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HOUSE BILL NO. 2405

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 23-7.4:1, 32.1-116.3, 65.2-102, and 65.2-402 of the Code of Virginia, relating to special forest wardens; certain benefits.

Patrons—Kilgore, Abbitt, Day, Deeds, Hargrove, Howell, Katzen, Louderback, Reid, Sherwood, Shuler, Suit, Tata, Thomas, Ware and Weatherholtz; Senators: Miller, K.G. and Puckett

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 23-7.4:1, 32.1-116.3, 65.2-102, and 65.2-402 of the Code of Virginia are amended and reenacted as follows:

§ 23-7.4:1. Waiver of tuition and required fees for certain students.

A. 1. All sums appropriated by law for the purpose of effecting the provisions of this subsection shall be used for the sole purpose of providing for free tuition and required fees at the state-supported institutions and institutional charges, general or college fees, or any charges by whatever term referred to, board and room rent, and books and supplies at any education or training institution of collegiate or secondary grade in the Commonwealth of Virginia approved in writing by the Director of the Department of Veterans' Affairs for the use and benefit of the children not under sixteen and not over twenty-five years of age either of whose parents was killed in action, is missing in action or a prisoner of war in any armed conflict subsequent to December 6, 1941, while serving in the Army, Navy, Marine Corps, Air Force or Coast Guard of the United States, or was or is or may hereafter become totally and permanently disabled due to service during such periods if such parent (i) was a citizen of Virginia at the time of entering such service; (ii) is and has been, for at least five years immediately prior to the date on which application was submitted by or on behalf of such child for admission to any education or training institution of collegiate or secondary grade in this Commonwealth, a citizen of Virginia; (iii) is deceased, was a citizen of Virginia on the date of his or her death and had been a citizen of Virginia for at least five years immediately prior to his or her death; or (iv) is deceased and the surviving parent had been, at some time previous to marrying the deceased parent, a citizen of Virginia for at least five years or is and has been a citizen of Virginia for at least five years immediately prior to the date on which application was submitted by or on behalf of such child for admission to any education or training institution of collegiate or secondary grade in this Commonwealth.

2. Such children, upon recommendation of the Director of the Department of Veterans' Affairs, shall be admitted to state institutions of secondary or higher education, free of tuition and all required fees. Each state-supported institution shall include in its catalogue or equivalent publication a statement describing the benefits provided by this subsection.

3. The amounts that may be or may become due by reason of attendance at any such educational or training institution, not in excess of the amount specified in subdivision 5, shall be payable on vouchers approved by the Director of the Department of Veterans' Affairs.

4. The Director of the Department of Veterans' Affairs shall determine the eligibility of the children who may make application for the benefits provided for in this subsection and shall satisfy himself of the attendance and satisfactory progress of such children at such institution and of the accuracy of the charge or charges submitted on account of the attendance of any such children at any such institution. However, neither the Director nor any employee of the Department of Veterans' Affairs shall receive any compensation for such services.

5. To carry out the provisions of this subsection, there may be expended such funds as shall be appropriated for the purpose in the general appropriation acts. However, the maximum amount to be expended for each such child shall not be more, when combined with any federal allowance which may be made for such tuition, charges, fees, rent, books and supplies, than the actual amount of the benefits provided for in this subsection.

6. For the purposes of this subsection, user fees, such as room and board charges, shall not be included in this authorization to waive tuition and fees. However, all required fees, educational and auxiliary, shall be waived along with tuition.

B. Any child between the ages of sixteen and twenty-five whose parent or any person whose spouse has been killed in the line of duty while employed or serving as a law-enforcement officer, firefighter, including a special forest warden designated pursuant to § 10.1-1135, member of a rescue squad, sworn law-enforcement officer, special agent of the Department of Alcoholic Beverage Control, state

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58 correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, deputy sheriff,
59 or member of the Virginia National Guard while such member is serving in the Virginia National Guard
60 or as a member of the United States Armed Forces, shall be entitled to free undergraduate tuition and
61 required fees at any public institution of higher education in Virginia under the following conditions:

62 1. The chief administrative officer of the Alcoholic Beverage Control Board, emergency medical
63 services agency, law-enforcement agency, or other appropriate agency or the Superintendent of State
64 Police certifies that the deceased parent or spouse was employed or serving as a law-enforcement officer
65 or a firefighter, *including a special forest warden designated pursuant to § 10.1-1135*, or member of a
66 rescue squad or in any other capacity as specified in this section and was killed in the line of duty while
67 serving or living in the Commonwealth; and

68 2. The child or spouse shall have been offered admission to a public institution of higher education.
69 Any child or spouse who believes he is eligible shall apply to the public institution of higher education
70 to which he has been admitted for the benefits provided by this subsection. The institution shall
71 determine the eligibility of the applicant for these benefits and shall also ascertain that the recipients are
72 in attendance and are making satisfactory progress. The amounts payable for tuition and required fees
73 for the applicants shall be waived by the institution accepting the students.

