



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5370

by Rep. Michael P. McAuliffe

SYNOPSIS AS INTRODUCED:

705 ILCS 505/22	from Ch. 37, par. 439.22
705 ILCS 505/24	from Ch. 37, par. 439.24
820 ILCS 315/3	from Ch. 48, par. 283

Amends the Line of Duty Compensation Act. Provides that compensation shall be paid to the person designated by an Armed Forces member killed in the line of duty if a claim is made within 5 years (instead of one year) after the date of death. Amends the Court of Claims Act to make changes conforming that Act to the Line of Duty Compensation Act. Effective immediately.

LRB095 15587 WGH 45276 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning persons killed in the line of duty.

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

4 Section 5. The Court of Claims Act is amended by changing
5 Sections 22 and 24 as follows:

6 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

7 Sec. 22. Every claim cognizable by the Court and not
8 otherwise sooner barred by law shall be forever barred from
9 prosecution therein unless it is filed with the Clerk of the
10 Court within the time set forth as follows:

11 (a) All claims arising out of a contract must be filed
12 within 5 years after it first accrues, saving to minors, and
13 persons under legal disability at the time the claim accrues,
14 in which cases the claim must be filed within 5 years from the
15 time the disability ceases.

16 (b) All claims cognizable against the State by vendors of
17 goods or services under "The Illinois Public Aid Code",
18 approved April 11, 1967, as amended, must file within one year
19 after the accrual of the cause of action, as provided in
20 Section 11-13 of that Code.

21 (c) All claims arising under paragraph (c) of Section 8 of
22 this Act must be filed within 2 years after the person
23 asserting such claim is discharged from prison, or is granted a

1 pardon by the Governor, whichever occurs later, except as
2 otherwise provided by the Crime Victims Compensation Act.

3 (d) All claims arising under paragraph (f) of Section 8 of
4 this Act must be filed within the time set forth ~~one year of~~
5 ~~the date of the death of the law enforcement officer or fireman~~
6 ~~as provided~~ in Section 3 of the Line of Duty "Law Enforcement
7 ~~Officers and Firemen Compensation Act"~~, ~~approved September 30,~~
8 ~~1969, as amended.~~

9 (e) All claims arising under paragraph (h) of Section 8 of
10 this Act must be filed within one year of the date of the death
11 of the guardsman or militiaman as provided in Section 3 of the
12 "Illinois National Guardsman's and Naval Militiaman's
13 Compensation Act", approved August 12, 1971, as amended.

14 (f) All claims arising under paragraph (g) of Section 8 of
15 this Act must be filed within one year of the crime on which a
16 claim is based as provided in Section 6.1 of the "Crime Victims
17 Compensation Act", approved August 23, 1973, as amended.

18 (g) All claims arising from the Comptroller's refusal to
19 issue a replacement warrant pursuant to Section 10.10 of the
20 State Comptroller Act must be filed within 5 years after the
21 issue date of such warrant.

22 (h) All other claims must be filed within 2 years after it
23 first accrues, saving to minors, and persons under legal
24 disability at the time the claim accrues, in which case the
25 claim must be filed within 2 years from the time the disability
26 ceases.

1 (i) The changes made by this amendatory Act of 1989 shall
2 apply to all warrants issued within the 5 year period preceding
3 the effective date of this amendatory Act of 1989.

4 (j) All time limitations established under this Act and the
5 rules promulgated under this Act shall be binding and
6 jurisdictional, except upon extension authorized by law or rule
7 and granted pursuant to a motion timely filed.

8 (Source: P.A. 86-458.)

9 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

10 Sec. 24. Payment of awards.

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

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

17 (b) All claims pursuant to the Line of Duty "Law
18 ~~Enforcement Officers and Firemen Compensation Act"~~,
19 ~~approved September 30, 1969, as amended.~~

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

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

25 (e) All other claims wherein the amount of the award of

1 the Court is less than \$5,000.

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

10 (Source: P.A. 92-357, eff. 8-15-01.)

