

# Virginia Retirement System

## 2024 Fiscal Impact Statement

1. **Bill Number:** HB 1433

**House of Origin** ☐ Introduced ☐ Substitute ☐ Engrossed  
**Second House** ☐ In Committee ☒ Substitute ☐ Enrolled

2. **Patron Prior to Substitute:** Hodges

3. **Committee:** Finance and Appropriations

4. **Title:** Line of Duty Act; eligible dependent.

5. **Summary:** Provides that for purposes of continued health insurance pursuant to the Line of Duty Act, an eligible dependent includes a child that was born as a result of a pregnancy that occurred prior to or no later than six months after the employees' death or disability. Eligible dependent also includes a child adopted prior to or within six months after the employee's death or disability; or pursuant to a preadoptive agreement entered into prior to the death or disability but with the adoption completed six months or more after the employee's death or disability. This definition of eligible dependent applies only for disability or death that occurred on or after July 1, 2017, and new health insurance coverage for a child qualifying as an eligible dependent under the substitute shall be prospective only. Under current law, an eligible dependent includes a child born or adopted prior to the time of the employee's death or disability.

6. **Summary of Impacts**

**Benefit(s) impacted:** Line of Duty Act (LODA) health benefits for coverage of eligible dependents beginning from the July 1, 2024, effective date.

**Impact to unfunded liability (see Item 9 for details):** The VRS-administered LODA fund is a "pay-as-you-go" arrangement and does not pre-fund or develop unfunded liabilities.

**Impact to contribution rate(s) (see Item 9 for details):** Impacts to LODA premium rates are dependent on impacted LODA members. If members already have family coverage there likely would not be an immediate impact to LODA premiums, but future plan experience would be impacted by additional covered lives. If impacted members currently do not have family coverage, increased healthcare premiums to move to family coverage would require additional funding, which could impact LODA premiums for fiscal years 2025 and 2026.

**Specific Agency or Political Subdivisions Affected (see Item 10):** VRS, DHRM, and all LODA participating and non-participating employers.

**VRS cost to implement (see Item 7 and Item 8 for details):** Minimal ongoing costs to implement and administer. VRS cannot use VRS Trust Funds to administer LODA.

**DHRM cost to implement (see Item 7 and Item 8 for details):** DHRM indicates only a few dependents may meet these criteria, therefore they do not expect a significant fiscal impact. DHRM advises that a more liberal eligibility criteria will lead to additional costs, however costs depend upon actual plan experience.

**Employer cost to implement (see Item 7 and Item 8 for details):** Indeterminate.

**Other VRS, DHRM, and employer impacts:** See Item 7, Item 9, Item 11, and Item 12 for details.

**GF budget impacts (see Item 8 for details):** VRS' one-time implementation costs of \$5,600 in FY 2024 to provide LODA benefits cannot be borne by the VRS Trust Fund due to the exclusive benefit rule (See § 51.1-124.30(C) of the *Code of Virginia*, art. 10, § 11 of the Constitution of Virginia, and 26 U.S.C. § 401(a)). GF employers could also need increased funding for LODA premiums.

**NGF budget impacts (see Item 8 for details):** VRS' one-time implementation costs to provide LODA benefits cannot be borne by the VRS Trust Fund due to the exclusive benefit rule (See § 51.1-124.30(C) of the *Code of Virginia*, art. 10, § 11 of the Constitution of Virginia, and 26 U.S.C. § 401(a)). NGF employers could also need increased funding for LODA premiums.

7. **Budget Amendment Necessary:** Yes. See Item 9. VRS expects minimal implementation costs. VRS' costs associated with this substitute, approximately \$5,600, cannot be borne by the VRS Trust Fund due to the exclusive benefit rule (See § 51.1-124.30(C) of the Code of Virginia, art. 10, § 11 of the Constitution of Virginia, and 26 U.S.C. § 401(a)). Va. Code § 9.1-400.1(C) provides that VRS' administrative costs are paid out of the LODA Fund. Absent a General Fund appropriation for the costs associated with this substitute, VRS will ultimately need to recover these costs through an increase to the LODA premium. However, that means that the change will be subsidized by the LODA fund participating employers unless VRS also increases the costs charged for reviewing claims from non-participating employers who do not pay into the LODA Fund.

GF employers will need increased funding for LODA premiums.

NGF employers will need increased NGF funding for LODA premiums.

Political subdivisions that are non-participating LODA employers, meaning they have opted out of the LODA Fund and so are self-insured or use a separate provider, will also need increased funding for LODA premiums and implementation.

8. **Fiscal Impact Estimates:** See Item 9 below for a discussion of fiscal implications.
9. **Fiscal Implications:** The LODA Fund is a pay-as-you-go fund, which means that there is no pre-funding, and the premiums are generally set to cover costs anticipated over the next two years of benefit payments. The LODA Fund premium effective July 1, 2024 is \$995.00 per eligible employee. Although the Department of Human Resource Management (DHRM) indicates only a few potential new dependents may be eligible at this time, expanding the definition of "eligible dependent" could create adverse selection issues for the Health

Benefits Plans, increasing participating employers' costs for LODA health insurance and thereby for the LODA fund overall. Nonparticipating employers (i.e., employers that self-fund the cost of LODA benefits as opposed to contributing to the LODA fund) would also experience a cost increase if additional beneficiaries become eligible for LODA benefits. Impacts to LODA premium rates are dependent on impacted LODA members. If members already have family coverage, there likely would not be an immediate impact to LODA premiums, but future plan experience would be impacted by additional covered lives. If impacted members currently do not have family coverage, increased healthcare premiums to move to family coverage would require additional funding which could impact LODA premiums for fiscal years 2025 and 2026.

