

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 1730]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 8.01-42.6 as follows:**8 **§ 8.01-42.6. Liability of employer for personal injury or death by wrongful act.**

9 *A. In addition to any other available grounds for the determination of the course and scope of*
 10 *employment, in an action for personal injury or death by wrongful act brought by a vulnerable victim or the*
 11 *personal representative of a deceased vulnerable victim against an employee, the finder of fact at trial on the*
 12 *merits shall determine whether an employer shall be vicariously liable for the tortious conduct of such*
 13 *employer's employee based upon a finding that:*

14 *1. The employee's tortious conduct occurred while the employee was reasonably likely to be in contact*
 15 *with the vulnerable victim and such conduct proximately causes personal injury to such vulnerable victim or*
 16 *the death of such vulnerable victim by wrongful act;*

17 *2. The employer failed to exercise reasonable care to (i) prevent the employee from intentionally harming*
 18 *such vulnerable victim or (ii) control the employee resulting in an unreasonable risk of a vulnerable victim*
 19 *suffering personal injury or death by wrongful act;*

20 *3. The employer knew or should have known of the ability to control the employee; and*

21 *4. The employer knew or should have known of the necessity and opportunity for exercising such control*
 22 *over the employee.*

23 *B. For the purposes of this section, "vulnerable victim" means any person who is at a substantial*
 24 *disadvantage relative to an employee due to circumstances, including such person's physical or mental*
 25 *condition or characteristics, and, as a matter of law, shall include a (i) patient of a health care provider, as*
 26 *defined in § 8.01-581.1; (ii) person under a disability pursuant to § 8.01-2; (iii) resident of an assisted living*
 27 *facility; (iv) passenger of a common carrier, as defined in § 46.2-2000, excluding those transit services and*
 28 *transit facilities under the Washington Metropolitan Area Transit Authority Compact of 1966 pursuant to*
 29 *Chapter 31 (§ 33.2-3100) of Title 33.2; (v) passenger of a nonemergency medical transportation carrier, as*
 30 *defined in § 46.2-2000; and (vi) business invitee of an esthetics spa, as defined in § 54.1-700, or a business*
 31 *offering massage therapy, as defined in § 54.1-3000.*

32 *C. The determination of the issues pursuant to the provisions of this section shall be questions of fact for*
 33 *which the plaintiff shall bear the burden of proof and shall be subject to any available affirmative defenses.*

34 **2. That the provisions of this act shall apply only to a cause of action that accrued on or after July 1,**
 35 **2025.**

ENROLLED

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