

Senate Bill 79

By: Senators James of the 35<sup>th</sup> and Mullis of the 53<sup>rd</sup>

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to  
2 insuring and indemnification of public officers and employees, so as to change certain  
3 definitions; to change provisions relating to payment of temporary disability compensation  
4 to certain public safety employees; to amend the Official Code of Georgia Annotated so as  
5 to change references to "fireman" to "firefighter" and references to "firemen" to  
6 "firefighters"; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to insuring and  
10 indemnification of public officers and employees, is amended by striking in its entirety  
11 paragraphs (4) and (5) of Code Section 45-9-81, relating to definitions applicable to Part 1  
12 of Article 5 of this chapter with respect to the indemnification of certain public safety  
13 employees, and inserting in lieu thereof new paragraphs (4) and (5) to read as follows:

14 "(4)(A) 'Firefighter' or 'fireman' ~~'Fireman'~~ means any person who is employed as a  
15 professional firefighter on a full-time basis of at least 40 hours per week by any  
16 municipal, county, or state government fire department employing three or more  
17 ~~firemen~~ firefighters and who has the responsibility of preventing and suppressing fires,  
18 protecting life and property, enforcing municipal, county, and state fire prevention  
19 codes, enforcing any law pertaining to the prevention and control of fires or who  
20 performs any acts or actions while on duty or when responding to a fire or emergency  
21 during any fire or other emergency or while performing duties intended to protect life  
22 and property.

23 (B) 'Firefighter' or 'fireman' ~~'Fireman'~~ shall also mean any individual serving as an  
24 officially recognized or designated member of a legally organized volunteer fire  
25 department who performs any acts or actions while on duty or when responding to a fire

1 or emergency during any fire or other emergency or while performing duties intended  
2 to protect life and property.

3 (C) 'Firefighter' or 'fireman' ~~'Fireman'~~ shall also mean any individual employed by a  
4 person or corporation which has a contract with a municipal corporation or county to  
5 provide fire prevention and fire-fighting services to such municipal corporation or  
6 county and any such individual is employed on a full-time basis of at least 40 hours per  
7 week and has the responsibility of preventing and suppressing fires, protecting life and  
8 property, enforcing municipal or county fire prevention codes, enforcing any municipal  
9 or county ordinances pertaining to the prevention and control of fires or who performs  
10 any acts or actions while on duty or when responding to a fire or emergency during any  
11 fire or other emergency or while performing duties intended to protect life and property.

12 (5) 'In the line of duty' means:

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

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

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

1 entitlement of such officer to workers' compensation, disability, health, or other  
 2 benefits from such officer's or ~~fireman's~~ firefighter's public or private employer; or  
 3 (D) With respect to a prison guard, while on duty and performing services for and  
 4 receiving compensation from the public agency which employs such prison guard."

## 5 SECTION 2.

6 Said chapter is further amended by striking in its entirety Code Section 45-9-102, relating  
 7 to definitions applicable to Part 2 of Article 5 of said chapter, with respect to the temporary  
 8 disability compensation program for certain public safety employees, and inserting in lieu  
 9 thereof a new Code Section 45-9-102 to read as follows:

10 "45-9-102.

11 As used in this part, the term:

12 (1) 'Commission' means the Georgia State Indemnification Commission created in Code  
 13 Section 45-9-83.

14 (2) 'Firefighter' or 'fireman' ~~'Fireman'~~ means any person who is employed as a  
 15 professional firefighter on a full-time basis by any municipal, county, or state government  
 16 fire department employing three or more ~~firemen~~ firefighters and who has the  
 17 responsibility of preventing and suppressing fires, protecting life and property, enforcing  
 18 municipal, county, and state fire prevention codes, enforcing any law pertaining to the  
 19 prevention and control of fires or who performs any acts or actions while on duty or when  
 20 responding to a fire or emergency during any fire or other emergency or while performing  
 21 duties intended to protect life and property.

22 (3) 'Full-time' means an employee who regularly works 30 hours or more each week.

