

SENATE BILL NO. 904

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor

on _____)

(Patron Prior to Substitute--Senator DeSteph)

A BILL to amend and reenact § 65.2-107 of the Code of Virginia, relating to workers' compensation; post-traumatic stress disorder, anxiety disorder, or depressive disorder; law-enforcement officers and firefighters.

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, anxiety disorder, or depressive disorder incurred by law-enforcement officers and firefighters.

A. As used in this section:

"Anxiety disorder" means a disorder that meets the diagnostic criteria for one or more of the anxiety disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Depressive disorder" means a disorder that meets the diagnostic criteria for one or more of the depressive disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"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 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

27 Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City
28 of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn
29 member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer;
30 (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of
31 Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports
32 Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of
33 the police force established and maintained by the Metropolitan Washington Airports Authority; (xi)
34 officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer
35 of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police
36 officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any
37 public institution of higher education.

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

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

44 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1,
45 2020, for post-traumatic stress disorder and on or after July 1, 2023, for anxiety disorder or depressive
46 disorder:

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

52 B. Post-traumatic stress disorder, anxiety disorder, or depressive disorder incurred by a law-
53 enforcement officer or firefighter is compensable under this title if:

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

57 2. The post-traumatic stress disorder, anxiety disorder, or depressive disorder resulted from the
58 law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such
59 firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29
60 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

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

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

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

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

70 C. Notwithstanding any provision of this title, workers' compensation benefits for any law-
71 enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of
72 medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total
73 incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii)
74 be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary
75 total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall
76 be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for
77 benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter
78 pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and
79 noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term

80 disability plan, but not including payments for medical care, shall not exceed the average weekly wage
81 paid to such law-enforcement officer or firefighter.

82 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall
83 (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-
84 enforcement officer or firefighter seeking mental health care services to a mental health professional.

85 E. Each fire basic training program conducted or administered by the Department of Fire Programs
86 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department
87 of Behavioral Health and Developmental Services, resilience and self-care technique training for any
88 individual who begins basic training as a firefighter on or after July 1, 2021. Each law-enforcement recruit
89 training program conducted or administered by a county, city, or town police department, sheriff's office,
90 state agency, or other employer of law-enforcement officers shall provide, in consultation with the
91 Department of Behavioral Health and Developmental Services, resilience and self-care technique training
92 for any individual who begins basic training as a law-enforcement officer on or after July 1, 2023.

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