



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Michael J. Madigan, Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

20 ILCS 1825/3	from Ch. 129, par. 403
705 ILCS 505/8	from Ch. 37, par. 439.8
705 ILCS 505/21	from Ch. 37, par. 439.21
745 ILCS 49/70	
820 ILCS 315/1	from Ch. 48, par. 281
820 ILCS 315/2	from Ch. 48, par. 282
820 ILCS 315/3	from Ch. 48, par. 283
820 ILCS 315/4	from Ch. 48, par. 284

Amends the Law Enforcement Officers, Civil Defense Workers, Civil Air Patrol Members, Paramedics, Firemen, Chaplains, and State Employee Compensation Act. Changes the short title of the Act to the Line of Duty Compensation Act (and amends other Acts to change cross-references to the changed short title). Provides that death benefits are payable to Illinois residents who are members of the Armed Forces of the United States, the Illinois National Guard, or any reserve component of the Armed Forces of the United States while on active military service pursuant to an order of the President of the United States; and who were killed while on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom. Provides that, in the case of those who were killed before the effective date of the amendatory Act while on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom, a claim for compensation must be made within one year of the effective date of the amendatory Act. Effective immediately.

LRB093 20408 WGH 46186 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning veterans' affairs.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois National Guardsman's Compensation
5 Act is amended by changing Section 3 as follows:

6 (20 ILCS 1825/3) (from Ch. 129, par. 403)

7 Sec. 3. If a claim therefor is made within one year of the
8 date of the death of the guardsman, compensation shall be paid
9 to the person designated by such guardsman killed while on
10 duty. The amount of compensation shall be equal to the greater
11 of (i) \$100,000 or (ii) the amount of compensation payable
12 under Section 3 of the Line of Duty ~~Law Enforcement Officers,~~
13 ~~Civil Defense Workers, Civil Air Patrol Members, Paramedics,~~
14 ~~Firemen, Chaplains, and State Employees~~ Compensation Act when
15 an individual to whom that Act applies is killed in the line of
16 duty. If no beneficiary is designated or surviving at the death
17 of the guardsman killed while on duty, the compensation shall
18 be paid as follows:

19 (a) When there is a surviving spouse, the entire sum
20 shall be paid to the spouse.

21 (b) When there is no surviving spouse, but a surviving
22 descendant of the decedent, the entire sum shall be paid to
23 the decedent's descendants per stirpes.

24 (c) When there is neither a surviving spouse nor a
25 surviving descendant, the entire sum shall be paid to the
26 parents of the decedent in equal parts, allowing to the
27 surviving parent, if one is dead, the entire sum.

28 (d) When there is no surviving spouse, descendant or
29 parent of the decedent, but there are surviving brothers or
30 sisters, or descendants of a brother or sister, who were
31 receiving their principal support from the decedent at his
32 death, the entire sum shall be paid, in equal parts, to the

1 dependent brothers or sisters or dependent descendant of a
2 brother or sister. Dependency shall be determined by the
3 Court of Claims based upon the investigation and report of
4 the Attorney General.

5 When there is no beneficiary designated or surviving at the
6 death of the guardsman killed while on duty and no surviving
7 spouse, descendant, parent, dependent brother or sister, or
8 dependent descendant of a brother or sister, no compensation
9 shall be payable under this Act.

10 No part of such compensation may be paid to any other
11 person for any efforts in securing such compensation.

12 (Source: P.A. 91-357, eff. 7-29-99.)

13 Section 10. The Court of Claims Act is amended by changing
14 Sections 8 and 21 as follows:

15 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

16 Sec. 8. Court of Claims jurisdiction. The court shall have
17 exclusive jurisdiction to hear and determine the following
18 matters:

19 (a) All claims against the State founded upon any law of
20 the State of Illinois or upon any regulation adopted thereunder
21 by an executive or administrative officer or agency; provided,
22 however, the court shall not have jurisdiction (i) to hear or
23 determine claims arising under the Workers' Compensation Act or
24 the Workers' Occupational Diseases Act, or claims for expenses
25 in civil litigation, or (ii) to review administrative decisions
26 for which a statute provides that review shall be in the
27 circuit or appellate court.

