

House Bill 437 (AS PASSED HOUSE AND SENATE)

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 authorize the department to
7 promulgate rules and regulations regarding the process and procedures for review and appeal
8 of initial decisions; to provide for judicial review of final decisions of the commissioner; to
9 require the department to file a report regarding the indemnification program; to provide for
10 related matters; to provide for an effective date; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

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

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

18 "Article 5

19 Part 1

20 45-9-80.

21 Reserved.

22 45-9-81.

23 As used in this part, the term:

24 (1) 'Commission' means the Georgia State Indemnification Commission.

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

26 (3) 'Emergency management rescue specialist' means any person licensed as an
27 emergency management rescue specialist pursuant to Code Section 38-3-36.

28 (4) 'Emergency medical technician' includes only persons who:

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

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

33 (5)(A) 'Firefighter' means any person who is employed as a professional firefighter on
34 a full-time or part-time basis by any municipal, county, or state government fire
35 department employing three or more firefighters and who has the responsibility of
36 preventing and suppressing fires, protecting life and property, enforcing municipal,
37 county, and state fire prevention codes, enforcing any law pertaining to the prevention
38 and control of fires or who performs any acts or actions while on duty or when

39 responding to a fire or emergency during any fire or other emergency or while
40 performing duties intended to protect life and property.

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

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

56 (6) 'In the line of duty' means:

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

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

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

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

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

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

83 (7) 'Law enforcement officer' means any agent or officer of this state, a political
84 subdivision or municipality of this state, or an authority of this state or a political
85 subdivision of this state who, as a full-time or part-time employee, is vested either
86 expressly by law or by virtue of public employment or service with authority to enforce
87 the criminal or traffic laws with the power of arrest and whose duties include the
88 preservation of public order, the protection of life and property, or the prevention,
89 detection, or investigation of crime. Such term also includes the employees designated
90 by the commissioner of juvenile justice pursuant to paragraph (2) of subsection (i) of
91 Code Section 49-4A-8 who have the duty to investigate and apprehend delinquent

92 children, or the supervision of delinquent children under intensive supervision in the
93 community, and any child with a pending juvenile court case alleging the child to be a
94 child in need of services who has escaped from a facility under the jurisdiction of the
95 Department of Juvenile Justice or who has broken the conditions of supervision. Such
96 term also includes members of the Georgia National Guard and the State Defense Force,
97 the composition of which is set forth in Code Section 38-2-3, who have been called into
98 active state service by the Governor.

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

101 (9) 'Partial permanent disability' means disability due to:

102 (A) Loss of the use of one eye or blindness in one eye with only light perception;

103 (B) Loss of one hand;

104 (C) Loss of one leg; or

105 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
106 which so affects the functions of balance or propulsion as to preclude locomotion
107 without the use of a wheelchair for all but very short distances.

108 (10) 'Prison guard' means any person employed by the state or any political subdivision
109 thereof whose principal duties relate to the supervision and incarceration of persons
110 accused or convicted of the violation of the criminal laws of this state or any political
111 subdivision thereof. Such term shall also mean any community supervision officer who
112 is required to be certified under Chapter 8 of Title 35, the 'Georgia Peace Officer
113 Standards and Training Act,' and whose principal duties directly relate to the supervision
114 of probationers or parolees. Such term also means any person employed by the state or
115 any political subdivision thereof whose principal duties include the supervision of youth
116 who are charged with or adjudicated for an act which if committed by adults would be
117 considered a crime.

118 (11) 'Public safety officer' means a law enforcement officer, firefighter, emergency
 119 medical technician, emergency management rescue specialist, state highway employee,
 120 or prison guard.

121 ~~(11)~~(12) 'State highway employee' means an employee of the Georgia Department of
 122 Transportation who receives compensation directly therefrom and regularly engages in
 123 duties necessary for the construction, maintenance, or operation of roadways on or within
 124 the public roads of this state as defined in paragraph (24) of Code Section 32-1-3.

125 ~~(12)~~(13) 'Total permanent disability' means disability due to:

- 126 (A) Loss of both eyes or blindness in both eyes with only light perception;
- 127 (B) Loss or loss of use of both hands;
- 128 (C) Loss or loss of use of both legs;
- 129 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
 130 which so affects the functions of balance or propulsion as to preclude locomotion
 131 without resort to a wheelchair at all times; or
- 132 (E) Organic brain damage.

133 45-9-82.

