

Article 12B.

Salary Continuation Plan for Certain State Law-Enforcement Officers.

**§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

- (1) State Government Security Officers, Department of Administration;
- (2) State Correctional Officers, Division of Adult Correction and Juvenile Justice of the Department of Public Safety;
- (3) State Probation and Parole Officers, Division of Adult Correction and Juvenile Justice of the Department of Public Safety;
- (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction and Juvenile Justice of the Department of Public Safety;
- (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the Department of Justice;
- (6) State Highway Patrol Officers, Department of Public Safety;
- (7) General Assembly Special Police, General Assembly;
- (8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
- (9) Juvenile Justice Officers, Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety;
- (10) Insurance Investigators, Department of Insurance;
- (11) State Bureau of Investigation Officers and Alcohol Law Enforcement Agents, Department of Public Safety;
- (12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
- (13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- (14) Utilities Commission Transportation Inspectors and Special Investigators;
- (15) North Carolina Ports Authority Police, Department of Transportation;
- (16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environmental Quality;
- (17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
- (18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
- (19) Sworn State Law-Enforcement Officers with the power of arrest, University System.
- (20) Sworn State Law-Enforcement Officers with the power of arrest, Department of Agriculture and Consumer Services.
- (21) Sworn State Law-Enforcement Officers with the power of arrest, Department of Natural and Cultural Resources.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:

- (1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
- (2) Employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section. (1979, 2nd Sess., c. 1272, s. 1; 1981, c. 348, s. 1; c. 964, s. 19; 1989, c. 727, s. 218(99), c. 751, s. 7(15); 1991 (Reg. Sess., 1992), c. 959, s. 34; 1996, 2nd Ex. Sess., c. 18, s. 20.7(a); 1997-443, ss. 11A.118(a), 11A.119(a); 1997-503, s. 3; 1998-212, s. 28.25(a); 2001-487, s. 89; 2005-359, s. 3; 2011-145, ss. 14.6(d), 19.1(g), (h), (l); 2014-100, ss. 17.1(kkk), 35.12(a); 2015-241, s. 14.30(u); 2015-263, s. 36(d); 2017-186, s. 2(cccccc); 2018-5, s. 35.18(a).)

**§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation Act applicable after two years; duration of payment.**

The salary of any eligible person shall be paid as long as the person's employment in that position continues, notwithstanding the person's total or partial incapacity to perform any duties to which the person may be lawfully assigned, if that incapacity is the result of an injury or injuries resulting from or arising out of an episode of violence, resistance, or due to other special hazards that occur while the eligible person is performing official duties, except if that incapacity continues for more than two years from its inception, the person shall, during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of the General Statutes pertaining to workers' compensation. The time period for which an eligible person receives benefits pursuant to this section shall be deducted from the eligible person's total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. For purposes of this section, the term "salary" shall be defined as the total base pay of the person reflected on the person's salary statement and shall not include overtime pay, shift differential pay, holiday pay, or other additional earnings to which the person may have been entitled prior to such incapacity. Salary paid to an eligible person pursuant to this Article shall cease upon the resumption of the person's regularly assigned duties; assignment of duties which comply with the treating physician's restrictions; or retirement, resignation, or death, whichever first occurs; provided that salary payments will be ceased or may be equitably reduced when the employee has returned to work for the same or a different employer. A temporary return to duty shall not prohibit payment of salary for a subsequent period of incapacity which can be shown to be directly related to the original injury. (1979, 2nd Sess., c. 1272, s. 1; 2014-100, s. 35.12(a); 2015-241, s. 30.18(c); 2017-57, s. 35.18B(a).)

**§ 143-166.15. Application of § 97-27; how payments made.**

Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment of full salary. All payments of salary shall be made at the same time and in the same manner as other salaries are paid to other persons in the same department. (1979, 2nd Sess., c. 1272, s. 1.)

**§ 143-166.16. Effect on workers' compensation and other benefits; application of § 97-24.**

The provisions of G.S. 143-166.14 shall be in lieu of all compensation provided for the first two years of incapacity by G.S. 97-29 and 97-30, but shall be in addition to any other benefits or compensation to which such person shall be entitled under the provisions of the Workers' Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year period for which salary is paid pursuant to G.S. 143-166.14. (1979, 2nd Sess., c. 1272, s. 1.)

**§ 143-166.17. Period of incapacity not charged against sick leave or other leave.**

The period for which the salary of any person is paid pursuant to G.S. 143-166.14 while the person is incapacitated as a result of an injury or injuries proximately caused by the heightened risk and special hazards directly related to the violent nature of the eligible person's official duties, shall not be charged against any sick or other leave to which the person shall be entitled under any other provision of law. (1979, 2nd Sess., c. 1272, s. 1; 2014-100, s. 35.12(a).)

**§ 143-166.18. Report of incapacity.**

Any person designated in G.S. 143-166.13, who, as a result of an injury or injuries proximately caused by the heightened risk and special hazards directly related to the violent nature of the eligible person's official duties, is totally or partially incapacitated to perform any duties to which the person may be lawfully assigned, shall report the incapacity as soon as practicable in the manner required by the secretary or other head of the department to which the agency is assigned by statute. (1979, 2nd Sess., c. 1272, s. 1; 1981, c. 348, s. 2; 2014-100, s. 35.12(a).)

**§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial Commission; appeal; effect of refusal to perform duties.**

Upon the filing of the report, the secretary or other head of the department or, in the case of the General Assembly, the Legislative Services Officer, shall determine the cause of the incapacity and to what extent the claimant may be assigned to other than the claimant's normal duties. The finding of the secretary or other head of the department shall determine the right of the claimant to benefits under this Article. Notice of the finding shall be filed with the North Carolina Industrial Commission. The finding of the secretary or other department head shall be final unless the claimant, within 30 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial Commission using a form required by the Commission. Upon the filing of a request, the North Carolina Industrial Commission shall proceed to hear the matter in accordance with its regularly established procedure for hearing claims filed under the Worker's Compensation Act, and shall report its findings to the secretary or other head of the department. From the decision of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and determined by the Commission. Any person who refuses to perform any duties to which the person may be properly assigned as a result of the finding of the secretary, other head of the department or of the North Carolina Industrial Commission shall be entitled to no benefits pursuant to this Article as long as the refusal continues. A duty is properly assigned if the duty complies with the authorized treating physician's restrictions. Any eligible person whose salary continuation benefits are terminated by the secretary or other head of the department shall be immediately entitled to benefits under G.S. 97-29 or G.S. 97-30. Such benefits under G.S. 97-29 or G.S. 97-30 shall only be suspended or terminated by the employer pursuant to G.S. 97-18.1. (1979, 2nd Sess., c. 1272, s. 1; 1981, c. 348, s. 3; 2014-100, s. 35.12(a); 2017-57, s. 35.18B(b).)

**§ 143-166.20. Subrogation.**

The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability cases occurring under this Article, including cases involving the right of the affected State agency to recover the salary paid to an injured officer during the officer's period of disability. (1981, c. 348, s. 4; 2014-100, s. 35.12(a).)

**§§ 143-166.21 through 143-166.29. Reserved for future codification purposes.**