

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 1145:

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 Georgia State Indemnification Fund, so as to provide that the death of
3 a public safety officer due to COVID-19 in certain instances be considered a death in the line
4 of duty for purposes of indemnification; to provide clarification for instances of heart attack,
5 stroke, or vascular rupture; to provide authorization for the appropriation of money; to revise
6 and provide for a definition; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated,
11 relating to Georgia State Indemnification Fund, is amended by revising Code Section
12 45-9-84.2, relating to Georgia State Indemnification Fund — authorization for appropriation
13 of moneys to the fund and moneys from other sources, as follows:

14 "45-9-84.2.

15 ~~The General Assembly is authorized to appropriate funds to be placed in the Georgia State~~
16 ~~Indemnification Fund for the purpose of providing for indemnification with respect to the~~

17 ~~death or disability of any law enforcement officer, firefighter, or prison guard who is or has~~
18 ~~been killed or permanently disabled in the line of duty subsequent to January 1, 1973, the~~
19 ~~death or disability of any emergency medical technician who is killed or permanently~~
20 ~~disabled or has been killed or permanently disabled in the line of duty subsequent to~~
21 ~~January 1, 1977, the death or disability of any emergency management rescue specialist~~
22 ~~who is killed or permanently disabled on or after January 1, 1991, and the death or~~
23 ~~disability of any state highway employee who is or has been killed or permanently disabled~~
24 ~~in the line of duty subsequent to January 1, 1990~~ Pursuant to Article III, Section VI,
25 Paragraph VI, subparagraphs (d), (e), and (g) of the Georgia Constitution, the General
26 Assembly is authorized to appropriate funds to be placed in the Georgia State
27 Indemnification Fund for the purpose of providing indemnification with respect to the
28 death or disability of any law enforcement officer, firefighter, prison guard, emergency
29 management rescue specialist, or publicly employed emergency medical technician who
30 is or has been killed or permanently disabled in the line of duty subsequent to January 1,
31 2000, and the death or disability of any state highway employee who is or has been killed
32 or permanently disabled in the line of duty subsequent to January 1, 2011, as well as
33 defraying the expenses and costs incurred by the department and the commission in the
34 administration of this part. In addition, the department is authorized to accept for deposit
35 in the Georgia State Indemnification Fund any other funds from any other source. All
36 funds appropriated to the Georgia State Indemnification Fund shall be presumptively
37 concluded to have been committed to the purpose for which they have been appropriated
38 and shall not lapse."

39 **SECTION 2.**

40 Said part is further amended by revising Code Section 45-9-85, relating to payment of
41 indemnification for death or disability, procedure for making payments, and appeal, as
42 follows:

43 "45-9-85.

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

45 (1) 'COVID-19' means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
 46 and any mutation or viral fragments thereof, or any disease or condition caused by severe
 47 acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which were the subject of the
 48 public health state of emergency declared by the Governor on March 14, 2020.

49 ~~(1)~~(2) 'Nonroutine stressful or strenuous physical activity' means actions that are not
 50 clerical, administrative, or nonmanual in nature.

51 ~~(2)~~(3) 'Public safety officer' means a law enforcement officer, firefighter, emergency
 52 medical technician, emergency management rescue specialist, state highway employee,
 53 or prison guard authorized to indemnification pursuant to Article III, Section VI,
 54 Paragraph VI, subparagraphs (d), (e), and (g) of the Georgia Constitution.

55 ~~(3)~~(4) 'Work related activity' means, while ~~in the line of~~ on duty:

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

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

62 (b) Indemnification shall be paid under this ~~article~~ part as follows:

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

68 (2) In the case of a total permanent disability suffered ~~in the line of duty~~ by a public
 69 safety officer while in the line of duty, the ~~injured~~ eligible disabled person may elect to

70 receive a payment of \$75,000.00 paid in equal monthly installments for five years or a
71 lump sum of such amount reduced to its present value upon the basis of interest
72 calculated at the rate of 6 percent per annum;

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

- 75 (i) The surviving unremarried spouse;
- 76 (ii) The surviving children who are under the age of 19 or, if a student enrolled in an
77 institution of postsecondary education at the time of such death, under the age of 24;
78 or
- 79 (iii) Individuals not otherwise provided for under this subparagraph who are the
80 dependents of the spouse or deceased person as shown in the spouse's or deceased
81 person's most recent tax return.

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

87 (C) The surviving unremarried spouse, dependents, or the legal guardian qualified for
88 indemnification payment pursuant to this paragraph may elect to receive a payment ~~in~~
89 ~~a lump sum payment~~ of \$150,000.00 paid in equal monthly installments for five years
90 or a lump sum of such amount reduced to its present value upon the basis of interest
91 calculated at the rate of 6 percent per annum; ~~or.~~

92 (c)(1) After the department, or the commission upon review of a denial by the
93 department, determines that a public safety officer has suffered a total permanent
94 disability, a partial permanent disability, organic brain damage, or death in the line of
95 duty, the department shall be authorized to make the appropriate payments as provided
96 in subsection (b) of this Code section.

97 ~~(4)(2) The department shall consider a~~ A heart attack, stroke, or vascular rupture suffered
98 by a public safety officer ~~shall be presumed to qualify such public safety officer under~~
99 ~~this subsection to have occurred while in the line of duty~~ if the heart attack, stroke, or
100 vascular rupture:

101 (A) Commenced:

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

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

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

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

111 (3) The department shall consider the death of a public safety officer which occurred
112 between March 1, 2020, and December 31, 2021, to have occurred while in the line of
113 duty if the public safety officer was diagnosed with COVID-19 within 45 days of such
114 public safety officer's last day of duty and such diagnosis was the cause of or a
115 contributing factor to such public safety officer's death.

116 ~~(c) After the department, or the commission upon review of a denial by the department,~~
117 ~~determines that a public safety officer has suffered a total permanent disability, a partial~~
118 ~~permanent disability, organic brain damage, or death in the line of duty, the department~~
119 ~~shall be authorized to make the appropriate payments as provided in subsection (b) of this~~
120 ~~Code section.~~

121 (d) If the department denies a claim, any person seeking benefits pursuant to this part may
122 appeal the department's decision to the commission. Any such appeal shall be filed with
123 the commission within 60 days of receipt of the department's decision and shall identify

124 the errors in the department's decision. Appeals shall be considered by the commission at
125 the commission's semiannual meeting as provided in Code Section 45-9-84."

126 **SECTION 3.**

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

131 "45-9-88.

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

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

140 **SECTION 4.**

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