

House Bill 480 (AS PASSED HOUSE AND SENATE)

By: Representatives Franklin of the 160th, Werkheiser of the 157th, McClain of the 109th, Park of the 107th, Thomas of the 65th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to
2 workers' compensation, so as to change certain provisions related to workers' compensation
3 benefits; to change provisions relating to surviving spouse dependency determination and
4 termination; to increase the compensation benefits for total disability and temporary partial
5 disability; to increase the total compensation payable to a surviving spouse as a sole
6 dependent at the time of death; to provide for related matters; to provide for an effective date
7 and applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'
11 compensation, is amended by revising Code Section 34-9-13, relating to definitions, persons
12 presumed next of kin, apportionment of payments among partial and total dependents,
13 termination of dependency, as follows:

14 "34-9-13.

15 (a) As used in this Code section, the term:

- 16 (1) 'Child' includes dependent stepchildren, legally adopted children, posthumous
17 children, and acknowledged children born out of wedlock but does not include married
18 children; and
- 19 (2) 'Parent' includes stepparents and parents by adoption.
- 20 (b) The following persons shall be conclusively presumed to be the next of kin wholly
21 dependent for support upon the deceased employee:
- 22 (1) A wife or husband, except that if the wife and husband were living separately for a
23 period of 90 days immediately prior to the accident which resulted in the death of the
24 deceased employee the presumption of total dependence shall be rebuttable; and
- 25 (2) A child of the employee if:
- 26 (A) The child is under 18 or enrolled full time in high school;
- 27 (B) The child is over 18 and is physically or mentally incapable of earning a
28 livelihood; or
- 29 (C) The child is under the age of 22 and is a full-time student or the equivalent in good
30 standing enrolled in a postsecondary institution of higher learning.
- 31 (c) If the deceased employee leaves a dependent surviving spouse, as above described, and
32 no dependent child or children, the full compensation shall be paid to such spouse. If the
33 deceased employee leaves a dependent surviving spouse, as above described, and also a
34 dependent child or children, the full compensation shall be paid to such spouse for his or
35 her use and that of such child or children; provided, however, that the board shall have the
36 power in proper cases, in its discretion, to apportion the compensation; provided, further,
37 that, if the dependent surviving spouse dies before payment is made in full, the balance
38 remaining shall be paid to the person or persons wholly dependent, if any, share and share
39 alike. If there is no person wholly dependent, payment shall be made to partial dependents.
- 40 (d) In all other cases, questions of including where the deceased employee and a claimant
41 dependent lived together continuously and openly in a relationship similar or akin to
42 marriage, there shall be no presumption of dependency, and a claimant dependent's

43 dependency, in whole or in part, shall be determined in accordance with the facts at the
44 time of the accident, ~~but no allowance based upon evidence proving the deceased employee~~
45 provided support of economic value to the claimant dependent, including, but not limited
46 to, monetary support, sustenance, or housing. No consideration shall be made for any
47 payment made exclusively in lieu of for board and lodging or services, and no
48 compensation shall be allowed unless the dependency existed for a period of three months
49 or more prior to the accident. In such other cases, if there is more than one person wholly
50 dependent, the death benefit shall be divided among them, and persons partially dependent,
51 if any, shall receive no part thereof; if there is no one wholly dependent and more than one
52 person partially dependent, the death benefit shall be divided among them according to the
53 relative extent of their dependency.

54 (e) For the purpose of this chapter, the dependency of a spouse upon a deceased employee
55 shall terminate with remarriage or upon a determination by the board of cohabitation in a
56 ~~meretricious relationship; and for this purpose cohabitation in a meretricious relationship~~
57 ~~shall be a relationship in which persons of the opposite sex live together continuously and~~
58 ~~openly in a relationship similar or akin to marriage, which relationship includes either~~
59 ~~sexual intercourse or the sharing of living expenses~~ that includes support of economic value
60 to the claimant dependent, including, but not limited to, monetary support, sustenance, or
61 housing. No consideration shall be given to any payment made exclusively for board and
62 lodging or to any payment for financial support for a period of less than three months. The
63 dependency of a child, except a child physically or mentally incapable of earning a
64 livelihood, shall terminate with the attainment of 18 years of age, except as provided in
65 paragraph (2) of subsection (b) of this Code section. The dependency of a spouse and of
66 a partial dependent shall terminate at age 65 or after payment of 400 weeks of benefits,
67 whichever provides greater benefits."

68 **SECTION 2.**

69 Said chapter is further amended by revising Code Section 34-9-261, relating to compensation
70 for total disability, as follows:

71 "34-9-261.

72 While the disability to work resulting from an injury is temporarily total, the employer shall
73 pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the
74 employee's average weekly wage but not more than ~~\$725.00~~ \$800.00 per week nor less
75 than \$50.00 per week, except that when the weekly wage is below \$50.00, the employer
76 shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under
77 this Code section shall be payable for a maximum period of 400 weeks from the date of
78 injury; provided, however, that in the event of a catastrophic injury as defined in subsection
79 (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall be paid
80 until such time as the employee undergoes a change in condition for the better as provided
81 in paragraph (1) of subsection (a) of Code Section 34-9-104."

82 **SECTION 3.**

83 Said chapter is further amended by revising Code Section 34-9-262, relating to compensation
84 for temporary partial disability, as follows:

85 "34-9-262.

86 Except as otherwise provided in Code Section 34-9-263, where the disability to work
87 resulting from the injury is partial in character but temporary in quality, the employer shall
88 pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the
89 difference between the average weekly wage before the injury and the average weekly
90 wage the employee is able to earn thereafter but not more than ~~\$483.00~~ \$533.00 per week
91 for a period not exceeding 350 weeks from the date of injury."

92 **SECTION 4.**

93 Said chapter is further amended in Code Section 34-9-265, relating to compensation for death
94 resulting from injury and other causes, penalty for death from injury proximately caused by
95 intentional act of employer, and payment of death benefits where no dependents found, by
96 revising subsection (d) as follows:

97 "(d) The total compensation payable under this Code section to a surviving spouse as a sole
98 dependent at the time of death and where there is no other dependent for one year or less
99 after the death of the employee shall in no case exceed ~~\$290,000.00~~ \$320, 000.00."

100 **SECTION 5.**

101 This Act shall become effective on July 1, 2023, and shall apply to injuries that occur on or
102 after such date.

103 **SECTION 6.**

104 All laws and parts of laws in conflict with this Act are repealed.