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HOUSE BILL NO. 274
Offered January 10, 2024
Prefiled January 5, 2024

A *BILL to amend the Code of Virginia by adding a section numbered 65.2-402.2, relating to workers' compensation; presumption of compensability of infertility for firefighters.*

Patrons—Helmer and LeVere Bolling

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 65.2-105.1 as follows:

§ 65.2-402.2. *Presumption of compensability of infertility for firefighters.*

A. *As used in this section:*

"Firefighter" has the same meaning as provided in § 65.2-102.

"Infertility" means a disease of the male or female reproductive system defined by the failure to achieve a pregnancy after at least 12 months of regular unprotected sexual intercourse.

B. Infertility incurred by a firefighter shall be presumed to be an ordinary disease of life that may be treated as an occupational disease for the purposes of this title unless such presumption is overcome by a preponderance of competent evidence to the contrary, provided that a licensed medical professional examines the firefighter and diagnosis the firefighter as suffering from infertility as a result of the firefighter's course and scope of employment.

C. A firefighter who suffers from infertility is presumed to have developed infertility during the course and scope of employment as provided in § 65.2-400 if the firefighter:

1. Regularly responded on the scene to calls involving fires or firefighting; or

2. Regularly responded to events involving the documented release of radiation or a known or suspected carcinogen while the person was employed as a firefighter.

Such conditions shall be considered characteristic of the firefighter's employment and the cause of infertility presumed to be caused by such conditions peculiar to such employment for the purposes of § 65.2-401.

D. Notwithstanding any provision of this title, workers' compensation benefits for any firefighter payable pursuant to this section shall (i) include any combination of medical treatment prescribed by a licensed medical professional, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. The weekly benefits received by a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such firefighter. Persons covered under this section who receive an infertility diagnosis from a licensed medical professional but have not yet incurred the requisite total or partial disability shall otherwise be entitled to make a claim for medical benefits pursuant to § 60.2-603, including entitlement to an annual medical examination to measure the progress of the condition and any other medical treatment. Medical treatment prescribed by a licensed medical professional may include embryo transfer, as defined in § 20-156.

E. No later than January 1, 2025, each employer of firefighters shall refer a firefighter seeking infertility health care services to a licensed medical professional.

INTRODUCED

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