

117TH CONGRESS
1ST SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Mrs. GILLIBRAND, Mrs. BLACKBURN, Mr. WHITEHOUSE, Mr. CRAPO, Ms. KLOBUCHAR, Mr. DAINES, Mr. TILLIS, Mr. TESTER, Ms. HIRONO, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. PAYMENT OF DEATH AND DISABILITY BENEFITS**
2 **UNDER PUBLIC SAFETY OFFICERS' DEATH**
3 **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 (a), by striking “the Bureau
8 shall pay a benefit of \$250,000, adjusted in accord-
9 ance with subsection (h)” and inserting “a benefit of
10 \$250,000, adjusted in accordance with subsection
11 (h), and calculated in accordance with subsection (i),
12 shall be payable by the Bureau”.

13 (2) in subsection (b)—

14 (A) by striking “the Bureau shall pay the
15 same benefit” and inserting “a benefit shall be
16 payable”;

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

23 (C) by inserting “, and calculated in ac-
24 cordance with subsection (i)), if such deter-
25 mination were a determination under subsection
26 (a)” before “: *Provided, That*”; and

1 (D) by striking “necessary:” and all that
2 follows and inserting “necessary.”

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

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

10 (5) by striking subsection (i) and inserting the
11 following:

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

15 “(1) the amount payable under the relevant
16 subsection as of the date of death or of the cata-
17 strophic injury of the public safety officer; or

18 “(2) in any case in which the claim filed there-
19 under has been pending for more than 365 days at
20 the time of final determination by the Bureau, the
21 amount that would be payable under the relevant
22 subsection if the death or the catastrophic injury of
23 the public safety officer had occurred on the date on
24 which the Bureau makes such final determination.”;

25 and

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

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

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

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

12 (2) by striking paragraph (4), as so redesign-
13 nated, and inserting:

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

24 “(A) the Bureau shall disregard work
25 where any compensation provided is de minimis,

1 nominal, honorary, or mere reimbursement of
2 incidental expenses, such as—

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

10 “(ii) work that involves minimal du-
11 ties that make few or no demands on the
12 claimant and are of little or no economic
13 value to the employer; or

14 “(iii) work that is performed primarily
15 for therapeutic purposes and aids the
16 claimant in the physical or mental recovery
17 from the claimed disability; and

18 “(B) the claimant shall be presumed, ab-
19 sent clear and convincing medical evidence to
20 the contrary as determined by the Bureau, to
21 be functionally incapable of performing such
22 work if the direct and proximate result of the
23 injury renders the claimant—

24 “(i) blind;

25 “(ii) parapalegic; or

1 “(iii) quadriplegic;”;

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

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

17 (5) in paragraph (9), as so redesignated by
18 striking “(delinquency).,” and inserting “(delin-
19 quency),”;

20 (6) in paragraph (13), as so redesignated, by
21 inserting “, and includes (as may be prescribed by
22 regulation hereunder) a legally organized volunteer
23 fire department that is a nonprofit entity and pro-
24 vides services without regard to any particular rela-
25 tionship (such as a subscription) a member of the

1 public may have with such a department” before the
2 semicolon;

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

4 (A) by striking subparagraph (A) and in-
5 serting:

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

20 “(i) were not unreasonable;

21 “(ii) would have been within the au-
22 thority and line of duty of such law en-
23 forcement officer or such firefighter to
24 take, had they been taken in a jurisdiction
25 where such law enforcement officer or fire-

1 fighter was authorized to act, in the ordi-
2 nary course, in an official capacity; and

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

9 (B) by redesignating subparagraphs (B),
10 (C), (D), and (E) as subparagraphs (C), (D),
11 (E), and (F), respectively;

12 (C) by inserting after subparagraph (A),
13 the following new subparagraph:

14 “(B) a candidate officer who is engaging in
15 an activity or exercise that itself is a formal or
16 required part of the program in which the can-
17 didate officer is enrolled or admitted, as pro-
18 vided in this section;”;

