

24104691D

HOUSE BILL NO. 1433

Offered January 18, 2024

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

Patron—Hodges

Referred to Committee on Appropriations

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.

"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, except employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; 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 Authority; 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.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs 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, in any position listed in the definition of deceased person in this section. "Disabled person" does not include

INTRODUCED

HB1433

59 any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of
60 § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person
61 who was disabled on or after January 1, 1966.

62 "Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the
63 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled
64 person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that
65 occurred prior to the time of the employee's death or disability *or claim approval date* and that any such
66 adopted child is (i) adopted prior to the time of the employee's death or disability *or claim approval*
67 *date* or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive
68 agreement entered into prior to the death or disability *or claim approval date*. Notwithstanding the
69 foregoing, "eligible dependent" shall also include the natural or adopted child or children of a deceased
70 person or disabled person born as the result of a pregnancy or adoption that occurred after the time of
71 the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the
72 year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible
73 based on the Virginia Administrative Code or administrative guidance as determined by the Department
74 of Human Resource Management.

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

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

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

89 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to
90 § 9.1-400.1.

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

93 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to
94 § 9.1-401.

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

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

100 "VRS" means the Virginia Retirement System.