



The Washington Report

The Newsletter of the National Association of Police Organizations
Representing America's Finest

March 13, 2017

NAPO Victory! Senate Judiciary Committee Approves PSOB Improvement Act

In a victory for NAPO, on March 9, the Senate Judiciary Committee unanimously approved the Public Safety Officers' Benefits (PSOB) Improvement Act (S. 419), a bipartisan bill sponsored by Judiciary Chairman Chuck Grassley (R-IA) and Senator Kirsten Gillibrand (D-NY). The support for this bill in Committee was so great that five members went on record to sign on as cosponsors. This bill would tackle the issues of transparency and the timeliness of case determinations within the PSOB program, and protect the ability of survivors, disabled officers and their families to get the benefits they so rightly deserve.

Importantly, this bill would return the PSOB Program to a presumptive benefit and restore the "substantial weight" standard that requires PSOB to give substantial weight to the findings of federal, state, and local agencies as to the cause of the public safety officer's death or disability. It would ensure that children of fallen or disabled public safety officers would still be eligible for education benefits if an adjudication delay causes them to age out of benefit eligibility before their claim is approved. It would increase transparency through weekly and biannual public reports on the status of claims.

The PSOB Improvement Act compliments the two PSOB rules that we hope will go into effect this Spring. The changes the two rules make will significantly improve the PSOB Program and address several concerns NAPO has had with the program since the last major rulemaking in 2006 that implemented, among other changes, the Hometown Heroes Survivors Benefits Act of 2003. After years of frustration with the PSOB Program, we are glad to see several of our long-held concerns addressed in these final rules. We consider many of these changes big victories for NAPO and rank-and-file officers across the nation.

It is a priority for NAPO that we ensure the PSOB Program is processing and deciding claims in a timely manner and that the process is transparent and straightforward for those who have lost their loved ones or have become seriously disabled in the line of duty. The PSOB Improvement Act is a priority for NAPO and we are working to ensure its passage through the Senate and the House.

NAPO thanks Senators Grassley and Gillibrand for their leadership on this important issue. Congressman Peter King (R-NY) is expected to reintroduce the legislation in the House within the next couple of weeks. We will keep our members up to date on the status of the legislation and the final PSOB regulations.

If you have any questions about the PSOB Program or the PSOB Improvement Act please contact Andy Edmiston at aedmiston@napo.org.

NAPO Supports Social Security Fairness Act

NAPO pledged its support for the Social Security Fairness Act (H.R. 1205), which was reintroduced by Congressman Rodney Davis (R-IL), as part of our continued fight to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). This legislation would repeal both the GPO and WEP.

Though most police officers must retire after specific time served, usually in their early to mid fifties, many look for new opportunities to serve their community. Yet, when they retire from a non-Social Security paying job and move to one that does pay into Social Security, they are penalized by the Windfall Elimination Provision (WEP). Instead of receiving full support from their rightfully earned Social Security retirement benefit, their pension heavily offsets it, thus vastly reducing the amount they receive.

More troubling is the effect of Government Pension Offset (GPO) on a police officer's retirement. If a spouse who paid into Social Security dies, the surviving public safety officer should be eligible for half of the deceased's benefit. However, GPO requires that this amount be offset by two-thirds of the survivor's pension, eliminating most or all of the payment. By professional need, many police officers are outside of Social Security but if they had not served at all, they would receive the full allotment of the spouse's benefit.

GPO and WEP were meant as a "leveling" response but only serve to hurt public safety officers. Nine out of ten public employees affected by the GPO lose their entire spousal benefit, even though their spouses paid Social Security for many years. The WEP causes hard-working public safety officers to lose the benefits they earned themselves, thus punishing those who selflessly serve and protect our communities. By totally repealing both GPO and WEP, the Social Security Fairness Act would preserve the retirement security of those who selflessly serve and protect our communities.

NAPO thanks Congressman Davis for his continued support for this issue and we look forward to working with him to move this important bill. If you have any questions about this bill or how the GPO and WEP could affect you, please contact Andy Edmiston at aedmiston@napo.org.

Senate Judiciary Committee Holds Confirmation Hearing for Deputy Attorney General

On May 7, the Senate Judiciary Committee held the confirmation hearing for Rod Rosenstein, the United States Attorney for the District of Maryland, to be Deputy Attorney General (DAG). The DAG is the second in command at the Department of Justice (DOJ) and oversees the day to day operations of the department. NAPO endorsed Mr. Rosenstein for his exemplary career as a U.S. Attorney and for his strong support for the law enforcement community.

