

AN ACT concerning employment.

WHEREAS, The State of Illinois is dedicated to the urgent task of strengthening and expediting the national defense under the emergent conditions which are threatening the peace and security of this nation; and

WHEREAS, It is the considered judgment of the General Assembly that the citizens of Illinois who respond to their country's call to service are deserving of every benefit and protection; and

WHEREAS, It is imperative that State government recognize the State's citizens who have made the ultimate sacrifice to protect the peace and security of this nation; and

WHEREAS, The Illinois Court of Claims should be equipped to provide for and assist the survivors of fallen service members by increasing accessibility to the Court of Claims and providing outreach services to the community, which will serve to educate survivors as to their benefits and protections under State law; and

WHEREAS, By recognizing these sacrifices, the State of Illinois encourages its citizens to participate to the fullest extent in the national defense program and thereby heightens the contribution of our State to the protection of our heritage

of liberty and democracy; therefore

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

Section 5. The Court of Claims Act is amended by changing Section 24 and by adding Section 9.5 as follows:

(705 ILCS 505/9.5 new)

Sec. 9.5. Gold Star and Fallen Heroes Families Assistance Program.

(a) Within the Court of Claims, there is established a Gold Star and Fallen Heroes Families Assistance Program, which is charged with the responsibility of assessing the needs of and providing information to Illinois Gold Star and Fallen Heroes Families with regard to claims filed pursuant to the Line of Duty Compensation Act.

(b) As used in this Section, "Gold Star and Fallen Heroes Family" means the family members of an individual who was killed in the line of duty and who was employed or serving in a capacity defined in Section 2 of the Line of Duty Compensation Act.

(c) Toll-free helpline. The Gold Star and Fallen Heroes Families Assistance Program shall include a toll-free helpline dedicated to families seeking information about the Line of Duty Compensation Act, including, but not limited to, the

status of claims filed pursuant to that Act. The helpline phone number and information about the Gold Star and Fallen Heroes Families Assistance Program shall be provided to each person filing a claim under the Line of Duty Compensation Act.

(d) On or before January 1 of each year, the Court of Claims shall report to the Governor, both houses of the General Assembly, and the Illinois Department of Veterans' Affairs the following information:

(1) the number of claims filed with the Court of Claims pursuant to the Line of Duty Compensation Act;

(2) the number of Line of Duty Compensation Act claims approved for payment by the Court of Claims during the preceding calendar year;

(3) the number and status of Line of Duty Compensation Act claims pending in the Court of Claims; and

(4) other information as may be requested by the Governor.

(705 ILCS 505/24) (from Ch. 37, par. 439.24)

Sec. 24. Payment of awards.

(1) From funds appropriated by the General Assembly for the purposes of this Section the Court may direct immediate payment of:

(a) All claims arising solely as a result of the lapsing of an appropriation out of which the obligation could have been paid.

(b) All claims pursuant to the Line of Duty Compensation Act.

(c) All claims pursuant to the "Illinois National Guardsman's and Naval Militiaman's Compensation Act", approved August 12, 1971, as amended.

(d) All claims pursuant to the "Crime Victims Compensation Act", approved August 23, 1973, as amended.

(e) All other claims wherein the amount of the award of the Court is less than \$5,000.

(2) The court may, from funds specifically appropriated from the General Revenue Fund for this purpose, direct the payment of awards less than \$50,000 solely as a result of the lapsing of an appropriation originally made from any fund held by the State Treasurer. For any such award paid from the General Revenue Fund, the court shall thereafter seek an appropriation from the fund from which the liability originally accrued in reimbursement of the General Revenue Fund.

(3) In directing payment of a claim pursuant to the Line of Duty Compensation Act, the Court must direct the Comptroller to add an interest penalty if payment of a claim is not made within 6 months after a claim is filed in accordance with Section 3 of the Line of Duty Compensation Act and all information has been submitted as required under Section 4 of the Line of Duty Compensation Act. If payment is not issued within the 6-month period, an interest penalty of 1% of the amount of the award shall be added for each month or fraction

thereof after the end of the 6-month period, until final payment is made. This interest penalty shall be added regardless of whether the payment is not issued within the 6-month period because of the appropriation process, the consideration of the matter by the Court, or any other reason.

(3.5) The interest penalty payment provided for in subsection (3) shall be added to all claims for which benefits were not paid as of the effective date of P.A. 95-928. The interest penalty shall be calculated starting from the effective date of P.A. 95-928, provided that the effective date of P.A. 95-928 is at least 6 months after the date on which the claim was filed in accordance with Section 3 of the Line of Duty Compensation Act. In the event that the date 6 months after the date on which the claim was filed is later than the effective date of P.A. 95-928, the Court shall calculate the interest payment penalty starting from the date 6 months after the date on which the claim was filed in accordance with Section 3 of the Line of Duty Compensation Act. This subsection (3.5) of this amendatory Act of the 96th General Assembly is declarative of existing law.

