

2022 Regular Session

SENATE BILL NO. 135

BY SENATOR BOUDREAUX

MILITARY AFFAIRS. Provides relative to Military Family Assistance Fund applications.  
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AN ACT

To amend and reenact R.S. 44:4.1(B)(31) and R.S. 46:121(1) and (4), 122(B)(1), 123(B)(1) and (2), (D)(1), (E), (G)(1) and (2), and (K)(2) through (4), and to enact R.S. 46:123(M), and to repeal R.S. 46:121(1)(c) and (6), relative to the Military Family Assistance Fund; to provide an exception relative to public records for Military Family Assistance Fund applications; to provide for definitions; to clarify the requirements for need-based Military Family Assistance Fund applications; to provide for remote operations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:4.1(B)(31) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

\* \* \*

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

\* \* \*

(31) R.S. 46:56, **123(K)**, 236.1.1 through 238, 284, 286.1, 439.1, 446.1, 1073, 1355, 1806, 1844, 1862, 1923, 2124.1, 2134, 2187, 2356, 2416, 2603, 2625

\* \* \*

Section 2. R.S. 46:121(1) and (4), 122(B)(1), 123(B)(1) and (2), (D)(1), (E), (G)(1) and (2), and (K)(2) through (4) are hereby amended and reenacted and R.S. 46:123(M) is hereby enacted to read as follows:

§121. Definitions

(1) "Activated military ~~personnel~~ **person**" means a person domiciled in Louisiana for civilian purposes who names Louisiana as Home of Record (HOR) for military purposes, and who is any of the following:

\* \* \*

(4) "Honorably discharged ~~active-duty~~ military ~~personnel~~ **person**" means a person domiciled in Louisiana who **is a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard who** was on full-time active duty in the military service of the United States and received an honorable discharge: **and has met any of the following conditions:**

**(a) Completed either twenty-four months of continuous active duty or the full period of not less than ninety days for which he was ordered to active duty, other than active duty training, for which he received either an honorable discharge or a general discharge under honorable conditions.**

**(b) Completed at least ninety days of active duty and discharge under the specific authority of 10 U.S.C. 1171 or 1173 or a determination of having a compensable service-connected disability.**

**(c) Received a discharge with less than ninety days of service for a service-connected disability.**

\* \* \*

§122. Louisiana Military Family Assistance Fund

\* \* \*

1 B. The money in the fund shall be used solely for the following purposes:

2 (1) To pay need-based claims of family members of activated military  
3 personnel or honorably discharged ~~active-duty~~ military personnel as authorized by  
4 the Louisiana Military Family Assistance Board in the manner provided for in R.S.  
5 46:123.

6 \* \* \*

7 §123. Louisiana Military Family Assistance Board

8 \* \* \*

9 B.(1) The board shall establish rules for the implementation of this Part and  
10 proper adjudication of need-based claims submitted ~~by families of~~ **on behalf of**  
11 activated military personnel or honorably discharged ~~active-duty~~ military personnel.  
12 The rules shall provide the procedures for determination and consideration of claims  
13 and appeals, application forms and claims documentation, requirements, limitations,  
14 definitions, and such other matters as the board deems necessary and appropriate to  
15 carry out the provisions of this Part and ensure the availability of funds and  
16 appropriate disbursement to claimants.

17 (2) Such rules shall establish a maximum dollar amount that may be awarded  
18 on behalf of an activated military person or an honorably discharged ~~active-duty~~  
19 military person for a need-based claim per twelve-month period. Such maximum  
20 shall apply per active duty order.

21 \* \* \*

22 D.(1) The board shall meet as necessary to review claims adjudicated by the  
23 third party administrator and make the following determinations:

24 (a) That all awards are on behalf of activated military personnel or honorably  
25 discharged ~~active-duty~~ military personnel as defined in this Part.

26 (b) That all awards are made pursuant to ~~a claim~~ **claims** by family members  
27 of activated military personnel or honorably discharged ~~active-duty~~ military  
28 personnel as defined in this Part or by ~~the~~ **an** activated military person or honorably  
29 discharged ~~active-duty~~ military person himself.

1 (c) That all awards are need-based. ~~Claims~~ **A claim** may be considered need-  
2 based if all of the following apply:

3 (i) Funds are requested for necessary expenses incurred, or to be incurred.

