

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1208

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. GRAHAM

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Protecting America’s
- 5 First Responders Act”.

1 **SEC. 2. PAYMENT OF DEATH AND DISABILITY BENEFITS**
2 **UNDER THE PUBLIC SAFETY OFFICERS'**
3 **DEATH 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 (b), by striking the period at
8 the end and inserting the following: “, unless the
9 claim under this subsection has been pending for
10 more than 1 year, in which case the amount payable
11 shall be the amount that would be payable if the cat-
12 astrophic injury occurred on the date on which the
13 Bureau makes a final determination that the public
14 safety officer is entitled to a benefit payment under
15 this subsection.”;

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

19 (3) in subsection (h), by inserting “and the
20 level of the interim benefit payable immediately be-
21 fore such October 1 under subsection (c)” after
22 “subsection (a)”;

23 (4) by striking subsection (i) and inserting the
24 following:

1 “(i) The amount payable under subsection (a), with
2 respect to the death of a public safety officer, shall be the
3 greater of—

4 “(1) the amount payable under that subsection
5 as of the date of death of the public safety officer;
6 or

7 “(2) the amount that would be payable under
8 that subsection if the death of the public safety offi-
9 cer occurred on the date on which the Bureau makes
10 a final determination that the public safety officer is
11 entitled to a benefit payment under that sub-
12 section.”; and

13 (5) in subsection (m), by inserting “, (b),” after
14 “subsection (a)”.

15 **SEC. 3. DEFINITIONS FOR THE PURPOSES OF THE PUBLIC**
16 **SAFETY OFFICERS’ DEATH BENEFITS PRO-**
17 **GRAM.**

18 Section 1204 of title I of the Omnibus Crime Control
19 and Safe Streets Act of 1968 (34 U.S.C. 10284) is amend-
20 ed—

21 (1) by striking paragraph (1) and inserting the
22 following:

23 “(1) ‘catastrophic injury’ means an injury, the
24 direct and proximate consequences of which—

1 “(A) permanently prevent an individual
2 from performing any gainful work; or

3 “(B) cause an individual to become—

4 “(i) paraplegic;

5 “(ii) quadriplegic; or

6 “(iii) blind;”;

7 (2) in paragraph (3), in the matter preceding
8 subparagraph (A), by striking “at the time of the
9 public safety officer’s fatal or catastrophic injury”
10 and inserting “as of the date of the public safety of-
11 ficer’s death from a fatal injury or the date of deter-
12 mination of the public safety officer’s disability from
13 a catastrophic injury”;

14 (3) by redesignating paragraphs (5) through
15 (9) as paragraphs (6) through (10), respectively;
16 and

17 (4) by inserting after paragraph (4) the fol-
18 lowing:

19 “(5) ‘gainful work’—

20 “(A) means any activity usually performed
21 for pay or profit, regardless of whether a profit
22 is realized; and

23 “(B) does not include work performed in a
24 situation in which, after an individual sustains
25 an injury—

1 “(i) the individual—
2 “(I) re-enters the workforce; and
3 “(II) leaves the workforce after
4 less than 90 days because of the in-
5 ability of the individual to overcome
6 the injury;
7 “(ii) because of the injury—
8 “(I) the individual is permitted,
9 in carrying out work, to—
10 “(aa) perform at a lower
11 standard of productivity or effi-
12 ciency than other similarly situ-
13 ated employees;
14 “(bb) work irregular hours;
15 or
16 “(cc) take frequent rest pe-
17 riods; or
18 “(II) the individual is only able
19 to work within a framework of spe-
20 cially arranged circumstances, such as
21 a circumstance in which 1 or more
22 other individuals are required to assist
23 the individual in preparing for work
24 or traveling to and from work;

1 “(iii)(I) the individual practices a
2 hobby usually performed for pay or profit,
3 regardless of whether a profit is realized;
4 and

5 “(II) the primary intent of the indi-
6 vidual in practicing the hobby described in
7 subclause (I)—

8 “(aa) is physical, mental, or emo-
9 tional rehabilitation of the individual
10 from the injury; and

11 “(bb) is not realization of profit;
12 or

13 “(iv) the individual is given the oppor-
14 tunity to work—

15 “(I) despite the injury of the in-
16 dividual; and

17 “(II) on the basis of—

18 “(aa) a family relationship
19 of the individual;

20 “(bb) a past association of
21 the individual with the employer
22 giving the individual the oppor-
23 tunity to work; or

24 “(cc) any other altruistic
25 reason;”.

