

House Bill 437

By: Representatives Hitchens of the 161st, Lumsden of the 12th, Vance of the 133rd, McCollum of the 30th, and Crowe of the 118th

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 abolish the Georgia
3 State Indemnification Commission and authorize the commissioner of administrative services
4 to assume the duties of said commission in the administration of the indemnification program
5 and in considering appeals of initial decisions in order to correct errors in approving or
6 denying any claims; to revise and provide for definitions; to provide for indemnification of
7 certain candidates who are killed or permanently disabled while performing activities
8 required as part of the certification or licensure process; to authorize the department to
9 promulgate rules and regulations regarding the process and procedures for review and appeal
10 of initial decisions; to provide for judicial review of final decisions of the commissioner; to
11 require the department to file a report regarding the indemnification program; to provide for
12 related matters; to repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to insuring and
16 indemnification of public officers and employees, is amended by revising Article 5, relating

H. B. 437

17 to law enforcement officers, firemen, prison guards, an publicly employed emergency
 18 medical technicians, as follows:

19 "Article 5

20 Part 1

21 45-9-80.

22 Reserved.

23 45-9-81.

24 As used in this part, the term:

25 (1) 'Candidate' means any individual who is employed, either full-time or part-time by
 26 any municipal, county, or state government, or an instrumentality of the state, and is
 27 participating in a state mandated training program that is intended to result, upon the
 28 completion thereof, in the certification or licensure of such individual as a public safety
 29 officer.

30 ~~(1)(2)~~ 'Commissioner' means the commissioner of administrative services ~~'Commission'~~
 31 ~~means the Georgia State Indemnification Commission.~~

32 ~~(2)(3)~~ 'Department' means the Department of Administrative Services.

33 ~~(3)(4)~~ 'Emergency management rescue specialist' means any person licensed as an
 34 emergency management rescue specialist pursuant to Code Section 38-3-36.

35 ~~(4)(5)~~ 'Emergency medical technician' includes only persons who:

36 (A) Are certified as emergency medical technicians, paramedics, or cardiac technicians
 37 under Chapter 11 of Title 31; and

38 (B) Are employed in the capacity for which they are so certified by a department,
 39 agency, authority, or other instrumentality of state or local government.

40 ~~(5)~~(6)(A) 'Firefighter' means any person who is employed as a professional firefighter
41 on a full-time or part-time basis by any municipal, county, or state government fire
42 department employing three or more firefighters and who has the responsibility of
43 preventing and suppressing fires, protecting life and property, enforcing municipal,
44 county, and state fire prevention codes, enforcing any law pertaining to the prevention
45 and control of fires or who performs any acts or actions while on duty or when
46 responding to a fire or emergency during any fire or other emergency or while
47 performing duties intended to protect life and property.

48 (B) ~~'Firefighter'~~ Such term shall also mean any individual serving as an officially
49 recognized or designated member of a legally organized volunteer fire department, or
50 any employee of the State Forestry Commission whose job duties include fire
51 mitigation, who performs any acts or actions while on duty or when responding to a fire
52 or emergency during any fire or other emergency or while performing duties intended
53 to protect life and property.

54 (C) ~~'Firefighter'~~ Such term shall also mean any individual employed by a person or
55 corporation which has a contract with a municipal corporation or county to provide fire
56 prevention and fire-fighting services to such municipal corporation or county and any
57 such individual is employed on a full-time basis of at least 40 hours per week and has
58 the responsibility of preventing and suppressing fires, protecting life and property,
59 enforcing municipal or county fire prevention codes, enforcing any municipal or county
60 ordinances pertaining to the prevention and control of fires or who performs any acts
61 or actions while on duty or when responding to a fire or emergency during any fire or
62 other emergency or while performing duties intended to protect life and property.

