



The Washington Report

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

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WEP Reform Bill Introduced

House Ways and Means Committee Chairman Kevin Brady (R-TX) and Ranking Member Richard Neal (D-MA) introduced their bill to reform the Windfall Elimination Provision (WEP) – the Equal Treatment of Public Servants Act of 2018 (H.R. 6933). This legislation would repeal the WEP, replacing it with a new Social Security benefit formula designed to more accurately account for years a public employee paid into Social Security versus the years paid into a public pension system in a non-Social Security covered position.

The WEP adversely affects public safety employees in particular. Although most law enforcement officers retire after a specific length of service, usually while in their early to mid-fifties, many look for new opportunities to serve their communities. 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 WEP. Instead of receiving their rightfully earned Social Security retirement benefit, their pension heavily offsets it, thus vastly reducing the amount they receive.

As a result of the new proposed WEP formula under the Equal Treatment of Public Servants Act, the Social Security actuary has projected that the majority of *current* retirees impacted by the WEP would see roughly one-third of their benefit restored. However, under the bill, a small number of public safety officers who had been exempted from WEP would now be subject to it.

The proposal creates two distinct groups of retirees. The first – individuals age 55 and younger – would have their WEP calculated using the new formula created under the Equal Treatment of Public Servants Act, which will go into effect in 2025. The second group, consisting of individuals age 56 and older as of 2020, will keep the current WEP formula and get a monthly rebate to help make up for part of the lost benefits due to WEP. The rebate would be \$100/month (or \$50/month for a spouse) and subject to cost of living increases.

Additionally, as of 2025, the current exemption from the WEP for those who have worked in a Social Security covered job for 30 or more years would be eliminated. Those workers with 30 or more years paying into Social Security who retired prior to 2025 would still be exempt from the WEP. After 2025, all future retirees would be subject to the new WEP formula, no matter how many years they paid into Social Security.

This elimination of the WEP exemption would adversely impact our members who work in states where public employees are covered by Social Security. There are only fifteen states where public employees

are not covered by Social Security: Alaska, California, Colorado, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Nevada, Ohio, Rhode Island and Texas.

Public Sector retiree organizations and associations strongly support the legislation as it would benefit 100 percent of their members. It is mainly the public sector unions, representing current public employees, who have expressed concerns with the legislation, especially regarding the elimination of the WEP exemption.

While NAPO continues to advocate for full repeal of the WEP and the government pension offset (GPO), we understand there are significant fiscal challenges associated with this effort and therefore support meaningful WEP and GPO reform. While NAPO does not support the Equal Treatment of Public Servants Act in its current form, we are continuing to work with Ways and Means Committee staff to find a way to move forward with WEP reform.

In introducing the Equal Treatment of Public Servants Act, Chairman Brady and Ranking Member Neal indicated that it is a work in progress and they are committed to working with stakeholders to find a solution to issues and concerns raised. NAPO will keep our members up to date on the status of the legislation.

If you have any questions about the WEP or the Equal Treatment of Public Servants Act, please contact Andy Edmiston at aedmiston@napo.org.

NAPO Executive Director Joins Alabama AG in Press Conference Regarding Supreme Court Cop-Killer Case



NAPO Executive Director Bill Johnson joined Hannah Martinez (right), granddaughter of Mobile Police Corporal Julius Schulte, and Alabama Attorney General Steve Marshall (not pictured) at the press conference

On October 2, the U.S. Supreme Court heard oral arguments for the case of *Vernon Madison v. State of Alabama* for which NAPO [filed an amicus curiae](#) (or “friend of the court”) brief. In this case, Vernon Madison ambushed and murdered Mobile, Alabama Police Corporal Julius Schulte with two gunshots to the back of the officer’s head, as the officer was trying to protect Madison’s girlfriend from harm. This was in April of 1985 and Madison was subsequently convicted of the murder and sentenced to death.

Madison’s lawyers now assert that he cannot be put to death because he suffers from dementia and claims that he can no longer remember the

murder. His lawyers argued before the Court that this makes him mentally incompetent and thus can no longer be executed for the crime.

