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SENATE BILL NO. 28

Offered January 14, 2004

Prefiled December 15, 2003

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.

Patron—Potts

Referred to Committee on Finance

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; 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 other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in subdivision 6 of § 44-146.16, declared by a local governing body; 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

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59 have been satisfied, he shall issue his warrants in the appropriate amounts for payment from the general
60 fund of the state treasury to ensure continued health care coverage for the persons designated under
61 § 9.1-401. The Comptroller shall issue a decision, and payments, if appropriate, shall commence no later
62 than ~~forty-five~~45 days following receipt of the report required under § 9.1-403. ~~The~~ *For disabilities*
63 *occurring on or after July 1, 2000, payments shall be retroactive to the first date that the disability*
64 *existed. For disabilities occurring prior to July 1, 2000, payments shall be retroactive to July 1, 2000,*
65 *and shall commence no later than 45 days following receipt by the Comptroller of the report required*
66 *by § 9.1-403, provided that the disabled person, his surviving spouse, or any dependents file a claim*
67 *required under such section on or after July 1, 2004.*