63 ~~(6)~~(7) 'In the line of duty' means:

64 (A) With respect to an emergency medical technician or an emergency management
65 rescue specialist, while on duty and when responding to or returning from an

66 emergency or performing duties at the scene of an emergency or transporting a person
 67 to a medical facility for emergency treatment or returning therefrom;

68 (B) With respect to a volunteer firefighter, while on duty and when responding to or
 69 returning from a fire or other emergency or performing duties during any fire or other
 70 emergency or performing duties intended to protect life and property, including,
 71 without limitation, actual participation in a training exercise;

72 (C) With respect to a law enforcement officer or firefighter, while on duty and
 73 performing services for and receiving compensation from the law enforcement and fire
 74 service agency which employs such officer or firefighter, while off duty when
 75 responding to any situation which would save a life or preserve the peace, or while
 76 preventing or attempting to prevent the commission of a crime or fire. A law
 77 enforcement officer or firefighter who is performing duties for and receiving
 78 compensation from a private employer at the time of such officer's or firefighter's death
 79 or bodily injury causing total permanent disability or partial permanent disability shall
 80 not be considered in the line of duty if the officer or firefighter is entitled to workers'
 81 compensation benefits from the private employer or the private employer's insurer;

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

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

89 (F) With respect to a candidate, while engaging in an activity or exercise that itself is
 90 a formal or required part of the program in which the candidate is enrolled or admitted.

91 Such term shall not mean commuting to or from work or commuting to or from training.

92 ~~(7)~~(8) 'Law enforcement officer' means any agent or officer of this state, a political
93 subdivision or municipality of this state, or an authority of this state or a political
94 subdivision of this state who, as a full-time or part-time employee, is vested either
95 expressly by law or by virtue of public employment or service with authority to enforce
96 the criminal or traffic laws with the power of arrest and whose duties include the
97 preservation of public order, the protection of life and property, or the prevention,
98 detection, or investigation of crime. Such term also includes the employees designated
99 by the commissioner of juvenile justice pursuant to paragraph (2) of subsection (i) of
100 Code Section 49-4A-8 who have the duty to investigate and apprehend delinquent
101 children, or the supervision of delinquent children under intensive supervision in the
102 community, and any child with a pending juvenile court case alleging the child to be a
103 child in need of services who has escaped from a facility under the jurisdiction of the
104 Department of Juvenile Justice or who has broken the conditions of supervision. Such
105 term also includes members of the Georgia National Guard and the State Defense Force,
106 the composition of which is set forth in Code Section 38-2-3, who have been called into
107 active state service by the Governor.

108 ~~(8)~~(9) 'Organic brain damage' means direct physical trauma to the brain which so affects
109 the mental capacity as to preclude function productively in any employment.

110 ~~(9)~~(10) 'Partial permanent disability' means disability due to:

- 111 (A) Loss of the use of one eye or blindness in one eye with only light perception;
112 (B) Loss of one hand;
113 (C) Loss of one leg; or
114 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
115 which so affects the functions of balance or propulsion as to preclude locomotion
116 without the use of a wheelchair for all but very short distances.

117 ~~(10)~~(11) 'Prison guard' means any person employed by the state or any political
118 subdivision thereof whose principal duties relate to the supervision and incarceration of

119 persons accused or convicted of the violation of the criminal laws of this state or any
 120 political subdivision thereof. Such term shall also mean any community supervision
 121 officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia Peace
 122 Officer Standards and Training Act,' and whose principal duties directly relate to the
 123 supervision of probationers or parolees. Such term also means any person employed by
 124 the state or any political subdivision thereof whose principal duties include the
 125 supervision of youth who are charged with or adjudicated for an act which if committed
 126 by adults would be considered a crime.

127 (12) 'Public safety officer' means a law enforcement officer, firefighter, emergency
 128 medical technician, emergency management rescue specialist, state highway employee,
 129 or prison guard.

130 ~~(11)~~(13) 'State highway employee' means an employee of the Georgia Department of
 131 Transportation who receives compensation directly therefrom and regularly engages in
 132 duties necessary for the construction, maintenance, or operation of roadways on or within
 133 the public roads of this state as defined in paragraph (24) of Code Section 32-1-3.