28 (b) All claims against the State founded upon any contract
29 entered into with the State of Illinois.

30 (c) All claims against the State for time unjustly served
31 in prisons of this State where the persons imprisoned shall
32 receive a pardon from the governor stating that such pardon is
33 issued on the ground of innocence of the crime for which they
34 were imprisoned; provided, the court shall make no award in

1 excess of the following amounts: for imprisonment of 5 years or
2 less, not more than \$15,000; for imprisonment of 14 years or
3 less but over 5 years, not more than \$30,000; for imprisonment
4 of over 14 years, not more than \$35,000; and provided further,
5 the court shall fix attorney's fees not to exceed 25% of the
6 award granted. On December 31, 1996, the court shall make a
7 one-time adjustment in the maximum awards authorized by this
8 subsection (c), to reflect the increase in the cost of living
9 from the year in which these maximum awards were last adjusted
10 until 1996, but with no annual increment exceeding 5%.
11 Thereafter, the court shall annually adjust the maximum awards
12 authorized by this subsection (c) to reflect the increase, if
13 any, in the Consumer Price Index For All Urban Consumers for
14 the previous calendar year, as determined by the United States
15 Department of Labor, except that no annual increment may exceed
16 5%. For both the one-time adjustment and the subsequent annual
17 adjustments, if the Consumer Price Index decreases during a
18 calendar year, there shall be no adjustment for that calendar
19 year. The changes made by Public Act 89-689 apply to all claims
20 filed on or after January 1, 1995 that are pending on December
21 31, 1996 and all claims filed on or after December 31, 1996.

22 (d) All claims against the State for damages in cases
23 sounding in tort, if a like cause of action would lie against a
24 private person or corporation in a civil suit, and all like
25 claims sounding in tort against the Medical Center Commission,
26 the Board of Trustees of the University of Illinois, the Board
27 of Trustees of Southern Illinois University, the Board of
28 Trustees of Chicago State University, the Board of Trustees of
29 Eastern Illinois University, the Board of Trustees of Governors
30 State University, the Board of Trustees of Illinois State
31 University, the Board of Trustees of Northeastern Illinois
32 University, the Board of Trustees of Northern Illinois
33 University, the Board of Trustees of Western Illinois
34 University, or the Board of Trustees of the Illinois
35 Mathematics and Science Academy; provided, that an award for
36 damages in a case sounding in tort, other than certain cases

1 involving the operation of a State vehicle described in this
2 paragraph, shall not exceed the sum of \$100,000 to or for the
3 benefit of any claimant. The \$100,000 limit prescribed by this
4 Section does not apply to an award of damages in any case
5 sounding in tort arising out of the operation by a State
6 employee of a vehicle owned, leased or controlled by the State.
7 The defense that the State or the Medical Center Commission or
8 the Board of Trustees of the University of Illinois, the Board
9 of Trustees of Southern Illinois University, the Board of
10 Trustees of Chicago State University, the Board of Trustees of
11 Eastern Illinois University, the Board of Trustees of Governors
12 State University, the Board of Trustees of Illinois State
13 University, the Board of Trustees of Northeastern Illinois
14 University, the Board of Trustees of Northern Illinois
15 University, the Board of Trustees of Western Illinois
16 University, or the Board of Trustees of the Illinois
17 Mathematics and Science Academy is not liable for the
18 negligence of its officers, agents, and employees in the course
19 of their employment is not applicable to the hearing and
20 determination of such claims.

21 (e) All claims for recoupment made by the State of Illinois
22 against any claimant.

23 (f) All claims pursuant to the Line of Duty Law Enforcement
24 ~~Officers, Civil Defense Workers, Civil Air Patrol Members,~~
25 ~~Paramedics, Firemen, Chaplains, and State Employees~~
26 Compensation Act.

