

1 SB106
2 196799-2
3 By Senators Barfoot and Whatley
4 RFD: Veterans and Military Affairs
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

1 SB106

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4 ENROLLED, An Act,

5 Relating to Alabama national guardsmen's benefits;
6 to amend Sections 31-3-2, 31-6-4, 31-12-1, and 31-12-2, Code
7 of Alabama 1975, to provide for increased survivor and
8 education benefits for guardsmen on state active duty; and to
9 make those benefits available to surviving dependents of
10 guardsmen who are killed or die while on active duty.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 31-3-2 of the Code of Alabama
13 1975, is amended to read as follows:

14 "§31-3-2.

15 "In the event an Alabama national guardsman is
16 killed, either accidentally or deliberately, while ~~engaged in~~
17 ~~the performance of his duties in quelling a riot, rout, or~~
18 ~~civil disturbance~~ on state active duty status as defined by
19 Section 31-12-1, his or her dependents shall be entitled to
20 compensation in the amount of ~~\$10,000~~ one hundred thousand
21 dollars (\$100,000) to be paid from the State Treasury, as
22 provided in this chapter, unless such death was caused by the
23 wilful misconduct of the guardsman or was due to his or her
24 own intoxication or his or her wilful failure or refusal to
25 use safety appliances provided by his or her commanding

1 officer or other person in charge, or his or her wilful
2 refusal or neglect to perform a statutory duty or any other
3 wilful violation of a law, or his or her wilful breach of a
4 reasonable rule or regulation governing the performance of his
5 or her duties as such guardsman, of which rule or regulation
6 he or she had knowledge. Any Alabama national guardsman whose
7 death results proximately and within three years from an
8 injury received while ~~performing his duties in quelling any~~
9 ~~riot, rout, or civil disturbance~~ on state active duty status
10 shall, for the purposes of this chapter, be deemed to have
11 been killed while ~~in the performance of such duties~~ on state
12 active duty status; provided, however, that the compensation
13 provided for by this chapter shall be limited to state duty
14 and shall not be extended to cover any federal duty status."

15 Section 2. Section 31-6-4 of the Code of Alabama
16 1975, is amended to read as follows:

17 "§31-6-4.

18 "(a) Any child whose father or mother:

19 "(1) Was killed or died in line of duty or is listed
20 as missing in action or is/was a prisoner of war or whose
21 death or permanent total disabilities were service-connected
22 while serving as a member of the armed forces; or

23 "(2) Died from a disability incurred from military
24 service, as established by the State Department of Veterans'
25 Affairs, after having been discharged under conditions other

1 than dishonorable and after having served at least 90 days
2 consecutively in the armed forces prior to and/or subsequent
3 to the date on which such disability occurred, or who was
4 honorably discharged by reason of wartime, service-connected
5 disability after serving less than 90 days; or

6 "(3) Was killed or died while on state active duty
7 status as defined within Section 31-12-1, or whose death
8 results proximately and within three years from an injury
9 received while on state active duty status; or

10 "~~(3)~~(4) Has been assigned 100 percent permanent or
11 total disability rated by the United States Veterans'
12 Administration, or was discharged or retired from the armed
13 forces with a 40 percent or more disability and maintained
14 that percentage (such person to be deemed to be a disabled
15 veteran); may attend any Alabama state institution of higher
16 learning, college, or university for a period of five standard
17 academic years, not to exceed 45 months or the equivalent of
18 45 months if enrolled part-time, pursuant to the tuition
19 reimbursement guidelines as provided in subsection (c) for
20 such college or university attendance, or any such child may
21 take a prescribed course in any Alabama state-supported
22 community or technical college for the length of any
23 prescribed course of study of his or her choosing, and if such
24 course does not require the full 45 months, then training for
25 the remainder of such 45 months' entitlement may be taken at a

1 state-supported college or university only, pursuant to the
2 tuition reimbursement guidelines as provided in subsection
3 (c),. Training under this section must be initiated prior to
4 the child's thirtieth birthday, and must be completed within
5 eight years after its initiation, except for delays caused by
6 military service during the training period, and in no case
7 may training be received under this chapter beyond the
8 thirty-eighth birthday of such child.