134 ~~(12)~~(14) 'Total permanent disability' means disability due to:

- 135 (A) Loss of both eyes or blindness in both eyes with only light perception;
- 136 (B) Loss or loss of use of both hands;
- 137 (C) Loss or loss of use of both legs;
- 138 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
 139 which so affects the functions of balance or propulsion as to preclude locomotion
 140 without resort to a wheelchair at all times; or
- 141 (E) Organic brain damage.

142 45-9-82.

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

- 144 (1) Death of any law enforcement officer, firefighter, or prison guard who is or has been
145 killed in the line of duty subsequent to January 1, 1973;
- 146 (2) Permanent disability of any law enforcement officer, firefighter, or prison guard who
147 is or has been permanently disabled in the line of duty subsequent to January 1, 1973;
- 148 (3) Death or permanent disability of any emergency medical technician who is killed or
149 permanently disabled or who has been killed or permanently disabled in the line of duty
150 subsequent to January 1, 1977;
- 151 (4) Death or permanent disability of any emergency management rescue specialist who
152 is killed or permanently disabled on or after January 1, 1991; and
- 153 (5) Death or permanent disability of any state highway employee who is killed or
154 permanently disabled in the line of duty on or after January 1, 1990; and
- 155 (6) Death or permanent disability of any candidate who is killed or permanently disabled
156 in the line of duty on or after July 1, 2023.
- 157 (b) Such program shall be administered by the department, ~~subject to review by the~~
158 ~~commission.~~

159 45-9-83.

160 ~~There is created the Georgia State Indemnification Commission which shall be composed~~
161 ~~of the Governor, the executive director of the Peace Officer Standards and Training~~
162 ~~Council, the executive director of the Georgia Firefighter Standards and Training Council,~~
163 ~~the commissioner of public safety, the commissioner of transportation, the commissioner~~
164 ~~of corrections, the commissioner of community supervision, the commissioner of public~~
165 ~~health, one law enforcement officer who shall be a member of the Peace Officers'~~
166 ~~Association of Georgia appointed by the Governor from a list of five candidates provided~~
167 ~~by such organization, and one firefighter who shall be a member of the Georgia State~~
168 ~~Firemen's Association appointed by the Governor from a list of five candidates provided~~
169 ~~by such organization. The Governor shall be the chairperson of the commission, and the~~

170 ~~commission shall be assigned to the department for administrative purposes. The~~
171 ~~commission shall meet at least semiannually upon the call of the Governor. Reserved.~~

172 45-9-84.

173 The ~~commission~~ commissioner or his or her designee is authorized to consider appeals of
174 initial decisions of the department to correct errors made by the department in approving
175 or denying any claim filed pursuant to this article upon a written request for formal review.
176 The ~~commission~~ commissioner or his or her designee may modify or override the initial
177 decision of the department upon a showing of an error of material fact or an abuse of
178 discretion. The department shall be authorized to promulgate rules and regulations
179 regarding the process and procedure for requests for formal review and appeal of initial
180 decisions of the department. The department ~~and the commission~~ shall be authorized to
181 contact other state agencies for the purpose of using the personnel and resources of such
182 agencies to assist the ~~commission~~ commissioner or his or her designee in carrying out its
183 his or her duties under this article. Final decisions of the commissioner or his or her
184 designee may be appealed to superior court for judicial review as set forth in Chapter 3 of
185 Title 5, the 'Superior and State Court Appellate Practice Act.'

186 45-9-84.1.