NAPO Executive Director Bill Johnson joined Alabama Attorney General Steve Marshall and Hannah Martinez, granddaughter of Corporal Schulte, at a press conference at the U.S. Supreme Court after oral arguments were heard in the case.

At the press conference, Johnson stated:

“Justice delayed truly is justice denied in this case. When you see so many police officers around the country murdered, executed in cold blood... I think the time has come. We don’t take anything about this lightly, the imposition of the death penalty against anyone.”

But after more than 30 years, three trials and several trips to the Supreme Court, “the time really has come to comply with the sentence that was imposed.”

Johnson also stated that he is not sure if the Madison execution case will set a precedent, but there is a danger “that if you delay it long enough the condition of the person on death row is going to deteriorate whether from old age or something else. Eventually, the lawyers will be able to argue that even if once proper to execute him or her, it is no longer permissible because he or she is in bad physical shape.”

The State of Alabama reached out to NAPO for assistance in this case, and we filed the brief to assist Alabama and remind the Court of the various state and federal laws (including many NAPO has worked on at the federal level) which provide enhanced punishment (including the death penalty) for assaults and murders of law enforcement officers. NAPO points out in the brief that these enhanced punishments are justified because of the high value society rightly places on the lives and services of officers, and the dangerous conditions under which they serve.

NAPO’s brief also notes that Corporal Schulte is indeed remembered by his brother and sister officers: His name is engraved on the National Memorial in Washington.

Below are links to news coverage of the court case and the press conference, including video links:

Montgomery Adviser: <https://www.montgomeryadvertiser.com/story/news/politics/2018/10/02/u-s-supreme-court-hears-argument-alabama-execution-case/1501109002/>

WJBF (ABC) - Augusta, GA:

<https://mms.tveyes.com/Transcript.asp?StationID=3670&DateTime=10%2F2%2F2018+5%3A33%3A51+PM&Term=National+Association+of+Police+Organizations&PlayClip=TRUE>

WKRG (CBS) - Mobile, AL:

<https://mms.tveyes.com/Transcript.asp?StationID=2945&DateTime=10%2F2%2F2018+6%3A36%3A37+PM&Term=National+Association+of+Police+Organizations&PlayClip=TRUE>

CW 55 - Mobile, AL:

<https://mms.tveyes.com/Transcript.asp?StationID=12485&DateTime=10%2F2%2F2018+9%3A05%3A58+PM&Term=National+Association+of+Police+Organizations&PlayClip=TRUE>

NAPO Victory! Congress Passes 9/11 Heroes Medal of Valor Act

In a victory for NAPO, the Senate passed the 9/11 Heroes Medal of Valor Act (H.R. 3834) by unanimous consent on October 12, right before adjourning for recess until after Election Day. The House passed the

bill by voice vote on September 26, so it is on its way to the President to be signed into law. This important legislation would reestablish the original 9/11 Heroes Medal of Valor, which would be provided by the President to the families of those police officers, firefighters, and EMTs who have died due to their exposure to toxic chemicals during the rescue and recovery efforts following the September 11, 2001 terrorist attacks.

On September 11, 2001 nearly 3,000 of our fellow citizens gave their lives in New York City, at the Pentagon, and in Shanksville, Pennsylvania. This includes the more than 400 federal, state, and local public safety officers who ran into harm's way to save others, many of whom were NAPO members. It was in recognition of their sacrifice that in 2004 Congress established the 9/11 Heroes Medal of Valor, which was presented by the President to the families of those first responders who so heroically died that day.

However, as we know too well, first responders across the country continue to die from their rescue and recovery efforts on and after 9/11 from cancers and other serious health conditions related to sustained exposure to toxins found at Ground Zero. This year alone, more than 50 of the brave men and women whose names were added to the National Law Enforcement Officers Memorial died as the result of 9/11-related health conditions. Unfortunately, that number is only expected to grow.

NAPO pushed for the 9/11 Heroes Medal of Valor Act to ensure that the heroism of the thousands of federal, state, and local first responders who responded to the 9/11 attacks did not go unrecognized.