(3.6) In addition to the interest payments provided for in subsections (3) and (3.5), the Court shall direct the Comptroller to add a "catch-up" payment to the claims of eligible claimants. For the purposes of this subsection (3.6), an "eligible claimant" is a claimant whose claim is not paid in the year in which it was filed. For purposes of this subsection

(3.6), "'catch-up' payment" is defined as the difference between the amount paid to claimants whose claims were filed in the year in which the eligible claimant's claim is paid and the amount paid to claimants whose claims were filed in the year in which the eligible claimant filed his or her claim. The "catch-up" payment is payable simultaneously with the claim award.

(4) ~~(3)~~ From funds appropriated by the General Assembly for the purposes of paying claims under paragraph (c) of Section 8, the court must direct payment of each claim and the payment must be received by the claimant within 60 days after the date that the funds are appropriated for that purpose.

(Source: P.A. 95-928, eff. 8-26-08; 95-970, eff. 9-22-08; revised 10-14-08.)

Section 10. The Line of Duty Compensation Act is amended by changing Sections 3 and 4 as follows:

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

Sec. 3. Duty death benefit.

(a) If a claim therefor is made within one year of the date of death of a law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, or State employee killed in the line of duty, or if a claim therefor is made within 2 years of the date of death of an Armed Forces member killed in the line of duty, compensation shall be paid

to the person designated by the law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, State employee, or Armed Forces member. However, if the Armed Forces member was killed in the line of duty before October 18, 2004, the claim must be made within one year of October 18, 2004.

(b) The amount of compensation, except for an Armed Forces member, shall be \$10,000 if the death in the line of duty occurred prior to January 1, 1974; \$20,000 if such death occurred after December 31, 1973 and before July 1, 1983; \$50,000 if such death occurred on or after July 1, 1983 and before January 1, 1996; \$100,000 if the death occurred on or after January 1, 1996 and before May 18, 2001; \$118,000 if the death occurred on or after May 18, 2001 and before July 1, 2002; and \$259,038 if the death occurred on or after July 1, 2002 and before January 1, 2003. For an Armed Forces member killed in the line of duty (i) at any time before January 1, 2005, the compensation is \$259,038 plus amounts equal to the increases for 2003 and 2004 determined under subsection (c) and (ii) on or after January 1, 2005, the compensation is the amount determined under item (i) plus the applicable increases for 2005 and thereafter determined under subsection (c).

(c) Except as provided in subsection (b), for deaths occurring on or after January 1, 2003, the death compensation rate for death in the line of duty occurring in a particular calendar year shall be the death compensation rate for death

occurring in the previous calendar year (or in the case of deaths occurring in 2003, the rate in effect on December 31, 2002) increased by a percentage thereof equal to the percentage increase, if any, in the index known as the Consumer Price Index for All Urban Consumers: U.S. city average, unadjusted, for all items, as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12 months ending with the month of June of that previous calendar year.

(d) If no beneficiary is designated or if no designated beneficiary survives at the death of the law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, or State employee killed in the line of duty, the compensation shall be paid in accordance with a legally binding will left by the law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, or State employee. If the law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, or State employee did not leave a legally binding will, the compensation shall be paid as follows:

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

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

(3) when there is neither a surviving spouse nor a

surviving descendant, the entire sum shall be paid to the parents of the decedent in equal parts, allowing to the surviving parent, if one is dead, the entire sum; and

(4) when there is no surviving spouse, descendant or parent of the decedent, but there are surviving brothers or sisters, or descendants of a brother or sister, who were receiving their principal support from the decedent at his death, the entire sum shall be paid, in equal parts, to the dependent brothers or sisters or dependent descendant of a brother or sister. Dependency shall be determined by the Court of Claims based upon the investigation and report of the Attorney General.

The changes made to this subsection (d) by this amendatory Act of the 94th General Assembly apply to any pending case as long as compensation has not been paid to any party before the effective date of this amendatory Act of the 94th General Assembly.

(d-1) For purposes of subsection (d), in the case of a person killed in the line of duty who was born out of wedlock and was not an adoptive child at the time of the person's death, a person shall be deemed to be a parent of the person killed in the line of duty only if that person would be an eligible parent, as defined in Section 2-2 of the Probate Act of 1975, of the person killed in the line of duty. This subsection (d-1) applies to any pending claim if compensation was not paid to the claimant of the pending claim before the

effective date of this amendatory Act of the 94th General Assembly.

(d-2) If no beneficiary is designated or if no designated beneficiary survives at the death of the Armed Forces member killed in the line of duty, the compensation shall be paid in entirety according to the designation made on the most recent version of the Armed Forces member's Servicemembers' Group Life Insurance Election and Certificate ("SGLI").

If no SGLI form exists at the time of the Armed Forces member's death, the compensation shall be paid in accordance with a legally binding will left by the Armed Forces member.

