

117TH CONGRESS
1ST SESSION

S. 1511

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting America’s
3 First Responders Act of 2021”.

4 **SEC. 2. PAYMENT OF DEATH AND DISABILITY BENEFITS**
5 **UNDER PUBLIC SAFETY OFFICERS’ DEATH**
6 **BENEFITS PROGRAM.**

7 Section 1201 of title I of the Omnibus Crime Control
8 and Safe Streets Act of 1968 (34 U.S.C. 10281) is amend-
9 ed—

10 (1) in subsection (a), in the matter preceding
11 paragraph (1)—

12 (A) by striking “the Bureau shall pay”;

13 and

14 (B) by inserting “, and calculated in ac-
15 cordance with subsection (i), shall be payable by
16 the Bureau” after “subsection (h)”.

17 (2) in subsection (b)—

18 (A) by striking “the Bureau shall pay the
19 same benefit” and inserting “a benefit shall be
20 payable”;

21 (B) by striking “that is payable under sub-
22 section (a) with respect to the date on which
23 the catastrophic injury occurred,” and inserting
24 “in the same amount that would be payable, as
25 of the date such injury was sustained (includ-
26 ing”;

1 (C) by inserting “, and calculated in ac-
2 cordance with subsection (i)), if such deter-
3 mination were a determination under subsection
4 (a)” before “: Provided, That”; and

5 (D) by striking “necessary:” and all that
6 follows and inserting “necessary.”;

7 (3) in subsection (c), by striking “\$3,000” and
8 inserting “\$6,000, adjusted in accordance with sub-
9 section (h),”;

10 (4) in subsection (h), by striking “subsection
11 (a)” and inserting “subsections (a) and (b) and the
12 level of the interim benefit payable immediately be-
13 fore such October 1 under subsection (c)”;

14 (5) by striking subsection (i) and inserting the
15 following:

16 “(i) The amount payable under subsections (a) and
17 (b), with respect to the death or permanent and total dis-
18 ability of a public safety officer, shall be the greater of—

19 “(1) the amount payable under the relevant
20 subsection as of the date of death or of the cata-
21 strophic injury of the public safety officer; or

22 “(2) in any case in which the claim filed there-
23 under has been pending for more than 365 days at
24 the time of final determination by the Bureau, the
25 amount that would be payable under the relevant

1 subsection if the death or the catastrophic injury of
 2 the public safety officer had occurred on the date on
 3 which the Bureau makes such final determination.”;
 4 and

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

7 **SEC. 3. DEFINITIONS WITH RESPECT TO PUBLIC SAFETY**
 8 **OFFICERS’ DEATH BENEFITS PROGRAM.**

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

12 (1) by redesignating paragraphs (1), (2), (3),
 13 (4), (5), (6), (7), (8), and (9) as paragraphs (4),
 14 (5), (6), (7), (8), (9), (10), (13), and (14), respec-
 15 tively;

16 (2) by striking paragraph (4), as so redesign-
 17 ated, and inserting:

18 “(4) ‘catastrophic injury’ means an injury, the
 19 direct and proximate result of which is to perma-
 20 nently render an individual functionally incapable
 21 (including through a directly and proximately result-
 22 ing neurocognitive disorder), based on the state of
 23 medicine on the date on which the claim is deter-
 24 mined by the Bureau, of performing work, including
 25 sedentary work: Provided, That, if it appears that a

1 claimant may be functionally capable of performing
2 work—

3 “(A) the Bureau shall disregard work
4 where any compensation provided is de minimis,
5 nominal, honorary, or mere reimbursement of
6 incidental expenses, such as—

7 “(i) work that involves ordinary or
8 simple tasks, that because of the claimed
9 disability, the claimant cannot perform
10 without significantly more supervision, ac-
11 commodation, or assistance than is typi-
12 cally provided to an individual without the
13 claimed disability doing similar work;

14 “(ii) work that involves minimal du-
15 ties that make few or no demands on the
16 claimant and are of little or no economic
17 value to the employer; or

18 “(iii) work that is performed primarily
19 for therapeutic purposes and aids the
20 claimant in the physical or mental recovery
21 from the claimed disability; and

22 “(B) the claimant shall be presumed, ab-
23 sent clear and convincing medical evidence to
24 the contrary as determined by the Bureau, to
25 be functionally incapable of performing such

1 work if the direct and proximate result of the
2 injury renders the claimant—

3 “(i) blind;

4 “(ii) parapalegic; or

5 “(iii) quadriplegic;”;

