

Senate Bill 61

By: Senators Streat of the 19th, Tate of the 38th, Cheeks of the 23rd, Butler of the 55th and Bowen of the 13th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated,
2 relating to indemnification of law enforcement officers, firemen, prison guards, and publicly
3 employed emergency medical technicians, so as to provide for the indemnification of state
4 highway employees with respect to death or permanent disability; to change certain
5 provisions relating to definitions of terms; to provide for the inclusion of certain persons in
6 the Georgia State Indemnification Commission; to authorize appropriation of funds to the
7 Georgia State Indemnification Fund; to provide for the payment of indemnification to state
8 highway employees; to provide for requirements for applications for indemnification; to
9 provide an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to
13 indemnification of law enforcement officers, firemen, prison guards, and publicly employed
14 emergency medical technicians, is amended by striking Code Section 45-9-80, relating to
15 legislative purpose, and inserting in lieu thereof the following:

16 "45-9-80.

17 The purpose of this part is to:

- 18 (1) Implement the constitutional amendment ratified November 4, 1976, authorizing the
19 General Assembly to provide by law for the indemnification with respect to the death of
20 law enforcement officers, firemen, or prison guards who are killed or have been killed in
21 the line of duty subsequent to January 1, 1973;
- 22 (2) Provide by law for the indemnification with respect to the permanent disability of law
23 enforcement officers, firemen, or prison guards who are permanently disabled or have
24 been permanently disabled in the line of duty subsequent to January 1, 1973;
- 25 (3) Provide by law for the indemnification with respect to the death or permanent
26 disability of publicly employed emergency medical technicians who are killed or

1 permanently disabled or who have been killed or permanently disabled in the line of duty
 2 subsequent to January 1, 1977; ~~and~~

3 (4) Provide by law for the indemnification with respect to the death or permanent
 4 disability of emergency management rescue specialists who are killed or permanently
 5 disabled in the line of duty on or after January 1, 1991; and

6 (5) Provide by law for the indemnification with respect to the death or permanent
 7 disability of state highway employees who are killed or permanently disabled in the line
 8 of duty on or after July 1, 2001."

9 SECTION 2.

10 Said article is further amended by striking in its entirety paragraph (5) of Code Section
 11 45-9-81, relating to definitions of terms for purposes of indemnification, and inserting in lieu
 12 thereof a new paragraph (5) to read as follows:

13 "(5) 'In the line of duty' means:

14 (A) With respect to an emergency medical technician, while on duty and when
 15 responding to or returning from an emergency or performing duties at the scene of an
 16 emergency or transporting a person to a medical facility for emergency treatment or
 17 returning therefrom;

18 (B) With respect to a fireman, while on duty and when responding to or returning from
 19 a fire or other emergency or performing duties during any fire or other emergency or
 20 performing duties intended to protect life and property;

21 (C) With respect to a law enforcement officer or fireman, while on duty and
 22 performing services for and receiving compensation from the law enforcement and fire
 23 service agency which employs such officer or fireman, while off duty when responding
 24 to any situation which would save a life or preserve the peace, or while preventing or
 25 attempting to prevent the commission of a crime or fire. A law enforcement officer or
 26 fireman who is performing duties for and receiving compensation from a private
 27 employer at the time of such officer's or fireman's death or bodily injury causing
 28 permanent disability shall not be considered in the line of duty unless the officer or
 29 fireman has left the scope of his or her employment for the private employer for the
 30 direct purpose of enforcing or attempting to enforce fire service, the criminal or traffic
 31 laws, preserving or attempting to preserve public order, protecting or attempting to
 32 protect life or property, performing active state service as a member of the Georgia
 33 National Guard, preventing or attempting to prevent a crime, detecting or attempting
 34 to detect crime, or investigating or attempting to investigate crime. The determination
 35 that a law enforcement officer or fireman was killed or permanently disabled in the line
 36 of duty and is entitled to indemnification pursuant to this part shall not be considered

1 in the determination of the entitlement of such officer to workers' compensation,
 2 disability, health, or other benefits from such officer's or fireman's public or private
 3 employer; or

4 (D) With respect to a prison guard, while on duty and performing services for and
 5 receiving compensation from the public agency which employs such prison guard; or

6 (E) With respect to a state highway employee, while on duty and performing any work
 7 necessary for the construction, maintenance, or operation of a roadway on or within the
 8 public roads of the state as defined in paragraph (24) of Code Section 32-1-3 when such
 9 employee is killed or permanently disabled as the result of working under hazardous
 10 conditions in close proximity to moving traffic or equipment."

11 SECTION 3.

12 Said article is further amended by adding at the end of Code Section 45-9-81, relating to
 13 definitions of term for purposes of indemnification, a new paragraph (9) to read as follows:

14 "(9) 'State highway employee' means an employee of the Georgia Department of
 15 Transportation who receives compensation directly therefrom and regularly engages in
 16 duties necessary for the construction, maintenance, or operation of roadways on or within
 17 the public roads of this state as defined in paragraph (24) of Code Section 32-1-3."