Mr. Rosenstein, appointed as the U.S. Attorney for the District of Maryland in 2005 by President George W. Bush, is the longest serving U.S. Attorney in the country, which shows a true dedication to his job and country and an ability to work across the aisle. While U.S. Attorney, he has taken on and prosecuted violent gangs, including members of the Black Guerrilla Family gang for a massive contraband smuggling scheme at the Baltimore City Detention Center.

Further, Mr. Rosenstein had an extensive career within the Department of Justice before being appointed as Maryland U.S. Attorney, including being counsel to the DAG, which will bring institutional knowledge and experience that is essential to the position.

Mr. Rosenstein is known for bringing together law enforcement from all levels of government to fight crime and is well respected by the law enforcement community. In a conversation with NAPO Executive Director Bill Johnson, Mr. Rosenstein made a point of emphasizing that rank and file police organizations, and NAPO in particular, would be true partners and be involved at the front end of policy decisions. He recognizes and understands that the vast majority of law enforcement service to our nation is done by municipal officers and deputies and wants to return the DOJ to being an effective crime fighting partner.

The confirmation hearing was contentious, but not because any Senator truly doubted Mr. Rosenstein's qualifications and ability to be DAG. Democratic Senators on the Committee used his confirmation hearing to try to make concessions on the DOJ's investigation into the Trump Administration's alleged ties to Russia, especially considering the decision of the Attorney General to recuse himself from leading the investigation. It will fall on the DAG to lead the investigation. Despite the many heated exchanges surrounding the Russia investigation during the hearing, it is expected that the Committee will approve the nomination and Mr. Rosenstein will be confirmed as the next DAG.

NAPO believes Mr. Rosenstein will serve our nation well as Deputy Attorney General and we look forward to a new and positive relationship with the DOJ under the leadership of Mr. Rosenstein and Attorney General Sessions.

NAPO on the Hill: Meetings with House and Senate Leadership

NAPO, together with other major national law enforcement organizations, continued to make the rounds last week, meeting with House and Senate leadership staff to discuss our priority legislation for this Congress, in particular, pro-law enforcement legislation we want to see moved leading up to or during National Police Week. Given the timeframe, the legislation we want to move during Police Week are those bills that are bipartisan and have the support of the Judiciary Committee so that they can move quickly to the House and Senate floors.

We had meetings with senior staff from the offices of **House Judiciary Committee Chairman Bob Goodlatte (R-VA)**, **House Minority Whip Steny Hoyer (D-MD)**, **Senate Majority Whip John Cornyn (R-TX)**, and **Senate Judiciary Chairman Chuck Grassley (R-IA)**. Specifically, we discussed the Public Safety Officers' Benefits (PSOB) Improvement Act, the Back the Blue Act, the Children of Fallen Heroes Scholarship Act, the Protecting Lives Using Surplus (PLUS) Equipment Act, and the Honoring Hometown Heroes Act.

The Public Safety Officers' Benefits (PSOB) Improvement Act would return the PSOB Program to a presumptive benefit and restore the "substantial weight" standard that requires PSOB to give substantial weight to the findings of federal, state, and local agencies as to the cause of the public safety officer's death or disability. It would ensure that children of fallen or disabled public safety officers would still be eligible for education benefits if an adjudication delay causes them to age out of benefit eligibility before their claim is approved. It would increase transparency through weekly and biannual public reports on the status of claims.

The Back the Blue Act would help stop senseless violence against our nation's law enforcement community by adding new criminal provisions to address the assault and murder of federal and federally-funded law enforcement officers and those who flee to avoid prosecution for such crimes. It would increase penalties on those who harm or target for harm public safety officers by making the murder or attempted murder of a local police officer, firefighter, or first responder an aggravating factor in death penalty determinations. Increased penalties make important differences in the attitudes of criminals toward public safety officers, and ensure protection for the community.

The Children of Fallen Heroes Scholarship Act would eliminate the expected family contribution (EFC) used to determine financial need in the case of a Pell Grant-eligible student whose parent or guardian died in the line

of duty. Additionally, children of public safety officers who died in the line of duty would qualify for the maximum Pell Grant award (\$5,815 for FY16-17) if he or she was less than 24 years old or enrolled at an institution of higher education at the time of the parent or guardian's death.

