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HOUSE BILL NO. HB 232
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on _____
on _____)
(Patron Prior to Substitute--Delegate Campbell)

A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-400.1, 9.1-401, and 9.1-402 through 9.1-404 of the Code of Virginia, relating to Line of Duty Act; campus police officers; private police officers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-400.1, 9.1-401, and 9.1-402 through 9.1-404 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)

Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

26 "Criminal history record information" means records and data collected by criminal justice
27 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
28 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
29 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
30 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
31 status information.

32 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
33 which as its principal function performs the administration of criminal justice and any other agency or
34 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
35 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
36 the context of its criminal justice activities, employs special conservators of the peace appointed under
37 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
38 its officers or special conservators to meet compulsory training standards established by the Criminal
39 Justice Services Board and submits reports of compliance with the training standards and (b) the private
40 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
41 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
42 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
43 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
44 Violent Predators Act (§ 37.2-900 et seq.).

45 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
46 to § 18.2-271.2.

47 "Criminal justice agency" includes the Department of Criminal Justice Services.

48 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

49 "Criminal justice agency" includes the Virginia State Crime Commission.

50 "Criminal justice information system" means a system including the equipment, facilities,
51 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or

52 dissemination of criminal history record information. The operations of the system may be performed
53 manually or by using electronic computers or other automated data processing equipment.

54 "Department" means the Department of Criminal Justice Services.

55 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
56 means. The term shall not include access to the information by officers or employees of a criminal justice
57 agency maintaining the information who have both a need and right to know the information.

58 "Law-enforcement officer" means any full-time or part-time employee of a police department or
59 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
60 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
61 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
62 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
63 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
64 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
65 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of
66 the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation
67 commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the
68 Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer
69 employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-
70 809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State
71 Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the
72 operations of a state or nonstate agency; (xi) employee with internal investigations authority designated
73 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile
74 Justice pursuant to subdivision A 7 of § 66-3; (xii) private police officer employed by a private police
75 department; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to
76 subsection A of § 32.1-320.1. Part-time employees are those compensated officers who are not full-time
77 employees as defined by the employing police department, sheriff's office, or private police department.

78 "Private police department" means any police department, other than a department that employs
79 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
80 authorized by statute or an act of assembly to establish a private police department or such entity's
81 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
82 to operate a private police department or represent that it is a private police department unless such entity
83 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
84 that has been authorized pursuant to this section, provided it complies with the requirements set forth
85 herein. The authority of a private police department shall be limited to real property owned, leased, or
86 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
87 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
88 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
89 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
90 with the private police department that addresses the duties and responsibilities of the private police
91 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
92 departments and private police officers shall be subject to and comply with the Constitution of the United
93 States; the Constitution of Virginia; the laws governing municipal police departments, including the
94 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
95 1722; and any regulations adopted by the Board that the Department designates as applicable to private
96 police departments. ~~Any person employed as a private police officer pursuant to this section shall meet all~~
97 ~~requirements, including the minimum compulsory training requirements, for law enforcement officers~~
98 ~~pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§~~
99 ~~9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or~~
100 ~~"qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers~~
101 ~~Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any~~
102 ~~locality.~~ An authorized private police department may use the word "police" to describe its sworn officers
103 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
104 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not

105 otherwise established by statute or an act of assembly and whose status as a private police department was
106 recognized by the Department at that time is hereby validated and may continue to operate as a private
107 police department as may such entity's successor in interest, provided it complies with the requirements
108 set forth herein.

109 "Private police officer" means a law-enforcement officer who is employed by a private police
110 department and who may exercise the power and duties conferred by law upon such police officers on real
111 property owned, leased, or controlled by the employing entity and, if approved by the local chief of police
112 or sheriff, any contiguous property. Any person employed as a private police officer pursuant to this
113 section shall meet all requirements, including the minimum compulsory training requirements, for law-
114 enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the
115 Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law
116 enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C.
117 § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality.

118 "School resource officer" means a certified law-enforcement officer hired by the local law-
119 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
120 secondary schools.

121 "School security officer" means an individual who is employed by the local school board or a
122 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
123 investigating violations of the policies of the school board or the private or religious school, and detaining
124 students violating the law or the policies of the school board or the private or religious school on school
125 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
126 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

127 "Unapplied criminal history record information" means information pertaining to criminal
128 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
129 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
130 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
131 the content of the submitted information.