27 (g) All claims filed pursuant to the Crime Victims
28 Compensation Act.

29 (h) All claims pursuant to the Illinois National
30 Guardsman's Compensation Act.

31 (i) All claims authorized by subsection (a) of Section
32 10-55 of the Illinois Administrative Procedure Act for the
33 expenses incurred by a party in a contested case on the
34 administrative level.

35 (Source: P.A. 89-4, eff. 1-1-96; 89-689, eff. 12-31-96; 90-492,
36 eff. 8-17-97.)

1 (705 ILCS 505/21) (from Ch. 37, par. 439.21)

2 Sec. 21. The court is authorized to impose, by uniform
3 rules, a fee of \$15 for the filing of a petition in any case in
4 which the award sought is more than \$50 and less than \$1,000
5 and \$35 in any case in which the award sought is \$1,000 or
6 more; and to charge and collect for copies of opinions or other
7 documents filed in the Court of Claims such fees as may be
8 prescribed by the rules of the Court. All fees and charges so
9 collected shall be forthwith paid into the State Treasury.

10 A petitioner who is a prisoner in an Illinois Department of
11 Corrections facility who files a pleading, motion, or other
12 filing that purports to be a legal document against the State,
13 the Illinois Department of Corrections, the Prisoner Review
14 Board, or any of their officers or employees in which the court
15 makes a specific finding that it is frivolous shall pay all
16 filing fees and court costs in the manner provided in Article
17 XXII of the Code of Civil Procedure.

18 In claims based upon lapsed appropriations or lost warrant
19 or in claims filed under the Line of Duty Law Enforcement
20 ~~Officers, Civil Defense Workers, Civil Air Patrol Members,~~
21 ~~Paramedics, Firemen, Chaplains, and State Employees~~
22 Compensation Act, the Illinois National Guardsman's
23 Compensation Act, or the Crime Victims Compensation Act or in
24 claims filed by medical vendors for medical services rendered
25 by the claimant to persons eligible for Medical Assistance
26 under programs administered by the Illinois Department of
27 Public Aid, no filing fee shall be required.

28 (Source: P.A. 90-492, eff. 8-17-97; 90-505, eff. 8-19-97;
29 90-655, eff. 7-30-98.)

30 Section 15. The Good Samaritan Act is amended by changing
31 Section 70 as follows:

32 (745 ILCS 49/70)

33 Sec. 70. Law enforcement officers or firemen; exemption

1 from civil liability for emergency care. Any law enforcement
2 officer or fireman as defined in Section 2 of the Line of Duty
3 ~~Law Enforcement Officers, Civil Defense Workers, Civil Air~~
4 ~~Patrol Members, Paramedics, Firemen, Chaplains, and State~~
5 ~~Employees~~ Compensation Act, who in good faith provides
6 emergency care without fee to any person shall not, as a result
7 of his or her acts or omissions, except willful and wanton
8 misconduct on the part of the person, in providing the care, be
9 liable to a person to whom such care is provided for civil
10 damages.

11 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

12 Section 20. The Law Enforcement Officers, Civil Defense
13 Workers, Civil Air Patrol Members, Paramedics, Firemen,
14 Chaplains, and State Employees Compensation Act is amended by
15 changing Sections 1, 2, 3, and 4 as follows:

16 (820 ILCS 315/1) (from Ch. 48, par. 281)

17 Sec. 1. This Act shall be known and may be cited as the
18 Line of Duty ~~"Law Enforcement Officers, Civil Defense Workers,~~
19 ~~Civil Air Patrol Members, Paramedics, Firemen, Chaplains, and~~
20 ~~State Employees~~ Compensation Act".

21 (Source: P.A. 89-323, eff. 1-1-96.)