The PLUS Equipment Act would nullify President Obama's Executive Order 13688 that restricted state and local law enforcement's access to surplus military equipment through the Department of Defense 1033 Program and other equipment acquisition programs through the Departments of Justice and Homeland Security. This lifesaving equipment used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford. NAPO believes that President Trump will rescind this executive order and we support the PLUW Equipment Act to ensure that no future president can again prohibit state and local law enforcement from accessing such equipment.

The Honoring Hometown Heroes Act would authorize the governors or the Mayor of the District of Columbia to proclaim that the U.S. flag shall be flown at half-staff in the event of the death of a first responder (public safety officer) working in such jurisdiction who dies while serving in the line of duty. Currently, governors and the Mayor of D.C. are only authorized to lower the flag to half-staff for the active duty death of a member of our nation's armed forces.

Staff from all of the officers were supportive of our efforts to move this package of priority bills, with varying levels of concern about how easy it will be to move a few of the bills. With the Senate Judiciary Committee soon to be tied up with work surrounding the confirmation of Judge Neil Gorsuch, President Trump's Supreme Court nominee, we may need to focus on moving certain bills through the House first. Senate Judiciary staff stated they are committed to try to get as many bills through Committee as they can, but could not commit to our National Police Week timeframe. We have a lot of work to do to ensure these bills have significant bipartisan support and move through Committee in the next couple of months, but we are confident we will have leaderships' support when they reach the House and Senate floors for a vote.

NAPO will now turn our focus on meeting with members of both the House and Senate Judiciary Committees to gain bipartisan support for these bills to help ensure their quick movement through committee. If you have any questions about NAPO's meetings on the Hill or the bills addressed, please contact Andy Edmiston at aedmiston@napo.org.

NAPO on the Hill: Back the Blue Act

NAPO met with senior staff for **Senators Joe Donnelly (D-IN)** and **Jon Tester (D-MT)** about the reintroduction of the Back the Blue Act and asking for their support for the bill. Senator John Cornyn (R-TX) introduced the Back the Blue Act in July 2016 after the horrific ambush attack on Dallas police officers. Senator Cornyn will be reintroducing the legislation and NAPO is working with his staff to ensure there is strong bipartisan support for the creation of new federal crimes for the killing, attempted killing, or conspiring to kill a federally funded public safety officer.

The Back the Blue Act is important for NAPO members because so many of our jurisdictions receive federal funding, and this legislation will help to bring federal resources to bear in the prosecution of those who attempt to murder or murder any of these officers. In addition to creating new federal crimes for violence against police officers, the bill would also establish a new federal crime for interstate flight to avoid prosecution for killing, attempting to kill, or conspiring to kill a federally funded public safety officer. It would also expressly allow all judges, prosecutors, and law enforcement officials, subject to limited regulations, to carry firearms into all federal facilities, federal courts, and in jurisdictions where the carrying of such weapons is otherwise prohibited by law.

Staff for both Senators Donnelly and Tester indicated their bosses' strong support for law enforcement and that they are interested in supporting the bill, but are still reviewing it. There are some concerns around the new federal mandatory minimums the bill creates for the killing, attempted killing or assault of an officer, but those concerns are not insurmountable.

The Back the Blue Act perfectly complements President Trump's Executive Order on preventing violent against law enforcement officers. NAPO has long fought for increased federal protections for state and local law enforcement officers and we thank Senator Cornyn's for his steadfast support for law enforcement and his dedication to reintroducing this critical piece of legislation. Congressman Ted Poe (R-TX) will reintroduce this bill in the House.

If you have any questions on the Back the Blue Act, please contact Andy Edmiston at aedmiston@napo.org.

NAPO Calls on Congress to Repeal “Cadillac” Tax

Much to NAPO's disappointment, after years of bipartisan Congressional support for the repeal of the 40 percent excise (“Cadillac”) tax on employer-sponsored health plans, the Republican's bill to repeal the Affordable Care Act (“Obamacare”), the American Health Care Act, only delays the implementation of the tax until 2025. NAPO sent a [letter](#) to House Ways and Means Chairman Kevin Brady (R-TX), who is responsible for helping guide the American Health Care Act through Congress, particularly the tax provisions, urging him to support the full repeal of the tax.

Although the Affordable Care Act sets higher thresholds for the excise tax for workers in high risk professions, such as public safety officers (\$11,850 for an individual and \$30,950 for a family), to qualify for the higher threshold amounts, the majority of members in the healthcare plan must work in high risk professions. **Many public safety officers would not qualify for the higher threshold amounts, as they participate in general healthcare plans where the majority of participants do not work in high risk professions.**

The higher thresholds set for public safety officers thus will not adequately protect officers from the tax burden, as thousands of officers participate in plans that include a majority of employees who do not work in high risk professions.

