

Senate Bill 218

By: Senators Mullis of the 53rd, Cagle of the 49th, Collins of the 6th and Kemp of the 46th

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 law enforcement officers, firefighters, prison guards, and publicly employed
3 emergency medical technicians, so as to provide for indemnification for 911 operators or
4 dispatchers and state or local emergency management agency employees, not otherwise
5 employed as a law enforcement officer, firefighter, emergency medical technician,
6 emergency management rescue specialist, or 911 employee, who are killed or permanently
7 disabled in the line of duty; to add the director of the Georgia Emergency Management
8 Agency to the Georgia State Indemnification Commission; to provide for related matters; to
9 provide for an effective date and automatic repeal under certain conditions; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to law
14 enforcement officers, firefighters, prison guards, and publicly employed emergency medical
15 technicians, is amended by striking paragraph (5) of Code Section 45-9-81, relating to
16 definitions, and inserting in lieu thereof a new paragraph (5) and new paragraphs (1.1) and
17 (6.1) to read as follows:

18 "(1.1) 'Emergency management agency employee' means an individual employed by a
19 state or local emergency management agency who is not otherwise employed as a law
20 enforcement officer, firefighter, emergency medical technician, emergency management
21 rescue specialist, or 911 employee."

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

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

1 (B) With respect to a firefighter, while on duty and when responding to or returning
2 from a fire or other emergency or performing duties during any fire or other emergency
3 or performing duties intended to protect life and property;

4 (C) With respect to a law enforcement officer or firefighter, while on duty and
5 performing services for and receiving compensation from the law enforcement and fire
6 service agency which employs such officer or firefighter, while off duty when
7 responding to any situation which would save a life or preserve the peace, or while
8 preventing or attempting to prevent the commission of a crime or fire. A law
9 enforcement officer or firefighter who is performing duties for and receiving
10 compensation from a private employer at the time of such officer's or firefighter's death
11 or bodily injury causing permanent disability shall not be considered in the line of duty
12 unless the officer or firefighter has left the scope of his or her employment for the
13 private employer for the direct purpose of enforcing or attempting to enforce fire
14 service, the criminal or traffic laws, preserving or attempting to preserve public order,
15 protecting or attempting to protect life or property, performing active state service as
16 a member of the Georgia National Guard, preventing or attempting to prevent a crime,
17 detecting or attempting to detect crime, or investigating or attempting to investigate
18 crime. The determination that a law enforcement officer or firefighter was killed or
19 permanently disabled in the line of duty and is entitled to indemnification pursuant to
20 this part shall not be considered in the determination of the entitlement of such officer
21 to workers' compensation, disability, health, or other benefits from such officer's or
22 firefighter's public or private employer;

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

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

30 (F) With respect to a 911 employee, while on duty and performing law enforcement,
31 fire, or other emergency operator or dispatch services for and receiving compensation
32 from a state or local government; or

33 (G) With respect to an emergency management agency employee, while on duty and
34 performing services for and receiving compensation from a state or local emergency
35 management agency."

1 "(6.1) '911 employee' means an individual employed as a law enforcement, fire, or other
 2 emergency operator or dispatcher by a state or local law enforcement, fire, or other
 3 emergency response agency."

4 SECTION 2.

5 Said chapter is further amended by striking subsection (a) of Code Section 45-9-82, relating
 6 to the establishment of an indemnification program, and inserting in lieu thereof a new
 7 subsection (a) to read as follows:

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

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

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

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

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

18 (5) Death or permanent disability of any state highway employee who is killed or
 19 permanently disabled in the line of duty on or after January 1, 1990;

20 (6) Death or permanent disability of any 911 employee who is killed or permanently
 21 disabled in the line of duty on or after January 1, 2005; and

22 (7) Death or permanent disability of any emergency management agency employee who
 23 is killed or permanently disabled in the line of duty on or after January 1, 2005."

24 SECTION 3.

25 Said chapter is further amended by striking Code Section 45-9-83, relating to the Georgia
 26 State Indemnification Commission, and inserting in lieu thereof a new Code Section 45-9-83
 27 to read as follows:

28 "45-9-83.

29 There is created the Georgia State Indemnification Commission which shall be composed
 30 of the Governor, the Secretary of State, the Commissioner of Insurance, the commissioner
 31 of public safety, the commissioner of transportation, the commissioner of corrections, the
 32 commissioner of human resources, the director of the Georgia Emergency Management
 33 Agency, the president of the Peace Officers' Association of Georgia, and the president of
 34 the Georgia State Firemen's Association. The Governor shall be the chairperson of the

1 commission and the commission shall be assigned to the Department of Administrative
2 Services for administrative purposes."