187 There is created a fund to be known as the Georgia State Indemnification Fund. The
188 custodian of the Georgia State Indemnification Fund shall be the department. The
189 department shall administer the Georgia State Indemnification Fund and shall approve or
190 deny claims for compensation filed pursuant to this article; provided, however, that any
191 decision of the department shall be subject to review by the ~~commission~~ commissioner or
192 his or her designee as provided in Code Section 45-9-84. Any amounts held by the Georgia
193 State Indemnification Fund which are available for investment shall be paid over to the
194 Office of the State Treasurer. The state treasurer shall deposit such funds in a trust account

195 for credit only to the Georgia State Indemnification Fund. The state treasurer shall invest
196 such funds subject to the limitations of Code Section 50-5A-7 and Chapter 17 of Title 50.
197 All income derived from such investments shall accrue to the Georgia State
198 Indemnification Fund. When moneys are paid over to the Office of the State Treasurer, as
199 provided in this Code section, the commissioner or his or her designee shall submit an
200 estimate of the date such funds shall no longer be available for investment. When the
201 commissioner or his or her designee wishes to withdraw funds from the trust account
202 provided for in this Code section, he or she shall submit a request for such withdrawal, in
203 writing, to the state treasurer.

204 45-9-84.2.

205 (a) The General Assembly is authorized to appropriate funds to be placed in the Georgia
206 State Indemnification Fund for the purpose of providing for indemnification with respect
207 to ~~the~~:

208 (1) ~~The~~ death or disability of any law enforcement officer, firefighter, or prison guard
209 who is or has been killed or permanently disabled in the line of duty subsequent to
210 January 1, 1973, ~~the~~;

211 (2) ~~The~~ death or disability of any emergency medical technician who is killed or
212 permanently disabled or has been killed or permanently disabled in the line of duty
213 subsequent to January 1, 1977, ~~the~~;

214 (3) ~~The~~ death or disability of any emergency management rescue specialist who is killed
215 or permanently disabled on or after January 1, 1991, ~~and the~~;

216 (4) ~~The~~ death or disability of any state highway employee who is or has been killed or
217 permanently disabled in the line of duty subsequent to January 1, 1990, ~~as well as; and~~

218 (5) ~~The death or disability of any candidate who is or has been killed or permanently~~
219 disabled in the line of duty on or after July 1, 2023.

220 (b) Funds appropriated to the Georgia State Indemnification Fund shall also be used for
221 the purpose of defraying the expenses and costs incurred by the department ~~and the~~
222 ~~commission~~ in the administration of this part. In addition, the department is authorized to
223 accept for deposit in the Georgia State Indemnification Fund any other funds from any
224 other source. All funds appropriated to the Georgia State Indemnification Fund shall be
225 presumptively concluded to have been committed to the purpose for which they have been
226 appropriated and shall not lapse.

227 45-9-84.3.

228 The department is authorized, subject to the limitations contained in this part:

- 229 (1) To pay the appropriate indemnification to the persons eligible for indemnification
230 under this part from the proceeds of the Georgia State Indemnification Fund;
- 231 (2) To make such payments as may be necessary to defray the expenses and costs
232 incurred by the department ~~and the commission~~ in administering this part; and
- 233 (3) ~~With the approval of the commission, to~~ To utilize the resources of the Georgia State
234 Indemnification Fund to purchase insurance to provide for such indemnification.

235 45-9-85.

236 (a) As used in this Code section, the term:

- 237 (1) 'Nonroutine stressful or strenuous physical activity' means actions that are not
238 clerical, administrative, or nonmanual in nature.
- 239 (2) 'Public safety officer' means a law enforcement officer, firefighter, emergency
240 medical technician, emergency management rescue specialist, state highway employee,
241 ~~or~~ prison guard, or candidate.
- 242 (3) 'Work related activity' means, while in the line of duty:
- 243 (A) Engaging in a situation involving nonroutine stressful or strenuous physical
244 activity related to law enforcement, fire suppression, rescue, hazardous material

245 response, emergency medical services, prison or jail security, disaster relief, or any
246 other emergency response ~~as classified by the commission~~; or

247 (B) Participating in a training exercise involving nonroutine stressful or strenuous
248 physical activity.

