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SENATE BILL NO. 939

Offered January 11, 2017

Prefiled December 29, 2016

A BILL to amend and reenact § 9.1-400, as it shall become effective, of the Code of Virginia, relating to Line of Duty Act; death benefit eligibility; Department of Military Affairs employees.

Patrons—Lucas; Delegate: Tyler

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 9.1-400. (Effective 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:

"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.

(Effective until July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty 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, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, 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 emergency medical services agency 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 any fire company providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia 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 other employee of the Department of Military Affairs who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as those terms are 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 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; 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.*

(Effective July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty 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, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, 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 emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any

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59 county, city, or town of the Commonwealth as an integral part of the official safety program of such
60 county, city, or town; a member of any fire company providing fire protection services for facilities of
61 the Virginia National Guard; a member of the Virginia National Guard or the Virginia Defense Force
62 while such member is serving in the Virginia National Guard or the Virginia Defense Force on official
63 state duty or federal duty under Title 32 of the United States Code; *any other employee of the*
64 *Department of Military Affairs who is performing official duties of the agency, when those duties are*
65 *related to a major disaster or emergency, as those terms are defined in § 44-146.16, that has been or*
66 *is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any*
67 *special agent of the Virginia Alcoholic Beverage Control Authority; any regular or special conservation*
68 *police officer who receives compensation from a county, city, or town or from the Commonwealth*
69 *appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the*
70 *provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission*
71 *granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management*
72 *hazardous materials officer; any other employee of the Department of Emergency Management who is*
73 *performing official duties of the agency, when those duties are related to a major disaster or emergency,*
74 *as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor*
75 *in accordance with § 44-146.28; any employee of any county, city, or town performing official*
76 *emergency management or emergency services duties in cooperation with the Department of Emergency*
77 *Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16,*
78 *that has been or is later declared to exist under the authority of the Governor in accordance with*
79 *§ 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any*
80 *nonfirefighter regional hazardous materials emergency response team member; any conservation officer*
81 *of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any*
82 *full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed*
83 *pursuant to § 46.2-217.*

84 "Disabled person" means any individual who has been determined to be mentally or physically
85 incapacitated so as to prevent the further performance of his duties at the time of his disability where
86 such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct
87 or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1,
88 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
89 position listed in the definition of deceased person in this section. "Disabled person" does not include
90 any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of
91 § 9.1-404. Disabled person also does not include any individual during any period in which his health
92 insurance coverage in the LODA Health Benefits Plan is suspended pursuant to subdivision C 4 of
93 § 9.1-401. "Disabled person" includes any state employee included in the definition of a deceased person
94 who was disabled on or after January 1, 1966.

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

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

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

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

115 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to
116 § 9.1-400.1.

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

119 "LODA Health Benefits Plans" means the separate health benefits plans established pursuant to
120 § 9.1-401.

121 "Nonparticipating employer" means any employer that is a political subdivision of the
122 Commonwealth that elected on or before July 1, 2012, to directly fund the cost of benefits provided
123 under this chapter and not participate in the Fund.
124 "Participating employer" means any employer that is a state agency or is a political subdivision of
125 the Commonwealth that did not make an election to become a nonparticipating employer.
126 "VRS" means the Virginia Retirement System.

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