

## SENATE SUBSTITUTE TO HB 48

AS PASSED SENATE

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 16-5-1 and Code Section 45-9-81 of the Official Code of Georgia  
 2 Annotated, relating to murder and felony murder and definitions relative to the Georgia State  
 3 Indemnification Fund, so as to change certain provisions of the Code when certain public  
 4 safety officers are killed; to change the punishment for murder when the victim is a peace  
 5 officer, corrections employee, provider of emergency medical services, or firefighter while  
 6 engaged in the performance of his or her official duties; to redefine certain terms; to provide  
 7 for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION .1.

9 Code Section 16-5-1 of the Official Code of Georgia Annotated, relating to murder and  
 10 felony murder, is amended by revising subsection (d) as follows:

11 "(d)(1) Except as provided in paragraph (2) of this subsection, a A person convicted of  
 12 the offense of murder shall be punished by death, by imprisonment for life without  
 13 parole, or by imprisonment for life.

14 (2) A person convicted of the offense of murder committed against any peace officer,  
 15 corrections employee, provider of emergency medical services, or firefighter while  
 16 engaged in the performance of his or her official duties shall be punished by death or by  
 17 imprisonment for life without parole.

18 (e) With regard to the offense of murder as described in paragraph (2) of subsection (d)  
 19 of this Code section, notwithstanding any other provision of law, if the prosecuting attorney  
 20 has given notice that the state intends to seek the death penalty pursuant to the Uniform  
 21 Rules of the Superior Courts, and the defendant is convicted and is not sentenced to death,  
 22 the defendant shall be sentenced to imprisonment for life without parole, and if the  
 23 prosecuting attorney does not seek the death penalty, and the defendant is convicted, the  
 24 defendant shall be sentenced to imprisonment for life without parole."  
 25

**SECTION 1.**

Code Section 45-9-81 of the Official Code of Georgia Annotated, relating to definitions relative to the Georgia State Indemnification Fund, is amended by revising paragraph (5) to read as follows:

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

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

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

(C) With respect to a law enforcement officer or firefighter, while on duty and performing services for and receiving with or without compensation from the law enforcement and fire service agency which employs such officer or firefighter, while off duty when responding to any situation which would save a life or preserve the peace, or while preventing or attempting to prevent the commission of a crime or fire. A law enforcement officer or firefighter who is performing duties for and receiving compensation from a private employer at the time of such officer's or firefighter's death or bodily injury causing permanent disability shall not be considered in the line of duty unless the officer or firefighter has left the scope of his or her employment for the private employer for the direct purpose of enforcing or attempting to enforce fire service, the criminal or traffic laws, preserving or attempting to preserve public order, protecting or attempting to protect life or property, performing active state service as a member of the Georgia National Guard, preventing or attempting to prevent a crime, detecting or attempting to detect crime, or investigating or attempting to investigate crime. The determination that a law enforcement officer or firefighter was killed or permanently disabled in the line of duty and is entitled to indemnification pursuant to this part shall not be considered in the determination of the entitlement of such officer to workers' compensation, disability, health, or other benefits from such officer's or firefighter's public or private employer;

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

(E) With respect to a state highway employee, while on duty and performing any work necessary for the construction, maintenance, or operation of a roadway on or within the public roads of the state as defined in paragraph (24) of Code Section 32-1-3 when such

1 employee is killed or permanently disabled as the result of working under hazardous  
2 conditions in close proximity to moving traffic or equipment."

### 3 SECTION 2.

4 Said Code section is further amended by striking paragraph (6) and inserting in lieu thereof  
5 the following:

6 "(6) 'Law enforcement officer' means any agent or officer of this state, ~~or~~ a political  
7 subdivision or municipality ~~thereof~~, of this state, an authority or instrumentality of this  
8 state, or a local authority created as a joint public instrumentality of municipalities or  
9 counties of this state, who, as a full-time or part-time employee, is enrolled in a basic  
10 training course for purposes of Code Section 35-8-9 in a school certified by the Georgia  
11 Peace Officer Standards and Training Council or is vested either expressly by law or by  
12 virtue of public employment or service with authority to enforce the criminal or traffic  
13 laws and whose duties include the preservation of public order, the protection of life and  
14 property, or the prevention, detection, or investigation of crime. Such term also includes  
15 the employees designated by the commissioner of juvenile justice of the Department of  
16 Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8,  
17 which employees have the duty to investigate and apprehend delinquent and unruly  
18 children who have escaped from a facility under the jurisdiction of the Department of  
19 Juvenile Justice or who have broken the conditions of supervision. Such term also  
20 includes members of the Georgia National Guard, the composition of which is set forth  
21 in Code Section 38-2-3, who have been called into active state service by the Governor."

### 22 SECTION 3.

23 Said Code section is further amended by revising subparagraph (B) of paragraph (4) as  
24 follows:

25 "(B) 'Firefighter' or 'fireman' shall also mean any individual serving as an officially  
26 recognized or designated member of a legally organized volunteer fire department or any  
27 employee of the Georgia Forestry Commission whose job duties include fire mitigation  
28 who performs any acts or actions while on duty or when responding to a fire or  
29 emergency during any fire or other emergency or while performing duties intended to  
30 protect life and property."

### 31 SECTION 4.

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