249 (b) Indemnification shall be paid under this article as follows:

250 (1) In the case of a partial permanent disability suffered in the line of duty by a public
251 safety officer, the eligible disabled person may elect payment of \$35,000.00 paid in equal
252 monthly installments for five years or a lump sum of such amount reduced to its present
253 value upon the basis of interest calculated at the rate of 6 percent per annum;

254 (2) In the case of a total permanent disability suffered in the line of duty by a public
255 safety officer, the injured person may elect to receive a payment of \$75,000.00 paid in
256 equal monthly installments for five years or a lump sum of such amount reduced to its
257 present value upon the basis of interest calculated at the rate of 6 percent per annum;

258 (3)(A) In the case of death suffered in the line of duty by a public safety officer,
259 payment shall be made to:

260 (i) The surviving unremarried spouse;

261 (ii) The surviving children who are under the age of 19 or, if a student enrolled in an
262 institution of postsecondary education at the time of such death, under the age of 24;
263 or

264 (iii) Individuals not otherwise provided for under this subparagraph who are the
265 dependents of the spouse or deceased person as shown in the spouse's or deceased
266 person's most recent tax return.

267 (B) In the case of organic brain damage suffered in the line of duty by a ~~law~~
268 ~~enforcement officer, firefighter, emergency medical technician, emergency~~
269 ~~management specialist, state highway employee, or prison guard~~, public safety officer,
270 payment shall be made to the legal guardian of the organically brain damaged person.

271 (C) The surviving unremarried spouse, dependents, or the legal guardian may elect to
272 receive payment in a lump sum payment of \$150,000.00 paid in equal monthly
273 installments for five years or a lump sum of such amount reduced to its present value
274 upon the basis of interest calculated at the rate of 6 percent per annum; or

275 (4) A heart attack, stroke, or vascular rupture suffered by a public safety officer or
276 candidate shall be presumed to qualify such public safety officer under this subsection
277 if the heart attack, stroke, or vascular rupture:

278 (A) Commenced:

279 (i) While such public safety officer was performing work related activity;

280 (ii) While such public safety officer was on duty after performing work related
281 activity; or

282 (iii) Not later than 24 hours after performing work related activity; and

283 (B) Directly or proximately resulted in the death or partial or permanent disability of
284 the public safety officer, unless competent medical evidence established that the heart
285 attack, stroke, or vascular rupture was not related to the work related activity or was
286 directly or proximately caused by something other than the mere presence of
287 cardiovascular disease risk factors.

288 (c) After the department, or the ~~commission~~ commissioner or his or her designee upon
289 review of a denial by the department, determines that a public safety officer has suffered
290 a total permanent disability, a partial permanent disability, organic brain damage, or death
291 in the line of duty, the department shall be authorized to make the appropriate payments
292 as provided in subsection (b) of this Code section.

293 (d) If the department denies a claim, any person seeking benefits pursuant to this part may
294 appeal the department's decision to the ~~commission~~ commissioner or his or her designee.
295 Any such appeal shall be filed with the ~~commission~~ commissioner or his or her designee
296 within 60 days of receipt of the department's decision and shall identify the errors in the
297 department's decision. Appeals shall be considered by the ~~commission~~ at the commissioner's

298 ~~semiannual meeting~~ commissioner or his or her designee as provided in Code
299 Section 45-9-84.

300 45-9-86.

301 (a) As used in this Code section, the term 'public safety officer' shall have the same
302 meaning as provided in Code Section 45-9-85.

303 ~~(a)(b)~~ An application for indemnification with respect to a claim for total permanent
304 disability or partial permanent disability of a ~~law enforcement officer, firefighter, prison~~
305 ~~guard, emergency medical technician, emergency management rescue specialist, or state~~
306 ~~highway employee~~ public safety officer shall be submitted by that person unless the person
307 is mentally incompetent, in which case the application may be made on such person's
308 behalf by his or her legal guardian.