23 (4) 'In the line of duty' means:

24 (A) With respect to a ~~fireman~~ firefighter, while on duty and performing duties during  
 25 any fire or other emergency or performing duties intended to protect life and property;  
 26 or

27 (B) With respect to a law enforcement officer or ~~fireman~~ firefighter, while on duty and  
 28 performing services for and receiving compensation from the law enforcement or fire  
 29 service agency which employs such officer or ~~fireman~~ firefighter, while off duty and  
 30 responding to any situation which would save a life or preserve the peace, or while  
 31 preventing or attempting to prevent the commission of a crime or fire. A law  
 32 enforcement officer or ~~fireman~~ firefighter who is performing duties for and receiving  
 33 compensation from a private employer at the time of such officer's or ~~fireman's~~  
 34 firefighter's bodily injury, but not permanent disability, shall not be considered in the  
 35 line of duty unless the officer or ~~fireman~~ firefighter has left the scope of his or her  
 36 employment for the private employer for the direct purpose of enforcing or attempting

1 to enforce fire service, the criminal or traffic laws, preserving or attempting to preserve  
 2 public order, protecting or attempting to protect life or property, preventing or  
 3 attempting to prevent a crime, detecting or attempting to detect crime, or investigating  
 4 or attempting to investigate crime. The determination that a law enforcement officer  
 5 or ~~fireman~~ firefighter was disabled in the line of duty and is entitled to compensation  
 6 pursuant to this part shall not be considered in the determination of the entitlement of  
 7 such officer to workers' compensation, disability, health, or other benefits from such  
 8 officer's or ~~fireman's~~ firefighter's public or private employer.

9 (5) 'Injured in the line of duty' means an injury which arises out of or in the course of  
 10 employment in the line of duty. Going to or from work shall not be considered in the line  
 11 of duty.

12 (6) 'Law enforcement officer' means any agent or officer of this state, or a political  
 13 subdivision or municipality thereof, who, as a full-time employee, is vested either  
 14 expressly by law or by virtue of public employment or service with authority to enforce  
 15 the criminal or traffic laws and whose duties include the preservation of public order, the  
 16 protection of life and property, or the prevention, detection, or investigation of crime.  
 17 Such term also includes prison guards as defined under Code Section 45-9-81 and the  
 18 employees designated by the commissioner of juvenile justice of the Department of  
 19 Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8,  
 20 which employees have the duty to investigate and apprehend delinquent and unruly  
 21 children who have escaped from a facility under the jurisdiction of the Department of  
 22 Juvenile Justice or who have broken the conditions of supervision and employees  
 23 designated and delegated law enforcement powers by the Public Service Commission  
 24 pursuant to Code Sections 46-7-28 and 46-11-6, which personnel have the duty to enforce  
 25 the laws relating to motor carriers and the transportation of hazardous materials."

### 26 SECTION 3.

27 Said chapter is further amended by striking in its entirety Code Section 45-9-103, relating  
 28 to payment of compensation with respect to temporary disability of certain public safety  
 29 employees, and inserting in lieu thereof a new Code Section 45-9-103 to read as follows:

30 "45-9-103.

31 (a) Any law enforcement officer who becomes physically disabled, but not permanently  
 32 disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the  
 33 line of duty and caused by a willful act of violence committed by a person other than a  
 34 fellow employee shall be entitled to receive compensation as provided in this Code section.  
 35 Any ~~fireman~~ firefighter who becomes physically disabled, but not permanently disabled,  
 36 on or subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty

1 while fighting a fire shall be entitled to receive compensation as provided in this Code  
 2 section. The compensation shall be paid to eligible applicants by the commission from  
 3 funds appropriated to the commission for such purpose.

4 (b) Except as otherwise provided in this part, any law enforcement officer or ~~fireman~~  
 5 firefighter injured in the line of duty as provided in subsection (a) of this Code section shall  
 6 receive monthly compensation from the commission in an amount equal to such person's  
 7 regular compensation for the period of time that the law enforcement officer or ~~fireman~~  
 8 firefighter is physically unable to perform the duties of his or her employment; provided,  
 9 however, that such benefits provided pursuant to this Code section for injuries resulting  
 10 from a single incident shall not be granted for more than a total of 12 months. A law  
 11 enforcement officer or ~~fireman~~ firefighter shall be required to submit to the commission  
 12 satisfactory evidence of such disability.

13 (c) Benefits made available under this Code section shall be subordinate to any workers'  
 14 compensation benefits, disability and other compensation benefits from the person's  
 15 employer which the law enforcement officer or ~~fireman~~ firefighter is awarded and shall be  
 16 limited to the difference between the amount of workers' compensation benefits and other  
 17 compensation benefits actually paid and the amount of the law enforcement officer's or  
 18 ~~fireman's~~ firefighter's regular compensation.

