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An Act Regarding the Commissioner of Corrections' Role in Death Benefit Determinations and Regarding Training for Corrections Officers

Submitted by the Department of Corrections pursuant to Joint Rule 204. Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LAFOUNTAIN of Kennebec.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §1611, sub-§1-C is enacted to read:

1-C. Department of Corrections law enforcement officer. "Department of Corrections law enforcement officer" means a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602 or a probation officer.

Sec. 2. 25 MRSA §1611, sub-§5, as amended by PL 2017, c. 229, §6, is further amended to read:

5. Law enforcement officer or officer. "Law enforcement officer" or "officer" means an active state police officer, municipal police officer, county sheriff, deputy sheriff, game warden, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, judicial marshal, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation Department of Corrections law enforcement officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle detective or supervisor appointed by the Secretary of State pursuant to Title 29-A, section 152, a military security police officer appointed by the Adjutant General, a University of Maine System police officer or marine patrol officer in this State.

Sec. 3. 25 MRSA §1612, sub-§1, as amended by PL 2019, c. 658, §6, is further amended to read:

1. Amount; recipients. In a case in which the chief determines under rules adopted pursuant to this section that a law enforcement officer other than a Department of Corrections law enforcement officer has died while in the line of duty, in a case in which the State Fire Marshal determines under rules adopted pursuant to this section that a firefighter has died while in the line of duty, in a case in which the director determines under rules adopted pursuant to this section that an emergency medical services person has died while in the line of duty or in a case in which the Commissioner of Corrections determines under rules adopted pursuant to this section that a corrections officer or a Department of Corrections law enforcement officer has died while in the line of duty prior to July 1, 2021, the State shall pay a benefit of $100,000.

Beginning July 1, 2021 and annually thereafter, the benefit amount must be indexed to the Consumer Price Index whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th of the previous year. A firefighter, law enforcement officer, emergency medical services person or corrections officer who dies while in the line of duty must be paid the benefit amount as indexed immediately prior to that firefighter's, law enforcement officer's, emergency medical services person's or corrections officer's death. The Department of Administrative and Financial Services shall adopt rules to calculate the annual percentage increase in the death benefit.

The State shall pay the benefit as follows:
A. If there is no surviving child of the firefighter, law enforcement officer, emergency medical services person or corrections officer, to the surviving spouse of the person;

B. If there is a surviving child or children and a surviving spouse of the firefighter, law enforcement officer, emergency medical services person or corrections officer, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;

C. If there is no surviving spouse of the firefighter, law enforcement officer, emergency medical services person or corrections officer, to the child or children in equal shares; or

D. If there is no surviving child or spouse, to the parent or parents of the firefighter, law enforcement officer, emergency medical services person or corrections officer in equal shares.

Sec. 4. 25 MRSA §1612, sub-§2, ¶B, as enacted by PL 2001, c. 439, Pt. CCCCC, §4, is amended to read:

B. When the chief determines upon showing of need and prior to final action that the death of an officer other than a Department of Corrections law enforcement officer is a death for which a benefit will probably be paid, the chief may make an interim benefit payment not exceeding $3,000 to the individual or individuals entitled to receive a benefit under subsection 1 in the manner set out in subsection 1.

Sec. 5. 25 MRSA §1612, sub-§2, ¶D, as enacted by PL 2019, c. 658, §6, is amended to read:

D. When the Commissioner of Corrections determines upon showing of need and prior to final action that the death of a corrections officer or a Department of Corrections law enforcement officer is a death for which a benefit will probably be paid, the commissioner may make an interim benefit payment not exceeding $3,000 to the individual or individuals entitled to receive a benefit under subsection 1 in the manner set out in subsection 1.

Sec. 6. 25 MRSA §1612, sub-§4, as amended by PL 2019, c. 658, §6, is further amended to read:

4. Repayment of interim payment; waiver. If a final benefit is not paid, the recipient or recipients of any interim payment under subsection 2 are liable for repayment of the amount received. The State Fire Marshal in the case of a firefighter, the chief in the case of a law enforcement officer other than a Department of Corrections law enforcement officer, the director in the case of an emergency medical services person or the Commissioner of Corrections in the case of a corrections officer or a Department of Corrections law enforcement officer may waive all or part of the repayment if that official determines that undue hardship would result from that repayment.

Sec. 7. 25 MRSA §2804-D, as amended by PL 2017, c. 436, §1, is further amended to read:

§2804-D. Basic corrections training

1. Required. As a condition to the continued employment of any person as a corrections officer, that person must successfully complete, within the first 12 months of employment, a basic training course as approved by the board. For a corrections officer
who is responsible for the custody or supervision of persons confined in a juvenile facility, the board may approve a separate basic training course. Thereafter, as a condition of continued employment as a corrections officer, the officer must satisfactorily maintain the basic certification. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board, in individual cases, may waive basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction. A full-time correctional trade instructor must meet the training requirements established under this subsection for corrections officers. Beginning January 1, 2018, the basic training course must include 8 hours of training in how to identify, understand and respond to signs of mental illnesses and substance use disorder that is provided by a trainer who is certified by a nationally recognized organization that provides evidence-based mental health first aid training.

SUMMARY

This bill defines "Department of Corrections law enforcement officer" and gives the Commissioner of Corrections, rather than the Chief of the State Police, the authority over death benefits for Department of Corrections law enforcement officers.

The bill allows the Board of Trustees of the Maine Criminal Justice Academy to approve a separate training course for corrections officers working in juvenile facilities. The bill also removes a reference to "first aid" in the law requiring training for corrections officers related to identifying mental illness and substance use disorder.