74 For the purposes of this subsection, user fees, such as room and board charges, shall not be included
75 in this authorization to waive tuition and fees. However, all required fees, educational and auxiliary,
76 shall be waived along with tuition.

77 C. Senior citizens shall be entitled to free tuition and required fees pursuant to the provisions of
78 Chapter 4.5 (§ 23-38.54 et seq.) of Title 23.

79 D. Tuition and required fees may be waived for a student from a foreign country enrolled in a public
80 institution of higher education through a student exchange program approved by such institution,
81 provided the number of foreign students does not exceed the number of students paying full tuition and
82 required fees to the institution under the provisions of the exchange program for a given three-year
83 period.

84 § 32.1-116.3. Reporting of communicable diseases; definition.

85 For the purposes of this section, communicable diseases means any airborne infection or disease,
86 including, but not limited to, tuberculosis, measles, certain meningococcal infections, mumps, chicken
87 pox and Hemophilus Influenzae Type b, and those transmitted by contact with blood or other human
88 body fluids, including, but not limited to, human immunodeficiency virus, Hepatitis B and Non-A,
89 Non-B Hepatitis.

90 Every licensed health care facility which transfers or receives patients via emergency medical
91 services ambulances or mobile intensive care units shall notify the emergency medical services agencies
92 providing such patient transport of the name and telephone number of the individual who is the infection
93 control practitioner with the responsibility of investigating exposure to infectious diseases in the facility.

94 Every licensed emergency medical services agency established in the Commonwealth shall notify all
95 facilities to which they transport patients or from which they transfer patients of the names and
96 telephone numbers of the members, not to exceed three persons, who have been appointed to serve as
97 the communicable disease liaison officers. Every licensed emergency medical services agency shall
98 implement universal precautions and shall ensure that these precautions are appropriately followed and
99 enforced.

100 Upon requesting any licensed emergency medical services agency to transfer a patient who is known
101 to be positive for or who suffers from any communicable disease which, in the judgment of the
102 physician authorizing the transfer or the facility's infection control practitioner, presents any risk to the
103 transporting emergency medical services personnel or to patients who may be subsequently transported
104 in the same vehicle, the transferring facility shall inform the attendant-in-charge of the transferring crew
105 of the general condition of the patient and the types of precautions to be taken to prevent the spread of
106 the disease. The identity of the patient shall be confidential.

107 If any firefighter, *including a special forest warden designated pursuant to § 10.1-1135*,
108 law-enforcement officer, emergency medical services technician or paramedic has an exposure of blood
109 or body fluid to mucous membrane, non-intact skin, or a contaminated needlestick injury, his
110 communicable disease liaison officer shall be notified, a report completed and the infection control
111 practitioner at the receiving facility notified.

112 If, during the course of medical care and treatment, any physician determines that a patient who was
113 transported to a receiving facility by any licensed emergency medical services agency is positive for or
114 has been diagnosed as suffering from an airborne infectious disease, then the infection control
115 practitioner in the facility shall immediately notify the communicable disease liaison officer who
116 represents the transporting emergency medical services agency of the name of the patient, and the date
117 and time of the patient's admittance to the facility. The communicable disease liaison officer for the
118 transporting emergency medical services agency shall investigate the incident to determine if any
119 exposure of emergency medical services personnel or other emergency personnel occurred. The identity

of the patient and all personnel involved in any such investigation shall be confidential.

If any firefighter, *including a special forest warden designated pursuant to § 10.1-1135*, law-enforcement officer, emergency medical services technician or paramedic shall be exposed to a communicable disease, the communicable disease liaison officer shall immediately notify the infection control practitioner of the receiving facility. The infection control practitioner of the facility shall conduct an investigation and provide information concerning the extent and severity of the exposure and the recommended course of action to the communicable disease liaison officer of the transporting agency. This section shall not be construed to create a duty by the receiving facility to perform any test or tests beyond those necessary for the medical management of the patient delivered by an emergency medical services agency to the receiving facility nor shall it affect the operation of the provisions of § 32.1-45.1.

Any person requesting or requiring any employee of a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise custodial supervision over an individual known to the requesting person to be infected with any communicable disease shall inform such public safety agency employee of a potential risk of exposure to a communicable disease.

