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SENATE BILL NO. 56

Offered January 10, 2018

Prefiled November 27, 2017

A BILL to amend and reenact § 9.1-400 of the Code of Virginia, relating to Line of Duty Act; eligible dependents.

Patrons—DeSteph, Cosgrove and Wagner; Delegates: Bell, John J. and Turpin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 9.1-400 of the Code of Virginia is 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.

(Effective until January 15, 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, including a person with a recognized membership status with such fire company 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 become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air 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 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 January 15, 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

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

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

92 "Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the
93 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled
94 person's eligible spouse, ~~provided that~~. However, *"eligible dependent" does not include any such natural*
95 *child is born as the result of a pregnancy that occurred prior to after the time of the employee's death or*
96 *disability and that if covering such child in the continued health insurance results in an increase in the*
97 *health insurance premiums being paid by a nonparticipating employer or from the Line of Duty Death*
98 *and Health Benefits Trust Fund on behalf of a participating employer for such coverage pursuant to*
99 *subdivision B 1 of § 9.1-401. "Eligible dependent" also does not include any such adopted child is (i)*
100 *adopted prior to after the time of the employee's death or disability or (ii) if covering such child in the*
101 *continued health insurance results in an increase in the health insurance premiums being paid by a*
102 *nonparticipating employer or from the Line of Duty Death and Health Benefits Trust Fund on behalf of*
103 *a participating employer for such coverage pursuant to subdivision B 1 of § 9.1-401. However, "eligible*
104 *dependent" includes any child adopted after the employee's death or disability if the adoption is pursuant*
105 *to a preadoptive agreement entered into prior to the death or disability even if covering such child in the*
106 *continued health insurance results in an increase in the health insurance premiums being paid by a*
107 *nonparticipating employer or from the Line of Duty Death and Health Benefits Trust Fund on behalf of*
108 *a participating employer for such coverage pursuant to subdivision B 1 of § 9.1-401. Eligibility will*
109 *continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible*
110 *dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as*
111 *determined by the Department of Human Resource Management.*

112 "Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse
113 of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue
114 until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a
115 deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the
116 Virginia Administrative Code or administrative guidance as determined by the Department of Human
117 Resource Management.

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

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

126 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to
127 § 9.1-400.1.

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

130 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to
131 § 9.1-401.

132 "Nonparticipating employer" means any employer that is a political subdivision of the
133 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not
134 participate in the Fund.

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

137 "VRS" means the Virginia Retirement System.