132 § 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)

133 **Definitions.**

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135 requires a different meaning:

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137 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
138 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
139 storage, and dissemination of criminal history record information.

140 "Board" means the Criminal Justice Services Board.

141 "Conviction data" means information in the custody of any criminal justice agency relating to a
142 judgment of conviction, and the consequences arising therefrom, in any court.

143 "Correctional status information" means records and data concerning each condition of a convicted
144 person's custodial status, including probation, confinement, work release, study release, escape, or
145 termination of custody through expiration of sentence, parole, pardon, or court decision.

146 "Criminal history record information" means records and data collected by criminal justice
147 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
148 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
149 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
150 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
151 status information.

152 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
153 which as its principal function performs the administration of criminal justice and any other agency or
154 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
155 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
156 the context of its criminal justice activities, employs special conservators of the peace appointed under
157 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
158 its officers or special conservators to meet compulsory training standards established by the Criminal

159 Justice Services Board and submits reports of compliance with the training standards and (b) the private
160 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
161 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
162 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
163 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
164 Violent Predators Act (§ 37.2-900 et seq.).

165 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
166 to § 18.2-271.2.

167 "Criminal justice agency" includes the Department of Criminal Justice Services.

168 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

169 "Criminal justice agency" includes the Virginia State Crime Commission.

170 "Criminal justice information system" means a system including the equipment, facilities,
171 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
172 dissemination of criminal history record information. The operations of the system may be performed
173 manually or by using electronic computers or other automated data processing equipment.

174 "Department" means the Department of Criminal Justice Services.

175 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
176 means. The term shall not include access to the information by officers or employees of a criminal justice
177 agency maintaining the information who have both a need and right to know the information.

178 "Law-enforcement officer" means any full-time or part-time employee of a police department or
179 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
180 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
181 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
182 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
183 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
184 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
185 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of

186 the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation
187 commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the
188 Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer
189 employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-
190 809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State
191 Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the
192 operations of a state or nonstate agency; (xi) employee with internal investigations authority designated
193 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile
194 Justice pursuant to subdivision A 7 of § 66-3; (xii) private police officer employed by a private police
195 department; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to
196 subsection A of § 32.1-320.1. Part-time employees are those compensated officers who are not full-time
197 employees as defined by the employing police department, sheriff's office, or private police department.

198 "Private police department" means any police department, other than a department that employs
199 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
200 authorized by statute or an act of assembly to establish a private police department or such entity's
201 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
202 to operate a private police department or represent that it is a private police department unless such entity
203 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
204 that has been authorized pursuant to this section, provided it complies with the requirements set forth
205 herein. The authority of a private police department shall be limited to real property owned, leased, or
206 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
207 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
208 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
209 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
210 with the private police department that addresses the duties and responsibilities of the private police
211 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
212 departments and private police officers shall be subject to and comply with the Constitution of the United

213 States; the Constitution of Virginia; the laws governing municipal police departments, including the
214 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
215 1722; and any regulations adopted by the Board that the Department designates as applicable to private
216 police departments. ~~Any person employed as a private police officer pursuant to this section shall meet all~~
217 ~~requirements, including the minimum compulsory training requirements, for law enforcement officers~~
218 ~~pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§~~
219 ~~9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or~~
220 ~~"qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers~~
221 ~~Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any~~
222 ~~locality. An authorized private police department may use the word "police" to describe its sworn officers~~
223 ~~and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of~~
224 ~~Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not~~
225 ~~otherwise established by statute or an act of assembly and whose status as a private police department was~~
226 ~~recognized by the Department at that time is hereby validated and may continue to operate as a private~~
227 ~~police department as may such entity's successor in interest, provided it complies with the requirements~~
228 ~~set forth herein.~~

229 "Private police officer" means a law-enforcement officer who is employed by a private police
230 department and who may exercise the power and duties conferred by law upon such police officers on real
231 property owned, leased, or controlled by the employing entity and, if approved by the local chief of police
232 or sheriff, any contiguous property. Any person employed as a private police officer pursuant to this
233 section shall meet all requirements, including the minimum compulsory training requirements, for law-
234 enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the
235 Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law
236 enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C.
237 § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality.

