- a. A beneficiary, spouse, or eligible dependent must present a claim for payment to the chief officer or his designee that last employed the deceased or disabled individual to receive the benefits provided for in the Line of Duty Act.
- b. Continued health insurance coverage is to be paid in full § [9.1-401](#).
  - i. An individual whose disability (1) occurred while in the line of duty as the direct or proximate result of the performance of his duty or (2) subject to the provisions of §§ [27-40.1](#), [27-40.2](#), [51.1-813](#) or [65.2-402](#), and arose out of and in the course of his employment, the disabled person, his surviving spouse and any eligible dependent(s) (i.e. natural or adopted child or children) shall be afforded continued health insurance coverage.
  - ii. The surviving spouse and any eligible dependents of a deceased person shall be afforded continued health insurance coverage, the cost of which shall be paid in full out of the general fund of the state treasury.
    - Health insurance terminates for eligible dependents upon:
      - Age twenty-one if not a full-time college student
      - Age twenty-six if a full-time college student
      - Marriage
      - Coverage of an alternative insurance
    - Health insurance coverage remains in place for a dependent after age twenty-one when the dependent has a mental or physical disability for three months following the stopping or removal of the disability.
- c. Beneficiaries are entitled to payment.

The beneficiary of a deceased person whose death occurred on or after January 1, 2006, while in the line of duty as the direct or proximate result of the performance of his duty shall be entitled to receive the sum of

\$100,000, which shall be payable out of the general fund of the state treasury, in gratitude for and in recognition of his sacrifice on behalf of the people of the Commonwealth § [9.1-402 \(B\)](#).

**\*\*Note: Additional information and Line of Duty Claim forms are available on the internet at [http://www.doa.virginia.gov/Admin\\_Services/Line\\_of\\_Duty/Line\\_Of\\_Duty\\_Main.cfm](http://www.doa.virginia.gov/Admin_Services/Line_of_Duty/Line_Of_Duty_Main.cfm).**

- d. Disability resulting from activities in discharge of official duties § [51.1-813](#).  
If any member of a police department of a county, city, or town, other than the City of Richmond, which has a pension plan becomes disabled as a result of activities in the discharge of the member's official duties, the member shall receive, as pension and benefits during such disability, the sum of not less than sixty-six and two thirds percent of the member's salary until eligible to retire under age and service retirement. The member shall then be retired on the age and service pension as provided in § [51.1-811](#).
- e. If the deceased was a salaried or volunteer fire fighter or a Department of Emergency Management hazardous materials officer with respiratory disease it shall be presumed his/her death, or total or partial disability resulting in death is an occupational disease suffered in the line of duty or the deceased was within five years from his/her date of retirement his/her beneficiary shall be entitled to receive the sum of \$25,000 which shall be paid by the nonparticipating employer or from the Fund on behalf of a participating employer as applicable § § [27-40.1](#), [27-40.2](#), and [65.2-402](#).
- f. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ [4.1-100](#) et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § [65.2-305](#), officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ [23.1-809](#) et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty or the deceased was within five years from his/her date of retirement his/her beneficiary shall be entitled to receive the sum of \$25,000 which shall be paid by the nonparticipating employer or from the Fund on behalf of a participating employer as applicable §§ [51.1-813](#) and [65.2-402](#).
- g. Counties, cities, and towns are authorized to provide relief to surviving spouse and children § [51.1-815](#).
  - i. Any county, city, or town may provide for the relief of any children and surviving spouse of any law enforcement officer, sheriff, or deputy sheriff who dies while in the service of the county, city, or town. If any policeman loses his life while in the discharge of official duties, there shall be paid to the surviving spouse until death, or remarriage, a pension of not less than one-half of the policeman's salary at the time of death.
  - ii. The relief provided shall be exclusive of any payment out of the general fund of the state treasury pursuant to § [9.1-400](#) et seq.
- h. Waiver of tuition
  - i. Waiver of tuition and required fees for eligible children and spouses of veterans and certain public safety personnel, and certain foreign students § [23.1-609](#).
  - ii. Any child between the ages of 16 and 25 whose parent or any person whose spouse has been **killed in the line of duty** while employed or serving as a law enforcement officer, sworn law enforcement