6 (3) in paragraph (6), as so redesignated, by
7 striking “at the time of the public safety officer’s
8 fatal or catastrophic injury” and inserting “at the
9 time of the public safety officer’s death or fatal in-
10 jury (in connection with any claim predicated upon
11 such death or injury) or the date of the public safety
12 officer’s catastrophic injury or of the final deter-
13 mination by the Bureau of any claim predicated
14 upon such catastrophic injury”;

15 (4) in paragraph (7), as so redesignated, by in-
16 sserting “, including an individual who, as such a
17 member, engages in scene security or traffic man-
18 agement as the primary or only duty of the indi-
19 vidual during emergency response” before the semi-
20 colon;

21 (5) in paragraph (9), as so redesignated by
22 striking “(delinquency).,” and inserting “(delin-
23 quency),”;

24 (6) in paragraph (13), as so redesignated, by
25 inserting “, and includes (as may be prescribed by

1 regulation hereunder) a legally organized volunteer
2 fire department that is a nonprofit entity and pro-
3 vides services without regard to any particular rela-
4 tionship (such as a subscription) a member of the
5 public may have with such a department” before the
6 semicolon;

7 (7) in paragraph (14), as so redesignated,—

8 (A) by striking subparagraph (A) and in-
9 serting:

10 “(A) an individual serving a public agency
11 in an official capacity, with or without com-
12 pensation, as a law enforcement officer, as a
13 firefighter, or as a chaplain: Provided, That
14 (notwithstanding section 1205(b)(2) or (3)) the
15 Bureau shall, absent clear and convincing evi-
16 dence to the contrary as determined by the Bu-
17 reau, deem the actions outside of jurisdiction
18 taken by any such law enforcement officer or
19 firefighter, to have been taken while serving
20 such public agency in such capacity, in any case
21 in which the principal legal officer of such pub-
22 lic agency, and the head of such agency, to-
23 gether, certify that such actions—

24 “(i) were not unreasonable;

1 “(ii) would have been within the au-
2 thority and line of duty of such law en-
3 forcement officer or such firefighter to
4 take, had they been taken in a jurisdiction
5 where such law enforcement officer or fire-
6 fighter was authorized to act, in the ordi-
7 nary course, in an official capacity; and

8 “(iii) would have resulted in the pay-
9 ment of full line-of-duty death or disability
10 benefits (as applicable), if any such bene-
11 fits typically were payable by (or with re-
12 spect to or on behalf of) such public agen-
13 cy, as of the date the actions were taken;”;

14 (B) by redesignating subparagraphs (B),
15 (C), (D), and (E) as subparagraphs (C), (D),
16 (E), and (F), respectively;

17 (C) by inserting after subparagraph (A),
18 the following new subparagraph:

19 “(B) a candidate officer who is engaging in
20 an activity or exercise that itself is a formal or
21 required part of the program in which the can-
22 didate officer is enrolled or admitted, as pro-
23 vided in this section;”;

24 (D) by striking subparagraph (E), as so
25 redesignated, and inserting the following:

1 “(E) a member of a rescue squad or ambu-
2 lance crew who, as authorized or licensed by
3 law and by the applicable agency or entity, is
4 engaging in rescue activity or in the provision
5 of emergency medical services: Provided, That
6 (notwithstanding section 1205(b)(2) or (3)) the
7 Bureau shall, absent clear and convincing evi-
8 dence to the contrary as determined by the Bu-
9 reau, deem the actions outside of jurisdiction
10 taken by any such member to have been thus
11 authorized or licensed, in any case in which the
12 principal legal officer of such agency or entity,
13 and the head of such agency or entity, together,
14 certify that such actions—

15 “(i) were not unreasonable;

16 “(ii) would have been within the au-
17 thority and line of duty of such member to
18 take, had they been taken in a jurisdiction
19 where such member was authorized or li-
20 censed by law and by a pertinent agency or
21 entity to act, in the ordinary course; and

22 “(iii) would have resulted in the pay-
23 ment of full line-of-duty death or disability
24 benefits (as applicable), if any such bene-
25 fits typically were payable by (or with re-

1 spect to or on behalf of) such applicable
 2 agency or entity, as of the date the action
 3 was taken;”;

4 (8) by inserting before paragraph (4), as so re-
 5 designated, the following new paragraphs:

6 “(1) ‘action outside of jurisdiction’ means an
 7 action, not in the course of any compensated em-
 8 ployment involving either the performance of public
 9 safety activity or the provision of security services,
 10 by a law enforcement officer, firefighter, or member
 11 of a rescue squad or ambulance crew that—

12 “(A) was taken in a jurisdiction where—

13 “(i) the law enforcement officer or
 14 firefighter then was not authorized to act,
 15 in the ordinary course, in an official capac-
 16 ity; or