238 "School resource officer" means a certified law-enforcement officer hired by the local law-
239 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
240 secondary schools.

241 "School security officer" means an individual who is employed by the local school board or a
242 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
243 investigating violations of the policies of the school board or the private or religious school, and detaining
244 students violating the law or the policies of the school board or the private or religious school on school
245 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
246 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

247 "Sealing" means (i) restricting dissemination of criminal history record information contained in
248 the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction,
249 in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations
250 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting
251 dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is
252 authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

253 "Unapplied criminal history record information" means information pertaining to criminal
254 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
255 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
256 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
257 the content of the submitted information.

258 **§ 9.1-400. Title of chapter; definitions.**

259 A. This chapter shall be known and designated as the Line of Duty Act.

260 B. As used in this chapter, unless the context requires a different meaning:

261 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under
262 the will of a deceased person if testate, or as his heirs at law if intestate.

263 "Contributing nonprofit private institution of higher education" means a nonprofit private
264 institution of higher education, as defined in § 23.1-100, that has (i) established a campus police

265 department pursuant to § 23.1-810 and (ii) made an irrevocable election to provide the benefits under this
266 chapter and to fund the cost by participating in the Fund.

267 "Contributing private police department" means a private police department that has made an
268 irrevocable election to provide the benefits under this chapter and to fund the cost by participating in the
269 Fund.

270 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line
271 of duty as the direct or proximate result of the performance of his duty, including the presumptions under
272 §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute,
273 as (i) a law-enforcement officer of the Commonwealth or any of its political subdivisions, except
274 employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the
275 operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate
276 allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and
277 members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to
278 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (ii) a
279 correctional officer as defined in § 53.1-1; (iii) a jail officer; (iv) a regional jail or jail farm superintendent;
280 (v) a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; (vi) a police
281 chaplain; (vii) a member of any fire company or department or emergency medical services agency that
282 has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of
283 the Commonwealth as an integral part of the official safety program of such county, city, or town,
284 including a person with a recognized membership status with such fire company or department who is
285 enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire
286 company or department training required in pursuit of qualification to become a certified firefighter; (viii)
287 a member of any fire company providing fire protection services for facilities of the Virginia National
288 Guard or the Virginia Air National Guard; (ix) a member of the Virginia National Guard or the Virginia
289 Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force
290 on official state duty or federal duty under Title 32 of the United States Code; (x) any special agent of the
291 Virginia Alcoholic Beverage Control Authority; (xi) any regular or special conservation police officer

292 who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant
 293 to the provisions of § 29.1-200; (xii) any commissioned forest warden appointed under the provisions of
 294 § 10.1-1135; (xiii) any member or employee of the Virginia Marine Resources Commission granted the
 295 power of arrest pursuant to § 28.2-900; (xiv) any Department of Emergency Management hazardous
 296 materials officer; and any other employee of the Department of Emergency Management who is
 297 performing official duties of the agency, when those duties are related to a major disaster or emergency,
 298 as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in
 299 accordance with § 44-146.28; (xv) any employee of any county, city, or town performing official
 300 emergency management or emergency services duties in cooperation with the Department of Emergency
 301 Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16,
 302 that has been or is later declared to exist under the authority of the Governor in accordance with § 44-
 303 146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; (xvi) any
 304 nonfirefighter regional hazardous materials emergency response team member; (xvii) any conservation
 305 officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; ~~or~~ (xviii)
 306 any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed
 307 pursuant to § 46.2-217; (xix) any campus police officer employed by a contributing nonprofit private
 308 institution of higher education; or (xx) any private police officer employed by a contributing private police
 309 department.

310 "Disabled person" means any individual who has been determined to be mentally or physically
 311 incapacitated so as to prevent the further performance of his duties at the time of his disability where such
 312 incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or
 313 proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2,
 314 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position
 315 listed in the definition of deceased person in this section. "Disabled person" does not include any
 316 individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404.
 317 "Disabled person" includes any state employee included in the definition of a deceased person who was
 318 disabled on or after January 1, 1966.

