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SENATE BILL NO. 1299

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on January 28, 2025)

(Patron Prior to Substitute—Senator McPike)

A *BILL to amend and reenact § 65.2-512 of the Code of Virginia, relating to workers' compensation; compensation to dependents or beneficiaries of an employee killed.*

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-512 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-512. Compensation to dependents or beneficiaries of an employee killed; burial expenses.

A. *1.* Except as provided in *subdivision 2* and subsections F, G, and H, if death results from the accident within nine years, the employer shall pay, or cause to be paid, compensation in weekly payments equal to 66 and two-thirds percent of the employee's average weekly wages, but not more than 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500 nor less than 25 percent of the average weekly wage as defined therein:

~~1.~~ *a.* To those persons presumed to be wholly dependent upon the deceased employee as set forth in subdivisions A 1 and 2 of § 65.2-515, for a period of 500 weeks from the date of injury; ~~or~~

~~2.~~ *b.* If there are no total dependents pursuant to subdivision A 1 or 2 of § 65.2-515, to those persons presumed to be wholly dependent as set forth in subdivision A 3 of § 65.2-515, and to those determined to be wholly dependent in fact, for a period of 400 weeks from the date of injury; or

~~3.~~ *c.* If there are no total dependents, to partial dependents in fact, for a period of 400 weeks from the date of injury.

2. *On and after July 1, 2025, and except as provided in subsections F, G, and H, if death results from the accident within nine years, the employer shall pay, or cause to be paid, compensation in weekly payments to beneficiaries of the deceased employee equal to 66 and two-thirds percent of the employee's average weekly wages, but not more than 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500 nor less than 25 percent of the average weekly wage as defined therein:*

a. *To the surviving spouse, children of the deceased employee and children of any deceased child of the deceased employee, and, only if there is a surviving spouse, children of the deceased employee, or children of any deceased child of the deceased employee, the parents of the decedent if any of such parents, within 12 months prior to the decedent's death, regularly received support or regularly received services from the decedent for necessities, including living expenses, food, shelter, health care expenses, or in-home assistance or care, for a period of 500 weeks from the date of injury;*

b. *If there is no surviving spouse, children of the deceased employee, or children of any deceased child of the deceased employee, then to the parents, brothers and sisters of the deceased employee, and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent, for a period of 400 weeks from the date of injury;*

c. *If the decedent has left both surviving spouse and parent or parents, but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents, for a period of 400 weeks from the date of injury;*

d. *If there are survivors under subdivisions a or c, the compensation shall be distributed to those dependents and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent, for a period of 400 weeks from the date of injury; or*

e. *If no survivors exist under subdivisions a, b, c, or d, the compensation shall be paid in the course of descents as provided for in § 64.2-200, for a period of 400 weeks from the date of injury. However, no parent whose parental rights and responsibilities have been terminated by a court of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency shall be eligible as a beneficiary under this subdivision 2. For purposes of this subdivision 2, a relative is any person related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.*

B. The employer shall also pay burial expenses not exceeding \$10,000 and reasonable transportation expenses for the deceased not exceeding \$1,000.

C. ~~Benefits~~ *For purposes of subdivision A 1, benefits shall be divided equally among total dependents, to the exclusion of partial dependents. If there are no total dependents, benefits shall be divided among partial dependents according to the dependency of each upon the earnings of the employee at the time of the injury, in the proportion that partial dependency bears to total dependency.*

D. ~~If~~ *For purposes of subdivision A 1, if benefits are terminated as to any member of a class herein, that member's share shall be divided among the remaining members of the class proportionately according to their dependency.*

E. When weekly payments have been made to an injured employee before his death, the compensation to

60 dependents *or beneficiaries* shall begin from the date of the last of such payments but shall not continue for a
61 period longer than specified in subsection A.

62 F. No benefits shall be paid pursuant to this section to the dependents *or beneficiaries* of an AmeriCorps
63 member as defined in subdivision 1 r of the definition of "employee" in § 65.2-101.

64 G. No benefits shall be paid pursuant to subsection A, C, D, or E to the dependents *or beneficiaries* of a
65 Food Stamp recipient participating in the work experience component of the Food Stamp Employment and
66 Training Program as defined in subdivision 1 s of the definition of "employee" in § 65.2-101.

67 H. No benefits shall be paid pursuant to subsection A, C, D, or E to the dependents *or beneficiaries* of a
68 Temporary Assistance for Needy Families recipient participating in the work experience component of the
69 Virginia Initiative for Education and Work as defined in subdivision 1 t of the definition of "employee" in §
70 65.2-101.