Further, according to the American Health Policy Institute, the excise tax thresholds, which increase over time for inflation only as measured by the Consumer Price Index and not historically higher medical cost inflation, will impact “average plan[s]” by 2031. The higher thresholds for individuals engaged in high-risk professions will not protect our plans from being affected.

A October 2015 American Health Policy Institute report¹ that found that **almost 90% of large employers**, including state, county and city governments, are already taking steps to no longer offer health plans that would trigger the tax. The report also found that:

- More than 30% of large employers said that they would have at least one plan impacted by the tax and almost half of employers who would not have plan impacted by 2018 said they would have a plan impacted by 2023.
- About 19% of employers were already curtailing or eliminating employee contributions to flexible spending accounts, and 13% were doing the same to health savings accounts.

¹ “ACA Excise Tax: Cutting Family Budgets, Not Health Care Budgets,” Tevi D. Jones and D. Mark Wilson, October 2015. American Health Policy Institute. http://www.americanhealthpolicy.org/Content/documents/resources/AHPI_Excise_Tax_October_2015.pdf

- 71% of employers planning to reduce their plan values said they most likely would not provide a corresponding wage increase.

Delaying the excise tax until 2025 will not provide relief to the public safety officers who will be negatively impacted by the tax whether it goes into effect in 2020 or 2025. The excise tax is not just a tax on health plans; it is a loss of earned wages and benefits. NAPO is urging Congressional leadership to amend the American Health Care Act to repeal the 40 percent excise tax on employer-sponsored health plans.

In addition to our efforts around the American Health Care Act, NAPO continues to support and push for the passage of the Middle Class Health Benefits Tax Repeal Act of 2017 (H.R. 58).

While the American Health Care Act fails public safety officers regarding the “Cadillac” tax, it does expand the ability for officers and their families to use Health Savings Accounts (HSAs) and Flexible Spending Arrangements (FSAs). These health savings accounts allow for individuals and families to create accounts funded by pre-tax earnings that can be used to cover qualified medical expenses and out-of-pocket medical, dental and vision costs.

NAPO believes that in today’s economic climate, it is important to maximize personal savings, especially in regard to an officer’s annual healthcare expense. NAPO continues to work to make HSAs more accessible and to increase the contributions limit for FSAs to ensure public safety officers have access to the tools they need to ensure they and their families get the health coverage they need.

If you have any questions about the “Cadillac” tax or health savings accounts, please contact Andy Edmiston at aedmiston@napo.org.

NAPO in the News

On March 8, 2017, NAPO Executive Director Bill Johnson was quoted in an article for *WUSA 9* entitled, “Law Enforcement Faces a Recruitment Problem”. The article discusses the national issue of law enforcement agencies struggling to recruit new officers, focusing on the issues the Bowie, Maryland police department is having with a significant drop in applications.

“Bill Johnson, the executive director for the National Association of Police Organizations, said statistics on the number of applicants are hard to come by since there are so many departments nationwide. However he said anecdotally, they are increasingly hearing concerns from chiefs. Johnson said two factors for the decrease are ‘increasing dangers,’ and the ‘perception that elected leaders are not supportive.’

“‘Qualified people think they don't need the hassle’, he said.”

The full article is available at: <http://www.wusa9.com/news/local/maryland/law-enforcement-faces-a-recruitment-problem/420713118>

NAPO will continue to ensure our members’ voices are heard loud and clear on the Hill, with the Administration, and in the media. If you have any questions about the publication cited above, please contact Bill Johnson at: bjohnson@napo.org.

NAPO Attends Blue Mass Steering Committee Meeting

On March 6, NAPO participated in the first committee meeting for the 23rd Annual Blue Mass. The Blue Mass is held each year right before the start of National Police Week at St. Patrick's Catholic Church in Washington, D.C. Representatives of federal and local law enforcement and public safety agencies from the Washington, D.C. metropolitan area attend the Blue Mass to pray for those in law enforcement and fire safety, remember those who have fallen, and support those who serve.

This year's Blue Mass is scheduled for Tuesday, May 2, 2016, at 12:10pm. Stay tuned for more details.

Please monitor NAPO's website, www.napo.org, and Facebook page: National Association of Police Organizations, and follow us on Twitter at NAPOpolice for breaking news and updates.

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