3 **SECTION 4.**

4 Said chapter is further amended by striking Code Section 45-9-84.2, relating to the Georgia
5 State Indemnification Fund, and inserting in lieu thereof a new Code Section 45-9-84.2 to
6 read as follows:

7 "45-9-84.2.

8 The General Assembly is authorized to appropriate funds to be placed in the Georgia State
9 Indemnification Fund for the purpose of providing for indemnification with respect to the
10 death or disability of any law enforcement officer, firefighter, or prison guard who is or has
11 been killed or permanently disabled in the line of duty subsequent to January 1, 1973; ~~the~~
12 death or disability of any emergency medical technician who is killed or permanently
13 disabled or has been killed or permanently disabled in the line of duty subsequent to
14 January 1, 1977; ~~the~~ death or disability of any emergency management rescue specialist
15 who is killed or permanently disabled on or after January 1, 1991, ~~and~~ ~~the~~ death or
16 disability of any state highway employee who is or has been killed or permanently disabled
17 in the line of duty subsequent to January 1, 1990; and the death or disability of any 911
18 employee or emergency management agency employee who has been killed or permanently
19 disabled in the line of duty on or after January 1, 2005, as well as defraying the expenses
20 and costs incurred by the commission in the administration of this part. In addition, the
21 Department of Administrative Services is authorized to accept for deposit in the Georgia
22 State Indemnification Fund any other funds from any other source. All funds appropriated
23 to the Georgia State Indemnification Fund shall be presumptively concluded to have been
24 committed to the purpose for which they have been appropriated and shall not lapse."

25 **SECTION 5.**

26 Said chapter is further amended by striking subsections (a) and (c) of Code Section 45-9-85,
27 relating to payment of indemnification for death or disability generally, and inserting in lieu
28 thereof new subsections (a) and (c) to read as follows:

29 "(a) The indemnification shall be paid by the commission when a law enforcement officer,
30 firefighter, emergency medical technician, emergency management rescue specialist, prison
31 guard, 911 employee, emergency management agency employee, or state highway
32 employee who in the line of duty:

33 (1) Is killed or receives bodily injury which results in death within 12 months thereafter,
34 if such death does not occur from natural causes while performing routine duties which
35 would not be strenuous or dangerous if performed by citizens who are not law

1 enforcement officers, firefighters, emergency medical technicians, emergency
 2 management rescue specialists, prison guards, 911 employees, emergency management
 3 agency employees, or state highway employees, and if such death is not the result of
 4 suicide and if such bodily injury is not intentionally self-inflicted; or

5 (2) Is permanently disabled, if the permanent disability does not occur from natural
 6 causes while performing routine duties which would not be strenuous or dangerous if
 7 performed by citizens who are not law enforcement officers, firefighters, emergency
 8 medical technicians, emergency management rescue specialists, prison guards, 911
 9 employees, emergency management agency employees, or state highway employees, and
 10 if the permanent disability is not intentionally self-inflicted."

11 "(c) After determining that a law enforcement officer, firefighter, emergency medical
 12 technician, emergency management rescue specialist, prison guard, 911 employee,
 13 emergency management agency employee, or state highway employee has been killed or
 14 permanently disabled in the line of duty and that he or she or his or her estate beneficiary
 15 is entitled to indemnification under this part, the commission, within ten days after such
 16 determination, shall forward a certified copy of the order granting such payment, which
 17 order shall include the person to whom such payment shall be made and the method of
 18 payment, to the commissioner of administrative services who is authorized to make the
 19 appropriate payments from funds appropriated or otherwise made available for the purpose
 20 of carrying out this part."

21 **SECTION 6.**

22 Said chapter is further amended by adding a new subsection (h) to Code Section 45-9-86,
 23 relating to application for indemnification, to read as follows:

24 "(h) An application for indemnification with respect to the death or permanent disability
 25 of a 911 employee or emergency management agency employee who is killed or
 26 permanently disabled in the line of duty on or after January 1, 2005, must be made within
 27 24 months after the date of the death or disability."

28 **SECTION 7.**

29 This Act shall become effective on January 1, 2005, provided that a constitutional
 30 amendment adding 911 employees and emergency management agency employees to those
 31 individuals the Constitution authorizes the General Assembly to provide indemnification for
 32 in Article III, Section VI, Paragraph VI is passed by the General Assembly and is ratified by
 33 the electors of this state in the 2004 general election. If such amendment is not passed by the
 34 General Assembly or is not submitted to and ratified by the electors of this state in the 2004
 35 general election, this Act shall stand repealed by operation of law on January 1, 2005.

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SECTION 8.

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