9 "(b) Except as provided in Section 31-6-11(e), the
10 educational benefits provided by this section to children
11 making application for benefits for the first time beginning
12 with the fall term of the 2014-2015 academic year, and
13 thereafter, shall be limited to undergraduate courses of study
14 only, and the value of tuition paid shall be limited to the
15 in-state tuition rate of the Alabama state institution of
16 higher learning, college, or university attended.

17 "(c) For those first filing for benefits under this
18 chapter on or after July 31, 2017, the educational benefit
19 shall be for tuition reimbursement and books and fees
20 reimbursement. The value of tuition paid per semester hour (or
21 equivalent) shall be limited to the rate of the Department of
22 Defense Tuition Assistance Cap. The value of the books and
23 fees paid per semester shall be limited to \$1,000 per student.

24 "(d) For the purpose of the minimum disability
25 requirement provided for in subsection (a) ~~(3)~~ (4), the

1 dependent of any veteran whose disability rating as of July
2 31, 2017, is at least 20 percent but less than 40 percent
3 shall qualify for the benefits of this chapter provided that
4 the dependent shall file application for such benefits before
5 July 31, 2023, and the dependent is reasonably expected to be
6 eligible to attend an Alabama institution of higher learning,
7 college or university in the next academic year."

8 Section 3. Sections 31-12-1 and 31-12-2 of the Code
9 of Alabama 1975, are amended to read as follows:

10 "§31-12-1.

11 "As used in this chapter, the following terms shall
12 have the following meanings:

13 "(1) BE CALLED OR ORDERED BY THE GOVERNOR. To be
14 called or ordered into active military service under 32 U.S.C.
15 §502(f) or this title.

16 "(2) EMPLOYEE. Except as provided in Sections
17 31-12-5, 31-12-6, 31-12-7, and 31-12-8, any person employed by
18 a public or private employer.

19 "(3) FEDERALLY FUNDED DUTY OTHER THAN TRAINING. Any
20 duty performed in an operational role for homeland security in
21 accordance with Title 32 U.S.C. §502(f). This is federally
22 funded duty in addition to or in lieu of the 15 days and one
23 weekend a month federally required training and other training
24 duty.

1 "(4) RESERVE COMPONENT OF THE ARMED FORCES. The
2 United States Army Reserve, United States Navy Reserve, United
3 States Marine Corps Reserve, United States Coast Guard
4 Reserve, United States Air Force Reserve, and Alabama National
5 Guard.

6 "(5) SOLDIERS' AND SAILORS' RELIEF ACT (SSCRA). The
7 provisions of 50 App. U.S.C. §501 et seq., which protects
8 active military service members from adverse legal action when
9 military service hampers the service member's ability to meet
10 financial obligations. SSCRA lowers the interest rate to six
11 percent during the term of active duty and prohibits
12 foreclosures and evictions.

13 "(6) STATE ACTIVE DUTY. Any state funded duty
14 performed ~~for 30 consecutive days or more,~~ other than for
15 training, by an active member of the Alabama National Guard in
16 accordance with this title.

17 "(7) UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT
18 RIGHTS ACT OF 1994. The provisions of 38 U.S.C. §4301 et seq.,
19 which give employees who leave a civilian job to perform
20 military service the right to return to the civilian job held
21 before entering military service with rights to purchase
22 insurance coverage, purchase retirement credit, and seniority.

23 "§31-12-2.

24 "(a) Whenever any active member of the Alabama
25 National Guard, or a member of the national guard of another

1 state who is employed in this state, in time of war, armed
2 conflict, or emergency proclaimed by the Governor or by the
3 President of the United States, shall be called or ordered to
4 state active duty or federally funded duty for other than
5 training, the provisions of the federal Servicemembers Civil
6 Relief Act (SCRA) and the federal Uniformed Services
7 Employment and Reemployment Rights Act shall apply,
8 notwithstanding that the duties are performed while on state
9 active duty status. If a period of active service is required
10 for purposes of these federal laws, that same period of state
11 active duty service shall be required for these provisions to
12 apply.

13 "(b) Those active members as defined in subsection
14 (a) called or ordered to active duty for a period of 30
15 consecutive days or more shall be eligible for military
16 differential pay pursuant to Section 31-12-5 and restoration
17 of annual or sick leave pursuant to Section 31-12-8."

18 Section 4. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB106

Senate 04-FEB-21

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 04-MAR-21

By: Senator Barfoot