17 “(ii) the member of a rescue squad or
 18 ambulance crew then was not authorized
 19 or licensed to act, in the ordinary course,
 20 by law or by the applicable agency or enti-
 21 ty;

22 “(B) then would have been within the au-
 23 thority and line of duty of—

24 “(i) a law enforcement officer or a
 25 firefighter to take, who was authorized to

1 act, in the ordinary course, in an official
2 capacity, in the jurisdiction where the ac-
3 tion was taken; or

4 “(ii) a member of a rescue squad or
5 ambulance crew to take, who was author-
6 ized or licensed by law and by a pertinent
7 agency or entity to act, in the ordinary
8 course, in the jurisdiction where the action
9 was taken; and

10 “(C) was, in an emergency situation that
11 presented an imminent and significant danger
12 or threat to human life or of serious bodily
13 harm to any individual, taken—

14 “(i) by a law enforcement officer—

15 “(I) to prevent, halt, or respond
16 to the immediate consequences of a
17 crime (including an incident of juve-
18 nile delinquency); or

19 “(II) while engaging in a rescue
20 activity or in the provision of emer-
21 gency medical services;

22 “(ii) by a firefighter—

23 “(I) while engaging in fire sup-
24 pression; or

1 “(II) while engaging in a rescue
2 activity or in the provision of emer-
3 gency medical services; or

4 “(iii) by a member of a rescue squad
5 or ambulance crew, while engaging in a
6 rescue activity or in the provision of emer-
7 gency medical services;

8 “(2) ‘candidate officer’ means an individual who
9 is enrolled or admitted, as a cadet or trainee, in a
10 formal and officially established program of instruc-
11 tion or of training (such as a police or fire academy)
12 that is specifically intended to result upon comple-
13 tion, in the—

14 “(A) commissioning of such individual as a
15 law enforcement officer;

16 “(B) conferral upon such individual of offi-
17 cial authority to engage in fire suppression (as
18 an officer or employee of a public fire depart-
19 ment or as an officially recognized or des-
20 ignated member of a legally organized volunteer
21 fire department); or

22 “(C) granting to such individual official
23 authorization or license to engage in a rescue
24 activity, or in the provision of emergency med-
25 ical services, as a member of a rescue squad, or

1 as a member of an ambulance crew that is (or
2 is a part of) the agency or entity that is spon-
3 soring the individual’s enrollment or admission;

4 “(3) ‘blind’ means an individual who has cen-
5 tral visual acuity of 20/200 or less in the better eye
6 with the use of a correcting lens or whose eye is ac-
7 companied by a limitation in the fields of vision such
8 that the widest diameter of the visual field subtends
9 an angle no greater than 20 degrees;” and

10 (9) in the matter following paragraph (10), as
11 so redesignated, by inserting the following new para-
12 graphs:

13 “(11) ‘neurocognitive disorder’ means a dis-
14 order that is characterized by a clinically significant
15 decline in cognitive functioning and may include
16 symptoms and signs such as disturbances in mem-
17 ory, executive functioning (that is, higher-level cog-
18 nitive processes, such as, regulating attention, plan-
19 ning, inhibiting responses, decision-making), visual-
20 spatial functioning, language, speech, perception, in-
21 sight, judgment, or an insensitivity to social stand-
22 ards; and

23 “(12) ‘sedentary work’ means work that—

24 “(A) involves lifting articles weighing no
25 more than 10 pounds at a time or occasionally

1 lifting or carrying articles such as docket files,
2 ledgers, or small tools; and

3 “(B) despite involving sitting on a regular
4 basis, may require walking or standing on an
5 occasional basis.”.

6 **SEC. 4. DUE DILIGENCE IN PAYING BENEFIT CLAIMS**
7 **UNDER PUBLIC SAFETY OFFICERS’ DEATH**
8 **BENEFITS PROGRAM.**

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

13 “(1) may use available investigative tools, in-
14 cluding subpoenas, to—

15 “(A) adjudicate or to expedite the proc-
16 essing of the benefit claim, if the Bureau deems
17 such use to be necessary to adjudicate or con-
18 ducive to expediting the adjudication of such
19 claim; and

20 “(B) obtain information or documentation
21 from third parties, including public agencies, if
22 the Bureau deems such use to be necessary to
23 adjudicate or conducive to expediting the adju-
24 dication of a claim; and

1 terim or as-needed basis) such hearing examiners
 2 (who shall, if so designated by the Attorney General,
 3 be understood to be comprised within the meaning
 4 of “special government employee” under section 202
 5 of title 18, United States Code)”;

6 (3) by striking “under this chapter. The” and
 7 inserting “or other law. The Attorney General, the”;
 8 and

9 (4) by inserting “conduct examinations” after
 10 “examine witnesses,”.

