

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

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8 SYNOPSIS: Under current law, certain education and
9 survivor benefits are unavailable to Alabama
10 national guardsmen who perform duties under state
11 active duty status for periods.

12 This bill would expand survivor and
13 education benefits to Alabama national guardsmen
14 who are on state active duty for a period less than
15 the existing 30-day minimum, so that guardsmen
16 assisting with natural disasters or other
17 emergencies may be eligible for state and federal
18 benefits.

19 This bill would also raise the compensation
20 for surviving dependents of Alabama national
21 guardsmen from \$10,000 to \$100,000.
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23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

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

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 "§31-3-2.

11 "In the event an Alabama national guardsman is
12 killed, either accidentally or deliberately, while ~~engaged in~~
13 ~~the performance of his duties in quelling a riot, rout, or~~
14 ~~civil disturbance~~ on state active duty status as defined by
15 Section 31-12-1, his or her dependents shall be entitled to
16 compensation in the amount of ~~\$10,000~~ one hundred thousand
17 dollars (\$100,000) to be paid from the State Treasury, as
18 provided in this chapter, unless such death was caused by the
19 wilful misconduct of the guardsman or was due to his or her
20 own intoxication or his or her wilful failure or refusal to
21 use safety appliances provided by his or her commanding
22 officer or other person in charge, or his or her wilful
23 refusal or neglect to perform a statutory duty or any other
24 wilful violation of a law, or his or her wilful breach of a
25 reasonable rule or regulation governing the performance of his
26 or her duties as such guardsman, of which rule or regulation
27 he or she had knowledge. Any Alabama national guardsman whose

1 death results proximately and within three years from an
2 injury received while ~~performing his duties in quelling any~~
3 ~~riot, rout, or civil disturbance~~ on state active duty status
4 shall, for the purposes of this chapter, be deemed to have
5 been killed while ~~in the performance of such duties~~ on state
6 active duty status; provided, however, that the compensation
7 provided for by this chapter shall be limited to state duty
8 and shall not be extended to cover any federal duty status."

9 Section 2. Section 31-6-4 of the Code of Alabama
10 1975, is amended to read as follows:

11 "§31-6-4.

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

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

17 "(2) Died from a disability incurred from military
18 service, as established by the State Department of Veterans'
19 Affairs, after having been discharged under conditions other
20 than dishonorable and after having served at least 90 days
21 consecutively in the armed forces prior to and/or subsequent
22 to the date on which such disability occurred, or who was
23 honorably discharged by reason of wartime, service-connected
24 disability after serving less than 90 days; or

25 "(3) Was killed or died while on state active duty
26 status as defined within Section 31-12-1, or whose death

1 results proximately and within three years from an injury
2 received while on state active duty status; or

3 ~~"(3)~~ (4) Has been assigned 100 percent permanent or
4 total disability rated by the United States Veterans'
5 Administration, or was discharged or retired from the armed
6 forces with a 40 percent or more disability and maintained
7 that percentage (such person to be deemed to be a disabled
8 veteran); may attend any Alabama state institution of higher
9 learning, college, or university for a period of five standard
10 academic years, not to exceed 45 months or the equivalent of
11 45 months if enrolled part-time, pursuant to the tuition
12 reimbursement guidelines as provided in subsection (c) for
13 such college or university attendance, or any such child may
14 take a prescribed course in any Alabama state-supported
15 community or technical college for the length of any
16 prescribed course of study of his or her choosing, and if such
17 course does not require the full 45 months, then training for
18 the remainder of such 45 months' entitlement may be taken at a
19 state-supported college or university only, pursuant to the
20 tuition reimbursement guidelines as provided in subsection
21 (c),. Training under this section must be initiated prior to
22 the child's thirtieth birthday, and must be completed within
23 eight years after its initiation, except for delays caused by
24 military service during the training period, and in no case
25 may training be received under this chapter beyond the
26 thirty-eighth birthday of such child.

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

9 "(c) For those first filing for benefits under this
10 chapter on or after July 31, 2017, the educational benefit
11 shall be for tuition reimbursement and books and fees
12 reimbursement. The value of tuition paid per semester hour (or
13 equivalent) shall be limited to the rate of the Department of
14 Defense Tuition Assistance Cap. The value of the books and
15 fees paid per semester shall be limited to \$1,000 per student.

16 "(d) For the purpose of the minimum disability
17 requirement provided for in subsection (a) ~~(3)~~ (4), the
18 dependent of any veteran whose disability rating as of July
19 31, 2017, is at least 20 percent but less than 40 percent
20 shall qualify for the benefits of this chapter provided that
21 the dependent shall file application for such benefits before
22 July 31, 2023, and the dependent is reasonably expected to be
23 eligible to attend an Alabama institution of higher learning,
24 college or university in the next academic year."

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

27 "§31-12-1.

1 "As used in this chapter, the following terms shall
2 have the following meanings:

3 "(1) BE CALLED OR ORDERED BY THE GOVERNOR. To be
4 called or ordered into active military service under 32 U.S.C.
5 §502(f) or this title.

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

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

15 "(4) RESERVE COMPONENT OF THE ARMED FORCES. The
16 United States Army Reserve, United States Navy Reserve, United
17 States Marine Corps Reserve, United States Coast Guard
18 Reserve, United States Air Force Reserve, and Alabama National
19 Guard.

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

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

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

11 "§31-12-2.

12 "(a) Whenever any active member of the Alabama
13 National Guard, or a member of the national guard of another
14 state who is employed in this state, in time of war, armed
15 conflict, or emergency proclaimed by the Governor or by the
16 President of the United States, shall be called or ordered to
17 state active duty or federally funded duty for other than
18 training, the provisions of the federal Servicemembers Civil
19 Relief Act (SCRA) and the federal Uniformed Services
20 Employment and Reemployment Rights Act shall apply,
21 notwithstanding that the duties are performed while on state
22 active duty status. If a period of active service is required
23 for purposes of these federal laws, that same period of state
24 active duty service shall be required for these provisions to
25 apply.

26 "(b) Those active members as defined in subsection
27 (a) called or ordered to active duty for a period of 30

1 consecutive days or more shall be eligible for military
2 differential pay pursuant to Section 31-12-5 and restoration
3 of annual or sick leave pursuant to Section 31-12-8."

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