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SENATE BILL NO. 894

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 20, 2025)

(Patron Prior to Substitute—Senator Perry)

A *BILL* to amend the Code of Virginia by adding a section numbered 8.01-42.6, relating to certain civil actions against employees; liability of employer to vulnerable victims.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-42.6 as follows:

§ 8.01-42.6. Liability of employer for personal injury or death by wrongful act.

A. In addition to any other available grounds for the determination of the course and scope of employment, in an action for personal injury or death by wrongful act brought by a vulnerable victim or the personal representative of a deceased vulnerable victim against an employee, an employer shall, subject to any available affirmative defense, be vicariously liable for the tortious conduct of such employer's employee if:

1. The employee's tortious conduct occurred while the employee was reasonably likely to be in contact with a vulnerable victim and such conduct proximately causes injury, death, or damage to such vulnerable victim; and

2. The employer knew or should have known of the necessity and opportunity for such employer's exercise of control over the employee.

B. For the purposes of this section, "vulnerable victim" means any person who is at a substantial disadvantage relative to an employee due to circumstances, including such person's physical or mental condition or characteristics, and, as a matter of law, shall include a (i) health care patient; (ii) person under a disability pursuant to § 8.01-2; (iii) resident of a long-term care facility, nursing home, or assisted living facility; (iv) passenger of a common carrier, as defined in § 46.2-2000; and (v) business invitee of an esthetics spa, as defined in § 54.1-700, or a business offering massage therapy, as defined in § 54.1-3000. C. The determination of the issues pursuant to the provisions of this section shall be questions of fact for which the plaintiff shall bear the burden of proof and shall be determined by the finder of fact at trial on the merits.

SENATE SUBSTITUTE

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