

## HOUSE BILL NO. 406

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Reid)

*A BILL to amend and reenact § 65.2-712 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 5 of Title 65.2 a section numbered 65.2-532, relating to workers' compensation; disability of law-enforcement officer; spousal wage replacement; report.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-712 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 5 of Title 65.2 a section numbered 65.2-532 as follows:**

**§ 65.2-532. *Spousal wage replacement for disability of law-enforcement officer; annual report.***

*A. As used in this section:*

*"Activities of daily living" has the same meaning as provided in § 63.2-2200.*

*"Average weekly wage" has the same meaning as provided in § 65.2-101.*

*"Health care provider" means any physician, hospital, or other person that is licensed or otherwise authorized in the Commonwealth to furnish health care services.*

*"In-home spousal care" means medically necessary uncompensated assistance with the activities of daily living provided to a law-enforcement officer by such law-enforcement officer's spouse.*

*"Law-enforcement officer" has the same meaning as provided in § 9.1-101.*

*B. The employer of a law-enforcement officer who sustains an injury that is compensated under this title shall pay or cause to be paid to the spouse of such law-enforcement officer, as hereinafter provided, the least of (i) two-thirds of such spouse's average weekly wage during the previous three years, (ii) 80 percent of the average weekly wage of the Commonwealth, or (iii) the weekly rate of compensation received by such law-enforcement officer, if:*

*1. A treating health care provider recommends full-time in-home spousal care; and*

*2. Such spouse reduces his work hours or takes unpaid leave to provide in-home spousal care and is not simultaneously compensated for providing medical care pursuant to § 65.2-603. The employer of the law-enforcement officer may require documentation of such spouse's income prior to the spouse providing in-home spousal care.*

*C. Compensation pursuant to this section shall be paid for up to the lesser of (i) 12 weeks or (ii) until a full-time live-in caregiver is provided and shall be reduced by the amount of any wages or paid leave*

received by the spouse. A spouse receiving such compensation is required pursuant to § 65.2-712 to immediately disclose any return to employment or increase in earnings. No compensation shall be allowed for the first seven calendar days of in-home spousal care, but if such care extends beyond that period, such compensation shall commence with the eighth day of such care. If, however, in-home spousal care continues for a period of more than three weeks, then compensation shall be allowed from the first day of such care. No compensation shall be permitted under this section if a health care provider has recommended or ordered in-home care by a licensed provider.

D. Applications for compensation filed and payments made pursuant to this section shall be made in a form and manner determined by the Commission. The Commission shall provide an annual report on or before March 1 to the Governor and the General Assembly summarizing applications made pursuant to this section, the proportion of applications approved, average compensation amounts, and the fiscal impact of the provisions of this section.

**§ 65.2-712. Reporting incarcerations, change in earnings, remarriage, change in student status; recovery of payments procured by fraud, misrepresentation, or unreported change in condition.**

So long as an employee ~~or~~, statutory dependent pursuant to § 65.2-515, or spouse compensated pursuant to § 65.2-532 receives payment of compensation under this title, any such person shall have a duty immediately to disclose to the employer, when the employer is self-insured, or insurer in all other cases, any incarceration, return to employment, increase in his earnings, remarriage or change in his status as a full-time student. Any payment to a claimant by an employer or insurer ~~which~~ that is later determined by the Commission to have been procured by the employee ~~or~~, statutory dependent ~~under § 65.2-515~~, or spouse by fraud, misrepresentation, or failure to report any incarceration, return to employment, increase in earnings, remarriage, or change in his status as a full-time student may be recovered from the claimant ~~or~~, statutory dependent, or spouse by the employer or insurer either by way of credit against future compensation payments due the claimant ~~or~~, statutory dependent, or spouse or by action at law against the claimant ~~or~~, statutory dependent, or spouse. The Commission shall provide for notification to the statutory dependent or spouse of his obligation under this section.

**2. That by January 1, 2027, the Workers' Compensation Commission shall establish an application review process for claims for spousal wage replacement pursuant to § 65.2-532 of the Code of Virginia, as created by this act.**

**3. That the provisions of the first enactment of this act shall become effective on January 1, 2027.**