22 (820 ILCS 315/2) (from Ch. 48, par. 282)

23 Sec. 2. As used in this Act, unless the context otherwise
24 requires:

25 (a) "Law enforcement officer" or "officer" means any person
26 employed by the State or a local governmental entity as a
27 policeman, peace officer, auxiliary policeman or in some like
28 position involving the enforcement of the law and protection of
29 the public interest at the risk of that person's life. This
30 includes supervisors, wardens, superintendents and their
31 assistants, guards and keepers, correctional officers, youth
32 supervisors, parole agents, school teachers and correctional
33 counsellors in all facilities of both the Juvenile and Adult

1 Divisions of the Department of Corrections, while within the
2 facilities under the control of the Department of Corrections
3 or in the act of transporting inmates or wards from one
4 location to another or while performing their official duties,
5 and all other Department of Correction employees who have daily
6 contact with inmates.

7 The death of the foregoing employees of the Department of
8 Corrections in order to be included herein must be by the
9 direct or indirect willful act of an inmate, ward,
10 work-releasee, parolee, parole violator, person under
11 conditional release, or any person sentenced or committed, or
12 otherwise subject to confinement in or to the Department of
13 Corrections.

14 (b) "Fireman" means any person employed by the State or a
15 local governmental entity as, or otherwise serving as, a member
16 or officer of a fire department either for the purpose of the
17 prevention or control of fire or the underwater recovery of
18 drowning victims, including volunteer firemen.

19 (c) "Local governmental entity" includes counties,
20 municipalities and municipal corporations.

21 (d) "State" means the State of Illinois and its
22 departments, divisions, boards, bureaus, commissions,
23 authorities and colleges and universities.

24 (e) "Killed in the line of duty" means losing one's life as
25 a result of injury received in the active performance of duties
26 as a law enforcement officer, civil defense worker, civil air
27 patrol member, paramedic, fireman, or chaplain if the death
28 occurs within one year from the date the injury was received
29 and if that injury arose from violence or other accidental
30 cause. In the case of a State employee, "killed in the line of
31 duty" means losing one's life as a result of injury received in
32 the active performance of one's duties as a State employee, if
33 the death occurs within one year from the date the injury was
34 received and if that injury arose from a willful act of
35 violence by another State employee committed during such other
36 employee's course of employment and after January 1, 1988. The

1 term excludes death resulting from the willful misconduct or
2 intoxication of the officer, civil defense worker, civil air
3 patrol member, paramedic, fireman, chaplain, or State
4 employee. However, the burden of proof of such willful
5 misconduct or intoxication of the officer, civil defense
6 worker, civil air patrol member, paramedic, fireman, chaplain,
7 or State employee is on the Attorney General. Subject to the
8 conditions set forth in subsection (a) with respect to
9 inclusion under this Act of Department of Corrections employees
10 described in that subsection, for the purposes of this Act,
11 instances in which a law enforcement officer receives an injury
12 in the active performance of duties as a law enforcement
13 officer include but are not limited to instances when:

14 (1) the injury is received as a result of a wilful act
15 of violence committed other than by the officer and a
16 relationship exists between the commission of such act and
17 the officer's performance of his duties as a law
18 enforcement officer, whether or not the injury is received
19 while the officer is on duty as a law enforcement officer;

20 (2) the injury is received by the officer while the
21 officer is attempting to prevent the commission of a
22 criminal act by another or attempting to apprehend an
23 individual the officer suspects has committed a crime,
24 whether or not the injury is received while the officer is
25 on duty as a law enforcement officer;

26 (3) the injury is received by the officer while the
27 officer is travelling to or from his employment as a law
28 enforcement officer or during any meal break, or other
29 break, which takes place during the period in which the
30 officer is on duty as a law enforcement officer.

31 In the case of an Armed Forces member, "killed in the line
32 of duty" means losing one's life while on active duty in
33 connection with Operation Enduring Freedom or Operation Iraqi
34 Freedom.

