

**Chapter 19: DIED WHILE IN THE LINE OF DUTY DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS**

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**SUMMARY:** This chapter outlines the procedures governing the award of death benefits to the child, spouse or parent of a law enforcement officer who dies while in the line of duty. 25 MRS §§1611 – 1612.

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**SECTION 1. DEFINITIONS**

1. Chief. "Chief" means the Chief of the State Police.
2. Child means the law enforcement officer's biological child, whether born or conceived, the employee's adopted child, the employee's ward or a child for whom the employee is functioning as parent. A "child" must be under the age of 18, unless the child is incapable of self-care due to a disability or is aged 18 to 23 and a full-time student in high school or secondary education.
3. Law enforcement officer or officer. "Law enforcement officer" or "officer" means a law enforcement officer or officer as defined in 25 M.R.S.A. §1611(5).
4. Line of duty includes (1) an officer's authorized activities while on duty, (2) responding to an emergency or request for assistance, or (3) commuting to or from duty in an authorized department or personal vehicle. Additionally, a death that occurs while the officer was off duty, but convincing evidence shows it was a result of events while the officer was on duty, the death will be considered to have occurred in the line of duty.
5. Parent means a biological, adoptive, step or foster parent, or any other individual who stood in loco parentis to the employee when the employee was a child whose parental rights have not been terminated. This term does not include parents "in law."
6. Spouse. "Spouse" means a person who is legally married to a law enforcement officer at the time of the law enforcement officer's death or one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

7. Under the influence. "Under the influence" means under the influence of alcohol, a drug other than alcohol, a combination of drugs, a combination of alcohol and drugs or having a blood alcohol level of .08% or more.

## **SECTION 2. DEATH BENEFIT – AMOUNT AND RECEIPT**

If the Chief determines that a law enforcement officer died while in the line of duty, the State shall pay a benefit pursuant to 25 MRS §1612 as follows:

1. If there is no surviving child of the law enforcement officer, to the surviving spouse;
2. If there is a surviving child or children and a surviving spouse of the law enforcement officer, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;
3. If there is no surviving spouse of the law enforcement officer, to the child or children in equal shares; or
4. If there is no surviving child or spouse, the parent or parents of the law enforcement officer in equal shares.

## **SECTION 3. LIMITATION ON BENEFIT**

1. Notwithstanding the initial appearance that a death occurred in the line of duty, the following situations are not line of duty:
  - A. If the law enforcement officer was voluntarily under the influence at the time of the death and being under the influence was a substantial contributing factor in the death;
  - B. If the law enforcement officer was performing in a grossly negligent manner at the time of the death;
  - C. When any person who would be otherwise entitled to the death benefit took action that was a substantial contributing factor in the death; or
  - B. If the potentially eligible child, spouse or parent dies prior to actual receipt of this death benefit.
2. Notwithstanding the law enforcement officer's death occurring while off duty, the Chief may determine the death to be in the line of duty with due consideration of:
  - A. A death resulting from a law enforcement officer's suicide, if (1) the officer's exposure on duty to a single or accumulation of a traumatic event was a substantial factor in the suicide or (2) the officer's suicide occurred

within 45 days of a traumatic event and the suicide was consistent with a psychiatric disorder.

- B. The death resulted from the officer taking certain actions outside of the officer's jurisdiction or while off duty when that action (1) was not unreasonable, (2) would have been within the officer's authority if done while on duty or within jurisdiction, and (3) such actions would have resulted in eligibility for benefits had they occurred while on duty.

#### **SECTION 4. FILING REQUEST FOR BENEFIT**

1. A person who is potentially eligible to receive these benefits, or a person acting as an agent of a potentially eligible person, must forward a written request to the Chief for a State of Maine Application for Line of Duty Death Benefit within 90 days of the law enforcement officer's death. The 90-day period may be extended by the Chief for good cause shown.
2. Upon receipt of the written request for a State of Maine Application for Line of Duty Death Benefit, the Chief shall provide an application package and questionnaire that must be completed and returned within 30 days of receipt by the applicant. The 30-day period may be extended by the Chief for good cause shown.

#### **SECTION 5. DETERMINATION OF ELIGIBILITY FOR BENEFIT**

1. Upon receipt of a completed State of Maine Application for Line of Duty Death Benefit, the Chief shall appoint a review panel consisting of at least three, but not more than five, persons knowledgeable in law enforcement official duties.
2. The review panel shall convene to review the application, investigate the circumstances surrounding the death and make a written recommendation to approve or deny the application to the Chief within 30 days. If the Chief determines that further investigation is necessary, the Chief may extend the review period.
3. The Chief, after reviewing the recommendation, shall make the determination to approve or deny the application in a timely manner. The Chief's determination is the final agency decision.

#### **SECTION 6. INTERIM BENEFIT PAYMENT**

1. When the Chief determines upon showing of need and prior to final action that the death of a 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 the benefit.

2. The Chief shall deduct the amount of an interim payment from the amount of any final benefit paid to the individual or individuals.
3. If a final benefit is not paid after an interim payment was made, the recipient or recipients of any interim payment are liable for repayment of the amount received. The Chief may waive all or part of the repayment if undue hardship would result from that repayment.

## **SECTION 7. APPEAL**

1. An appeal of the final agency decision may be filed in accordance with the Administrative Procedure Act, 5 M.R.S.A. chapter 375, subchapter 7.
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STATUTORY AUTHORITY: 25 M.R.S.A. §1612(8)

EFFECTIVE DATE:

Revision effective: XX/XX/XXXX

# Notice of Agency Rulemaking Proposal

MAPA-3 revised 8-2019

AGENCY: Department of Public Safety – Maine State Police

CHAPTER NUMBER AND TITLE: 19 - Died while in the line of duty death benefits for law enforcement officers

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

PROPOSED RULE NUMBER :

BRIEF SUMMARY: This chapter outlines the procedures governing the award of death benefits to the child, spouse or parent of a law enforcement officer who dies while in the line of duty. 25 MRS §§1611 – 1612.

Date, time and location of PUBLIC HEARING (*if any*): None applicable

COMMENT DEADLINE: **TBD**

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*):

Major Lucas W. Hare, 45 Commerce Drive, Augusta ME 04333-0087 207-624-7200

[lucas.w.hare@maine.gov](mailto:lucas.w.hare@maine.gov)

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): N/A

STATUTORY AUTHORITY FOR THIS RULE: 25 M.R.S. §§ 1611-1612

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): N/A

AGENCY WEBSITE: <https://www.maine.gov/dps/msp/home>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: [lucas.w.hare@maine.gov](mailto:lucas.w.hare@maine.gov)

\* Check one of the following two boxes.

☒ The summary provided above is for publication in both the newspaper and website notices.

☐ The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT

  
(authorized signature)

DATE:

5-6-25

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
010/012	16A	9100						

# Rulemaking Fact Sheet

revised 8-2019

(5 MRSA §8057-A)

AGENCY: Department of Public Safety – Maine State Police

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE TITLE 19 - Died while in the line of duty death benefits for law enforcement officers

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

STATUTORY AUTHORITY: 25 MRS §§ 1611 – 1612.

DATE, TIME AND PLACE OF PUBLIC HEARING: N/A

COMMENT DEADLINE: **TBD**

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

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IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES \_\_\_ NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE  
(including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:  
[*see* §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED  
AND HOW THEY WILL BE AFFECTED: [*see* §8057-A(2)(B)]

BENEFITS OF THE RULE: [*see* §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*