319 "Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the
320 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled
321 person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that
322 occurred prior to the time of the employee's death or disability and that any such adopted child is (i)
323 adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or
324 disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability.
325 Notwithstanding the foregoing, "eligible dependent" shall also include the natural or adopted child or
326 children of a deceased person or disabled person born as the result of a pregnancy or adoption that occurred
327 after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until
328 the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases
329 to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the
330 Department of Human Resource Management.

331 "Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the
332 spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will
333 continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the
334 spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible
335 based on the Virginia Administrative Code or administrative guidance as determined by the Department
336 of Human Resource Management.

337 "Employee" means any person who would be covered or whose spouse, dependents, or
338 beneficiaries would be covered under the benefits of this chapter if the person became a disabled person
339 or a deceased person.

340 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a
341 volunteer who is a member of any fire company or department or rescue squad described in the definition
342 of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire
343 company or department or rescue squad as an integral part of the official safety program of such locality.

344 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to §
345 9.1-400.1.

346 "Line of duty" means any action the deceased or disabled person was obligated or authorized to
347 perform by rule, regulation, condition of employment or service, or law.

348 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to §
349 9.1-401.

350 "Nonparticipating employer" means any employer that is a political subdivision of the
351 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not
352 participate in the Fund.

353 "Participating employer" means any employer that is a state agency or is a political subdivision of
354 the Commonwealth that did not make an election to become a nonparticipating employer.

355 "Private police officer" means the same as that term is defined in § 9.1-101.

356 "Private police department" means the same as that term is defined in § 9.1-101.

357 "VRS" means the Virginia Retirement System.

358 C. Nothing in this chapter shall be construed as applying to any nonprofit private institution of
359 higher education, as defined in § 23.1-100, that is not a contributing nonprofit private institution of higher
360 education or any private police department that is not a contributing private police department.

361 **§ 9.1-400.1. Line of Duty Death and Health Benefits Trust Fund.**

362 A. There is hereby established a permanent and perpetual fund to be known as the Line of Duty
363 Death and Health Benefits Trust Fund, consisting of such moneys as may be appropriated by the General
364 Assembly; contributions or reimbursements from participating and nonparticipating employers, from
365 contributing nonprofit private institutions of higher education, and from contributing private police
366 departments; gifts, bequests, endowments, or grants from the United States government or its agencies or
367 instrumentalities; net income from the investment of moneys held in the Fund; and any other available
368 sources of funds, public and private. Any moneys remaining in the Fund at the end of a biennium shall
369 not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment
370 of such moneys shall remain in the Fund and be credited to it. The moneys in the Fund shall be (i) deemed
371 separate and independent trust funds, (ii) segregated and accounted for separately from all other funds of
372 the Commonwealth, and (iii) administered solely in the interests of the persons who are covered under the

373 benefits provided pursuant to this chapter. Deposits to and assets of the Fund shall not be subject to the
374 claims of creditors.

375 B. The Virginia Retirement System shall invest, reinvest, and manage the assets of the Fund as
376 provided in § 51.1-124.39 and shall be reimbursed from the Fund for such activities as provided in that
377 section.

378 C. The Fund shall be used to provide the benefits under this chapter related to disabled persons,
379 deceased persons, eligible dependents, and eligible spouses on behalf of participating employers,
380 contributing nonprofit private institutions of higher education, and contributing private police departments
381 and to pay related administrative costs.

382 D. Each participating employer, contributing nonprofit private institution of higher education, and
383 contributing private police department shall make annual contributions to the Fund and provide
384 information as determined by VRS. The amount of the contribution for each participating employer,
385 contributing nonprofit private institution of higher education, and contributing private police department
386 shall be determined on a current disbursement basis in accordance with the provisions of this section. For
387 purposes of establishing contribution amounts for participating employers, a member of any fire company
388 or department or rescue squad that has been recognized by an ordinance or a resolution of the governing
389 body of any locality of the Commonwealth as an integral part of the official safety program of such locality
390 shall be considered part of the locality served by the company, department, or rescue squad. If a company,
391 department, or rescue squad serves more than one locality, the affected localities shall determine the basis
392 and apportionment of the required covered payroll and contributions for each company, department, or
393 rescue squad.

