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SENATE BILL NO. 759

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 21, 2003)

(Patrons Prior to Substitute—Senators Wampler [SB 759] and Stolle [SB 814])

A BILL to amend and reenact §§ 9.1-400 and 9.1-404 of the Code of Virginia, relating to the Line of Duty Act; eligibility for disability benefits.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-400 and 9.1-404 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain in the City of Virginia Beach; a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city or town of the Commonwealth as an integral part of the official safety program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any agent, investigator, or inspector vested with the power to arrest pursuant to § 56-334; any regular or special game warden who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

"Disabled person" means any individual who, as the direct or proximate result of the performance of his duty in any position listed in the definition of deceased person in this section, has become mentally or physically incapacitated, *on or after April 8, 1972*, so as to prevent the further performance of duty where such incapacity is likely to be permanent.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

§ 9.1-404. Order of Comptroller.

A. If it appears to the Comptroller that the requirements of either subsection A or B of § 9.1-402 have been satisfied, he shall issue his warrant in the appropriate amount for payment out of the general fund of the state treasury to the surviving spouse or to such persons and subject to such conditions as may be proper in his administrative discretion, and in the event there is no beneficiary, the Comptroller shall issue the payment to the estate of the deceased person. The Comptroller shall issue a decision, and payment, if appropriate, shall be made no later than ~~forty-five~~ 45 days following receipt of the report required under § 9.1-403.

B. If it appears to the Comptroller that the requirements of either subsection A or B of § 9.1-401 have been satisfied, he shall issue his warrants in the appropriate amounts for payment from the general fund of the state treasury to ensure continued health care coverage for the persons designated under § 9.1-401. The Comptroller shall issue a decision, and payments, if appropriate, shall commence no later than ~~forty-five~~ 45 days following receipt of the report required under § 9.1-403. *The For disabilities occurring on or after July 1, 2000, payments shall be retroactive to the first date that the disability existed. For disabilities occurring prior to July 1, 2000, such continued health care coverage, as determined by the Comptroller to be required under this chapter, shall be provided on a prospective basis beginning no later than 45 days following receipt by the Comptroller of the report required by § 9.1-403, provided that the disabled person, his surviving spouse, or any dependents file a claim required under § 9.1-403 on or after July 1, 2003.*

2. That the provisions of this act shall not become effective unless an appropriation effectuating

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60 the purposes of this act is included in the 2003 Appropriation Act passed during the 2003 Session
61 of the General Assembly and signed into law by the Governor.