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

21 “(E) a member of a rescue squad or ambu-
22 lance crew who, as authorized or licensed by
23 law and by the applicable agency or entity, is
24 engaging in rescue activity or in the provision
25 of emergency medical services: *Provided*, That

1 (notwithstanding section 1205(b)(2) or (3)) the
2 Bureau shall, absent clear and convincing evi-
3 dence to the contrary as determined by the Bu-
4 reau, deem the actions outside of jurisdiction
5 taken by any such member to have been thus
6 authorized or licensed, in any case in which the
7 principal legal officer of such agency or entity,
8 and the head of such agency or entity, together,
9 certify that such actions—

10 “(i) were not unreasonable;

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

17 “(iii) would have resulted in the pay-
18 ment of full line-of-duty death or disability
19 benefits (as applicable), if any such bene-
20 fits typically were payable by (or with re-
21 spect to or on behalf of) such applicable
22 agency or entity, as of the date the action
23 was taken;”;

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

1 ized or licensed by law and by a pertinent
2 agency or entity to act, in the ordinary
3 course, in the jurisdiction where the action
4 was taken; and

5 “(C) was, in an emergency situation that
6 presented an imminent and significant danger
7 or threat to human life or of serious bodily
8 harm to any individual, taken—

9 “(i) by a law enforcement officer—

10 “(I) to prevent, halt, or respond
11 to the immediate consequences of a
12 crime (including an incident of juve-
13 nile delinquency); or

14 “(II) while engaging in a rescue
15 activity or in the provision of emer-
16 gency medical services; or

17 “(ii) by a firefighter—

18 “(I) while engaging in fire sup-
19 pression; or

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

23 “(iii) by a member of a rescue squad
24 or ambulance crew, while engaging in a

1 rescue activity or in the provision of emer-
2 gency medical services;

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

9 “(A) commissioning of such individual as a
10 law enforcement officer;

11 “(B) conferral upon such individual of offi-
12 cial authority to engage in fire suppression (as
13 an officer or employee of a public fire depart-
14 ment or as an officially recognized or des-
15 ignated member of a legally organized volunteer
16 fire department); or

17 “(C) granting to such individual official
18 authorization or license to engage in a rescue
19 activity, or in the provision of emergency med-
20 ical services, as a member of a rescue squad, or
21 as a member of an ambulance crew that is (or
22 is a part of) the agency or entity that is spon-
23 soring the individual’s enrollment or admission;

24 “(3) ‘blind’ means an individual who has cen-
25 tral visual acuity of 20/200 or less in the better eye

1 with the use of a correcting lens or whose eye is ac-
2 companied by a limitation in the fields of vision such
3 that the widest diameter of the visual field subtends
4 an angle no greater than 20 degrees;” and

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

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

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

19 “(A) involves lifting articles weighing no
20 more than 10 pounds at a time or occasionally
21 lifting or carrying articles such as docket files,
22 ledgers, or small tools; and

23 “(B) despite involving sitting on a regular
24 basis, may require walking or standing on an
25 occasional basis.”.

1 **SEC. 4. DUE DILIGENCE IN PAYING BENEFIT CLAIMS**
2 **UNDER PUBLIC SAFETY OFFICERS' DEATH**
3 **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) may use available investigative tools, in-
9 cluding subpoenas, to—

10 “(A) adjudicate or to expedite the proc-
11 essing of the benefit claim, if the Bureau deems
12 such use to be necessary to adjudicate or con-
13 ducive to expediting the adjudication of such
14 claim; and

15 “(B) obtain information or documentation
16 from third parties, including public agencies, if
17 the Bureau deems such use to be necessary to
18 adjudicate or conducive to expediting the adju-
19 dication of a claim; and

20 “(2) may not abandon the benefit claim unless
21 the Bureau has used investigative tools, including
22 subpoenas, to obtain the information or documenta-
23 tion deemed necessary to adjudicate such claim by
24 the Bureau under subparagraph (1)(B).”.

1 **SEC. 5. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF**
2 **CERTAIN PUBLIC SAFETY OFFICERS.**

3 Section 1216(b) of title I of the Omnibus Crime Con-
4 trol and Safe Streets Act of 1968 (34 U.S.C. 10306(b))
5 is amended, in the first sentence, by striking “may” and
6 inserting “shall (unless prospective assistance has been
7 provided)”.