1 **SEC. 4. RETROACTIVE APPLICABILITY.**

2 (a) DEFINITIONS.—For the purposes of this sec-
3 tion—

4 (1) the term “covered beneficiary” means an in-
5 dividual who—

6 (A) is, or was, a child or spouse of a cov-
7 ered individual described in paragraph (3)(B);
8 and

9 (B) would have been eligible for edu-
10 cational assistance under subpart 2 of part L of
11 title I of the Omnibus Crime Control and Safe
12 Streets Act of 1968 (34 U.S.C. 10301 et seq.)
13 if the amendments made by section 3 of this
14 Act had been in effect on the date on which the
15 determination described in paragraph (3)(B)(i)
16 of this subsection was made;

17 (2) the term “covered claimant” means an indi-
18 vidual who is a claimant on the estate of a deceased
19 covered individual—

20 (A) described in paragraph (3)(B); and

21 (B) who died on or before the date of en-
22 actment of this Act;

23 (3) the term “covered individual” means—

24 (A) a beneficiary of a benefit under the
25 Public Safety Officers’ Death Benefit Program
26 that was paid—

1 (i) with respect to a death or dis-
2 ability of a public safety officer sustained
3 as the direct or proximate result of a per-
4 sonal injury sustained in the line of duty;
5 and

6 (ii) during the covered period; or

7 (B) a public safety officer who—

8 (i) was determined during the covered
9 period to be ineligible for a benefit pay-
10 ment under section 1201(b) of title I of
11 the Omnibus Crime Control and Safe
12 Streets Act of 1968 (34 U.S.C. 10281(b));
13 and

14 (ii) would have been eligible for a ben-
15 efit payment under subpart L of that title
16 due to the disability of the public safety of-
17 ficer if the amendments made by section 3
18 had been in effect on the date on which the
19 determination described in clause (i) was
20 made;

21 (4) the term “covered period” means the pe-
22 riod—

23 (A) beginning on the date of enactment of
24 title XIII of the Crime Control Act of 1990
25 (Public Law 101–647; 104 Stat. 4834); and

1 (B) ending on the day before the date of
2 enactment of the Protecting America's First
3 Responders Act;

4 (5) the term "public safety officer" has the
5 meaning given the term in section 1204 of title I of
6 the Omnibus Crime Control and Safe Streets Act of
7 1968 (34 U.S.C. 10284); and

8 (6) the term "Public Safety Officers' Death
9 Benefit Program" means the program established
10 under part L of title I of the Omnibus Crime Con-
11 trol and Safe Streets Act of 1968 (34 U.S.C. 10281
12 et seq.).

13 (b) APPLICABILITY.—The amendments made by sec-
14 tions 2 and 3 shall apply to a death or disability of a public
15 safety officer sustained as the direct or proximate result
16 of a personal injury sustained in the line of duty—

17 (1) subject to subsection (c), during the covered
18 period; or

19 (2) on or after the date of enactment of this
20 Act.

21 (c) PAYMENT.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 upon application of a covered individual, covered
24 beneficiary, or covered claimant, the Bureau of Jus-
25 tice Assistance shall make a lump sum payment to

1 the covered individual, covered beneficiary, or cov-
2 ered claimant in the amount equal to the difference,
3 if any, between—

4 (A) in the case of a covered individual—

5 (i) the amount of the total benefit
6 payment the covered individual would have
7 received under the Public Safety Officers'
8 Death Benefit Program as of the date of
9 the lump sum payment, if the amendments
10 made by sections 2 and 3 had been in ef-
11 fect on the date on which the covered indi-
12 vidual—

13 (I) received the final benefit pay-
14 ment under the Public Safety Offi-
15 cers' Death Benefit Program; or

