

Senate Bill 468

By: Senators Jackson of the 41st, Albers of the 56th, Robertson of the 29th, Payne of the 54th, Jones II of the 22nd and others

AS PASSED SENATE

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 death by
 3 suicide of a public safety officer in certain instances be considered a death in the line of duty
 4 for purposes of indemnification; to provide clarification for instances of indemnification for
 5 heart attack, stroke, or vascular rupture; to revise and provide for a definition; to provide for
 6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

13 "45-9-85.

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

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

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

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

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

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

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

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

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

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

41 (i) The surviving unremarried spouse;

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

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

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

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

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

63 ~~(4)(2) The department shall consider a~~ A heart attack, stroke, or vascular rupture suffered
64 by a public safety officer ~~shall be presumed to qualify such public safety officer under~~
65 ~~this subsection~~ to have occurred while in the line of duty if the heart attack, stroke, or
66 vascular rupture:

67 (A) Commenced:

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

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

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

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

77 (3) The department shall consider the death of a public safety officer caused by suicide
78 to have occurred while in the line of duty if the death occurred within 30 days of his or
79 her last day on duty.

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

85 (d) If the department denies a claim, any person seeking benefits pursuant to this part may
86 appeal the department's decision to the commission. Any such appeal shall be filed with
87 the commission within 60 days of receipt of the department's decision and shall identify
88 the errors in the department's decision. Appeals shall be considered by the commission at
89 the commission's semiannual meeting as provided in Code Section 45-9-84."

90 **SECTION 2.**

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

95 "45-9-88.

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

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

104

SECTION 3.

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