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Virginia Enacts Statewide Paid Family and Medical Leave Program

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On April 22, 2026, Virginia enacted legislation establishing a statewide paid family and medical leave (PFML) insurance program. The program, which will be administered by the Virginia Employment Commission (VEC), will begin collecting payroll contributions on April 1, 2028, and will begin accepting applications for benefits on December 1, 2028. The legislation significantly expands access to paid family and medical leave in the commonwealth and will impose new obligations on employers once it becomes effective.

The statute creates the basic framework for the program, but many critical details will be established in regulations and guidance to be issued by the VEC before the program launches in 2028. Employers should begin familiarizing themselves with the new requirements now and develop a plan to ensure future compliance as additional guidance becomes available.

BENEFITS UNDER THE NEW LAW

Beginning December 1, 2028, covered individuals may apply for PFML benefits for certain qualifying events, including:

1. Birth, adoption, or placement through foster care, and caring for a new child during the first year after the birth, adoption, or placement of that child;
2. Caring for a family member with a serious health condition;
3. A serious health condition that makes the covered individual unable to perform the functions of their position of employment;
4. Caring for a covered service member who is the covered individual's next of kin or other family member;
5. Qualifying exigency leave arising out of the fact that a family member of the covered individual is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces; or
6. Seeking safety services for the covered individual or a family member.

"Covered individuals" is defined broadly to include all employees who are eligible for unemployment benefits under Virginia law, as well as self-employed individuals who opt into coverage.

AMOUNT AND DURATION OF BENEFITS

PFML benefits include wage replacement of up to 80% of the covered individual's average weekly wage, not to exceed 100% of the statewide average weekly wage.

Benefits will be payable for a maximum of 12 weeks in a benefit year for any covered individual. In addition, the minimum weekly benefit will not be less than $100 per week unless the average weekly wage is less than $100 per week. However, leave taken to seek safety services is capped at four weeks of benefits.

Leave may be taken continuously, intermittently, or on a reduced schedule. Leave taken on an intermittent or reduced schedule will be prorated and coordinated with the employer.

Employees must make a reasonable effort to schedule leave so as not to unduly disrupt their employer's business operations.

EMPLOYMENT PROTECTIONS

The law also creates new employment protections for covered individuals.

Covered individuals are entitled to job protection, meaning they will be entitled to restoration to their position or an equivalent position at the conclusion of PFML leave, provided the covered individual has been employed with their current employer for at least 120 days before the leave commences.

Covered individuals are also entitled to maintain their employer-provided health care benefits during PFML leave on the same terms as if they had continued working, provided they continue to pay their share of the cost.

Employers may not interfere with, restrain, or deny the exercise of any right under the new law and may not retaliate or discriminate against individuals for exercising those rights. Employers also may not count PFML leave as an absence that may lead to or result in discipline or other adverse action.

COORDINATION WITH OTHER LEAVE

Leave under the new law will run concurrently with other leave, such as leave under the Family Medical Leave Act (FMLA) leave or other leave provided under a disability or family leave policy set forth in a collective bargaining agreement or employer policy.

Employers will need to review and align their existing leave policies and procedures with the new PFML program to ensure proper coordination.

BENEFITS WILL BE FUNDED THROUGH PAYROLL CONTRIBUTIONS

On April 1, 2028, the VEC will begin collecting payroll contributions to fund the payment of PFML benefits and the administration of the program.

The initial contribution rates will be established no later than October 1, 2027, and will be adjusted annually thereafter. While the initial contribution rates are yet to be determined, the General Assembly's Fiscal Impact Statement estimated contributions of approximately 0.72% of wages may be needed to support the benefit level established in the bill.

All employees will be required to contribute to the funding of the program through payroll deductions. Employer contribution obligations depend on the number of employees. Employers with 11 or more employees are responsible for collecting and remitting both the employer and employee portions of the contribution. Employers must deduct from each employee's wages an amount equal to 50% of the contribution required per employee, or less as may be agreed upon by the employer and the employee, and must contribute the remaining share.

Employers with 10 or fewer employees must deduct from each employee's wages an amount equal to 50% of the contribution per employee and remit that amount to the VEC but are not required to make additional contributions.

Payroll deductions may not reduce an employee's wage below the applicable minimum wage.

EMPLOYER PRIVATE PLANS

Employers may apply to the VEC for approval to satisfy their PFML obligations through a private plan that provides PFML benefits that are at least equal to or greater than the benefits provided under the new law. Employers with approved plans must reapply to the VEC for approval every two years. Employers with existing paid leave or disability programs should evaluate whether a private plan is desirable or whether participation in the state program is more efficient.

EMPLOYER AND EMPLOYEE NOTICE REQUIREMENTS

The statute imposes notice obligations on both employers and employees.

Employers must display and maintain in the workplace a poster provided by the VEC summarizing PFML rights and obligations. Employers must also provide written notice to an employee when the employee requests leave, or when the employer otherwise becomes aware of an employee's intent to take leave that may qualify under the PFML program.

Employees seeking to take PFML must notify their employers as soon as practicable.

ENFORCEMENT AND REMEDIES

The law provides employees with a private right of action for violations.

Employers that interfere with employees' rights under the law or engage in discrimination or retaliation may be liable to affected covered individuals for:

1. Lost wages, salary, employment benefits, or other compensation;
2. In a case in which wages, salary, employment benefits, or other compensation has not been denied or lost to the covered individual, any actual monetary losses sustained by the covered individual due to the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the covered individual;
3. Interest on the above amounts;
4. Liquidated damages equal to the amount of lost wages, salary, benefits, and other compensation and interest unless the employer can establish the violation was in good faith;
5. Equitable relief as may be appropriate, including reemployment, reinstatement, and promotion.

Employees must bring claims within one year of the alleged violation. For willful violations, the statute of limitations is extended to three years.

NEXT STEPS FOR EMPLOYERS

Employers can begin by taking certain steps to ensure compliance with this new statutory regime:

- Watch for proposed and final regulations detailing contribution rates, claims procedures, and notice requirements.
- Assess how existing PTO, parental leave, disability, and FMLA policies will interact with the PFML program.
- Consider the financial and administrative impact of participating in the state program versus pursuing an approved private plan.
- Develop internal processes, forms, and training to ensure timely and consistent handling of PFML requests and to mitigate potential exposure under the new private right of action.

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