16 (II) was determined to be ineli-
17 gible for a benefit payment under sec-
18 tion 1201(b) of title I of the Omnibus
19 Crime Control and Safe Streets Act of
20 1968 (34 U.S.C. 10281(b)); and

21 (ii) the amount of the total benefit
22 payment the covered individual received
23 under the Public Safety Officers' Death
24 Benefit Program before the date of enact-
25 ment of this Act;

1 (B) in the case of a covered beneficiary,
2 the amount of the total benefit payment the
3 covered beneficiary would have received under
4 subpart 2 of part L of title I of the Omnibus
5 Crime Control and Safe Streets Act of 1968
6 (34 U.S.C. 10301 et seq.) if the amendments
7 made by section 3 of this Act had been in effect
8 on the date on which the determination de-
9 scribed in subsection (a)(3)(B)(i) of this section
10 was made; and

11 (C) in the case of a covered claimant, the
12 amount of the total benefit payment the covered
13 individual on whose estate the covered claimant
14 is a claimant would have received under the
15 Public Safety Officers' Death Benefit Program
16 as of the date of the lump sum payment, if the
17 amendments made by sections 2 and 3 had
18 been in effect on the date on which the deter-
19 mination described in subsection (a)(3)(B)(i) of
20 this section was made.

21 (2) APPLICATION.—A covered individual desir-
22 ing a lump sum payment under paragraph (1) shall
23 apply to the Bureau of Justice Assistance for such
24 lump sum payment not later than 3 years after the
25 date of enactment of this Act.

1 **SEC. 5. DUE DILIGENCE IN PAYING BENEFIT CLAIMS**
2 **UNDER THE PUBLIC SAFETY OFFICERS'**
3 **DEATH BENEFITS PROGRAM.**

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

8 “(1) shall use all available investigative tools,
9 including subpoenas, to—

10 “(A) expedite the processing of the benefit
11 claim; and

12 “(B) obtain necessary information or docu-
13 mentation from third parties, including public
14 agencies; and

15 “(2) may not abandon the benefit claim unless
16 the Bureau has used the investigative tools available
17 to the Bureau to obtain the necessary information or
18 documentation, including subpoenas.”.

19 **SEC. 6. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF**
20 **PUBLIC SAFETY OFFICERS KILLED OR DIS-**
21 **ABLED IN THE LINE OF DUTY.**

22 Section 1216(b) of title I of the Omnibus Crime Con-
23 trol and Safe Streets Act of 1968 (34 U.S.C. 10306(b))
24 is amended, in the first sentence, by striking “may” and
25 inserting “shall”.

1 **SEC. 7. COLLECTION OF DATA ON KILLED OR DISABLED**
2 **LAW ENFORCEMENT OFFICERS.**

3 Section 534(a) of title 28, United States Code, is
4 amended—

5 (1) in paragraph (3), by striking “and” at the
6 end;

7 (2) in paragraph (4), by striking the period at
8 the end and inserting “; and”; and

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

10 “(5) operate a central clearinghouse for statis-
11 tics on law enforcement officers under the Uniform
12 Crime Reporting Program, including data on law en-
13 forcement officers who, while performing their du-
14 ties, were—

15 “(A) feloniously killed;

16 “(B) accidentally killed;

17 “(C) feloniously assaulted; or

18 “(D) severely and permanently disabled.”.

19 **SEC. 8. GAO REPORT ON MEDICAL COSTS.**

20 (a) DEFINITION.—In this section, the term “disabled
21 officer” means a public safety officer to whom a benefit
22 is payable under subpart 1 of part L of title I of the Omni-
23 bus Crime Control and Safe Streets Act of 1968 (34
24 U.S.C. 10281 et seq.) based on the permanent and total
25 disability of the officer, as described in section 1201(b)
26 of that subpart (34 U.S.C. 10281(b)).

1 (b) REPORT.—Not later than 180 days after the date
2 of enactment of this Act, the Comptroller General of the
3 United States shall submit to the Committee on the Judi-
4 ciary of the Senate and the Committee on the Judiciary
5 of the House of Representatives a report that estimates
6 the average medical costs incurred by a disabled officer
7 over the lifetime of the officer after sustaining the injury
8 that caused the disability.