

No. 2004-210

AN ACT

SB 931

Amending the act of December 16, 1998 (P.L.980, No.129), entitled "An act providing for a waiver of tuition and other fees for children of certain deceased police officers, National Guard members, firefighters and correction employees at community colleges and State-owned and State-related institutions of higher education and for additional powers and duties of the Pennsylvania Higher Education Assistance Agency and the Department of General Services," extending the Postsecondary Educational Gratuity Program to certain children of sheriffs and deputy sheriffs; and further providing for National Guard eligibility.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3(a), (b) and (d) of the act of December 16, 1998 (P.L.980, No.129), known as the Police Officer, Firefighter, Correction Employee and National Guard Member Child Beneficiary Education Act, are amended to read:

Section 3. Postsecondary Educational Gratuity Program.

(a) Establishment.—There is hereby established the Postsecondary Educational Gratuity Program for children of police officers, firefighters, correction employees, *sheriffs, deputy sheriffs* and National Guard members *and certain other individuals who are on Federal or State active military duty who are residents* of this Commonwealth who are killed while acting in the performance of their duties.

(b) Eligibility.—

(1) Police officers shall be deemed to have been killed in the performance of their duties if death results from job-related injuries sustained or inflicted while performing any of the following:

- (i) Answering an emergency call.
- (ii) Conducting interrogations of crime suspects or interrogations pursuant to a response to an emergency call.
- (iii) Conducting vehicle stops for traffic violations.
- (iv) Actively responding to requests for assistance from the public.
- (v) Maintaining order and security at the scene of an emergency.

(2) Firefighters shall be deemed to have been killed in the performance of their duties if death results from job-related injuries sustained or inflicted while performing any of the following:

- (i) Being present at the scene of a fire or going to and from a fire. In the case of volunteer firefighters, going to and from a fire shall include traveling from and directly returning to the firefighter's home, place of business or other location where the firefighter was when the fire call or alarm was received for a fire which the firefighter's volunteer fire company attended.
- (ii) Answering an emergency call.

(iii) Maintaining order and security at the scene of an emergency.

(3) A member of the National Guard shall be deemed to have been killed in the performance of his or her duties if his or her death results from performance of a duty required by his or her orders or commander while in an official duty status **[other than on Federal active duty] authorized under Federal or State law.**

(4) Correction employees shall be deemed to have been killed in the performance of their duties if death results from job-related injuries sustained or inflicted while maintaining order and security or otherwise carrying out their duties at a correctional facility.

(4.1) Sheriffs and deputy sheriffs shall be deemed to have been killed in the performance of their duties if death results from job-related injuries sustained or inflicted while maintaining order and security or otherwise carrying out their duties as a sheriff or deputy sheriff.

(4.2) An individual who is on Federal or State active military duty who is a resident of this Commonwealth shall be deemed to have been killed in the performance of duty if death results from performance of a duty required by his or her orders or commander while in an official duty status.

(5) Notwithstanding the provisions of this section, deaths which occur as the direct and proximate result of preexisting physical conditions, diseases or illnesses shall be excluded from eligibility under this section.

(6) Any child of a police officer, firefighter, correction employee, **sheriff, deputy sheriff** or National Guard member killed in the performance of his or her duties shall be eligible for an educational gratuity provided the child is 25 years of age or younger at the time of application for participation in this program, meets all admission requirements of the community college or State-owned or State-related institution to which application is made and is enrolled as a full-time student at a community college or a State-owned or State-related institution.

(7) A child who is 25 years of age or younger at the time of the child's application for participation in this program and who meets all other eligibility requirements may receive an educational gratuity for up to five years provided the child otherwise continues to be eligible for participation.

* * *

(d) Administration.—

(1) Copies of all police officer and firefighter death certifications received by the Department of General Services under the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act, shall be provided by the Department of General Services to PHEAA within 20 days of their receipt.

(2) Written notification of the death of any correction employee killed in the performance of his or her duties shall be submitted to PHEAA by the Secretary of Corrections within 20 days of the death of the employee.

(2.1) Written notification of the death of any sheriff or deputy sheriff killed in the performance of his or her duties shall be submitted to PHEAA by the county commissioners of the county in which the sheriff was elected or deputy sheriff was employed¹ within 20 days of the death of the employee.

(3) Written notification of the death of any member of the National Guard or other individual who is on Federal or State active military duty who is a resident of this Commonwealth killed in the performance of his or her duties shall be submitted to PHEAA by the Adjutant General of the Department of Military and Veterans Affairs within 20 days of the death of the National Guard member.

(4) Applications for an educational gratuity shall be submitted to PHEAA by the child or the surviving parent or guardian of the child, together with a certified copy of the child's birth certificate or adoption record or other documentation of birth or adoption acceptable to PHEAA. The application shall include a copy of the child's letter of acceptance at a community college or a State-owned or State-related institution. If no death certification has been received from the Department of General Services, Secretary of Corrections or Adjutant General of the Department of Military and Veterans Affairs, PHEAA may elect to accept other documentation certifying that the child's parent was a police officer, firefighter, correction employee or National Guard member killed during the performance of his or her duties.

(5) Within 30 days of receipt of a completed application, PHEAA shall send written notice to the child and the community college or State-owned or State-related institution of the child's eligibility or noneligibility for participation in this program. If the child is determined not to be eligible for an educational gratuity, the notice shall include the reason or reasons for such determination and an indication that an appeal of PHEAA's determination may be made pursuant to 2 Pa.C.S. (relating to administrative law and procedure).

(6) Upon receipt of notification of the child's eligibility from PHEAA, a community college or a State-owned or State-related institution is prohibited from charging the child or the child's parent or guardian any tuition fee or room and board charge. If moneys have been received by the community college or the State-owned or State-related institution for these purposes, those moneys must be refunded in full within 30 days of receipt by the community college or the State-owned or State-related institution of the notice of the child's eligibility.

¹ "deputy sheriff employed" in enrolled bill.

(7) Each community college or State-owned or State-related institution at which an eligible child is enrolled shall notify PHEAA upon the child's graduation or when the child is no longer enrolled at the community college or State-owned or State-related institution.

Section 2. This act shall be retroactive to September 11, 2001.

Section 3. This act shall take effect immediately.

APPROVED—The 30th day of November, A.D. 2004.

EDWARD G. RENDELL