

2022 Regular Session

HOUSE BILL NO. 123

BY REPRESENTATIVE MIKE JOHNSON

VETERANS: Provides relative to the Louisiana National Guard death and disability benefits

1 AN ACT

2 To amend and reenact R.S. 29:26.1(B)(6)-(11), (C)(3)(b), (D)(1), and (E)(2) and to enact  
3 R.S. 29:26.1(B)(12), relative to the Louisiana National Guard; to provide for  
4 definitions; to provide for disability claims and death benefits; to provide for  
5 availability of disability and death benefits; to provide for subsequent disabilities;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:26.1(B)(6)-(11), (C)(3)(b), (D)(1), and (E)(2) are hereby amended  
9 and reenacted and R.S. 29:26.1(B)(12) is hereby enacted to read as follows:

10 §26.1. National Guard death and disability benefits

11 \* \* \*

12 B. Definitions. As used in this Section, the following terms shall have the  
13 following meanings unless a different meaning is clearly required by context:

14 \* \* \*

15 (6) "Guardsmen or guardsmen" means a person who was an officer or  
16 enlisted member of the Louisiana National Guard and, for purposes of this Section's  
17 disability benefits, who was discharged or released from all periods of federal and  
18 state service under honorable or general under honorable conditions.

1           (7) "Initial rating decision" means the first disability rating decision by the  
2           United States Department of Veterans Affairs on the guardsman's first-filed claim  
3           for service-connection of injuries.

4           (8) "LANG" means the Louisiana National Guard.

5           ~~(8)~~(9) "Period of activation" means service during any declared national  
6           emergency or contingency operations as defined by 10 U.S.C. 101(a)(13), or during  
7           any state emergency declared by the governor of the state of Louisiana, within any  
8           of the following:

9           (a) That period, subsequent to September 11, 2001, for which the governor  
10           of the state of Louisiana orders a guardsman into state active service pursuant to R.S.  
11           29:7.

12           (b) That period, subsequent to September 11, 2001, for which the president  
13           of the United States orders a guardsman into active military duty, pursuant to 32  
14           U.S.C. 502(f)(1).

15           (c) That period, subsequent to September 11, 2001, for which the president  
16           of the United States orders a guardsman to federal active duty pursuant to 10 U.S.C.  
17           12301, 12302, or 12303.

18           ~~(9)~~(10) "Qualifying claim" means an application for benefits by a guardsman  
19           or beneficiary for a qualifying death or disability incurred during a period of  
20           activation in the line of duty, and meeting the documentation requirements of this  
21           Section.

22           ~~(10)~~(11) "Qualifying disability" means a one hundred percent permanent  
23           total disability rating, or a permanent and total unemployability disability rating as  
24           determined by the United States Department of Veterans Affairs and certified by the  
25           Louisiana secretary of veterans affairs in a final adjudication of the initial rating  
26           decision or as determined or certified by the proper state entity that adjudicates such  
27           claims for guardsmen in accordance with the workers' compensation law of this state.  
28           A qualifying disability shall be certified by the Louisiana secretary of veterans  
29           affairs or his designee. As provided for in this Paragraph, the initial rating decision

1 shall not apply to a United States Department of Veterans Affairs rating decision  
2 which predates service in the Louisiana National Guard.

3 ~~(11)~~(12) "Qualifying subsequent ~~examination~~ disability" means after ~~initial~~  
4 ~~examination or rating, the guardsman's initial injuries progressed or worsened the~~  
5 initial rating decision, the combination of service-connected ratings of all injuries the  
6 guardsman incurred during a period of activation, as well as any other injuries  
7 service-connected on a secondary basis to those injuries incurred during a period of  
8 activation, reaches a ~~causing the guardsman to receive~~ one hundred percent  
9 permanent total disability rating, or a permanent and total unemployability disability  
10 rating as determined by the United States Department of Veterans Affairs.

11 C.

12 \* \* \*

13 (3) Each claim for a disability benefit shall include all of the following  
14 documentation:

15 \* \* \*

16 (b) ~~A disability~~ The guardsman's initial rating decision and any subsequent  
17 rating decisions reached by the United States Department of Veterans Affairs and  
18 certified by the Louisiana secretary of veterans affairs or his designee.

19 \* \* \*

20 D. Benefits available. (1) During periods of activation, subsequent to  
21 September 11, 2001, of a guardsman ordered by the governor or by the president of  
22 the United States, benefits in a lump-sum amount of two hundred fifty thousand  
23 dollars for a qualifying death, one hundred thousand dollars for a qualifying  
24 disability, and fifty thousand dollars for qualifying subsequent ~~examination~~ disability  
25 shall be paid by the state to a guardsman or his beneficiary, when such death or  
26 disability occurs during a period of activation in the line of duty as required by this  
27 Section. Such benefits shall be paid only when funds are available, having been  
28 appropriated for the purpose.

29 \* \* \*

1 E.

2 \* \* \*

3 (2) A qualifying disability or qualifying subsequent disability shall be  
4 determined by the United States Department of Veterans Affairs or by the proper  
5 state entity that adjudicates such claims for guardsmen in accordance with the  
6 workers' compensation law of this state and certified by the secretary of the  
7 Louisiana Department of Veterans Affairs or his designee.

8 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 123 Engrossed

2022 Regular Session

Mike Johnson

**Abstract:** Modifies the criteria for disability benefits available to La. National Guardsmen.

Present law provides for definitions.

Proposed law retains present law and modifies the definitions of "guardsman or guardsmen", "period of activation", and "qualifying subsequent examination". Creates the definition for "initial rating decision" and changes the term "qualifying subsequent examination" to "qualifying disability".

Present law provides that all death benefits claims provided under present law shall be submitted to the La. National Guard and that all claims for disability benefits shall be submitted to the La. Dept. of Veterans Affairs.

Present law provides that a disability rating decision reached by the U.S. Dept. of Veterans Affairs and certified by the La. secretary of veterans affairs or his designee shall be included in the documentation for a disability benefit claim.

Proposed law retains present law and provides that both a guardsman's initial rating decision and any subsequent rating decision shall be included in the documentation for a disability benefit claim.

Present law provides for during periods of activation, subsequent to Sept. 11, 2001, of a guardsman ordered by the governor or by the president of the U.S., benefits in a lump-sum amount of \$250,000 for a qualifying death, \$100,000 for a qualifying disability, and \$50,000 for a qualifying subsequent examination shall be paid by the state to a guardsman or his beneficiary, when such death or disability occurs during a period of activation in the line of duty as required by present law. Provides that such benefits shall be paid only when funds are available, having been appropriated for the purpose.

Proposed law retains present law and provides that a guardsman or his beneficiary shall be paid \$50,000 in benefits for a subsequent disability instead of a subsequent examination.

Present law provides that a qualifying disability shall be determined by the U.S. Dept. of Veterans Affairs or by the proper state entity that adjudicates such claims for guardsmen in accordance with state workers' compensation law and certified by the secretary of the La. Dept. of Veterans Affairs or his designee.

Proposed law retains present law and gives the U.S. Dept. of Veterans Affairs or the proper adjudicatory state entity the additional option of determining what is a qualifying subsequent disability.

(Amends R.S. 29:26.1(B)(6)-(11), (C)(3)(b), (D)(1), and (E)(2); Adds R.S. 29:26.1(B)(12))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Change language contained in the definition of "guardsman or guardsmen".