- officer, including as a campus police officer appointed under Article 3 (§ [23.1-809](#) et seq.) firefighter, special forest warden pursuant to § [10.1-1135](#), member of a rescue squad, special agent of the Department of Alcoholic Beverage Control, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff, member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code or member of the Virginia Defense Force while serving on official state duty and any individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, shall be entitled to free undergraduate tuition and the payment of required fees at any public institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia.
- iii. The surviving spouse or eligible child must be admitted and enrolled in a public institution and making satisfactory academic progress to maintain the waiver.
- i. Compensation to dependents of an employee killed and burial expenses.
    - i. The employer shall pay or cause to be paid, compensation in weekly payments equal to 66 2/3 percent of the employee's average weekly wages § [65.2-512](#).
    - ii. The employer shall also pay burial expenses not exceeding \$10,000 and reasonable transportation expenses for the deceased not exceeding \$1,000 § [65.2-512](#).

#### 4. Intestate Succession in the Commonwealth of Virginia

- a. When an individual passes in the Commonwealth of Virginia without a valid will the individual has died intestate. In these cases, to determine who inherits the property the laws of intestate succession are followed.
  - i. **First** - Spouse of the deceased, unless the deceased is survived by children or their descendants, one or more of whom are not children or their descendants of the surviving spouse, in which case two-thirds of such estate shall pass to all the deceased's children and their descendants and the remaining one-third of such estate shall pass to the deceased's surviving spouse.
  - ii. **Second** No spouse all property passes to the deceased's children and their descendants.
  - iii. **Third** – No children all property passes to the deceased's father and mother
  - iv. **Fourth** – No parents all property passes to the deceased's brothers and sisters and their descendants
- b. See § [64.2-200](#) for additional information on intestate succession in Virginia.

#### 5. Public Safety Officers' Benefits Program

- a. Enacted in 1976, the [Public Safety Officers' Benefits \(PSOB\) Act](#) (codified at [42 U.S.C. 3796](#), et seq.):
  - i. Assists in the recruitment and retention of qualified public safety officers.
  - ii. Establishes the value that communities place on contributions from those who are willing to serve their communities during potentially dangerous circumstances.
  - iii. Offers peace of mind to men and women who are seeking careers in public safety.
- b. The [PSOB Program](#) provides **death benefits** in the form of a one-time financial payment to the eligible survivors of public safety officers whose deaths are the direct and proximate result of a traumatic injury by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climate conditions, infectious disease, radiation, virii, or bacteria, sustained in the line of duty but does not include any occupational diseases, or condition of the body caused by stress or strain. Since October 15, 1988, the benefit has been adjusted each year on October 1 to reflect the percentage of change in the Consumer Price Index. For each death claim, the award amount is solely determined by the actual date of the officer's death.

- c. The PSOB Program provides **disability benefits** in the form of a one-time financial payment for public safety officers who have been permanently and totally disabled by a catastrophic personal injury sustained in the line of duty if that injury permanently prevents the officer from performing any substantial and gainful work. Medical retirement for a line of duty disability does not, in and of itself, establish eligibility for PSOB benefits. For each disability claim, the award amount is solely determined by the actual date of the officer's disability.
- d. The PSOB Program includes the Public Safety Officers' Educational Assistance (PSOEA) Act. This act expands on the former Federal Law Enforcement Dependents Assistance Program to provide financial assistance for higher **education** for the spouses and children of federal, state, and local public safety officers who have been permanently disabled or killed in the line of duty. Educational assistance through the PSOEA Program is only available to the spouse or children of a public safety officer after the PSOB death or disability claim process has been completed and benefits have been awarded. The educational assistance may be used to defray relevant expenses, including tuition and fees, room and board, books, supplies, and other education related costs. All PSOEA awards must, by law, be reduced by the amount of other governmental assistance that a student is eligible to receive [NOTE: In Virginia eligible dependents may receive a waiver of tuition to any Virginia college or university].
- e. As defined by Congress in Public Law 90351 (Sec. 1217), a public safety officer is an individual 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. In October 2000, Public Law 106-390 (Sec. 305) designated employees of the Federal Emergency Management Agency (FEMA) as public safety officers under the PSOB Act if they were performing official, hazardous duties related to a declared major disaster or emergency. The legislation also indicated that state, local, or tribal emergency management or civil defense agency employees working in cooperation with FEMA are, under the same circumstances, considered public safety officers under the PSOB Act. Retroactive to September 11, 2001, chaplains also are included in the PSOB Act definition of a public safety officer.
- f. The PSOB office works with national level police and firefighter groups to provide visibility and emotional support to this unique constituency. Concerns of Police Survivors (COPS), Inc. - [www.nationalcops.org](http://www.nationalcops.org), provides services and assistance for families and coworkers of fallen law enforcement officers during the annual National Police Week program. They also provide regional training sessions and several special seminars and extended programs for spouses, siblings, and children of slain officers. The National Fallen Firefighters Foundation - <http://www.firehero.org/> provides peer counseling, training, and technical assistance for the families and coworkers of firefighters who were killed in the line of duty. Some of their specific activities include developing and disseminating publications and reference materials for survivors and senior fire department managers and creating a public awareness strategy to promote the fire service and its critical role in public safety.