309 ~~(b)(c)~~ An application for indemnification with respect to a claim for the death of a ~~law~~
310 ~~enforcement officer, firefighter, prison guard, emergency medical technician, emergency~~
311 ~~management rescue specialist, or state highway employee~~ public service officer shall be
312 submitted by or on behalf of the surviving unremarried spouse or dependents eligible under
313 this part.

314 ~~(c)(d)~~ An application for indemnification with respect to death, organic brain damage, total
315 permanent disability, or partial permanent disability must be made within 24 months after
316 the date of the incident giving rise to the death, organic brain damage, or disability.

317 45-9-87.

318 It is the intent of the General Assembly that indemnification paid pursuant to this part shall
319 not be taxable within this state for any purpose.

320 45-9-88.

321 (a) No indemnification shall be awarded to any person otherwise entitled thereto who
322 violates a penal law of this state which violation caused or contributed to the death or
323 disability of the officer.

324 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
325 death, organic brain damage, total permanent disability, or partial permanent disability
326 occurs from suicide, intentionally self-inflicted injuries, natural causes, or the performance
327 of routine duties which would not be considered strenuous or dangerous by a reasonable
328 person, except as provided for in subsection (b) of Code Section 45-9-85.

329 45-9-89.

330 The ~~commission~~ department shall annually file a report of its activities regarding the
331 Georgia State Indemnification Fund with the General Assembly, which report shall include
332 the amount of funds paid under the program of indemnification. ~~It~~ Such report shall also
333 include a copy of each order providing for payment or a summary of each such order
334 giving all pertinent details.

335 45-9-90.

336 (a) Any person who shall knowingly give false information or false testimony causing or
337 intended to cause the payment of indemnification which would not otherwise be justified
338 under this part shall be guilty of a misdemeanor.

339 (b) Any such person convicted under subsection (a) of this Code section shall be liable to
340 the state for any funds paid as a result of such false information or testimony.

341 Part 2

342 45-9-100.

343 The purpose of this part is to implement the constitutional amendment ratified
344 November 7, 2000, authorizing the General Assembly to provide a program of
345 compensation for law enforcement officers who become physically disabled, but not
346 permanently disabled, as a result of physical injury incurred in the line of duty and caused
347 by a willful act of violence and for firefighters who become physically disabled, but not
348 permanently disabled, as a result of physical injury incurred in the line of duty while
349 fighting a fire, which program shall entitle an injured law enforcement officer or firefighter
350 to receive monthly compensation from the state in an amount equal to such person's regular
351 compensation for the period of time that the law enforcement officer or firefighter is
352 physically unable to perform the duties of his or her employment, not exceeding 12
353 months, and to provide certain exceptions and limitations with respect to such program of
354 compensation.

355 45-9-101.

356 As used in this part, the term:

357 (1) ~~'Commission' means the Georgia State Indemnification Commission created in Code~~
358 ~~Section 45-9-83~~ 'Commissioner' means the commissioner of administrative services.

359 (2) 'Department' means the Department of Administrative Services.

360 (3) 'Firefighter' means:

361 (A) Any person who is employed as a professional firefighter on a full-time or
362 part-time basis by any municipal, county, or state government fire department certified
363 in writing by the Georgia Firefighter Standards and Training Council pursuant to Code
364 Section 25-3-22 employing three or more firefighters and who has the responsibility of
365 preventing and suppressing fires, protecting life and property, enforcing municipal,

366 county, and state fire prevention codes, enforcing any law pertaining to the prevention
367 and control of fires or who performs any acts or actions while on duty or when
368 responding to a fire or emergency during any fire or other emergency or while
369 performing duties intended to protect life and property;

370 (B) Any individual serving as an officially recognized or designated member of a
371 legally organized volunteer fire department certified in writing by the Georgia
372 Volunteer Fire Service Council pursuant to Code Section 25-3-22 who performs any
373 acts or actions while on duty and when responding to a fire or emergency during any
374 fire or other emergency or while performing duties intended to protect life and property;

375 or

376 (C) Any employee at the State Forestry Commission whose job duties include fire
377 mitigation.

