

Senate Bill 60

By: Senators Thompson of the 14th, Albers of the 56th, Mullis of the 53rd, Robertson of the 29th, Payne of the 54th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia
2 Annotated, relating to the Georgia State Indemnification Fund, so as revise when
3 indemnification shall be paid in instances of a heart attack, stroke, or vascular rupture
4 suffered by a public safety officer resulting in certain disabilities or death; to provide for
5 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated,
9 relating to the Georgia State Indemnification Fund, is amended by revising Code Section
10 45-9-85, relating to payment of indemnification for death or disability, procedure for making
11 payments, and appeal, as follows:

12 "45-9-85.

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

14 (1) 'Nonroutine stressful or strenuous physical activity' means actions that are not
15 clerical, administrative, or nonmanual in nature.

16 (2) 'Public safety officer' means a law enforcement officer, firefighter, emergency
17 medical technician, emergency management rescue specialist, state highway employee,
18 or prison guard.

19 (3) 'Work related activity' means, while in the line of duty:

20 (A) Engaging in a situation involving nonroutine stressful or strenuous physical
21 activity related to law enforcement, fire suppression, rescue, hazardous material
22 response, emergency medical services, prison or jail security, disaster relief, or any
23 other emergency response as classified by the commission; or

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

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

27 (1) In the case of a partial permanent disability suffered in the line of duty by a ~~law~~
28 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
29 ~~rescue specialist, state highway employee, or prison guard~~ public safety officer, the
30 eligible disabled person may elect payment of \$35,000.00 paid in equal monthly
31 installments for five years or a lump sum of such amount reduced to its present value
32 upon the basis of interest calculated at the rate of 6 percent per annum;

33 (2) In the case of a total permanent disability suffered in the line of duty by a ~~law~~
34 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
35 ~~rescue specialist, state highway employee, or prison guard~~ public safety officer, the
36 injured person may elect to receive a payment of \$75,000.00 paid in equal monthly
37 installments for five years or a lump sum of such amount reduced to its present value
38 upon the basis of interest calculated at the rate of 6 percent per annum; ~~or~~

39 (3)(A) In the case of death suffered in the line of duty by a ~~law enforcement officer,~~
40 ~~firefighter, emergency medical technician, emergency management specialist, state~~
41 ~~highway employee, or prison guard~~ public safety officer, payment shall be made to:

42 (i) The surviving unremarried spouse;

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

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

49 (B) In the case of organic brain damage suffered in the line of duty by a law
50 enforcement officer, firefighter, emergency medical technician, emergency
51 management specialist, state highway employee, or prison guard, payment shall be
52 made to the legal guardian of the organically brain damaged person.

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

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

60 (A) Commenced:

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

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

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

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

70 ~~(b)~~(c) After the department, or the commission upon review of a denial by the department,
 71 determines that a ~~law enforcement officer, firefighter, emergency medical technician,~~
 72 ~~emergency management rescue specialist, prison guard, or state highway employee~~ public
 73 safety officer has suffered a total permanent disability, a partial permanent disability,
 74 organic brain damage, or death in the line of duty, the department shall be authorized to
 75 make the appropriate payments as provided in subsection ~~(a)~~ (b) of this Code section.
 76 ~~(c)~~(d) If the department denies a claim, any person seeking benefits pursuant to this part
 77 may appeal the department's decision to the commission. Any such appeal shall be filed
 78 with the commission within 60 days of receipt of the department's decision and shall
 79 identify the errors in the department's decision. Appeals shall be considered by the
 80 commission at the commission's semiannual meeting as provided in Code Section 45-9-84."

81

SECTION 2.

82 Said part is further amended by revising Code Section 45-9-88, relating to indemnification
 83 not to be awarded when penal violation, suicide, intentionally self-inflicted injuries, natural
 84 causes, or performance of certain routine duties caused or contributed to death or disability,
 85 as follows:

86 "45-9-88.

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

90 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
 91 death, organic brain damage, total permanent disability, or partial permanent disability
 92 occurs from suicide, intentionally self-inflicted injuries, natural causes, or the performance
 93 of routine duties which would not be considered strenuous or dangerous by a reasonable
 94 person, except as provided for in subsection (b) of Code Section 45-9-85; ~~provided,~~
 95 ~~however, that this subsection shall not preclude the department or the commission from~~

96 ~~considering competent, independent medical evidence as to whether a heart attack that~~
97 ~~occurs shortly after fighting a fire was caused by the strain of fighting the fire."~~

98

SECTION 3.

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