11 Section 10. The Line of Duty Compensation Act is amended by
12 changing Section 3 as follows:

13 (820 ILCS 315/3) (from Ch. 48, par. 283)

14 Sec. 3. Duty death benefit.

15 (a) If a claim therefor is made within one year of the date
16 of death of a law enforcement officer, civil defense worker,
17 civil air patrol member, paramedic, fireman, chaplain, or State
18 employee, ~~or Armed Forces member~~ killed in the line of duty, or
19 if a claim therefor is made within 5 years of the date of death
20 of an Armed Forces member killed in the line of duty,
21 compensation shall be paid to the person designated by the law
22 enforcement officer, civil defense worker, civil air patrol
23 member, paramedic, fireman, chaplain, State employee, or Armed
24 Forces member. However, if the Armed Forces member was killed

1 in the line of duty before October 18, 2004, the claim must be
2 made within one year of October 18, 2004.

3 (b) The amount of compensation, except for an Armed Forces
4 member, shall be \$10,000 if the death in the line of duty
5 occurred prior to January 1, 1974; \$20,000 if such death
6 occurred after December 31, 1973 and before July 1, 1983;
7 \$50,000 if such death occurred on or after July 1, 1983 and
8 before January 1, 1996; \$100,000 if the death occurred on or
9 after January 1, 1996 and before May 18, 2001; \$118,000 if the
10 death occurred on or after May 18, 2001 and before July 1,
11 2002; and \$259,038 if the death occurred on or after July 1,
12 2002 and before January 1, 2003. For an Armed Forces member
13 killed in the line of duty (i) at any time before January 1,
14 2005, the compensation is \$259,038 plus amounts equal to the
15 increases for 2003 and 2004 determined under subsection (c) and
16 (ii) on or after January 1, 2005, the compensation is the
17 amount determined under item (i) plus the applicable increases
18 for 2005 and thereafter determined under subsection (c).

19 (c) Except as provided in subsection (b), for deaths
20 occurring on or after January 1, 2003, the death compensation
21 rate for death in the line of duty occurring in a particular
22 calendar year shall be the death compensation rate for death
23 occurring in the previous calendar year (or in the case of
24 deaths occurring in 2003, the rate in effect on December 31,
25 2002) increased by a percentage thereof equal to the percentage
26 increase, if any, in the index known as the Consumer Price

1 Index for All Urban Consumers: U.S. city average, unadjusted,
2 for all items, as published by the United States Department of
3 Labor, Bureau of Labor Statistics, for the 12 months ending
4 with the month of June of that previous calendar year.

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

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

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

22 (3) when there is neither a surviving spouse nor a
23 surviving descendant, the entire sum shall be paid to the
24 parents of the decedent in equal parts, allowing to the
25 surviving parent, if one is dead, the entire sum; and

26 (4) when there is no surviving spouse, descendant or

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

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

14 (d-1) For purposes of subsection (d), in the case of a
15 person killed in the line of duty who was born out of wedlock
16 and was not an adoptive child at the time of the person's
17 death, a person shall be deemed to be a parent of the person
18 killed in the line of duty only if that person would be an
19 eligible parent, as defined in Section 2-2 of the Probate Act
20 of 1975, of the person killed in the line of duty. This
21 subsection (d-1) applies to any pending claim if compensation
22 was not paid to the claimant of the pending claim before the
23 effective date of this amendatory Act of the 94th General
24 Assembly.

25 (d-2) If no beneficiary is designated or if no designated
26 beneficiary survives at the death of the Armed Forces member

1 killed in the line of duty, the compensation shall be paid in
2 entirety according to the designation made on the most recent
3 version of the Armed Forces member's Servicemembers' Group Life
4 Insurance Election and Certificate ("SGLI").

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

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

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

17 (e) If there is no beneficiary designated or if no
18 designated beneficiary survives at the death of the law
19 enforcement officer, civil defense worker, civil air patrol
20 member, paramedic, fireman, chaplain, State employee, or Armed
21 Forces member killed in the line of duty and there is no other
22 person or entity to whom compensation is payable under this
23 Section, no compensation shall be payable under this Act.

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

26 (g) This amendatory Act of the 93rd General Assembly

1 applies to claims made on or after October 18, 2004 with
2 respect to an Armed Forces member killed in the line of duty.

3 (Source: P.A. 93-1047, eff. 10-18-04; 93-1073, eff. 1-18-05;
4 94-843, eff. 6-8-06; 94-844, eff. 6-8-06.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.