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

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

380 (A) With respect to a volunteer firefighter, while on duty and performing duties during
381 any fire or other emergency or performing duties intended to protect life and property;

382 or

383 (B) With respect to a law enforcement officer or firefighter, while on duty and
384 performing services for and receiving compensation from the law enforcement or fire
385 service agency which employs such officer or firefighter, while off duty and responding
386 to any situation which would save a life or preserve the peace, or while preventing or
387 attempting to prevent the commission of a crime or fire. A law enforcement officer or
388 firefighter who is performing duties for and receiving compensation from a private
389 employer at the time of such officer's or firefighter's bodily injury, but not permanent
390 disability, shall not be considered in the line of duty if the officer or firefighter is
391 entitled to workers' compensation benefits from the private employer or the private
392 employer's insurer.

393 (6) 'Injured in the line of duty' means an injury which arises out of or in the course of
394 employment in the line of duty; or, with respect to a firefighter of a legally organized
395 volunteer fire department, such term means an injury while on duty and when responding
396 to a fire or emergency with the volunteer fire department during any fire or other
397 emergency or while performing duties intended to protect life and property. Going to or
398 from work shall not be considered in the line of duty; and going to a legally organized
399 volunteer fire department to begin a service of duty or traveling from such a fire
400 department after duties have been completed or traveling from the scene of a fire,
401 emergency, or other location where duties were being performed and have been
402 completed shall not be considered in the line of duty.

403 (7) 'Law enforcement officer' means any agent or officer of this state, or a political
404 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
405 either expressly by law or by virtue of public employment or service with authority to
406 enforce the criminal or traffic laws and whose duties include the preservation of public
407 order, the protection of life and property, or the prevention, detection, or investigation of
408 crime. Such term also includes the employees designated by the commissioner of
409 community supervision who have the duty to supervise children adjudicated for a Class
410 A designated felony act or Class B designated felony act after release from restrictive
411 custody, as such terms are defined in Code Section 15-11-2, and the commissioner of
412 juvenile justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8 who
413 have the duty to investigate and apprehend delinquent children, or the supervision of
414 delinquent children under intensive supervision in the community, and any child with a
415 pending juvenile court case alleging the child to be a child in need of services who has
416 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or
417 who has broken the conditions of supervision. Such term also includes members of the
418 Georgia National Guard, the composition of which is set forth in Code Section 38-2-3,
419 who have been called into active state service by the Governor.

420 (8) 'Volunteer firefighter' means a person who is appointed and regularly enrolled as a
421 volunteer with a legally organized fire department; who, as a volunteer firefighter, has
422 and primarily performs the principal responsibility of preventing or suppressing fires; and
423 who satisfies the requirements specified in subparagraph (a)(1)(D) of Code
424 Section 25-3-23.

425 45-9-102.

426 (a) Any law enforcement officer who becomes physically disabled, but not permanently
427 disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the
428 line of duty and caused by a willful act of violence committed by a person other than a
429 fellow employee shall be entitled to receive compensation as provided in this Code section.
430 Any firefighter who becomes physically disabled, but not permanently disabled, on or
431 subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty while
432 fighting a fire shall be entitled to receive compensation as provided in this Code section.
433 The compensation shall be paid to eligible applicants by the ~~commission~~ department from
434 funds appropriated to the ~~commission~~ Georgia State Indemnification Fund for such
435 purpose.

436 (b) Except as otherwise provided in this part, any law enforcement officer or firefighter
437 injured in the line of duty as provided in subsection (a) of this Code section shall receive
438 monthly compensation from the department in an amount equal to such person's regular
439 compensation for the period of time that the law enforcement officer or firefighter is
440 physically unable to perform the duties of his or her employment; provided, however, that
441 such benefits provided pursuant to this Code section for injuries resulting from a single
442 incident shall not be granted for more than a total of 12 months. For purposes of this
443 subsection, the regular compensation of a volunteer firefighter covered under subparagraph
444 (B) of paragraph (3) of Code Section 45-9-101 shall be deemed to be the Georgia average
445 weekly earnings of production workers in manufacturing industries for the immediately

446 preceding calendar year as published by the Georgia Department of Labor. A law
447 enforcement officer or firefighter shall be required to submit to the department satisfactory
448 evidence of such disability. A volunteer firefighter shall not be considered disabled once
449 he or she is able to perform the duties of his or her regular employment or equivalent
450 thereof.

