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HOUSE BILL NO. 1706

Offered January 9, 2019

Prefiled December 13, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 65.2-400.1, relating to workers' compensation; occupational diseases; PTSD suffered by first responders.*

Patrons—Kory, Heretick, Bell, John J. and Watts

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 65.2-400.1 as follows:****§ 65.2-400.1. PTSD suffered by a first responder.****A. As used in this section:**

"Directly witnessing" means to see or hear for oneself.

"First responder" means any individual referenced in subdivision 1 l of the definition of "employee" in § 65.2-101.

"Manually transporting" means performing physical labor to move the body of a wounded person for his safety or medical treatment.

"PTSD" means post-traumatic stress disorder as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association.

"Qualifying event" means an event in which a first responder:

- a. Directly witnesses a deceased minor;
- b. Directly witnesses the death of a minor;
- c. Directly witnesses an injury to a minor who subsequently dies before or upon arrival at a hospital emergency department;
- d. Participates in the physical treatment of an injured minor who subsequently dies before or upon arrival at a hospital emergency department;
- e. Manually transports an injured minor who subsequently dies before or upon arrival at a hospital emergency department;
- f. Directly witnesses a decedent whose death involved grievous bodily harm of a nature that shocks the conscience;
- g. Directly witnesses a death, including suicide, that involves grievous bodily harm of a nature that shocks the conscience;
- h. Directly witnesses a homicide;
- i. Directly witnesses an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if such injury involves grievous bodily harm of a nature that shocks the conscience;
- j. Participates in the physical treatment of an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if such injury involves grievous bodily harm of a nature that shocks the conscience; or
- k. Manually transports a person who is injured, including by attempted suicide, and subsequently dies before or upon arrival at a hospital emergency department if such injury involves grievous bodily harm of a nature that shocks the conscience.

B. PTSD suffered by a first responder is an occupational disease that is covered by this title if:

1. The first responder is examined and subsequently diagnosed with PTSD by a licensed psychiatrist who is an authorized treating physician; and
2. The first responder's PTSD is demonstrated by clear and convincing medical evidence to have resulted from the first responder's documented exposure to a qualifying event that occurred within the course of his employment.

C. Coverage for a first responder's PTSD under this section:

1. Shall not require a physical injury to the first responder; and
2. Shall not be subject to apportionment due to preexisting PTSD.

D. For purposes of this section, exposure to a qualifying event occurring on or after July 1, 2019, shall be deemed documented if the first responder gave notice, written or otherwise, of such exposure to his employer, and exposure to a qualifying event occurring prior to July 1, 2019, shall be deemed documented without regard to whether the person gave notice, written or otherwise, of the exposure to his employer.

E. The Commission shall adopt regulations specifying injuries qualifying as grievous bodily harm of

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59 *a nature that shocks the conscience for the purposes of the definition of "qualifying event" in subsection*
60 *A.*
61 *F. An employer of first responders shall provide its first responders with educational training related*
62 *to PTSD awareness, prevention, mitigation, and treatment.*