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

- 135 (1) Death of any law enforcement officer, firefighter, or prison guard who is or has been
 136 killed in the line of duty subsequent to January 1, 1973;
- 137 (2) Permanent disability of any law enforcement officer, firefighter, or prison guard who
 138 is or has been permanently disabled in the line of duty subsequent to January 1, 1973;
- 139 (3) Death or permanent disability of any emergency medical technician who is killed or
 140 permanently disabled or who has been killed or permanently disabled in the line of duty
 141 subsequent to January 1, 1977;
- 142 (4) Death or permanent disability of any emergency management rescue specialist who
 143 is killed or permanently disabled on or after January 1, 1991; and

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

146 (b) Such program shall be administered by the department, ~~subject to review by the~~
147 ~~commission.~~

148 45-9-83.

149 ~~There is created the Georgia State Indemnification Commission which shall be composed~~
150 ~~of the Governor, the executive director of the Peace Officer Standards and Training~~
151 ~~Council, the executive director of the Georgia Firefighter Standards and Training Council,~~
152 ~~the commissioner of public safety, the commissioner of transportation, the commissioner~~
153 ~~of corrections, the commissioner of community supervision, the commissioner of public~~
154 ~~health, one law enforcement officer who shall be a member of the Peace Officers'~~
155 ~~Association of Georgia appointed by the Governor from a list of five candidates provided~~
156 ~~by such organization, and one firefighter who shall be a member of the Georgia State~~
157 ~~Firemen's Association appointed by the Governor from a list of five candidates provided~~
158 ~~by such organization. The Governor shall be the chairperson of the commission, and the~~
159 ~~commission shall be assigned to the department for administrative purposes. The~~
160 ~~commission shall meet at least semiannually upon the call of the Governor. Reserved.~~

161 45-9-84.

162 The ~~commission~~ commissioner or his or her designee is authorized to consider appeals of
163 initial decisions of the department to correct errors made by the department in approving
164 or denying any claim filed pursuant to this article upon a written request for formal review.
165 The ~~commission~~ commissioner or his or her designee may modify or override the initial
166 decision of the department upon a showing of an error of material fact or an abuse of
167 discretion. The department shall be authorized to promulgate rules and regulations
168 regarding the process and procedure for requests for formal review and appeal of initial

169 decisions of the department. The department ~~and the commission~~ shall be authorized to
170 contact other state agencies for the purpose of using the personnel and resources of such
171 agencies to assist the ~~commission~~ commissioner or his or her designee in carrying out its
172 his or her duties under this article. Final decisions of the commissioner or his or her
173 designee may be appealed to superior court for judicial review as set forth in Chapter 3 of
174 Title 5, the 'Superior and State Court Appellate Practice Act.'

175 45-9-84.1.

176 There is created a fund to be known as the Georgia State Indemnification Fund. The
177 custodian of the Georgia State Indemnification Fund shall be the department. The
178 department shall administer the Georgia State Indemnification Fund and shall approve or
179 deny claims for compensation filed pursuant to this article; provided, however, that any
180 decision of the department shall be subject to review by the ~~commission~~ commissioner or
181 his or her designee as provided in Code Section 45-9-84. Any amounts held by the Georgia
182 State Indemnification Fund which are available for investment shall be paid over to the
183 Office of the State Treasurer. The state treasurer shall deposit such funds in a trust account
184 for credit only to the Georgia State Indemnification Fund. The state treasurer shall invest
185 such funds subject to the limitations of Code Section 50-5A-7 and Chapter 17 of Title 50.
186 All income derived from such investments shall accrue to the Georgia State
187 Indemnification Fund. When moneys are paid over to the Office of the State Treasurer, as
188 provided in this Code section, the commissioner or his or her designee shall submit an
189 estimate of the date such funds shall no longer be available for investment. When the
190 commissioner or his or her designee wishes to withdraw funds from the trust account
191 provided for in this Code section, he or she shall submit a request for such withdrawal, in
192 writing, to the state treasurer.

193 45-9-84.2.

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

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

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

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

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

207 (b) Funds appropriated to the Georgia State Indemnification Fund shall also be used for
208 the purpose of defraying the expenses and costs incurred by the department ~~and the~~
209 ~~commission~~ in the administration of this part. In addition, the department is authorized to
210 accept for deposit in the Georgia State Indemnification Fund any other funds from any
211 other source. All funds appropriated to the Georgia State Indemnification Fund shall be
212 presumptively concluded to have been committed to the purpose for which they have been
213 appropriated and shall not lapse.

214 45-9-84.3.