451 (c) Benefits made available under this Code section shall be subordinate to any workers'
452 compensation benefits, disability and other compensation benefits from the person's
453 employer which the law enforcement officer or firefighter is awarded and shall be limited
454 to the difference between the amount of workers' compensation benefits and other
455 compensation benefits actually paid and the amount of the law enforcement officer's or
456 firefighter's regular compensation; provided, however, that benefits shall never exceed the
457 person's regular compensation minus the maximum weekly workers' compensation benefit
458 level for that person whether or not workers' compensation is available. For the purposes
459 of this subsection, the regular compensation of a firefighter ~~covered~~ as defined under
460 subparagraph ~~(2)~~(B) of paragraph (3) of Code Section 45-9-102 45-9-101 shall be deemed
461 to be the Georgia average weekly earnings of production workers in manufacturing
462 industries for the immediately preceding calendar year as published by the Georgia
463 Department of Labor.

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

466 (e) A law enforcement officer or firefighter who is disabled and who receives
467 indemnification under Part 1 of this article as a result of an incident shall not be entitled to
468 any compensation under this Code section for the disability resulting from the same
469 incident. A law enforcement officer or firefighter who initially receives benefits under this
470 Code section but who is determined subsequently to be entitled to benefits under Part 1 of
471 this article with respect to the same incident or whose beneficiary is determined
472 subsequently to be entitled to benefits under Part 1 of this article shall be entitled only to

473 the amount equal to the benefits to which the person would be entitled under Part 1 reduced
474 by the total amount of benefits received under this Code section.

475 (f) After the department, or the ~~commission~~ commissioner or his or her designee upon
476 review of a denial by the department, determines that a law enforcement officer has been
477 temporarily disabled due to a willful act of violence or that a firefighter has been
478 temporarily disabled while fighting a fire and is entitled to indemnification under this part,
479 the department shall be authorized to make the appropriate payments to the temporarily
480 disabled law enforcement officer or firefighter.

481 (g) If the department denies a claim, any person seeking benefits pursuant to this part may
482 appeal the department's decision to the ~~commission~~ commissioner or his or her designee.
483 Any such appeal shall be filed with the ~~commission~~ commissioner or his or her designee
484 within 60 days of receipt of the department's decision and shall identify the errors in the
485 department's decision. Appeals shall be considered by the ~~commission at the commission's~~
486 ~~semiannual meeting~~ commissioner or his or her designee as provided in Code
487 Section 45-9-84.

488 45-9-103.

489 An application for compensation with respect to a claim filed on or after July 1, 2001, for
490 the temporary disability of a law enforcement officer or firefighter shall be submitted by
491 that person within 60 days from the date of the incident resulting in disability.

492 45-9-104.

493 (a) No compensation shall be awarded to any person otherwise entitled thereto who
494 violates a penal law of this state which violation caused or contributed to the disability of
495 the law enforcement officer or firefighter.

496 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
497 disability occurs from intentionally self-inflicted injuries or natural causes or while

498 performing routine duties which would not be strenuous or dangerous if performed by
499 persons of average physical abilities.

500 45-9-105.

501 (a) Any person who shall knowingly give false information or false testimony causing or
502 intending to cause the payment of compensation which would not otherwise be justified
503 under this part shall be guilty of a misdemeanor.

504 (b) Any such person convicted under subsection (a) of this Code section shall be liable to
505 the state for any funds paid as a result of such false information or testimony."

506 **SECTION 2.**

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