19 (d) A law enforcement officer or ~~fireman~~ firefighter who collects benefits pursuant to this  
 20 Code section shall not be entitled to any benefits under Code Section 45-7-9.

21 (e) A law enforcement officer or ~~fireman~~ firefighter who is disabled and who receives  
 22 indemnification under Part 1 of this article as a result of an incident shall not be entitled to  
 23 any compensation under this Code section for the disability resulting from the same  
 24 incident. A law enforcement officer or ~~fireman~~ firefighter who initially receives benefits  
 25 under this Code section but who is determined subsequently to be entitled to benefits under  
 26 Part 1 of this article with respect to the same incident or whose beneficiary is determined  
 27 subsequently to be entitled to benefits under Part 1 of this article shall be entitled only to  
 28 the amount equal to the benefits to which the person would be entitled to under Part 1  
 29 reduced by the total amount of benefits received under this Code section."

#### 30 SECTION 4.

31 The Official Code of Georgia Annotated is amended by striking from the following Code  
 32 sections the terms "fireman" and "firemen" wherever the same shall occur and inserting in  
 33 lieu thereof, respectively, the terms "firefighter" and "firefighters":

34 (1) Code Section 8-2-51, relating to inspection of buildings and notifying owners  
 35 regarding noncompliance with requirements relating to fire escapes;

- 1 (2) Code Section 16-10-24, relating to the offense of hindering certain public safety  
2 employees;
- 3 (3) Code Section 16-10-30, relating to the offense of refusal to obey official request at  
4 fire or other emergency;
- 5 (4) Code Section 17-10-30, relating to procedure for imposition of death penalty  
6 generally;
- 7 (5) Code Section 20-3-451, relating to definitions applicable under Subpart 7 of Part 3  
8 of Article 7 of Chapter 3 of Title 20, relating to grants to children of law enforcement  
9 officers, firefighters, and prison guards;
- 10 (6) Code Section 20-3-453, relating to eligibility for grants to children of law  
11 enforcement officers, firefighters, and prison guards;
- 12 (7) Code Section 25-4-9, relating to completion of basic firefighter training course and  
13 establishment of requirements for course;
- 14 (8) Code Section 25-7-2, relating to the creation of the Georgia Fire Academy;
- 15 (9) Code Section 31-22-9.1, relating to HIV tests and who may perform tests;
- 16 (10) Code Section 34-3-1, relating to the hours of labor in cotton or woolen  
17 manufacturing establishments;
- 18 (11) Code Section 40-1-1, relating to definitions applicable to Title 40;
- 19 (12) Code Section 40-6-2, relating to obedience to authorized persons directing traffic;
- 20 (13) Code Section 42-1-6, relating to injury or contact by inmate presenting possible  
21 threat of transmission of communicable disease;
- 22 (14) Code Section 42-5-85, relating to leave privileges of inmates serving murder  
23 sentences;
- 24 (15) Code Section 45-7-9, relating to compensation for line-of-duty injuries of full-time  
25 state employees;
- 26 (16) Code Section 45-9-82, relating to establishment of indemnification program for  
27 certain public safety employees;
- 28 (17) Code Section 45-9-84.2, relating to the Georgia State Indemnification Fund and  
29 authorization for appropriation of moneys to the fund;
- 30 (18) Code Section 45-9-85, relating to payment of indemnification for death or disability  
31 generally of certain public safety employees;
- 32 (19) Code Section 45-9-86, relating to application for indemnification with respect to  
33 certain public safety employees;
- 34 (20) Code Section 45-9-86.2, relating to time limitation on applications for  
35 indemnification with respect to certain public safety employees permanently disabled due  
36 to organic brain damage;

- 1 (21) Code Section 45-9-101, relating to the purpose of Part 2 of Article 5 of Chapter 9  
2 of Title 45 with respect to payment of compensation to certain public safety employees  
3 for temporary disability;
- 4 (22) Code Section 45-9-104, relating to submission of application for payment of  
5 compensation to certain public safety employees for temporary disability;
- 6 (23) Code Section 45-9-105, relating to effect of penal violations with respect to  
7 payment of compensation to certain public safety employees for temporary disability; and
- 8 (24) Code Section 45-10-25, relating to exceptions to prohibitions on transactions with  
9 state agencies.

10 **SECTION 5.**

11 This Act shall become effective on July 1, 2002.

12 **SECTION 6.**

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