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HOUSE BILL NO. 1824

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee on February 25, 1995)

(Patron Prior to Substitute—Delegate Rollison)

A BILL to amend and reenact §§ 15.1-136.2, 15.1-136.3, 15.1-136.5:1 and 15.1-136.6:1 of the Code of Virginia, relating to the Line of Duty Act.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-136.2, 15.1-136.3, 15.1-136.5:1 and 15.1-136.6:1 of the Code of Virginia are amended and reenacted as follows:

§ 15.1-136.2. Definitions.

For the purposes of this article the following words shall have the meanings herein ascribed to them:

"Deceased" shall mean means any person whose death occurs on or after April 8, 1972, 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, and 65.2-402, as a law-enforcement officer of this Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a member of any fire company or department or rescue squad which has been recognized by an ordinance or a resolution of the governing body of any county, city or town of this Commonwealth as an integral part of the official safety program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such member is serving in the Virginia National Guard or the Virginia State 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 agent, investigator, or inspector vested with the power to arrest pursuant to § 56-334; any regular or special game warden 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; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

"Beneficiary" shall mean means the spouse of the deceased and such person or persons as are entitled to take under the will of the deceased if testate, or as his heir at law if intestate.

"Line of duty" means any action the deceased is obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

§ 15.1-136.3. Payments to beneficiaries of certain deceased law-enforcement officers, firefighters, etc., and retirees.

In gratitude to and in recognition of every deceased for his sacrifice on behalf of the people of this Commonwealth A. If the deceased's death occurred while in the line of duty as the direct or proximate result of the performance of his duty, his beneficiary shall be entitled to receive the sum of \$25,000 50,000, which shall be payable out of the general fund of the state treasury, in gratitude for and in recognition of his sacrifice on behalf of the people of this Commonwealth.

B. Subject to the provisions § 27-40.1, § 27-40.2, § 51.1-813, or § 65.2-402, if the deceased's death (a) arose out of and in the course of his employment or (b) was within five years from his date of retirement, his beneficiary shall be entitled to receive the sum of \$25,000, which shall be payable out of the general fund of the state treasury.

§ 15.1-136.5:1. Order of Comptroller.

If it shall appear to the Comptroller that the requirements of this article shall have been satisfied, he shall issue his warrant in the appropriate aggregate amount for the payment out of the general fund of the state treasury the sum of \$25,000 in the aggregate, to the surviving spouse or to such persons and subject to such conditions as may be proper in his administrative discretion, and in the event there is no beneficiary, the Comptroller shall issue such payment to the estate of the deceased.

§ 15.1-136.6:1. Appeal from decision of Comptroller.

Any beneficiary aggrieved by the decision of the Comptroller shall present a petition to the court in which the will of the deceased is probated or in which the personal representative of the deceased is qualified or might qualify. The Commonwealth shall be represented in such proceeding by the Attorney General or his designee. The court will proceed as chancellor without a jury. If it shall appear to the court that the requirements of this article shall have been satisfied, the judge thereof shall enter a proper order to that effect, which order also shall direct the Comptroller to issue his warrant in the appropriate aggregate amount for the payment out of the general fund of the state treasury the sum of \$25,000 in the aggregate to such persons and subject to such conditions as may be proper, and in the event there is

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60 no beneficiary, the judge shall direct such payment to the estate of the deceased.