## 6. Attorney Fee Information

- a. Claimants seeking benefits through the Public Safety Officers' Benefits (PSOB) Program sometimes engage legal representation to assist them with their cases at the initial claims level and, if denied, at the appeals level. In these cases, once a decision has been made on a PSOB claim, the attorney is sent a "fee petition" letter requesting that an itemization of services in connection with the PSOB claim be submitted to the PSOB Office, as well as to the attorney's client.
- b. As authorized by the PSOB Act, the Office of Justice Programs' Bureau of Justice Assistance (BJA) prescribes the maximum fee a representative may charge a claimant for such services; contracts for a stipulated fee and contingent fee arrangements are especially prohibited by the PSOB regulations.

- c. To achieve the intent of the PSOB Program and conserve benefits that have been awarded to survivors, a maximum rate of \$100 per hour of legal services has been established for PSOB claims at the initial level. For appeals, which require more detailed work, the maximum rate is \$125 per hour. Once BJA has reviewed the submitted fee petition, the attorney and claimant are notified as to the authorized fee amount.

## **7. Social Security One-Time Death Benefit**

The deceased worker's eligible spouse is entitled to a onetime death payment of \$255. If there is no such spouse, this payment can be made only to a child entitled to survivor's benefits.

## **8. Individual Officer Considerations**

Handling legal and financial affairs is a personal matter. However, law enforcement and public safety officers should consider the following:

- i. Maintain a current will;
- ii. Review the named beneficiary(ies) in your life, health, and accident insurance policies on a regular basis;
- iii. Keep insurance papers, will and other important papers in a secure place, such as a safety deposit box, and ensure that appropriate family members are knowledgeable of the location and have appropriate access.
- iv. Review and understand the implication of estate taxes.

## **9. Virginia Public Safety Foundation**

The Virginia Public Safety Foundation (VPSF) serves Virginia's first responders and their families by providing crisis financial support. VPSF provides:

- i. Immediate \$2,000 cash grant assistance to the families of public safety officers killed in the line of duty to assist families cope with unexpected expenses of a sudden death before insurance and work benefits take effect.
- ii. Grants to injured officers to help with household and medical expenses during the time the officer is waiting for disability or retirement benefits to begin.
- iii. Educational scholarship opportunities for the dependents of public safety officers killed in the line of duty.
- iv. For more information contact the Virginia Public Safety Foundation 2201 West Main St, Richmond, VA 23220; phone: 804-648-6299 x 1004; <http://www.vpsf.org/>.

## **10. Concerns of Police Survivors, Inc. Programs**

Concerns of Police Survivors, Inc. provides resources to assist in the rebuilding of the lives of surviving families of law enforcement officers killed in the line of duty as determined by Federal criteria. Furthermore, C.O.P.S. provides training to law enforcement agencies on survivor victimization issues and educates the public of the need to support the law enforcement profession and its survivors. C.O.P.S. provides resources to help the families of officers killed in the line of duty to rebuild their shattered lives. There is no membership fee to join C.O.P.S., for the price paid is already too high.