4 (ii) The necessary expenses created, or will create, an undue hardship on the  
5 activated military personnel, a family member of the activated military  
6 personnel, or the honorably discharged military personnel.

7 ~~(iii) The undue hardship can be directly or indirectly related to the activation~~  
8 ~~of the military person or honorable discharge of the active-duty military person.~~

9 ~~(iv)~~**(iii)** The activated military person, a family member of the activated  
10 military personnel, or the honorably discharged military personnel does not  
11 have reasonable access to any other funding source.

12 ~~(v)~~**(iv)** Payment of the claim by the fund does not supplant other available  
13 public or private funds.

14 ~~(vi)~~**(v)** The ~~applicant or the family member~~ activated military person, a  
15 family member of the activated military person, or the honorably discharged  
16 military person has made reasonable attempts to secure alternative funding through  
17 another program.

18 \* \* \*

19 E. A claim of an activated military person or person's family member or a  
20 claim of an honorably discharged ~~active-duty~~ military ~~personnel~~ person ~~or their~~  
21 ~~family member~~ may be denied if the activated military person or honorably  
22 discharged ~~active-duty~~ military person is not in good standing with the appropriate  
23 military unit at the time the application is submitted or the claim payment is made.

24 \* \* \*

25 G.(1) In extenuating circumstances as defined by rule by the board, an  
26 activated military person or honorably discharged ~~active-duty~~ military person, or his  
27 family, may be awarded an additional one-time ~~lump-sum~~ lump-sum award for a  
28 service related death or injury with a greater than fifty percent residual disability.  
29 The board shall provide by rule for a uniform ~~lump-sum~~ lump-sum amount for such

1 award, which shall not exceed two thousand five hundred dollars.

2 (2) Family members of activated military personnel or honorably discharged  
3 ~~active-duty~~ military personnel who are listed as missing in action or prisoner of war  
4 by the United States Department of Defense shall also be eligible for this ~~lump-sum~~  
5 **lump-sum** award.

6 \* \* \*

7 K. \* \* \*

8 (2) The ~~identity~~ **identities** of applicants and their related activated military  
9 personnel or honorably discharged ~~active-duty~~ military personnel shall be  
10 confidential unless waived. The filing of an appeal before the board shall be  
11 considered a waiver.

12 (3) Although confidential, records relating to applications and the ~~identity~~  
13 **identities** of applicants and their related activated military personnel or honorably  
14 discharged ~~active-duty~~ military personnel shall be available to necessary parties such  
15 as the legislative auditor, legislative oversight committees for rules and annual  
16 reports, and such other parties as necessary for prudent administration of the program  
17 and verification of elements of application.

18 (4) Once a claim is approved, the identity of the claimant and ~~their~~ **the** related  
19 activated military ~~personnel~~ **person** or honorably discharged ~~active-duty~~ military  
20 ~~personnel~~ **person** and the amount approved shall be public record.

21 \* \* \*

22 **M. Notwithstanding any provision of law to the contrary, the board may**  
23 **conduct, and its members may attend and participate in a meeting occurring via**  
24 **electronic means.**

25 **(1) For each meeting conducted pursuant to this Subsection, the**  
26 **following requirements shall be met:**

27 **(a) No later than twenty-four hours prior to the meeting, the board shall**  
28 **provide the notice and agenda for the meeting, which shall be posted on the**  
29 **board's website and emailed to any member of the public or the news media**

1 who requests notice of the board meeting.

2 (b) The notice and agenda shall provide detailed information regarding  
3 how members of the public may participate in the meeting and submit  
4 comments regarding matters on the agenda.

5 (c) The board shall provide a mechanism to receive public comment  
6 electronically both prior to and during the meeting. The board shall properly  
7 identify and acknowledge all public comments during the meeting and shall  
8 maintain those comments in the record of the meeting.

9 (d) The chairman shall ensure that each person participating in the  
10 meeting is properly identified.

11 (e) The chairman shall ensure that all parts of the meeting, excluding any  
12 matter discussed in executive session, are clear and audible to all participants  
13 in the meeting including the public.

14 (2) For the purposes of this Subsection, "electronic means" shall mean  
15 a meeting occurring via teleconference or video conference.

16 (a) "Teleconference" shall mean a method of communication which  
17 enables persons in different locations to participate in a meeting and to hear  
18 and communicate with each other.

