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SENATE BILL NO. 943

Offered January 14, 2009

Prefiled January 7, 2009

A *BILL to amend and reenact §§ 9.1-400 and 9.1-402 of the Code of Virginia, relating to Line of Duty Act; payment to beneficiaries.*

 Patron—Deeds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 9.1-400 and 9.1-402 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, and 65.2-402.1, 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.

The definition of a "deceased person" shall include any individual listed in the definition of deceased person who died as a direct and proximate result of the performance of his duty if (i) the individual while on duty engaged in a situation, and such engagement involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity or participated in a training exercise, and such participation involved nonroutine stressful or strenuous activity, and (ii) the individual died as a result of a heart attack or stroke suffered while engaging in such activity described in (i) while still on duty or not later than 24 hours after so engaging or participating in such activity.

"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 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.

§ 9.1-402. Payments to beneficiaries of certain deceased law-enforcement officers, firefighters, etc.,

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59 and retirees.

60 A. The beneficiary of a deceased person whose death occurred on or before December 31, 2005,
61 while in the line of duty as the direct or proximate result of the performance of his duty shall be
62 entitled to receive the sum of \$75,000, which shall be payable out of the general fund of the state
63 treasury, in gratitude for and in recognition of his sacrifice on behalf of the people of the
64 Commonwealth.

65 B. The beneficiary of a deceased person whose death occurred on or after January 1, 2006, while in
66 the line of duty as the direct or proximate result of the performance of his duty shall be entitled to
67 receive the sum of \$100,000, which shall be payable out of the general fund of the state treasury, in
68 gratitude for and in recognition of his sacrifice on behalf of the people of the Commonwealth.
69 *Beginning October 1, 2009, the amount of the benefit payable under this subsection shall be indexed*
70 *and adjusted annually to reflect change in the Consumer Price Index as set by the Office of Justice*
71 *Programs pursuant to 42 U.S.C. § 3796 et seq.*

72 C. Subject to the provisions of §§ 27-40.1, 27-40.2, 51.1-813, or § 65.2-402, if the deceased person's
73 death (i) arose out of and in the course of his employment or (ii) was within five years from his date of
74 retirement, his beneficiary shall be entitled to receive the sum of \$25,000, which shall be payable out of
75 the general fund of the state treasury.