

The Senate Committee on Judiciary offered the following substitute to HB 881:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 4 of Title 42 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to jails, so as to provide jailers with arrest powers; to  
3 amend Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated,  
4 relating to Georgia State Indemnification Fund, so as to create a presumption for the  
5 qualification for indemnification benefits based on a public safety officer having COVID-19  
6 at the time of death, if certain requirements are met; to provide a definition; to allow  
7 applications for indemnification for such circumstances to be made during a certain time  
8 period; to provide for related matters; to provide an effective date; to repeal conflicting laws;  
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 4 of Title 42 of the Official Code of Georgia Annotated, relating to  
13 general provisions relative to jails, is amended by revising Code Section 42-4-1, relating to  
14 appointment of county and municipal jailers, as follows:

15 "42-4-1.

16 (a) By virtue of their offices, sheriffs are jailers of the counties and have the authority to  
17 appoint other jailers, subject to the supervision of the county governing authority, as  
18 prescribed by law.

19 (b) By virtue of their offices, chiefs of police are the jailers of the municipal corporations  
20 and have the authority to appoint other jailers, subject to the supervision of the municipal  
21 governing authority, as prescribed by law. Each jailer of a municipal corporation shall  
22 maintain the records required of sheriffs by subsection (a) of Code Section 42-4-7.

23 (c) Jailers who have been certified by the Georgia Peace Officer Standards and Training  
24 Council as having successfully completed the course of training required by Chapter 8 of  
25 Title 35, the 'Georgia Peace Officer Standards and Training Act,' shall be authorized to  
26 arrest any person found to be in violation of a criminal law that occurs within the jail or  
27 within the perimeter guard lines of such jail established pursuant to subsection (j) of Code  
28 Section 42-4-13. Jailers shall be further authorized to exercise arrest powers upon any  
29 person for whom a complaint or arrest warrant is pending who surrenders into custody."

30

## SECTION 2.

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

35 "45-9-85.

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

37 (1) 'COVID-19' means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),  
38 and any mutation or viral fragments thereof, or any disease or condition caused by severe  
39 acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

40 ~~(1)~~(2) 'Nonroutine stressful or strenuous physical activity' means actions that are not  
41 clerical, administrative, or nonmanual in nature.

42 ~~(2)~~(3) 'Public safety officer' means a law enforcement officer, firefighter, emergency  
43 medical technician, emergency management rescue specialist, state highway employee,  
44 or prison guard.

45 ~~(3)~~(4) 'Work related activity' means, while in the line of duty:

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

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

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

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

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

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

63 (i) The surviving unremarried spouse;

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

66 or

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

70 (B) In the case of organic brain damage suffered in the line of duty by a public safety  
71 officer, payment shall be made to the legal guardian of the organically brain damaged  
72 person.

73 (C) The surviving unremarried spouse, dependents, or the legal guardian may elect to  
74 receive payment in a lump sum payment of \$150,000.00 paid in equal monthly  
75 installments for five years or a lump sum of such amount reduced to its present value  
76 upon the basis of interest calculated at the rate of 6 percent per annum. The department  
77 shall be authorized to purchase annuities for such payments; or

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

81 (A) Commenced:

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

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

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

86 (B) Directly or proximately resulted in the death or partial or permanent disability of  
87 the public safety officer, unless competent medical evidence established that the heart  
88 attack, stroke, or vascular rupture was not related to the work related activity or was  
89 directly or proximately caused by something other than the mere presence of  
90 cardiovascular disease risk factors; and

91 (5) No indemnification shall be paid under this part for COVID-19 related deaths except  
92 as provided for in this paragraph. Unless competent medical evidence establishes that the  
93 death of a public safety officer was directly and proximately caused by something other

94 than COVID-19, deaths occurring on or before April 15, 2022, shall be presumed to  
95 qualify for indemnification benefits, if:

96 (A) The public safety officer was diagnosed with COVID-19, or the evidence indicates  
97 the officer had COVID-19, within 14 days of such public safety officer's last day of  
98 duty;

99 (B) The evidence indicates that the public safety officer had COVID-19 or  
100 complications therefrom at the time of death; and

101 (C) The qualifications of subparagraph (A) of paragraph (3) of this subsection  
102 regarding eligible recipients are met; provided, however, that a death for which an  
103 indemnification benefit under the Georgia State Indemnification Fund has already been  
104 paid shall not qualify under this paragraph for indemnification benefits to be paid to  
105 such recipients.

106 (c) After the department, or the commissioner or his or her designee upon review of a  
107 denial by the department, determines that a public safety officer has suffered a total  
108 permanent disability, a partial permanent disability, organic brain damage, or death in the  
109 line of duty, the department shall be authorized to make the appropriate payments as  
110 provided in subsection (b) of this Code section.

111 (d) If the department denies a claim, any person seeking benefits pursuant to this part may  
112 appeal the department's decision to the commissioner or his or her designee. Any such  
113 appeal shall be filed with the commissioner or his or her designee within 60 days of receipt  
114 of the department's decision and shall identify the errors in the department's decision.  
115 Appeals shall be considered by the commissioner or his or her designee as provided in  
116 Code Section 45-9-84."

117 **SECTION 3.**

118 Said part is further amended by revising Code Section 45-9-86, relating to application for  
119 indemnification, as follows:

120 "45-9-86.

121 (a) As used in this Code section, the term 'public safety officer' shall have the same  
122 meaning as provided in Code Section 45-9-85.

123 (b) An application for indemnification with respect to a claim for total permanent  
124 disability or partial permanent disability of a public safety officer shall be submitted by that  
125 person unless the person is mentally incompetent, in which case the application may be  
126 made on such person's behalf by his or her legal guardian.

127 (c) An application for indemnification with respect to a claim for the death of a public  
128 ~~service~~ safety officer shall be submitted by or on behalf of the surviving unremarried  
129 spouse or dependents eligible under this part.

130 (d) Except as provided in subsection (e) of this Code section, an application for  
131 indemnification with respect to death, organic brain damage, total permanent disability, or  
132 partial permanent disability must be made within 24 months after the date of the incident  
133 giving rise to the death, organic brain damage, or disability.

134 (e) An application for indemnification with respect to death pursuant to paragraph (5) of  
135 subsection (b) of Code Section 45-9-85 shall be made between the effective date of this  
136 Code section and August 1, 2024. No indemnification claim for death pursuant to  
137 paragraph (5) of subsection (b) of Code Section 45-9-85 shall be paid for an application  
138 that is not made between the effective date of this Code section and August 1, 2024."

139 **SECTION 4.**

140 This Act shall become effective upon its approval by the Governor or upon its becoming law  
141 without such approval.

142 **SECTION 5.**

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