18 SECTION 4.

19 Said article is further amended by striking Code Section 45-9-82, relating to establishment
 20 of an indemnification program, and inserting in lieu thereof the following:

21 "45-9-82.

22 (a) There is established a program to provide for indemnification with respect to the:

23 (1) Death of any law enforcement officer, fireman, or prison guard who is or has been
 24 killed in the line of duty subsequent to January 1, 1973;

25 (2) Permanent disability of any law enforcement officer, fireman, or prison guard who
 26 is or has been permanently disabled in the line of duty subsequent to January 1, 1973;

27 (3) Death or permanent disability of any emergency medical technician who is killed or
 28 permanently disabled or who has been killed or permanently disabled in the line of duty
 29 subsequent to January 1, 1977; and

30 (4) Death or permanent disability of any emergency management rescue specialist who
 31 is killed or permanently disabled on or after January 1, 1991; and

32 (5) Death or permanent disability of any state highway employee who is killed or
 33 permanently disabled in the line of duty on or after July 1, 2001.

34 (b) Such program shall be administered by the Georgia State Indemnification
 35 Commission."

SECTION 5.

Said article is further amended by striking Code Section 45-9-83, relating to the Georgia State Indemnification Commission, and inserting in lieu thereof the following:

"45-9-83.

There is created the Georgia State Indemnification Commission which shall be composed of the Governor, the Secretary of State, the Commissioner of Insurance, the commissioner of public safety, the commissioner of transportation, the commissioner of corrections, the commissioner of human resources, the president of the Peace Officers' Association of Georgia, and the president of the Georgia State Firemen's Association. The Governor shall be the ~~chairman~~ chairperson of the commission and the commission shall be assigned to the Department of Administrative Services for administrative purposes."

SECTION 6.

Said article is further amended by striking Code Section 45-9-84.2, relating to appropriation of funds to the Georgia State Indemnification Fund, and inserting in lieu thereof the following:

"45-9-84.2.

The General Assembly is authorized to appropriate funds to be placed in the Georgia State Indemnification Fund for the purpose of providing for indemnification with respect to the death or disability of any law enforcement officer, fireman, or prison guard who is or has been killed or permanently disabled in the line of duty subsequent to January 1, 1973, the death or disability of any emergency medical technician who is killed or permanently disabled or has been killed or permanently disabled in the line of duty subsequent to January 1, 1977, ~~and~~ the death or disability of any emergency management rescue specialist who is killed or permanently disabled on or after January 1, 1991, and the death or disability of any state highway employee who is or has been killed or permanently disabled in the line of duty subsequent to July 1, 2001, as well as defraying the expenses and costs incurred by the commission in the administration of this part. In addition, the Department of Administrative Services is authorized to accept for deposit in the Georgia State Indemnification Fund any other funds from any other source. All funds appropriated to the Georgia State Indemnification Fund shall be presumptively concluded to have been committed to the purpose for which they have been appropriated and shall not lapse."

SECTION 7.

Said article is further amended by striking Code Section 45-9-85, relating to payment of indemnification for death and disability, and inserting in lieu thereof the following:

1 "45-9-85.

2 (a) The indemnification shall be paid by the commission when a law enforcement officer,
3 fireman, emergency medical technician, emergency management rescue specialist, or
4 prison guard, or state highway employee who in the line of duty:

5 (1) Is killed or receives bodily injury which results in death within 12 months thereafter,
6 if such death does not occur from natural causes while performing routine duties which
7 would not be strenuous or dangerous if performed by citizens who are not law
8 enforcement officers, firemen, emergency medical technicians, emergency management
9 rescue specialists, or prison guards, or state highway employees, and if such death is not
10 the result of suicide and if such bodily injury is not intentionally self-inflicted; or

11 (2) Is permanently disabled, if the permanent disability does not occur from natural
12 causes while performing routine duties which would not be strenuous or dangerous if
13 performed by citizens who are not law enforcement officers, firemen, emergency medical
14 technicians, emergency management rescue specialists, or prison guards, or state highway
15 employees, and if the permanent disability is not intentionally self-inflicted.

16 (b)(1) Notwithstanding any provision of this part to the contrary, for any compensable
17 claim filed on or after ~~July 1, 1995~~ July 1, 2001, payment shall be made as follows:

18 (A) In the case of permanent disability, the eligible disabled person pursuant to this
19 part may elect payment of ~~\$75,000.00~~ \$150,000.00 in equal installments over a period
20 of five years or a payment in lump sum which shall consist of ~~\$75,000.00~~ \$150,000.00
21 reduced to its present value upon the basis of interest calculated at the rate of 6 percent
22 per annum; and

23 (B) In the case of death, payment shall be made to the estate of a person who is eligible
24 for indemnification under this part as follows: the executor or administrator may elect
25 payment of ~~\$75,000.00~~ \$150,000.00 in equal installments over a period of five years
26 or a payment in lump sum which shall consist of ~~\$75,000.00~~ \$150,000.00 reduced to
27 its present value upon the basis of interest calculated at the rate of 6 percent per annum.