- i. All programs and services are administered by the National Office in Camdenton, Missouri. Chapters function in several states at the grassroots level.
- ii. C.O.P.S.' programs for survivors include the National Police Survivors' Conference held each May during National Police Week, scholarships, peer support at the national, state, and local levels, "C.O.P.S. Kids" counseling reimbursement program for children, the "C.O.P.S. Kids" Summer Camp,

- “C.O.P.S. Teens” Outward Bound experience for young adults, special retreats for spouses, parents, siblings, adult children, and in-laws, trial and parole support, and other assistance programs.
- iii. C.O.P.S. is a 501(c)(3) nonprofit corporation. Programs and services are funded by grants and donations. Concerns of Police Survivors, Inc. (C.O.P.S.) P.O. Box 3199, Camdenton, MO 65020, (314) 3464911; fax: (314) 3461414. [www.nationalcops.org](http://www.nationalcops.org)

## 11. Resources for Veterans

- a. If law enforcement officers are veterans of the U.S. Armed Forces, a number of survivor’s benefits are available to the spouse and children of a deceased veteran. Included in these benefits are:
- i. **Death Pension.** Payable to low-income widows and children of wartime veterans who have died of causes not related to their military service. Complete VA Form 21-534EZ Application for DIC, Death Pension, and/or Accrued Benefits and mail it to the Pension Management Center that serves your state. <http://www.benefits.va.gov/pension/spousepen.asp>
  - ii. **Funeral Expenses.** The Veterans Administration (VA) will pay up to \$300 towards many veterans’ funeral expenses, plus \$747 for a burial plot for a non-service connected death and \$747 for burial allowance and \$747 for a plot if the veteran was hospitalized by the Veterans Administration at the time of his or her death. Most funeral directors will assist in filing with the VA for reimbursement of funeral expenses. File VA Form 21P-530 Application for Burial Benefits. <http://www.benefits.va.gov/BENEFITS/factsheets/burials/Burial.pdf>
  - iii. **SGLI (Serviceman’s Group Life Insurance).** SGLI is a program of low cost group life insurance for service members on active duty, ready reservists, members of the Commissioned Corps of the National Oceanic and Atmospheric Administration and the Public Health Service, cadets and midshipmen of the four service academies, and members of the Reserve Officer Training Corps. SGLI coverage is available in \$50,000 increments up to the maximum of \$400,000. <http://www.benefits.va.gov/insurance/sgli.asp>
  - iv. **VGLI (Veterans’ Group Life Insurance).** VGLI was established in August, 1974, to provide for the conversion of SGLI to VGLI. The program provides for the replacement of SGLI with VGLI in an amount equal to or less than the amount of SGLI the member had in force at separation from service. VGLI provides a lifetime of coverage as long as the premiums have been paid and once enrolled members have the opportunity to increase coverage every five years until age sixty. <http://www.benefits.va.gov/insurance/vgli.asp>
  - v. **Burial Flag.** An American Flag is available to drape the casket of a veteran who was discharged under conditions other than dishonorable. After the funeral service, the flag may be given to the next of kin or a close associate of the deceased. Flags are issued at any VA regional office, VA national cemetery and most local post offices. [http://www.cem.va.gov/burial\\_benefits/burial\\_flags.asp](http://www.cem.va.gov/burial_benefits/burial_flags.asp)
  - vi. **Headstones and Markers.** The VA provides headstones and markers for unmarked graves of veterans and eligible dependents anywhere in the world. Flat bronze, flat granite and upright marble types are available to mark the grave of a veteran or dependent in the style consistent with existing monuments at the place of burial. Survivor’s benefits are not paid automatically and claims must normally be filed with the VA within two years of the veteran’s death. <http://www.cem.va.gov/hmm/>
  - vii. Members of **Veterans of Foreign Wars (V.F.W.)** are provided with an accidental death policy. Take a copy of the death certificate to the office at the local VFW and they will assist in filling out the paperwork for payment. <http://www.vfwinsurance.com/personal-accident-insurance.html>
- b. For information or help in applying for veteran’s benefits, write, call or visit a veteran’s benefit counselor at the nearest VA regional office or search on the internet at <http://www.va.gov/directory/guide/state.asp?dnum=ALL&STATE=VA>. If there is no listing in your local area, call the VA nationwide toll free number 800-827-1000. The hearing impaired can call 800-829-4833.