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

216 (1) To pay the appropriate indemnification to the persons eligible for indemnification
217 under this part from the proceeds of the Georgia State Indemnification Fund;

- 218 (2) To make such payments as may be necessary to defray the expenses and costs
219 incurred by the department ~~and the commission~~ in administering this part; and
220 (3) ~~With the approval of the commission, to~~ To utilize the resources of the Georgia State
221 Indemnification Fund to purchase insurance to provide for such indemnification.

222 45-9-85.

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

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

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

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

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

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

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

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

241 (2) In the case of a total permanent disability suffered in the line of duty by a public
242 safety officer, the injured person may elect to receive a payment of \$75,000.00 paid in

243 equal monthly installments for five years or a lump sum of such amount reduced to its
244 present value upon the basis of interest calculated at the rate of 6 percent per annum;

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

247 (i) The surviving unremarried spouse;

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

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

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

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

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

265 (A) Commenced:

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

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

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

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

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

280 (d) If the department denies a claim, any person seeking benefits pursuant to this part may
281 appeal the department's decision to the ~~commission~~ commissioner or his or her designee.
282 Any such appeal shall be filed with the ~~commission~~ commissioner or his or her designee
283 within 60 days of receipt of the department's decision and shall identify the errors in the
284 department's decision. Appeals shall be considered by the ~~commission at the commission's~~
285 ~~semiannual meeting~~ commissioner or his or her designee as provided in Code
286 Section 45-9-84.

287 45-9-86.

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

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

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

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

304 45-9-87.

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

307 45-9-88.

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

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

316 45-9-89.

317 The ~~commission~~ department shall annually file a report of its activities regarding the
318 Georgia State Indemnification Fund with the General Assembly, which report shall include
319 the amount of funds paid under the program of indemnification. ~~It~~ Such report shall also

320 include a copy of each order providing for payment or a summary of each such order
321 giving all pertinent details.

322 45-9-90.

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

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

328 Part 2

329 45-9-100.

330 The purpose of this part is to implement the constitutional amendment ratified
331 November 7, 2000, authorizing the General Assembly to provide a program of
332 compensation for law enforcement officers who become physically disabled, but not
333 permanently disabled, as a result of physical injury incurred in the line of duty and caused
334 by a willful act of violence and for firefighters who become physically disabled, but not
335 permanently disabled, as a result of physical injury incurred in the line of duty while
336 fighting a fire, which program shall entitle an injured law enforcement officer or firefighter
337 to receive monthly compensation from the state in an amount equal to such person's regular
338 compensation for the period of time that the law enforcement officer or firefighter is
339 physically unable to perform the duties of his or her employment, not exceeding 12
340 months, and to provide certain exceptions and limitations with respect to such program of
341 compensation.

342 45-9-101.

343 As used in this part, the term:

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

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

347 (3) 'Firefighter' means:

348 (A) Any person who is employed as a professional firefighter on a full-time or
349 part-time basis by any municipal, county, or state government fire department certified
350 in writing by the Georgia Firefighter Standards and Training Council pursuant to Code
351 Section 25-3-22 employing three or more firefighters and who has the responsibility of
352 preventing and suppressing fires, protecting life and property, enforcing municipal,
353 county, and state fire prevention codes, enforcing any law pertaining to the prevention
354 and control of fires or who performs any acts or actions while on duty or when
355 responding to a fire or emergency during any fire or other emergency or while
356 performing duties intended to protect life and property;

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

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

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

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

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

370 (B) With respect to a law enforcement officer or firefighter, while on duty and
371 performing services for and receiving compensation from the law enforcement or fire
372 service agency which employs such officer or firefighter, while off duty and responding
373 to any situation which would save a life or preserve the peace, or while preventing or
374 attempting to prevent the commission of a crime or fire. A law enforcement officer or
375 firefighter who is performing duties for and receiving compensation from a private
376 employer at the time of such officer's or firefighter's bodily injury, but not permanent
377 disability, shall not be considered in the line of duty if the officer or firefighter is
378 entitled to workers' compensation benefits from the private employer or the private
379 employer's insurer.

380 (6) 'Injured in the line of duty' means an injury which arises out of or in the course of
381 employment in the line of duty; or, with respect to a firefighter of a legally organized
382 volunteer fire department, such term means an injury while on duty and when responding
383 to a fire or emergency with the volunteer fire department during any fire or other
384 emergency or while performing duties intended to protect life and property. Going to or
385 from work shall not be considered in the line of duty; and going to a legally organized
386 volunteer fire department to begin a service of duty or traveling from such a fire
387 department after duties have been completed or traveling from the scene of a fire,
388 emergency, or other location where duties were being performed and have been
389 completed shall not be considered in the line of duty.

