

The Senate Committee on Public Safety offered the following substitute to SB 418:

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) In the case of death or organic brain damage suffered in the line of duty by a ~~law~~
 40 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
 41 ~~specialist, state highway employee, or prison guard~~ public safety officer, payment shall
 42 be made to the surviving unremarried spouse or the dependents of the spouse or deceased
 43 person as shown in his or her most recent tax return or to the legal guardian of the
 44 organically brain damaged person. The surviving unremarried spouse, dependents, or the
 45 legal guardian may elect to receive payment in a lump sum payment of \$150,000.00 paid
 46 in equal monthly installments for five years or a lump sum of such amount reduced to its
 47 present value upon the basis of interest calculated at the rate of 6 percent per annum; ~~or~~

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

51 (A) Commenced:

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

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

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

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

61 ~~(b)~~(c) After the department, or the commission upon review of a denial by the department,
 62 determines that a ~~law enforcement officer, firefighter, emergency medical technician,~~
 63 ~~emergency management rescue specialist, prison guard, or state highway employee~~ public

64 safety officer has suffered a total permanent disability, a partial permanent disability,
 65 organic brain damage, or death in the line of duty, the department shall be authorized to
 66 make the appropriate payments as provided in subsection ~~(a)~~ (b) of this Code section.
 67 ~~(c)~~(d) If the department denies a claim, any person seeking benefits pursuant to this part
 68 may appeal the department's decision to the commission. Any such appeal shall be filed
 69 with the commission within 60 days of receipt of the department's decision and shall
 70 identify the errors in the department's decision. Appeals shall be considered by the
 71 commission at the commission's semiannual meeting as provided in Code Section 45-9-84."

72

SECTION 2.

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

77 "45-9-88.

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

81 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
 82 death, organic brain damage, total permanent disability, or partial permanent disability
 83 occurs from suicide, intentionally self-inflicted injuries, natural causes, or the performance
 84 of routine duties which would not be considered strenuous or dangerous by a reasonable
 85 person, except as provided for in subsection (b) of Code Section 45-9-85; ~~provided,~~
 86 ~~however, that this subsection shall not preclude the department or the commission from~~
 87 ~~considering competent, independent medical evidence as to whether a heart attack that~~
 88 ~~occurs shortly after fighting a fire was caused by the strain of fighting the fire."~~

89

SECTION 3.

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