35 (f) "Volunteer fireman" means a person having principal
36 employment other than as a fireman, but who is carried on the

1 rolls of a regularly constituted fire department either for the
2 purpose of the prevention or control of fire or the underwater
3 recovery of drowning victims, the members of which are under
4 the jurisdiction of the corporate authorities of a city,
5 village, incorporated town, or fire protection district, and
6 includes a volunteer member of a fire department organized
7 under the "General Not for Profit Corporation Act", approved
8 July 17, 1943, as now or hereafter amended, which is under
9 contract with any city, village, incorporated town, fire
10 protection district, or persons residing therein, for fire
11 fighting services. "Volunteer fireman" does not mean an
12 individual who volunteers assistance without being regularly
13 enrolled as a fireman.

14 (g) "Civil defense worker" means any person employed by the
15 State or a local governmental entity as, or otherwise serving
16 as, a member of a civil defense work force, including volunteer
17 civil defense work forces engaged in serving the public
18 interest during periods of disaster, whether natural or
19 man-made.

20 (h) "Civil air patrol member" means any person employed by
21 the State or a local governmental entity as, or otherwise
22 serving as, a member of the organization commonly known as the
23 "Civil Air Patrol", including volunteer members of the
24 organization commonly known as the "Civil Air Patrol".

25 (i) "Paramedic" means an Emergency Medical
26 Technician-Paramedic certified by the Illinois Department of
27 Public Health under the Emergency Medical Services (EMS)
28 Systems Act, and all other emergency medical personnel
29 certified by the Illinois Department of Public Health who are
30 members of an organized body or not-for-profit corporation
31 under the jurisdiction of a city, village, incorporated town,
32 fire protection district or county, that provides emergency
33 medical treatment to persons of a defined geographical area.

34 (j) "State employee" means any employee as defined in
35 Section 14-103.05 of the Illinois Pension Code, as now or
36 hereafter amended.

1 (k) "Chaplain" means an individual who:

2 (1) is a chaplain of (i) a fire department or (ii) a
3 police department or other agency consisting of law
4 enforcement officers; and

5 (2) has been designated a chaplain by (i) the fire
6 department, police department, or other agency or an
7 officer or body having jurisdiction over the department or
8 agency or (ii) a labor organization representing the
9 firemen or law enforcement officers.

10 (l) "Armed Forces member" means an Illinois resident who
11 is: a member of the Armed Forces of the United States; a member
12 of the Illinois National Guard while on active military service
13 pursuant to an order of the President of the United States; or
14 a member of any reserve component of the Armed Forces of the
15 United States while on active military service pursuant to an
16 order of the President of the United States.

17 (Source: P.A. 89-323, eff. 1-1-96.)

18 (820 ILCS 315/3) (from Ch. 48, par. 283)

19 Sec. 3. Duty death benefit. If a claim therefor is made
20 within one year of the date of death of a law enforcement
21 officer, civil defense worker, civil air patrol member,
22 paramedic, fireman, chaplain, ~~or~~ State employee, or Armed
23 Forces member killed in the line of duty, compensation shall be
24 paid to the person designated by the law enforcement officer,
25 civil defense worker, civil air patrol member, paramedic,
26 fireman, chaplain, ~~or~~ State employee, or Armed Forces member.
27 However, if the Armed Forces member was killed in the line of
28 duty before the effective date of this amendatory Act of the
29 93rd General Assembly, the claim must be made within one year
30 of the effective date of this amendatory Act of the 93rd
31 General Assembly.

32 The amount of compensation shall be \$10,000 if the death in
33 the line of duty occurred prior to January 1, 1974; \$20,000 if
34 such death occurred after December 31, 1973 and before July 1,
35 1983; \$50,000 if such death occurred on or after July 1, 1983

1 and before January 1, 1996; \$100,000 if the death occurred on
2 or after January 1, 1996 and before May 18, 2001; \$118,000 if
3 the death occurred on or after May 18, 2001 and before the
4 effective date of this amendatory Act of the 92nd General
5 Assembly; and \$259,038 if the death occurs on or after the
6 effective date of this amendatory Act of the 92nd General
7 Assembly and before January 1, 2003.