11 **SEC. 8. EFFECTIVE DATE; APPLICABILITY.**

12 (a) IN GENERAL.—Except as otherwise provided in
 13 this section, the amendments made by this Act shall take
 14 effect on the date of enactment of this Act.

15 (b) APPLICABILITY.—

16 (1) CERTAIN INJURIES.—The amendments
 17 made to paragraphs (2) and (7) of section 1204 of
 18 title I of the Omnibus Crime Control and Safe
 19 Streets Act of 1968 (34 U.S.C. 10284) shall apply
 20 with respect to injuries occurring on or after Janu-
 21 ary 1, 2008.

22 (2) MATTERS PENDING.—Except as provided in
 23 paragraph (1), the amendments made by this Act
 24 shall apply to any matter pending, before the Bu-
 25 reau or otherwise, on the date of enactment of this

1 Act, or filed (consistent with pre-existing effective
2 dates) or accruing after that date.

3 (c) EFFECTIVE DATE FOR WTC RESPONDERS.—

4 (1) CERTAIN NEW CLAIMS.—Not later than two
5 years after the effective date of this Act, a WTC re-
6 sponder may file a claim, under section 1201(b) of
7 title I of the Omnibus Crime Control and Safe
8 Streets Act of 1968 (34 U.S.C. 10281(b)), that is
9 predicated on a personal injury sustained in the line
10 of duty by such responder as a result of the Sep-
11 tember 11, 2001, attacks, where—

12 (A) no claim under such section 1201(b)
13 so predicated has previously been filed; or

14 (B) a claim under such section 1201(b) so
15 predicated had previously been denied, in a
16 final agency determination, on the basis (in
17 whole or in part) that the claimant was not to-
18 tally disabled.

19 (2) CLAIMS FOR A DECEASED WTC RE-
20 SPONDER.—Not later than two years after the effec-
21 tive date of this Act, a claim may be filed, construc-
22 tively under section 1201(a) of title I of the Omni-
23 bus Crime Control and Safe Streets Act of 1968 (34
24 U.S.C. 10281(a)), where a WTC responder who oth-
25 erwise could have filed a claim pursuant to para-

1 graph (1) has died before such effective date (or dies
2 not later than 365 days after such effective date), or
3 where a WTC responder has filed such a claim but
4 dies while it is pending before the Bureau: Provided,
5 That—

6 (A) no claim under such section 1201(a)
7 otherwise shall have been filed, or determined,
8 in a final agency determination; and

9 (B) if it is determined, in a final agency
10 determination, that a claim under such para-
11 graph (1) would have been payable had the
12 WTC responder not died, then the WTC re-
13 sponder shall irrebutably be presumed (solely
14 for purposes of determining to whom benefits
15 otherwise pursuant to such paragraph (1) may
16 be payable under the claim filed constructively
17 under such section 1201(a)) to have died as the
18 direct and proximate result of the injury on
19 which the claim under such paragraph (1)
20 would have been predicated.

21 (3) DIFFERENCE IN BENEFIT PAY.—In the
22 event that a claim under section 1201(b) of title I
23 of the Omnibus Crime Control and Safe Streets Act
24 of 1968 (34 U.S.C. 10281(b)) and predicated on an
25 injury sustained in the line of duty by a WTC re-

1 sponder as a result of the September 11, 2001, at-
2 tacks was approved, in a final agency determination,
3 before the effective date of this Act, the Bureau
4 shall, upon application filed (not later than three
5 years after such effective date of this Act) by the
6 payee (or payees) indicated in subparagraphs (A) or
7 (B), pay a bonus in the amount of the difference (if
8 any) between the amount that was paid pursuant to
9 such determination and the amount that would have
10 been payable had the amendments made by this Act,
11 other than those indicated in subsection (b)(1), been
12 in effect on the date of such determination—

13 (A) to the WTC responder, if living on the
14 date the application is determined, in a final
15 agency determination; or

16 (B) if the WTC responder is not living on
17 the date indicated in subparagraph (A), to the
18 individual (or individuals), if living on such
19 date, to whom benefits would have been payable
20 on such date under section 1201(a) of such title
21 I (34 U.S.C. 10281(a)) had the application
22 been, instead, a claim under such section
23 1201(a).

24 (4) SPECIAL LIMITED RULE OF CONSTRUC-
25 TION.—A claim filed pursuant to paragraph (1) or

1 (2) shall be determined as though the date of cata-
2 strophic injury of the public safety officer were the
3 date of enactment of this Act, for purposes of deter-
4 mining the amount that may be payable.

Passed the Senate June 10, 2021.

Attest:

Secretary.

117TH CONGRESS
1ST SESSION

S. 1511

AN ACT

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.