8 **SEC. 6. TECHNICAL CORRECTION.**

9 Section 1205(e)(3)(B) of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (34 U.S.C. 10285(e)(3)(B))
11 is amended by striking “subparagraph (B)(ix)” and in-
12 serting “subparagraph (I)”.

13 **SEC. 7. SUBPOENA POWER.**

14 Section 806 of title I of the Omnibus Crime Control
15 and Safe Streets Act of 1968 (34 U.S.C. 10225) is amend-
16 ed—

17 (1) by inserting “Attorney General, the” before
18 the “Bureau of Justice Assistance”;

19 (2) by striking “may appoint” and inserting
20 “may appoint (to be assigned or employed on an in-
21 terim or as-needed basis) such hearing examiners
22 (who shall, if so designated by the Attorney General,
23 be understood to be comprised within the meaning
24 of “special government employee” under section 202
25 of title 18, United States Code)”;

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

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

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

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

10 (b) APPLICABILITY.—

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

17 (2) MATTERS PENDING.—Except as provided in
18 paragraph (1), the amendments made by this Act
19 shall apply to any matter pending, before the Bu-
20 reau or otherwise, on the date of enactment of this
21 Act, or filed (consistent with pre-existing effective
22 dates) or accruing after that date.

23 (c) EFFECTIVE DATE FOR WTC RESPONDERS.—

24 (1) CERTAIN NEW CLAIMS.—Not later than two
25 years after the effective date of this Act, a WTC re-

1 sponder may file a claim, under section 1201(b) of
2 title I of the Omnibus Crime Control and Safe
3 Streets Act of 1968 (34 U.S.C. 10281(b)), that is
4 predicated on a personal injury sustained in the line
5 of duty by such responder as a result of the Sep-
6 tember 11, 2001, attacks, where—

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

9 (B) a claim under such section 1201(b) so
10 predicated had previously been denied, in a
11 final agency determination, on the basis (in
12 whole or in part) that the claimant was not to-
13 tally disabled.

14 (2) CLAIMS FOR A DECEASED WTC RE-
15 SPONDER.—Not later than two years after the effec-
16 tive date of this Act, a claim may be filed, construc-
17 tively under section 1201(a) of title I of the Omni-
18 bus Crime Control and Safe Streets Act of 1968 (34
19 U.S.C. 10281(a)), where a WTC responder who oth-
20 erwise could have filed a claim pursuant to para-
21 graph (1) has died before such effective date (or dies
22 not later than 365 days after such effective date), or
23 where a WTC responder has filed such a claim but
24 dies while it is pending before the Bureau: *Provided*,
25 That—

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

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

16 (3) DIFFERENCE IN BENEFIT PAY.—In the
17 event that a claim under section 1201(b) of title I
18 of the Omnibus Crime Control and Safe Streets Act
19 of 1968 (34 U.S.C. 10281(b)) and predicated on an
20 injury sustained in the line of duty by a WTC re-
21 sponder as a result of the September 11, 2001, at-
22 tacks was approved, in a final agency determination,
23 before the effective date of this Act, the Bureau
24 shall, upon application filed (not later than three
25 years after such effective date of this Act) by the

1 payee (or payees) indicated in subparagraphs (A) or
2 (B), pay a bonus in the amount of the difference (if
3 any) between the amount that was paid pursuant to
4 such determination and the amount that would have
5 been payable had the amendments made by this Act,
6 other than those indicated in subsection (b)(1), been
7 in effect on the date of such determination—

8 (A) to the WTC responder, if living on the
9 date the application is determined, in a final
10 agency determination; or

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

19 (4) SPECIAL LIMITED RULE OF CONSTRU-
20 TION.—A claim filed pursuant to paragraph (1) or
21 (2) shall be determined as though the date of cata-
22 strophic injury of the public safety officer were the
23 date of enactment of this Act, for purposes of deter-
24 mining the amount that may be payable.