394 If any participating employer, contributing nonprofit private institution of higher education, or
395 contributing private police department fails to remit contributions or other fees or costs associated with
396 the Fund, VRS shall inform the State Comptroller and the affected participating employer, contributing
397 nonprofit private institution of higher education, or contributing private police department of the
398 delinquent amount. In calculating the delinquent amount, VRS may impose an interest rate of one percent
399 per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus

400 interest, from any moneys otherwise distributable to such participating employer. In the case of a
401 contributing nonprofit private institution of higher education or a contributing private police department,
402 VRS may employ reasonable methods to collect the delinquent amount, including the procedures set forth
403 in the Virginia Debt Collection Act (§ 2.2-4800 et seq.).

404 **§ 9.1-401. Continued health insurance coverage for disabled persons, eligible spouses, and**
405 **eligible dependents.**

406 A. Disabled persons, eligible spouses, and eligible dependents shall be afforded continued health
407 insurance coverage as provided in this section, the cost of which shall be paid by the nonparticipating
408 employer to the Department of Human Resource Management or from the Fund on behalf of a
409 participating employer, contributing nonprofit private institution of higher education, or contributing
410 private police department, as applicable. If any disabled person or eligible spouse is receiving the benefits
411 described in this section and would otherwise qualify for the health insurance credit described in Chapter
412 14 (§ 51.1-1400 et seq.) of Title 51.1, the amount of such credit shall be deposited into the Line of Duty
413 Death and Health Benefits Trust Fund or paid to the nonparticipating employer, as applicable, from the
414 health insurance credit trust fund, in a manner prescribed by VRS.

415 B. 1. The continued health insurance coverage provided by this section for all disabled persons,
416 eligible spouses, and eligible dependents shall be through separate plans, referred to as the LODA Health
417 Benefits Plans (the Plans), administered by the Department of Human Resource Management. The Plans
418 shall comply with all applicable federal and state laws and shall be modeled upon state employee health
419 benefits program plans. Funding of the Plans' reserves and contingency shall be provided through a line
420 of credit, the amount of which shall be based on an actuarially determined estimate of liabilities. The
421 Department of Human Resource Management shall be reimbursed for health insurance premiums and all
422 reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this
423 section (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled
424 persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers,
425 contributing nonprofit private institutions of higher education, and contributing private police departments
426 and (ii) from a nonparticipating employer for premiums and costs related to disabled persons, deceased

427 persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible.
428 If any nonparticipating employer fails to remit such premiums and costs, the Department of Human
429 Resource Management shall inform the State Comptroller and the affected nonparticipating employer of
430 the delinquent amount. In calculating the delinquent amount, the Department of Human Resource
431 Management may impose an interest rate of one percent per month of delinquency. The State Comptroller
432 shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to
433 such nonparticipating employer.

434 2. In the event that temporary health care insurance coverage is needed for disabled persons,
435 eligible spouses, and eligible dependents during the period of transition into the LODA Health Benefits
436 Plans, the Department of Human Resource Management is authorized to acquire and provide temporary
437 transitional health insurance coverage. The type and source of the transitional health plans shall be within
438 the sole discretion of the Department of Human Resource Management. Transitional coverage for eligible
439 dependents shall comply with the eligibility criteria of the transitional plans until enrollment in the LODA
440 Health Benefits Plan can be completed.

441 C. 1. a. Except as provided in subdivision 2 and any other law, continued health insurance coverage
442 in any LODA Health Benefits Plans shall not be provided to any person (i) whose coverage under the Plan
443 is based on a deceased person's death or a disabled person's disability occurring on or after July 1, 2017
444 and (ii) who is eligible for Medicare due to age.

445 b. Coverage in the LODA Health Benefits Plans shall also cease for any person upon his death.

446 2. The provisions of subdivision 1 a shall not apply to any disabled person who is eligible for
447 Medicare due to disability under Social Security Disability Insurance or a Railroad Retirement Board
448 Disability Annuity. The Department of Human Resource Management may provide such disabled person
449 coverage under a LODA Health Benefits Plan that is separate from the plan for other persons.

450 3. Continued health insurance under this section shall also terminate upon the disabled person's
451 return to full duty in any position listed in the definition of deceased person in § 9.1-400. Such disabled
452 person shall promptly notify the participating or nonparticipating employer, the contributing nonprofit

453 private institution of higher education, or the contributing private police department, VRS, and the
454 Department of Human Resource Management upon his return to work.

