

# 2023 SESSION

INTRODUCED

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## SENATE BILL NO. 1311

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact § 38.2-5009.1 of the Code of Virginia, relating to the Virginia Birth-Related Neurological Injury Compensation Act.*

Patron—Deeds

Referred to Committee on Commerce and Labor

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-5009.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-5009.1. Infants dying shortly after birth.**

A. For births occurring on or after July 1, 2003, if the Commission determines that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth or that the birth occurred in a participating hospital, and the infant dies within 180 days of birth, the Commission, in its discretion, may make an award in an amount not exceeding ~~\$100,000~~ \$500,000 to the infant's family, which award shall be in addition to and not in lieu of any other award providing compensation as provided in § 38.2-5009.

B. Prior to making an award pursuant to this section, the Commission shall conduct a hearing for the purpose of determining whether such award is appropriate and, if so, the proper amount of such an award and how it should be paid, after receiving evidence pertaining to sorrow, mental anguish, solace, grief associated with the death of the infant, and all other material factors that are relevant.

C. The hearing referred to in subsection B may be conducted as part of a hearing conducted pursuant to § 38.2-5009. The same procedural requirements applicable to a hearing conducted pursuant to § 38.2-5009 shall apply to a hearing conducted hereunder.

D. As used in this section, an infant's family means the infant's father, mother, or both, or if neither is a party to the proceeding, the infant's legal guardian.

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