If no SGLI form exists for the Armed Forces member and the Armed Forces member did not leave a legally binding will, the compensation shall be paid to the persons and in the priority as set forth in paragraphs (1) through (4) of subsection (d) of this Section.

This subsection (d-2) applies to any pending case as long as compensation has not been paid to any party before the effective date of this amendatory Act of the 94th General Assembly.

(e) If there is no beneficiary designated or if no designated beneficiary survives at the death of the law enforcement officer, civil defense worker, civil air patrol member, paramedic, fireman, chaplain, State employee, or Armed Forces member killed in the line of duty and there is no other person or entity to whom compensation is payable under this

Section, no compensation shall be payable under this Act.

(f) No part of such compensation may be paid to any other person for any efforts in securing such compensation.

(g) This amendatory Act of the 93rd General Assembly applies to claims made on or after October 18, 2004 with respect to an Armed Forces member killed in the line of duty.

(h) In any case for which benefits have not been paid within 6 months of the claim being filed in accordance with this Section, which is pending as of the effective date of this amendatory Act of the 96th General Assembly, and in which there are 2 or more beneficiaries, at least one of whom would receive at least a portion of the total benefit regardless of the manner in which the Court of Claims resolves the claim, the Court shall direct the Comptroller to pay the minimum amount of money which the determinate beneficiary would receive together with all interest payment penalties which have accrued on that portion of the award being paid within 30 days of the effective date of this amendatory Act of the 96th General Assembly. For purposes of this subsection (h), "determinate beneficiary" means the beneficiary who would receive any portion of the total benefit claimed regardless of the manner in which the Court of Claims adjudicates the claim.

(i) The Court of Claims shall ensure that all individuals who have filed an application to claim the duty death benefit for a deceased member of the Armed Forces pursuant to this Section, or their designated representative, shall have

access, on a timely basis and in an efficient manner, to all information related to the court's consideration, processing, or adjudication of the claim, including, but not limited to, the following:

(1) a reliable estimate of when the Court of Claims will adjudicate the claim, or if the Court cannot estimate when it will adjudicate the claim, a full written explanation of the reasons for this inability; and

(2) a reliable estimate, based upon consultation with the Comptroller, of when the benefit will be paid to the claimant.

(j) The Court of Claims shall send written notice to all claimants within 2 weeks of the initiation of a claim indicating whether or not the application is complete. For purposes of this subsection (j), an application is complete if a claimant has submitted to the Court of Claims all documents and information the Court requires for adjudicating and paying the benefit amount. For purposes of this subsection (j), a claim for the duty death benefit is initiated when a claimant submits any of the application materials required for adjudicating the claim to the Court of Claims. In the event a claimant's application is incomplete, the Court shall include in its written notice a list of the information or documents which the claimant must submit in order for the application to be complete. In no case may the Court of Claims deny a claim and subsequently re-adjudicate the same claim for the purpose

of evading or reducing the interest penalty payment amount payable to any claimant.

(Source: P.A. 94-843, eff. 6-8-06; 94-844, eff. 6-8-06; 95-928, eff. 8-26-08.)

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

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

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

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

(c) a full, factual account of the circumstances resulting in or the course of events causing the death of the officer,

civil defense worker, civil air patrol member, paramedic, fireman, chaplain, State employee, or Armed Forces member; and

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

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

For the 2 years immediately following the effective date of this amendatory act of the 96th General Assembly, the Court of Claims shall direct the Comptroller to pay a "Modified-Eligibility Line of Duty Benefit" to eligible late claimants who file a claim for the benefit. A claim for a Modified-Eligibility Line of Duty Benefit must include all the application materials and documents required for all other claims payable under this Act, except as otherwise provided in this Section 4. For purposes of this Section 4 only, an "eligible late claimant" is a person who would have been eligible, at any time after September 11, 2001, to apply for and receive payment of a claim pursuant to this Act in connection with the death of an Armed Forces member killed in the line of duty, but did not receive the award payment because:

(1) the claim was rejected only because the claim was not filed within the time limitation set forth in subsection (a) of Section 3 of this Act; or

(2) having met all other preconditions for applying for

and receiving the award payment, the claimant did not file a claim because the claim would not have been filed within the time limitation set forth in subsection (a) of Section 3 of this Act. For purposes of this Section 4 only, the "Modified-Eligibility Line of Duty Benefit" is an amount of money payable to eligible late claimants equal to the amount set forth in Section 3 of this Act payable to claimants seeking payment of awards under Section 3 of this Act for claims made thereunder in the year in which the claim for the Modified-Eligibility Line of Duty Benefit is made. Within 6 months of receiving a complete claim for the Modified-Eligibility Line of Duty Benefit, the Court of Claims must direct the Comptroller to pay the benefit amount to the eligible late claimant.

(Source: P.A. 93-1047, eff. 10-18-04.)