455 4. Such continued health insurance shall be suspended for the Plan year following a calendar year
456 in which the disabled person whose coverage under the Plan is based on a disability occurring on or after
457 July 1, 2017, has earned income in an amount equal to or greater than the salary of the position held by
458 the disabled person at the time of disability, indexed annually based upon the annual increases in the
459 United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by
460 the Bureau of Labor Statistics of the U.S. Department of Labor. Such suspension shall cease the Plan year
461 following a calendar year in which the disabled person has not earned such amount of income. The
462 disabled person shall notify the participating or nonparticipating employer, the contributing nonprofit
463 private institution of higher education, or the contributing private police department, VRS, and the
464 Department of Human Resource Management no later than March 1 of the year following any year in
465 which he earns income of such amount, and notify the participating or nonparticipating employer, the
466 contributing nonprofit private institution of higher education, or the contributing private police
467 department, VRS, and the Department of Human Resource Management when he no longer is earning
468 such amount. Upon request, a disabled person shall provide VRS and the Department of Human Resource
469 Management with documentation of earned income.

470 **§ 9.1-402. Payments to beneficiaries of certain deceased law-enforcement officers,**
471 **firefighters, etc., and retirees.**

472 A. The beneficiary of a deceased person whose death occurred on or before December 31, 2005,
473 while in the line of duty as the direct or proximate result of the performance of his duty shall be entitled
474 to receive the sum of \$75,000, which shall be paid by the nonparticipating employer or from the Fund on
475 behalf of a participating employer, a contributing nonprofit private institution of higher education, or a
476 contributing private police department, as applicable, in gratitude for and in recognition of his sacrifice
477 on behalf of the people of the Commonwealth.

478 B. The beneficiary of a deceased person whose death occurred on or after January 1, 2006, while
479 in the line of duty as the direct or proximate result of the performance of his duty shall be entitled to

480 receive the sum of \$100,000, which shall be paid by the nonparticipating employer, the contributing
481 nonprofit private institution of higher education, or the contributing private police department or from the
482 Fund on behalf of a participating employer, as applicable, in gratitude for and in recognition of his sacrifice
483 on behalf of the people of the Commonwealth.

484 C. Subject to the provisions of § 27-40.1, 27-40.2, 51.1-813, or 65.2-402, if the deceased person's
485 death (i) arose out of and in the course of his employment or (ii) was within five years from his date of
486 retirement, his beneficiary shall be entitled to receive the sum of \$25,000, which shall be paid by the
487 nonparticipating employer or from the Fund on behalf of a participating employer, a contributing nonprofit
488 private institution of higher education, or a contributing private police department, as applicable. For a
489 campus police officer employed by a contributing nonprofit private institution of higher education or a
490 private police officer employed by a contributing private police department, such officer's date of
491 retirement shall be determined by VRS in consultation with the contributing nonprofit private institution
492 of higher education or the contributing private police department, respectively.

493 **§ 9.1-402.1. Payments for burial expenses.**

494 It is the intent of the General Assembly that expeditious payments for burial expenses be made for
495 deceased persons whose death is determined to be a direct and proximate result of their performance in
496 the line of duty as defined by the Line of Duty Act. Upon the approval of VRS, at the request of the family
497 of a person who may be subject to the line of duty death benefits, payments shall be made to a funeral
498 service provider for burial and transportation costs by the nonparticipating employer or from the Fund on
499 behalf of a participating employer, a contributing nonprofit private institution of higher education, or a
500 contributing private police department, as applicable. These payments would be advanced from the death
501 benefit that would be due to the beneficiary of the deceased person if it is determined that the person
502 qualifies for line of duty coverage. Expenses advanced under this provision shall not exceed the coverage
503 amounts outlined in § 65.2-512. In the event that a determination is made that the death is not subject to
504 the line of duty benefits (i) in the case of an employer that is a state agency or political subdivision of the
505 Commonwealth, VRS or other Virginia governmental retirement fund of which the deceased is a member
506 will deduct from benefit payments otherwise due to be paid to the beneficiaries of the deceased payments

