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SENATE BILL NO. 329

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact §§ 9.1-400, 15.2-911, and 17.2-272 of the Code of Virginia, relating to the Line of Duty Act; definitions; funding for Line of Duty Health Benefits Trust Fund.

Patrons—Quayle, Barker, Edwards, Herring, Northam, Puller, Saslaw, Stuart, Vogel and Whipple; Delegates: Alexander, Amundson, Brink, Caputo, Ebbin, Eisenberg, Marsden, Mathieson, McClellan, Moran, Nichols, Plum, Scott, J.M., Shannon, Valentine, Vanderhye and Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-400, 15.2-911, and 17.2-272 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 regular or special conservation police officer 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 § 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 so as to prevent the further performance of duty where such incapacity is likely to be permanent. The term shall also include any state *or local* employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"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.

§ 15.2-911. Regulation of alarm company operators; fees.

A. Any locality may by ordinance regulate the installation and maintenance of alarm systems operated by alarm company operators.

B. As used in this section, an "alarm company operator" means and includes any business operated for profit, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. Such term, however, shall not include alarm systems maintained by

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governmental agencies or departments, nor shall it include a business which merely sells from a fixed location or manufactures alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

C. *All alarm company operators shall collect a fee of $1 per month for each alarm system monitored. All moneys collected shall be deposited in the Line of Duty Health Benefits Trust Fund established pursuant to Item 262B of Chapter 3 of the 2006 Acts of Assembly, Special Session I. Moneys collected pursuant to this subsection and deposited in the Fund shall only be used to pay death and health benefits provided pursuant to the Line of Duty Act (§ 9.1-400 et seq.) and for costs relating to the administration of the Fund by the Department of Accounts.*

D. As used in this section, the term "alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police or firefighters are expected to respond. Such system may be installed, maintained, altered or serviced by an alarm company operator in both commercial and residential premises.

§ 17.1-272. Process and service fees generally.

A. The fee for process and service in the following instances shall be $12:

1. Service on any person, firm or corporation, an order, notice, summons or any other civil process, except as herein otherwise provided, and for service on any person, firm, or corporation any process when the body is not taken and making a return thereof, except that no fee shall be charged for service pursuant to § 2.2-4022.

2. Summoning a witness or garnishee on an attachment.

3. Service on any person of an attachment or other process under which the body is taken and making a return thereon.

4. Service of any order of court not otherwise provided for, except that no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

5. Making a return of a writ of fieri facias where no levy is made or forthcoming bond is taken.

6. Summoning a witness in any case in which custody or visitation of a minor child or children is at issue.

B. The fees for process and service in the following instances shall be $25:

1. Service and publication of any notice of a publicly-advertised public sale.

2. Service of a writ of possession, except that there shall be an additional fee of $12 for each additional defendant.

3. Levying upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478.

4. Service of a declaration in ejectment on any person, firm or corporation, except that there shall be an additional fee of $12 for each additional defendant.

5. Levying distress warrant or an attachment.

6. Levying an execution.

C. The process and service fee for serving any papers returnable out of state shall be $75, except no fees shall be charged for the service of papers in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order or a petition for protection order, to protect a victim of domestic violence, stalking or sexual assault. A victim of domestic violence, stalking or sexual assault shall not bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, issued inside or outside the Commonwealth.

D. *An additional fee of $5 on all processes and services described in this section shall be collected to be deposited in the Line of Duty Health Benefits Trust Fund established pursuant to Item 262B of Chapter 3 of the 2006 Acts of Assembly, Special Session I.*

E. The fees set out in this section shall be allowable for services provided by such officers in the circuit and district courts.