390 (7) 'Law enforcement officer' means any agent or officer of this state, or a political
391 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
392 either expressly by law or by virtue of public employment or service with authority to
393 enforce the criminal or traffic laws and whose duties include the preservation of public

394 order, the protection of life and property, or the prevention, detection, or investigation of
395 crime. Such term also includes the employees designated by the commissioner of
396 community supervision who have the duty to supervise children adjudicated for a Class
397 A designated felony act or Class B designated felony act after release from restrictive
398 custody, as such terms are defined in Code Section 15-11-2, and the commissioner of
399 juvenile justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8 who
400 have the duty to investigate and apprehend delinquent children, or the supervision of
401 delinquent children under intensive supervision in the community, and any child with a
402 pending juvenile court case alleging the child to be a child in need of services who has
403 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or
404 who has broken the conditions of supervision. Such term also includes members of the
405 Georgia National Guard, the composition of which is set forth in Code Section 38-2-3,
406 who have been called into active state service by the Governor.

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

412 45-9-102.

413 (a) Any law enforcement officer who becomes physically disabled, but not permanently
414 disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the
415 line of duty and caused by a willful act of violence committed by a person other than a
416 fellow employee shall be entitled to receive compensation as provided in this Code section.
417 Any firefighter who becomes physically disabled, but not permanently disabled, on or
418 subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty while
419 fighting a fire shall be entitled to receive compensation as provided in this Code section.

420 The compensation shall be paid to eligible applicants by the ~~commission~~ department from
421 funds appropriated to the ~~commission~~ Georgia State Indemnification Fund for such
422 purpose.

423 (b) Except as otherwise provided in this part, any law enforcement officer or firefighter
424 injured in the line of duty as provided in subsection (a) of this Code section shall receive
425 monthly compensation from the department in an amount equal to such person's regular
426 compensation for the period of time that the law enforcement officer or firefighter is
427 physically unable to perform the duties of his or her employment; provided, however, that
428 such benefits provided pursuant to this Code section for injuries resulting from a single
429 incident shall not be granted for more than a total of 12 months. For purposes of this
430 subsection, the regular compensation of a volunteer firefighter covered under subparagraph
431 (B) of paragraph (3) of Code Section 45-9-101 shall be deemed to be the Georgia average
432 weekly earnings of production workers in manufacturing industries for the immediately
433 preceding calendar year as published by the Georgia Department of Labor. A law
434 enforcement officer or firefighter shall be required to submit to the department satisfactory
435 evidence of such disability. A volunteer firefighter shall not be considered disabled once
436 he or she is able to perform the duties of his or her regular employment or equivalent
437 thereof.

438 (c) Benefits made available under this Code section shall be subordinate to any workers'
439 compensation benefits, disability and other compensation benefits from the person's
440 employer which the law enforcement officer or firefighter is awarded and shall be limited
441 to the difference between the amount of workers' compensation benefits and other
442 compensation benefits actually paid and the amount of the law enforcement officer's or
443 firefighter's regular compensation; provided, however, that benefits shall never exceed the
444 person's regular compensation minus the maximum weekly workers' compensation benefit
445 level for that person whether or not workers' compensation is available. For the purposes
446 of this subsection, the regular compensation of a firefighter ~~covered~~ as defined under

447 subparagraph ~~(2)~~(B) of paragraph (3) of Code Section 45-9-102 45-9-101 shall be deemed
448 to be the Georgia average weekly earnings of production workers in manufacturing
449 industries for the immediately preceding calendar year as published by the Georgia
450 Department of Labor.

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

453 (e) A law enforcement officer or firefighter who is disabled and who receives
454 indemnification under Part 1 of this article as a result of an incident shall not be entitled to
455 any compensation under this Code section for the disability resulting from the same
456 incident. A law enforcement officer or firefighter who initially receives benefits under this
457 Code section but who is determined subsequently to be entitled to benefits under Part 1 of
458 this article with respect to the same incident or whose beneficiary is determined
459 subsequently to be entitled to benefits under Part 1 of this article shall be entitled only to
460 the amount equal to the benefits to which the person would be entitled under Part 1 reduced
461 by the total amount of benefits received under this Code section.

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

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

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

474 45-9-103.

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

478 45-9-104.

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

482 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
483 disability occurs from intentionally self-inflicted injuries or natural causes or while
484 performing routine duties which would not be strenuous or dangerous if performed by
485 persons of average physical abilities.

486 45-9-105.

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

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

492 **SECTION 2.**

493 This Act shall become effective upon its approval by the Governor or upon its becoming law
494 without such approval.

495

SECTION 3.

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