DHRM indicates that available data suggest few individuals would qualify to become eligible dependents under the provisions of this substitute. The addition of any individual to the LODA health insurance pools administered by DHRM has the potential to increase costs and, by extension, increase premiums.

Pursuant to LODA, DHRM administers the LODA Health Benefits Plans for Medicare and non-Medicare eligible individuals, which are self-insured health insurance pools for disabled persons, eligible spouses, and eligible dependents as defined under LODA. In considering self-insured health insurance pools like the LODA Health Benefits Plans, plan experience is a critical driver in the costs of the plans. Monthly premiums for the LODA Health Benefits Plans are paid by a nonparticipating employer, or by the Line of Duty Death and Health Benefits Trust Fund ("the Fund") on behalf of a participating employer, depending on the employer for the deceased or disabled person at the time of death or injury.

As a result of plan experience, the addition of any individual to the health insurance pool has the potential to increase costs to the pool. As costs increase, premiums must also increase in order to fully cover health insurance costs. Since the LODA Health Benefits Plans are self-insured risk pools, the magnitude of the cost increases would depend heavily on the total expected healthcare costs of the insured group.

Plan premiums are set with the expectation of covering the expected costs of all members, which is directly correlated to not only the number of lives covered, but also plan experience, future healthcare costs, as well as the coverage provided. The magnitude of cost increases related to adding members to the pool could vary widely depending on actual claims experience, which could include large or catastrophic claims. Such costs would be spread among the entire health insurance pool and factored into future health insurance premiums.

Increasing health insurance premiums would likely lead to an increase in the contribution rate charged by VRS to participating employers, which would have a general fund and nongeneral fund impact. VRS is responsible for administering the Fund, which pays for LODA benefits provided to employees of participating employers, including health insurance premiums. The VRS Board of Trustees establishes a per LODA-eligible employee contribution rate, which is paid by participating employers, including but not limited to all state agencies with LODA-eligible personnel, and is used to maintain the Fund.

**10. Specific Agency or Political Subdivisions Affected:** VRS, DHRM, and all LODA participating and non-participating employers.

**11. Technical Amendment Necessary:** No.

**12. Other Comments:** The substitute allows children born as a result of a pregnancy that occurred prior to or within six months after the date of the LODA-eligible death or disability to be considered an eligible dependent and covered under the LODA Health Benefits Plans. It also includes a child adopted prior to or within six months after the employee's death or disability, or adopted pursuant to a preadoptive agreement entered into prior to the death or disability but with the adoption completed six months or more after the employee's death or disability. This definition applies only for those deaths or disabilities that occur on or after July 1, 2017. The substitute provides that health plan coverage for qualifying dependents is prospective from the effective date of the substitute, July 1, 2024.

The Department of Accounts (DOA) administered the Line of Duty Act eligibility and benefits until 2017, while VRS invested and administered the LODA Fund. Following the [2014 Joint Legislative Audit and Review Commission \(JLARC\) report on LODA](#) and several years of discussion with a stakeholder group spearheaded by the Chairman of the Appropriations Committee at that time, several changes were made to LODA in 2016, to be effective July 1, 2017 ([HB 1345](#)), including establishing a statutory definition of eligible dependent, with further amendments made to the definition of eligible dependent in 2017 ([HB 2243](#)) and 2020 ([HB 51](#) and [SB 40](#)). The goal of the 2016 changes was to reduce the costs associated with providing the LODA benefit while still providing adequate benefits.

Following the 2016 amendments, management of the Line of Duty Death and Health Benefits Trust Fund was transferred to VRS, including the responsibility for LODA eligibility determinations. DHRM administers health insurance coverage via the LODA Health Benefits Plans.

Prior to 2016, [§ 9.1-400](#) of the Code of Virginia did not expressly define eligible dependents, but § 9.1-401 provided that the LODA eligible member who became disabled or deceased along with their spouse and dependents was entitled to "...the same plan of benefits which the deceased or disabled person was entitled to on the last day of his active duty...." This meant that only family members who were covered at the time of the LODA disability or death were entitled to this benefit.

Despite this provision, ineligible dependents were being covered by LODA health benefits. Prior to 2017, LODA beneficiaries were reimbursed for health insurance, so DOA did not receive applications for health insurance showing who was covered by a policy. Additionally, due to the nature of pooled health insurance benefits, since the cost of premiums for a family typically does not change whether there are two, three, or more dependents, the cost of premiums to be reimbursed were not an indicator of coverage. Thus, dependents who were not eligible for benefits were informally allowed coverage. However, the changes in 2016 authorized DHRM to create and administer the self-insured LODA Health Benefits Plans. When DHRM took over administration of LODA health insurance, information on covered

dependents then went to DHRM. Further, the self-insured plan means that only LODA beneficiaries are in the plan, costs are absorbed by the plan, and the health benefits experience ultimately impacts costs for the entire LODA program.

In 2017, prior to the effective date of the 2016 legislation, legislation changed the definition of eligible dependent to include children born or adopted after the death or disability of an employee if the birth resulted from a pregnancy that occurred before the death or disability of the employee or the adoption was pursuant to a preadoptive agreement entered into before the death or disability of the employee.

In 2020, the definition of eligible dependent was changed to include natural or adopted children born or adopted after an employee's death or disability but prior to July 1, 2017, the effective date of the statutory definition of eligible dependent. A similar provision was included in Item 477 Q.1 of the 2020 Appropriations Act. This change effectively grandfathered in afterborn children who fell within the statutory time frame for health insurance purposes. Afterborn children who did not fall within this time frame because they were born after the effective date of the statutory definition of eligible dependent were still excluded from the definition of eligible dependent.

**Date:** 3/6/2024

**Document:** HB1433S1.DOC/VRS