8 For deaths occurring on or after January 1, 2003, the death
9 compensation rate for death in the line of duty occurring in a
10 particular calendar year shall be the death compensation rate
11 for death occurring in the previous calendar year (or in the
12 case of deaths occurring in 2003, the rate in effect on
13 December 31, 2002) increased by a percentage thereof equal to
14 the percentage increase, if any, in the index known as the
15 Consumer Price Index for All Urban Consumers: U.S. city
16 average, unadjusted, for all items, as published by the United
17 States Department of Labor, Bureau of Labor Statistics, for the
18 12 months ending with the month of June of that previous
19 calendar year.

20 If no beneficiary is designated or surviving at the death
21 of the law enforcement officer, civil defense worker, civil air
22 patrol member, paramedic, fireman, chaplain, ~~or~~ State
23 employee, or Armed Forces member killed in the line of duty,
24 the compensation shall be paid as follows:

25 (a) when there is a surviving spouse, the entire sum
26 shall be paid to the spouse;

27 (b) when there is no surviving spouse, but a surviving
28 descendant of the decedent, the entire sum shall be paid to
29 the decedent's descendants per stirpes;

30 (c) when there is neither a surviving spouse nor a
31 surviving descendant, the entire sum shall be paid to the
32 parents of the decedent in equal parts, allowing to the
33 surviving parent, if one is dead, the entire sum; and

34 (d) when there is no surviving spouse, descendant or
35 parent of the decedent, but there are surviving brothers or
36 sisters, or descendants of a brother or sister, who were

1 receiving their principal support from the decedent at his
2 death, the entire sum shall be paid, in equal parts, to the
3 dependent brothers or sisters or dependent descendant of a
4 brother or sister. Dependency shall be determined by the
5 Court of Claims based upon the investigation and report of
6 the Attorney General.

7 When there is no beneficiary designated or surviving at the
8 death of the law enforcement officer, civil defense worker,
9 civil air patrol member, paramedic, fireman, chaplain, ~~or~~ State
10 employee, or Armed Forces member killed in the line of duty and
11 no surviving spouse, descendant, parent, dependent brother or
12 sister, or dependent descendant of a brother or sister, no
13 compensation shall be payable under this Act.

14 No part of such compensation may be paid to any other
15 person for any efforts in securing such compensation.

16 (Source: P.A. 92-3, eff. 5-18-01; 92-609, eff. 7-1-02.)

17 (820 ILCS 315/4) (from Ch. 48, par. 284)

18 Sec. 4. Notwithstanding Section 3, no compensation is
19 payable under this Act unless a claim therefor is filed, within
20 the time specified by that Section with the Court of Claims on
21 an application prescribed and furnished by the Attorney General
22 and setting forth:

23 (a) the name, address and title or designation of the
24 position in which the officer, civil defense worker, civil air
25 patrol member, paramedic, fireman, chaplain, ~~or~~ State
26 employee, or Armed Forces member was serving at the time of his
27 death;

28 (b) the names and addresses of person or persons designated
29 by the officer, civil defense worker, civil air patrol member,
30 paramedic, fireman, chaplain, ~~or~~ State employee, or Armed
31 Forces member to receive the compensation and, if more than
32 one, the percentage or share to be paid to each such person, or
33 if there has been no such designation, the name and address of
34 the personal representative of the estate of the officer, civil
35 defense worker, civil air patrol member, paramedic, fireman,

1 chaplain, ~~or~~ State employee, or Armed Forces member;

2 (c) a full, factual account of the circumstances resulting
3 in or the course of events causing the death of the officer,
4 civil defense worker, civil air patrol member, paramedic,
5 fireman, chaplain, ~~or~~ State employee, or Armed Forces member;
6 and

7 (d) such other information as the Court of Claims
8 reasonably requires.

9 When a claim is filed, the Attorney General shall make an
10 investigation for substantiation of matters set forth in such
11 an application.

12 (Source: P.A. 89-323, eff. 1-1-96.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.