507 previously paid for burial and related transportation expenses and return such funds to the nonparticipating
508 employer or to the Fund on behalf of a participating employer, as applicable, and (ii) in the case of a
509 contributing nonprofit private institution of higher education or a contributing private police department,
510 VRS (a) will deduct from benefit payments otherwise due to be paid to the beneficiaries of the deceased
511 payments previously paid for burial and related transportation expenses and return such funds to the Fund
512 and (b) may employ reasonable methods, including the procedures set forth in the Virginia Debt Collection
513 Act (§ 2.2-4800 et seq.), to recover from the deceased person's estate any payments previously paid for
514 burial and related transportation expenses and return such funds to the Fund. The Virginia Retirement
515 System shall have the right to file a claim with the Virginia Workers' Compensation Commission against
516 any employer to recover burial and related transportation expenses advanced under this provision.

517 **§ 9.1-403. Claim for payment; costs.**

518 A. Every beneficiary, disabled person or his spouse, or dependent of a deceased or disabled person
519 shall present his claim to the chief officer, or his designee, of the employer for which the disabled or
520 deceased person last worked on forms to be provided by VRS. Upon receipt of a claim, the chief officer
521 or his designee shall forward the claim to VRS within seven days. The Virginia Retirement System shall
522 determine eligibility for benefits under this chapter. The Virginia Retirement System may request
523 assistance in obtaining information necessary to make an eligibility determination from the Department
524 of State Police. The Department of State Police shall take action to conduct the investigation as
525 expeditiously as possible. The Department of State Police shall be reimbursed from the Fund or the
526 nonparticipating employer, as applicable, for the cost of searching for and obtaining information requested
527 by VRS. The Virginia Retirement System shall be reimbursed for the reasonable costs incurred for making
528 eligibility determinations by nonparticipating employers or from the Fund on behalf of participating
529 employers, contributing nonprofit private institutions of higher education, or contributing private police
530 departments, as applicable. If any nonparticipating employer fails to reimburse VRS for reasonable costs
531 incurred in making an eligibility determination, VRS shall inform the State Comptroller and the affected
532 nonparticipating employer of the delinquent amount. In calculating the delinquent amount, VRS may
533 impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith

534 transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such
535 nonparticipating employer.

536 B. 1. Within 10 business days of being notified by an employee, or an employee's representative,
537 that such employee is permanently and totally disabled due to a work-related injury suffered in the line of
538 duty, the agency or department employing the employee shall provide him with information about the
539 continued health insurance coverage provided under this chapter and the process for initiating a claim.
540 The employer shall assist in filing a claim, unless such assistance is waived by the employee or the
541 employee's representative.

542 2. Within 10 business days of having knowledge that a deceased person's surviving spouse,
543 dependents, or beneficiaries may be entitled to benefits under this chapter, the employer for which the
544 deceased person last worked shall provide the surviving spouse, dependents, or beneficiaries, as
545 applicable, with information about the benefits provided under this chapter and the process for initiating
546 a claim. The employer shall assist in filing a claim, unless such assistance is waived by the surviving
547 spouse, dependents, or beneficiaries.

548 C. Within 30 days of receiving a claim pursuant to subsection A, an employer may submit to VRS
549 any evidence that could assist in determining the eligibility of a claim. However, when the claim involves
550 a presumption under § 65.2-402 or 65.2-402.1, VRS shall provide an employer additional time to submit
551 evidence as is necessary not to exceed nine months from the date the employer received a claim pursuant
552 to subsection A. Any such evidence submitted by the employer shall be included in the agency record for
553 the claim.

554 **§ 9.1-404. Order of the Virginia Retirement System.**

555 A. 1. The Virginia Retirement System shall make an eligibility determination within 45 days of
556 receiving all necessary information for determining eligibility for a claim filed under § 9.1-403. The
557 Virginia Retirement System may use a medical board pursuant to § 51.1-124.23 in determining eligibility.
558 If benefits under this chapter are due, VRS shall notify the nonparticipating employer, which shall provide
559 the benefits within 15 days of such notice, or VRS shall pay the benefits from the Fund on behalf of the
560 participating employer, contributing nonprofit private institution of higher education, or contributing

561 private police department within 15 days of the determination, as applicable. The payments shall be
562 retroactive to the first date that the disabled person was no longer eligible for health insurance coverage
563 subsidized by his employer.

