

**POLICE OFFICER, FIREFIGHTER, CORRECTION EMPLOYEE AND NATIONAL GUARD
MEMBER CHILD BENEFICIARY EDUCATION ACT
Act of Dec. 16, 1998, P.L. 980, No. 129
AN ACT**

Cl. 24

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.

The General Assembly finds and declares as follows:

(1) Pennsylvania's police officers, firefighters and correction employees risk their lives daily to protect the citizens of this Commonwealth and their property.

(2) The services performed by police officers, firefighters, correction employees and National Guard members are necessary to the protection of the health, safety and welfare of the citizens of this Commonwealth.

(3) Some Pennsylvania police officers, firefighters and correction employees have lost or will lose their lives in the performance of their duties.

(4) Many members of the National Guard perform dangerous duties in times of emergency and civil disorder in order to protect the lives and property of the residents of this Commonwealth.

(5) It is therefore the intent of the General Assembly to recognize the ultimate sacrifice made by police officers, firefighters, correction employees and National Guard members killed in the performance of their duties by providing a postsecondary educational gratuity for their children at community colleges and State-owned or State-related institutions in this Commonwealth.

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

Section 1. Short title.

This act shall be known and may be cited as the Police Officer, Firefighter, Correction Employee and National Guard Member Child Beneficiary Education Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Associate degree." An undergraduate degree awarded by a community college, a State-related institution or a State-owned institution.

"Baccalaureate degree." An undergraduate degree awarded by a State-owned or State-related institution.

"Child" or "children." A resident of this Commonwealth who

is the child by birth or adoption of a deceased police officer, firefighter, correction employee or National Guard member killed in the performance of his or her duties.

"Community college." A public college or technical institute which is established and operated under Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and all branches or campuses of a community college.

"Correction employee." An individual employed on a full-time basis at a State or county correctional facility who has care, custody and control of inmates.

"Educational gratuity." The waiver by a community college or a State-owned or State-related institution of tuition, fees and room and board charges for an eligible child.

"Firefighter." An individual employed in that capacity on a full-time basis by a municipality or a member of a volunteer fire company of this Commonwealth. The term includes members of a rescue squad or ambulance service as defined in the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act.

"Member of the National Guard." A person who is an active member in good standing in the Pennsylvania National Guard.

"Municipality." A county, city, borough, incorporated town or township, regardless of form of government.

"Pennsylvania Higher Education Assistance Agency" or "PHEAA." The Pennsylvania Higher Education Assistance Agency created by the act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act.

"Police officer." An individual employed on a full-time or part-time basis by the Commonwealth as a member of the Pennsylvania State Police Force or an individual employed on a full-time or part-time basis as a police officer by a municipality of this Commonwealth.

"Program." The Postsecondary Educational Gratuity Program created by this act.

"Room and board charge." The amount charged by a community college or a State-owned or State-related institution for provision of lodging and meals to students enrolled at the community college or State-owned or State-related institution.

"State-owned institution." An institution which is part of the State System of Higher Education under Article XX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and all branches and campuses of a State-owned institution.

"State-related institution." The Pennsylvania State University, the University of Pittsburgh, Temple University, the Pennsylvania College of Technology and Lincoln University.

"Total institution charges." Tuition and fees plus room and board charges.

"Tuition and fees." The instructional charge and any other fee established by the governing board of a community college for Commonwealth residents attending the community college or the instructional fee established by the Board of Governors of the State System of Higher Education for Commonwealth residents attending State-owned institutions. The term includes tuition

and fees set by the respective governing bodies of the State-related institutions.

"Volunteer fire company." A nonprofit chartered corporation, association or organization located in this Commonwealth which provides fire protection services within this Commonwealth.

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. ((a) amended Nov. 30, 2004, P.L.1663, No.210)

(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 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.

((b) amended Nov. 30, 2004, P.L.1663, No.210)

(c) Scope of benefit.--

(1) The benefit available under this section shall be provided only for full-time students who are pursuing undergraduate studies leading to an associate degree or a baccalaureate degree.

(2) A child becomes eligible for this benefit after he or she has applied for available scholarships and Federal and State grants to cover tuition and room and board costs. The child must provide a record of application for such financial aid to the community college or State-owned or State-related institution to which he or she is applying.

(3) A community college or a State-owned or State-related institution shall waive all remaining tuition and room and board charges (total tuition, room and board and fees minus awarded scholarships and Federal and State grants) for an eligible child during the time the child is enrolled as a full-time student provided the child meets all requirements for admission to the community college or State-owned or State-related institution and during the child's enrollment complies with all requirements of the institution for continued attendance and award of an associate degree or a baccalaureate degree.

(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 employed 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.

(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.

((d) amended Nov. 30, 2004, P.L.1663, No.210)

Section 4. Report to General Assembly.

Each year as part of its budget presentation to the General Assembly, PHEAA shall provide a report on:

(1) The number of applications submitted during the prior year, including numbers of applications approved and disapproved.

(2) The number of children currently participating in this program at community colleges or State-owned or State-related institutions.

(3) The number of program participants who have completed requirements for an associate degree or a baccalaureate degree during the prior year.

(4) The total number of program participants who have received an associate degree or a baccalaureate degree since the program's inception.

(5) The number of program participants who were approved for an educational gratuity but who never obtained an associate degree or a baccalaureate degree.

Section 5. Regulations.

PHEAA shall, in the manner provided by law, promulgate the rules and regulations necessary to carry out this act.

Section 6. Exclusive source.

Any person who receives any benefit under this act shall be ineligible to receive any tuition assistance or grants under 51 Pa.C.S. (relating to military affairs).

Section 7. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 8. Retroactivity.

This act shall be retroactive to January 1, 1976, and the benefit provided shall be available to qualified children of police officers, firefighters, correction employees and National Guard members of this Commonwealth killed in the performance of their duties since that date. No community college, State-owned or State-related institution shall reimburse qualified children for tuition and fees or room and board charges paid between January 1, 1976, and the effective date of this act.

Section 9. Effective date.

This act shall take effect immediately.