2017 SESSION

ENROLLED

VIRGINIA ACTS OF ASSEMBLY - CHAPTER

2 An Act to amend and reenact § 9.1-400, as it is currently effective and as it shall become effective, of 3 the Code of Virginia, relating to Line of Duty Act; firefighter trainees.

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Approved

[S 1118]

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 9.1-400, as it is currently effective and as it shall become effective, of the Code of 8 Virginia is amended and reenacted as follows: 9

§ 9.1-400. (Effective until July 1, 2017) 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:

12 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under 13 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 14 15 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 16 17 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 18 19 Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any 20 21 county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company 22 23 or department who is enrolled in a Fire Service Training course offered by the Virginia Department of 24 Fire Programs or any fire company or department training required in pursuit of qualification to 25 become a certified firefighter; a member of any fire company providing fire protection services for 26 facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia 27 Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent 28 29 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 30 31 to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of 32 § 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; 33 34 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, 35 that has been or is later declared to exist under the authority of the Governor in accordance with 36 37 § 44-146.28; any employee of any county, city, or town performing official emergency management or 38 emergency services duties in cooperation with the Department of Emergency Management, when those 39 duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later 40 declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local 41 emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional 42 hazardous materials emergency response team member; any conservation officer of the Department of 43 Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of 44 the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

45 "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 46 47 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. **48** 49

50 "Line of duty" means any action the deceased or disabled person was obligated or authorized to 51 perform by rule, regulation, condition of employment or service, or law.

§ 9.1-400. (Effective July 1, 2017) Title of chapter; definitions. 52

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

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

55 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under 56 the will of a deceased person if testate, or as his heirs at law if intestate.

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(Effective until July 1, 2018) "Deceased person" means any individual whose death occurs on or 57 58 after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, 59 including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position 60 is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its 61 political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail 62 farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of 63 Richmond; a police chaplain; a member of any fire company or department or emergency medical 64 services agency that has been recognized by an ordinance or a resolution of the governing body of any 65 county, city, or town of the Commonwealth as an integral part of the official safety program of such 66 county, city, or town, including a person with a recognized membership status with such fire company 67 or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to **68** become a certified firefighter; a member of any fire company providing fire protection services for 69 facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia 70 Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense 71 72 Force on official state duty or federal duty under Title 32 of the United States Code; any special agent 73 of the Virginia Alcoholic Beverage Control Board; any regular or special conservation police officer 74 who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant 75 to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of 76 § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power 77 of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; 78 any other employee of the Department of Emergency Management who is performing official duties of 79 the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, 80 that has been or is later declared to exist under the authority of the Governor in accordance with 81 § 44-146.28; any employee of any county, city, or town performing official emergency management or 82 emergency services duties in cooperation with the Department of Emergency Management, when those 83 duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later 84 declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local 85 emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of 86 Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of 87 88 the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217. 89 (Effective July 1, 2018) "Deceased person" means any individual whose death occurs on or after 90 April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, 91 including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position 92 is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its 93 political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail 94 farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of 95 Richmond; a police chaplain; a member of any fire company or department or emergency medical 96 services agency that has been recognized by an ordinance or a resolution of the governing body of any 97 county, city, or town of the Commonwealth as an integral part of the official safety program of such 98 county, city, or town, including a person with a recognized membership status with such fire company

99 or department who is enrolled in a Fire Service Training course offered by the Virginia Department of 100 Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for 101 102 facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia 103 Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense 104 Force on official state duty or federal duty under Title 32 of the United States Code; any special agent 105 of the Virginia Alcoholic Beverage Control Authority; any regular or special conservation police officer 106 who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant 107 to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of 108 § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power 109 of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; 110 any other employee of the Department of Emergency Management who is performing official duties of 111 the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, 112 that has been or is later declared to exist under the authority of the Governor in accordance with 113 § 44-146.28; any employee of any county, city, or town performing official emergency management or 114 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 115 declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local 116 emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional 117

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hazardous materials emergency response team member; any conservation officer of the Department of
 Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of
 the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

121 "Disabled person" means any individual who has been determined to be mentally or physically 122 incapacitated so as to prevent the further performance of his duties at the time of his disability where 123 such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct 124 or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any 125 126 position listed in the definition of deceased person in this section. "Disabled person" does not include 127 any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of 128 § 9.1-404. Disabled person also does not include any individual during any period in which his health 129 insurance coverage in the LODA Health Benefits Plan is suspended pursuant to subdivision C 4 of 130 § 9.1-401. "Disabled person" includes any state employee included in the definition of a deceased person 131 who was disabled on or after January 1, 1966.

132 "Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the 133 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled 134 person's eligible spouse, including any children born as the result of a pregnancy or adopted pursuant to 135 a preadoptive agreement, either of which occurred prior to the time of the employee's death or disability. 136 Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or 137 when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or 138 administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse
of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue
until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a
deceased person, dies, remarries, or otherwise ceases to be eligible based on the Virginia Administrative
Code or administrative guidance as determined by the Department of Human Resource Management.

144 "Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries
145 would be covered under the benefits of this chapter if the person became a disabled person or a
146 deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

152 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to 153 § 9.1-400.1.

154 "Line of duty" means any action the deceased or disabled person was obligated or authorized to 155 perform by rule, regulation, condition of employment or service, or law.

156 "LODA Health Benefits Plans" means the separate health benefits plans established pursuant to 157 § 9.1-401.

158 "Nonparticipating employer" means any employer that is a political subdivision of the
159 Commonwealth that elected on or before July 1, 2012, to directly fund the cost of benefits provided
160 under this chapter and not participate in the Fund.

161 "Participating employer" means any employer that is a state agency or is a political subdivision of
 162 the Commonwealth that did not make an election to become a nonparticipating employer.

163 "VRS" means the Virginia Retirement System.