19 (b) "Video conference" shall mean a method of communication which  
20 enables persons in different locations to participate in a meeting and to see,  
21 hear, and communicate with each other.

22 Section 3. R.S. 46:121(1)(c) and (6) are hereby repealed.

23 Section 4. This Act shall become effective upon signature by the governor or, if not  
24 signed by the governor, upon expiration of the time for bills to become law without signature  
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
27 effective on the day following such approval.

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The original instrument was prepared by James Benton. The following digest, which does not constitute a part of the legislative instrument, was prepared by Matt Deville.

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## DIGEST

SB 135 Engrossed

2022 Regular Session

Boudreaux

Present law provides generally that all books, records, writings, accounts, letters, maps, drawings, photographs, cards, tapes, recording, memoranda, and papers and copies or any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performed by or under the authority of the state constitution or state law or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the state constitution or state law are "public records", except as otherwise provided by the Public Records Law or the state constitution.

Present law provides several exceptions, exemptions, and limitations to the laws pertaining to public records.

Proposed law retains present law and adds to the list exceptions the provision of present law regarding information identifying applicants to the Louisiana Military Family Assistance Fund.

Present law provides that statistical reports and reports on the overall performance of the program and revenue and expenditures related to the Louisiana Military Family Assistance Fund shall be public record. However, provides that the identity of applicants and their related activated military personnel or honorably discharged active-duty military personnel shall be confidential unless waived and provides that the filing of an appeal before the Louisiana Military Family Assistance board shall be considered a waiver. Also provides that although confidential, records relating to applications and the identity of applicants and their related activated military personnel or honorably discharged active-duty military personnel shall be available to necessary parties such as the legislative auditor, legislative oversight committees for rules and annual reports, and such other parties as necessary for prudent administration of the program and verification of elements of an application. Provides that once a claim is approved, the identity of the claimant and their related activated military personnel or honorably discharged active-duty military personnel and the amount approved shall be public record.

Present law defines "honorably discharged active-duty military personnel" to mean a person domiciled in Louisiana who was on full-time active duty in the military service of the United States and received an honorable discharge.

Proposed law changes the definition of "honorably discharged active-duty military personnel" in present law to "honorably discharged military person" and defines the term to mean a person domiciled in Louisiana who is a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard who was on full-time active duty in the military service of the United States, received an honorable discharge, and meets enumerated criteria in proposed law relative to their service.

Present law provides that payment of needs-based claims to family members of activated military personnel or honorably discharged active-duty military personnel shall be one of the sole uses of money in the Louisiana Military Assistance Fund.

Proposed law retains present law but replaces the present law term "honorably discharged active-duty military personnel" with proposed law term "honorably discharged military personnel".

Present law provides that awards from the Louisiana Military Family Assistance Fund be need-based and provides the criteria for determining if an award is need-based as:

- (1) Funds are requested for necessary expenses incurred or to be incurred.
- (2) The necessary expenses created, or will create, an undue hardship on the family member.
- (3) The undue hardship can be directly or indirectly related to the activation of the military person or honorable discharge of the active-duty military person.
- (4) The family member does not have reasonable access to any other funding source.
- (5) Payment of the claim by the fund does not supplant other available public or private funds.
- (6) The applicant or the family member has made reasonable attempts to secure alternative funding through another program.

Proposed law retains present law but provides that funds additionally be made available to activated military personnel, a family member of activated military personnel, and honorably discharged military personnel, provided they meet criteria enumerated in present law.

Proposed law removes provision specifying that the undue hardship can be directly or indirectly related to the activation of the military person or honorable discharge of the active-duty military person.

Proposed law authorizes the Louisiana Military Assistance Fund Board to meet via electronic means and provides requirements for providing notice, posting an agenda, receiving public comment, and ensuring identification of participants and accessibility of matters discussed.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(31) and R.S. 46:121(1) and (4), 122(B)(1), 123(B)(1) and (2), (D)(1), (E), (G)(1) and (2), and (K)(2) through (4); adds R.S. 46:123(M); repeals R.S. 46:121(1)(c) and (6))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Make technical corrections.
2. Provide for definitions of "activated military person" and "honorably discharged military person".
3. Expand eligibility criteria for need-based claims.
4. Provide for the Military Family Assistance Board to meet via electronic means.