Local or state correctional facilities which transfer patients known to have a communicable disease shall notify the emergency medical services agency providing transportation services of a potential risk of exposure to a communicable disease. For the purposes of this section, the chief medical person at a local or state correctional facility or the facility director or his designee shall be responsible for providing such information to the transporting agency.

Any person who, as a result of this provision, becomes aware of the identity or condition of a person known to be positive for or to suffer from any communicable disease, or to have suffered exposure to a communicable disease, shall keep such information confidential, except as expressly authorized by this provision.

No person known to be positive for or to suffer from any communicable disease shall be refused transportation or service for that reason by an emergency medical services, law-enforcement, or public safety agency.

§ 65.2-102. Coverage of firefighters and law-enforcement officers in off-duty capacity.

A. Notwithstanding any other provision of law, a claim for workers' compensation benefits shall be deemed to be in the course of employment of any firefighter or law-enforcement officer who, in an off-duty capacity or outside an assigned shift or work location, undertakes any law-enforcement or rescue activity. Nothing in this section shall prohibit an employer from using any defense otherwise available under this title.

B. For purposes of this section:

"Firefighter" means all (i) salaried firefighters, *including special forest wardens designated pursuant to § 10.1-1135*, emergency medical technicians, lifesaving and rescue squad members, and arson investigators and (ii) volunteer firefighters and lifesaving or rescue squad members, if the governing body of the political subdivision in which the principal office of such volunteer fire company or volunteer lifesaving or rescue squad is located has adopted a resolution acknowledging such volunteer fire company or volunteer lifesaving and rescue squad as employees for purposes of this title.

"Law-enforcement officer" means all (i) members of county, city, town or authority police departments, (ii) sheriffs and deputy sheriffs, (iii) auxiliary or reserve police and auxiliary or reserve deputy sheriffs, if the governing body of the political subdivision in which the principal office of such auxiliary or reserve police and auxiliary or reserve deputy sheriff force is located has adopted a resolution acknowledging such auxiliary or reserve police and auxiliary or reserve deputy sheriffs as employees for purposes of this title, and (iv) members of the State Police Officers' Retirement System.

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. ~~For purposes of this section, the term "firefighter" shall include persons who are employed by or contract with private employers primarily to perform firefighting services.~~

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Patrol officers, (viii) game wardens who are full-time sworn members of the enforcement division of the

181 Department of Game and Inland Fisheries, and (ix) Capitol Police officers shall be presumed to be
182 occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption
183 is overcome by a preponderance of competent evidence to the contrary.

184 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer causing the death of, or
185 any health condition or impairment resulting in total or partial disability of, any volunteer or salaried
186 firefighter or Department of Emergency Management hazardous materials officer having completed
187 twelve years of continuous service who has a contact with a toxic substance encountered in the line of
188 duty shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this
189 title, unless such presumption is overcome by a preponderance of competent evidence to the contrary.
190 For the purposes of this section, a "toxic substance" is one which is a known or suspected carcinogen,
191 as defined by the International Agency for Research on Cancer, and which causes, or is suspected to
192 cause, leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer.

193 D. The presumptions described in subsections A, B, and C of this section shall only apply if persons
194 entitled to invoke them have, if requested by the private employer, appointing authority or governing
195 body employing them, undergone preemployment physical examinations that (i) were conducted prior to
196 the making of any claims under this title that rely on such presumptions, (ii) were performed by
197 physicians whose qualifications are as prescribed by the private employer, appointing authority or
198 governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic
199 studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv)
200 found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such
201 examinations.

202 E. Persons making claims under this title who rely on such presumptions shall, upon the request of
203 private employers, appointing authorities or governing bodies employing such persons, submit to
204 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or
205 their representatives and (ii) consisting of such tests and studies as may reasonably be required by such
206 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the
207 election of such claimant, be present at such examination.

208 F. Whenever a claim for death benefits is made under this title and the presumptions of this section
209 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private
210 employer, appointing authority or governing body that had employed the deceased, submit the body of
211 the deceased to a postmortem examination as may be directed by the Commission. A qualified
212 physician, selected and compensated by the person entitled to make the claim, may, at the election of
213 such claimant, be present at such postmortem examination.

214 G. Volunteer lifesaving and rescue squad members, volunteer law-enforcement chaplains, auxiliary
215 and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this
216 section.

217 H. *For purposes of this section, the term "firefighter" shall include special forest wardens designated*
218 *pursuant to § 10.1-1135 and persons who are employed by or contract with private employers primarily*
219 *to perform firefighting services.*