

Senate Bill 371

By: Senators Strickland of the 17th, Jones of the 10th, Robertson of the 29th, Butler of the 55th, Albers of the 56th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated,
2 relating to general provisions of workers' compensation, so as to require the State Board of
3 Workers' Compensation to investigate and notify the Department of Administrative Services
4 when a peace officer is awarded workers' compensation benefits and suffered catastrophic
5 injury under certain circumstances; to provide for definitions; to amend Article 5 of Chapter
6 9 of Title 45 of the Official Code of Georgia Annotated, relating to law enforcement officers,
7 firemen, prison guards, and publicly employed emergency medical technicians, so as to
8 provide compensation to eligible peace officers from the State Indemnification Fund; to
9 provide for related matters; to provide for a short title; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 This Act shall be known and may be cited as the "Daniel D. Podsiadly, Jr. Act."

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SECTION 2.

15 Article 1 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to
16 general provisions of workers' compensation, is amended by adding a new Code section to
17 read as follows:

18 "34-9-26.

19 (a) As used in this Code section, the term 'eligible peace officer' means any individual who
20 is employed on a full-time or part-time basis by the state or any municipality, county, or
21 other political subdivision thereof; who is required by the terms of such employment,
22 whether by election or appointment, to maintain public order or to make arrests for all
23 criminal offenses; who is required by the terms of such employment to comply with the
24 requirements of the 'Georgia Peace Officer Standards and Training Act' contained in
25 Chapter 8 of Title 35; and who suffers catastrophic injury, as defined in subsection (g) of
26 Code Section 34-9-200.1, in the line of duty while immediately engaged with a criminal
27 suspect or in the immediate pursuit thereof.

28 (b) In the event that the State Board of Workers' Compensation determines that an
29 employee suffered a catastrophic injury, the board shall investigate the circumstances of
30 such injury to determine if the employee was an eligible peace officer. Upon a
31 determination that such employee will be awarded workers' compensation and is an eligible
32 peace officer, the board shall notify and transfer a copy of such eligible peace officer's
33 claim file to the Department of Administrative Services and notify the eligible peace officer
34 of such transfer within ten days of such determination."

35

SECTION 3.

36 Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to law
37 enforcement officers, firemen, prison guards, and publicly employed emergency medical
38 technicians, is amended by revising Code Section 45-9-85, relating to payment of

39 indemnification for death or disability, procedure for making payments, and appeal, as
40 follows:

41 "45-9-85.

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

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

45 (2) 'Peace officer' means any individual who is employed on a full-time or part-time
46 basis by the state or any municipality, county, or other political subdivision thereof; who
47 is required by the terms of such employment, whether by election or appointment, to
48 maintain public order or to make arrests for all criminal offenses; who is required by the
49 terms of such employment to comply with the requirements of the 'Georgia Peace Officer
50 Standards and Training Act' contained in Chapter 8 of Title 35; and who suffers
51 catastrophic injury, as defined in subsection (g) of Code Section 34-9-200.1, in the line
52 of duty while immediately engaged with a criminal suspect or in the immediate pursuit
53 thereof. Such term is a different category of employee from 'law enforcement officer.'

54 ~~(2)~~(3) 'Public safety officer' means a law enforcement officer, firefighter, emergency
55 medical technician, emergency management rescue specialist, state highway employee,
56 or prison guard.

57 ~~(3)~~(4) 'Work related activity' means, while in the line of duty:

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

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

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

- 65 (1) In the case of a partial permanent disability suffered in the line of duty by a public
66 safety officer, the eligible disabled person may elect payment of \$35,000.00 paid in equal
67 monthly installments for five years or a lump sum of such amount reduced to its present
68 value upon the basis of interest calculated at the rate of 6 percent per annum;
- 69 (2) In the case of a total permanent disability suffered in the line of duty by a public
70 safety officer, the injured person may elect to receive a payment of \$75,000.00 paid in
71 equal monthly installments for five years or a lump sum of such amount reduced to its
72 present value upon the basis of interest 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,
74 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 public safety
83 officer, payment shall be made to the legal guardian of the organically brain damaged
84 person.
- 85 (C) The surviving unremarried spouse, dependents, or the legal guardian may elect to
86 receive payment in a lump sum payment of \$150,000.00 paid in equal monthly
87 installments for five years or a lump sum of such amount reduced to its present value
88 upon the basis of interest calculated at the rate of 6 percent per annum; or
- 89 (4) In the case of an employee who has been awarded workers' compensation benefits
90 by the State Board of Workers' Compensation and determined to be an eligible peace
91 officer pursuant to Code Section 34-9-26, such peace officer shall be paid the difference

92 between the workers' compensation, disability, or other compensation benefits paid or to
93 be paid by such peace officer's employer and such peace officer's regular compensation
94 as a peace officer;

95 (5) Any person who receives payment in accordance with paragraph (4) of this
96 subsection shall not be eligible to receive payment in accordance with paragraph (1) or
97 paragraph (2) of this subsection; or

98 ~~(4)~~(6) A heart attack, stroke, or vascular rupture suffered by a public safety officer shall
99 be presumed to qualify such public safety officer under this subsection if the heart attack,
100 stroke, or 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 (c) After the department, or the commissioner or his or her designee upon review of a
112 denial by the department, determines that a public safety officer has suffered a total
113 permanent disability, a partial permanent disability, organic brain damage, or death in the
114 line of duty, the department shall be authorized to make the appropriate payments as
115 provided in subsection (b) of this Code section.

116 (d) If the department denies a claim, any person seeking benefits pursuant to this part may
117 appeal the department's decision to the commissioner or his or her designee. Any such
118 appeal shall be filed with the commissioner or his or her designee within 60 days of receipt

119 of the department's decision and shall identify the errors in the department's decision.
120 Appeals shall be considered by the commissioner or his or her designee as provided in
121 Code Section 45-9-84."

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SECTION 4.

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