Fight to Reauthorize 9/11 Victims Compensation Fund Starts Early

After a long fight, NAPO saw the James Zadroga 9/11 Health and Compensation Reauthorization Act signed into law in December 2015. This legislation reauthorized the World Trade Center Health Program until 2090 and reauthorized and fully-funded the 9/11 Victims Compensation Fund (VCF) at \$7.3 billion for 5 years. Unfortunately, this is not enough as the Special Master of the VCF has recently indicated that given the significant increase in claims just from the last year alone, the Fund may not be able to fully compensate all claims.

The Special Master has asked for comments and suggestions through the Federal Register on how the VCF could change its policies and procedures to ensure all claims are paid out, even at a lesser amount than promised. At this point, claims are still being fully paid – this is just a precautionary act by the Special Master due to recent projections on future claims to the Fund. NAPO does not believe that changing the policies and procedures to cut much-needed benefits is the way to go. We are instead focusing on reauthorizing the VCF earlier than the 2020 deadline to ensure the Fund has the monies necessary to compensate all victims and survivors of the September 11, 2001 terrorist attack.

The VCF has seen a 36 percent increase in claims from 2017 and a 94 percent increase in eligible “deceased claims” – claims by families of 9/11 survivors who have succumbed to their 9/11-related illnesses. Further, as of June, 88,484 first responders and survivors have registered with the World Trade Center Health Program, of which approximately 10,000 have a 9/11-related cancer. In the last year alone, the Health Program has seen a 260% increase in participants. All of these numbers mean that claims to the VCF will continue to grow and the need to reauthorize and fully fund the VCF is imperative to ensuring all 9/11 first responders, survivors and their families are able to get the benefits they deserve.

To that end, Senator Kirsten Gillibrand (D-NY) and Congresswoman Carolyn Maloney (D-NY) introduced the Never Forget the Heroes: Permanent Reauthorization of the September 11th Victims Compensation Fund Act (S. 3591 / H.R. 7062) on October 11. This legislation would reauthorize the VCF through 2090 and provide as much funds as necessary to fully pay out all claims. While realistically this bill will not go anywhere due to the unlimited funding provision, it provides a starting point for negotiations so that we can hit the ground running to reauthorize a fully-funded VCF in 2019.

NAPO looks forward to working with Senator Gillibrand and Congresswoman Maloney on reauthorizing the VCF and will keep our members updated on our efforts.

Kavanaugh Confirmed as Supreme Court Justice

After a long and contentious confirmation process, the Senate confirmed Judge Brett Kavanaugh's nomination to be a U.S. Supreme Court Justice on October 6 by a 50-49 vote, with one Democrat voting in favor of the nomination and one Republican voting against it. Justice Kavanaugh had his first day on the bench on October 9, only missing one week of the Supreme Court's 2018-2019 term.

Prior to his confirmation to sit on the U.S. Supreme Court, Justice Kavanaugh sat on the U.S. Court of Appeals for the District of Columbia Circuit, was an official in the administration of President George W. Bush and worked as part of then-independent counsel Ken Starr's team in the Clinton investigation. He is expected to be a solid conservative vote on the Court.

***It's Not Too Late!* Join NAPO for Our 2018 Annual Legal Seminar:**

The Aftermath of *Janus* and Other Current Issues for Attorneys

**November 14 – 16, 2018 ~ Caesars Palace Hotel & Casino
Las Vegas, Nevada**

Earn 12.5 Hours of CLE Credits Including 2 Hours of Ethics!

Key Issues will include: The Recap of *Janus* Supreme Court Decision, The Legal Duty of Fair Representation, Representing Officers in Critical Incidents, Expert Testimony in Use of Force Cases Jury Selection & Social Media, Protecting Yourself in a Tech World, Opioid Multi District Litigation, Federal Update: Trump Administration Policies and Changes to Consent Decrees.

Seminar Registration is available on NAPO's website.

If you have any questions or need additional information please do not hesitate to contact NAPO's Director of Events, Elizabeth Loranger, at eloranger@napo.org or (703) 549-0775.