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SENATE BILL NO. 1088

Senate Amendments in [] - February 3, 2023

Prefiled January 9, 2023

A *BILL to amend and reenact § 65.2-107 of the Code of Virginia, relating to workers' compensation; post-traumatic stress disorder incurred by dispatchers.*

Patrons Prior to Engrossment—Senators Ebbin and Boysko; Delegates: Kory and Krizek

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-107 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers, firefighters, and dispatchers.

A. As used in this section:

"Dispatcher" means an individual employed by a public safety answering point, an emergency medical dispatch service provider, or both, who is qualified to operate communication systems to receive requests for emergency assistance and provide for the appropriate emergency response either directly or through communication with the appropriate public safety office or emergency medical services provider.

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer ~~or~~, firefighter, *or dispatcher* was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the ~~American Psychiatric Association's~~ Diagnostic and Statistical Manual of Mental Disorders *published by the American Psychiatric Association.*

"Qualifying event" means an incident or exposure occurring in the line of duty [(i) *for a law-enforcement officer or firefighter,*] on or after July 1, 2020 [, *or (ii) for a dispatcher, on or after July 1, 2023*] :

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder incurred by a law-enforcement officer ~~or~~, firefighter, *or dispatcher* is compensable under this title if:

1. A mental health professional examines a law-enforcement officer ~~or~~, firefighter, *or dispatcher* and diagnoses the law-enforcement officer ~~or~~, firefighter, *or dispatcher* as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder resulted from the law-enforcement officer's ~~or~~, firefighter's, *or*

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59 *dispatcher's* acting in the line of duty and, in the case of a firefighter, such firefighter complied with
60 federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29
61 C.F.R. 1910.156;

62 3. The law-enforcement officer's ~~or~~, firefighter's, *or dispatcher's* undergoing a qualifying event was a
63 substantial factor in causing his post-traumatic stress disorder;

64 4. Such qualifying event, and not another event or source of stress, was the primary cause of the
65 post-traumatic stress disorder; and

66 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job
67 transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement
68 officer ~~or~~, firefighter, *or dispatcher*.

69 Any such mental health professional shall comply with any workers' compensation guidelines for
70 approved medical providers, including guidelines on release of past or contemporaneous medical records.

71 C. Notwithstanding any provision of this title, workers' compensation benefits for any
72 law-enforcement officer ~~or~~, firefighter, *or dispatcher* payable pursuant to this section shall (i) include
73 any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed
74 psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity
75 benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis.
76 No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial
77 incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying
78 event that formed the basis for the claim for benefits under this section. The weekly benefits received by
79 a law-enforcement officer ~~or~~ a, firefighter, *or dispatcher* pursuant to § 65.2-500 or 65.2-502, when
80 combined with other benefits, including contributory and noncontributory retirement benefits, Social
81 Security benefits, and benefits under a long-term or short-term disability plan, but not including
82 payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement
83 officer ~~or~~, firefighter, *or dispatcher*.

84 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters, *and no*
85 *later than January 1, 2024, each employer of dispatchers* shall (i) make peer support available to such
86 ~~law-enforcement officers and firefighters individuals~~ and (ii) refer a ~~law-enforcement officer or~~
87 ~~firefighter~~ *such individuals* seeking mental health care services to a mental health professional.

88 E. Each fire basic training program conducted or administered by the Department of Fire Programs
89 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department
90 of Behavioral Health and Developmental Services, resilience and self-care technique training for any
91 individual who begins basic training as a firefighter on or after July 1, 2021.