28 (2) With respect to law enforcement officers, firemen, or prison guards who were killed
29 prior to April 5, 1978, or who were permanently disabled prior to January 1, 1981, and
30 who are entitled to indemnification under this part, payment shall be made in lump sum
31 to the estate, in the case of death, or, in the case of permanent disability, to the person
32 disabled.

33 (3) With respect to emergency medical technicians who were killed or permanently
34 disabled prior to July 1, 1987, and who are entitled to indemnification under this part,
35 payment shall be made in lump sum to the estate, in the case of death, or, in the case of
36 permanent disability, to the person disabled.

1 (c) After determining that a law enforcement officer, fireman, emergency medical
 2 technician, emergency management rescue specialist, ~~or~~ prison guard, or state highway
 3 employee has been killed or permanently disabled in the line of duty and that he or she or
 4 his or her estate beneficiary is entitled to indemnification under this part, the commission,
 5 within ten days after such determination, shall forward a certified copy of the order
 6 granting such payment, which order shall include the person to whom such payment shall
 7 be made and the method of payment, to the commissioner of administrative services who
 8 is authorized to make the appropriate payments from funds appropriated or otherwise made
 9 available for the purpose of carrying out this part."

10 SECTION 8.

11 Said article is further amended by striking Code Section 45-9-86, relating to applications for
 12 indemnification, and inserting in lieu thereof the following:

13 "45-9-86.

14 (a) An application for indemnification with respect to a claim filed on or after ~~July 1, 1995~~
 15 January 1, 2001, for permanent disability of a law enforcement officer, fireman, prison
 16 guard, emergency medical technician, ~~or~~ emergency management rescue specialist, or state
 17 highway employee shall be submitted by that person unless the person is mentally
 18 incompetent, in which case the application may be made on such person's behalf by the
 19 parent, spouse, guardian, or other authorized individual. An application for
 20 indemnification with respect to a claim filed on or after ~~July 1, 1995~~ January 1, 2001, for
 21 the death of a law enforcement officer, fireman, prison guard, emergency medical
 22 technician, ~~or~~ emergency management rescue specialist, or state highway employee shall
 23 be submitted by the individual authorized to administer the estate.

24 (b) An application for indemnification relative to any law enforcement officer, fireman,
 25 or prison guard killed in the line of duty subsequent to January 1, 1973, and prior to
 26 January 1, 1981, must be made prior to January 1, 1982. An application for
 27 indemnification relative to any law enforcement officer, fireman, or prison guard killed in
 28 the line of duty on and after January 1, 1981, and prior to January 1, 1984, must be made
 29 prior to January 1, 1986. An application for indemnification relative to any law
 30 enforcement officer, fireman, or prison guard killed in the line of duty on or after January
 31 1, 1984, must be made within 24 months from the death of such law enforcement officer,
 32 fireman, or prison guard.

33 (c) An application for indemnification relative to any law enforcement officer, fireman,
 34 or prison guard permanently disabled in the line of duty subsequent to January 1, 1973, and
 35 prior to January 1, 1979, must be made prior to January 1, 1989. An application for
 36 indemnification relative to any law enforcement officer, fireman, or prison guard

1 permanently disabled in the line of duty subsequent to January 1, 1979, and prior to
2 January 1, 1980, must be made prior to January 1, 1982. An application for
3 indemnification relative to any law enforcement officer, fireman, or prison guard
4 permanently disabled in the line of duty on and after January 1, 1980, and prior to January
5 1, 1984, must be made prior to January 1, 1992. An application for indemnification
6 relative to a permanent disability occurring on or after January 1, 1984, must be made
7 within 24 months of the date the permanent disability occurred.

8 (d) An application for indemnification with respect to the death or permanent disability of
9 an emergency medical technician who was killed or permanently disabled subsequent to
10 January 1, 1977, and prior to January 1, 1987, must be made prior to January 1, 1989. An
11 application for indemnification with respect to the death or permanent disability of an
12 emergency medical technician who is killed or permanently disabled in the line of duty on
13 or after January 1, 1987, must be made within 24 months after the date of death or
14 disability.

15 (e) An application for indemnification with respect to the death or permanent disability of
16 an emergency management rescue specialist who is killed or permanently disabled in the
17 line of duty on or after January 1, 1991, must be made within 24 months after the date of
18 the death or disability.

19 (f) An application for indemnification with respect to the death or permanent disability of
20 a member of the Georgia National Guard included in the definition of a law enforcement
21 officer pursuant to paragraph (6) of Code Section 45-9-81 who is killed or permanently
22 disabled in the line of duty while in active state service on or after July 1, 1995, must be
23 made within 24 months after the date of the death or disability.

24 (g) An application for indemnification with respect to the death or permanent disability of
25 a state highway employee who is killed or permanently disabled in the line of duty on or
26 after July 1, 2001, must be made within 24 months after the date of the death or disability."

27 SECTION 9.

28 This Act shall become effective on July 1, 2001.

29 SECTION 10.

30 All laws and parts of laws in conflict with this Act are repealed.