564 2. Two years after an individual has been determined to be a disabled person, VRS may require
565 the disabled person to renew the determination through a process established by VRS. If a disabled person
566 refuses to submit to the determination renewal process described in this subdivision, then benefits under
567 this chapter shall cease for the individual, any eligible dependents, and an eligible spouse until the
568 individual complies. If such individual does not comply within six months from the date of the initial
569 request for a renewed determination, then benefits under this chapter shall permanently cease for the
570 individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that
571 an individual is no longer a disabled person, then benefits under this chapter shall permanently cease for
572 the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination
573 that an individual remains a disabled person, then VRS may require the disabled person to renew the
574 determination five years after such renewed determination through a process established by VRS. The
575 Virginia Retirement System may require the disabled person to renew the determination at any time if
576 VRS has information indicating that the person may no longer be disabled.

577 3. For any medical review conducted for the purpose of making an eligibility determination
578 pursuant to this section, VRS shall require such review to be conducted by a licensed health practitioner.
579 For purposes of this section, "licensed health practitioner" means a person licensed to practice medicine
580 or osteopathic medicine pursuant to the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, a
581 person licensed to practice nursing pursuant to the provisions of Chapter 30 (§ 54.1-3000 et seq.) of Title
582 54.1, or a person licensed to practice psychology pursuant to the provisions of Chapter 36 (§ 54.1-3600 et
583 seq.) of Title 54.1. "Licensed health practitioner" includes a person issued a comparable license, as
584 determined by VRS, by the District of Columbia or a state that is contiguous to the Commonwealth.

585 B. The Virginia Retirement System shall be reimbursed for all reasonable costs incurred and
586 associated, directly and indirectly, in performing the duties pursuant to this chapter (i) from the Line of
587 Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons,

588 eligible dependents, and eligible spouses on behalf of participating employers, contributing nonprofit
589 private institutions of higher education, and contributing private police departments and (ii) from a
590 nonparticipating employer for premiums and costs related to disabled persons, deceased persons, eligible
591 dependents, and eligible spouses for which the nonparticipating employer is responsible.

592 C. The Virginia Retirement System may develop policies and procedures necessary to carry out
593 the provisions of this chapter.

594 **2. That any nonprofit private institution of higher education, as defined in § 23.1-100 of the Code of**
595 **Virginia, that has established a campus police department pursuant to § 23.1-810 of the Code of**
596 **Virginia or any private police department established on or before the effective date of this act shall**
597 **elect whether it will be a contributing nonprofit private institution of higher education or a**
598 **contributing private police department, respectively, under the Line of Duty Act (§ 9.1-400 et seq.**
599 **of the Code of Virginia), as amended by this act, in the manner and on such forms as prescribed by**
600 **the Virginia Retirement System within 180 days of the effective date of this act. Any nonprofit**
601 **private institution of higher education that establishes a campus police department or any private**
602 **police department established on or after the effective date of this act shall elect whether it will be**
603 **a contributing nonprofit private institution of higher education or a contributing private police**
604 **department, respectively, under the Line of Duty Act (§ 9.1-400 et seq. of the Code of Virginia), as**
605 **amended by this act, in the manner and on such forms as prescribed by the Virginia Retirement**
606 **System within 180 days of the establishment of the campus police department or private police**
607 **department. Any election made pursuant to this enactment shall be irrevocable and a nonprofit**
608 **private institution of higher education or private police department that does not make an election**
609 **within the time period set forth in this enactment shall be deemed to have made an irrevocable**
610 **election that such institution's campus police officers or such private police department's private**
611 **police officers will not be covered by the Line of Duty Act (§ 9.1-400 et seq. of the Code of Virginia),**
612 **as amended by this act.**

613 **3. That the provisions of this act shall apply only to campus police officers employed by a**
614 **contributing nonprofit private institution of higher education and private police officers, as defined**

615 in § 9.1-400 of the Code of Virginia, as amended by this act, whose death or disability occurred on
616 or after the effective date of such institution's or private police department's irrevocable election to
617 fund the cost of benefits under the Line of Duty Act (§ 9.1-400 et seq. of the Code of Virginia), as
618 amended by this act, and to participate in the Line of Duty Death and Health Benefits Trust Fund,
619 established pursuant to § 9.1-400.1 of the Code of Virginia, as amended by this act.

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