

# LEGAL UPDATE

## Virginia Enacts Paid Family and Medical Leave



Virginia has [enacted](#) a paid family and medical leave insurance program (PFML) that will provide 12 weeks of partially compensated, job-protected leave to most Virginia employees. The effective date of the legislation is July 1, 2026.

Contributions to fund the program start April 1, 2028, and benefits begin Dec. 1, 2028.

### Covered Employers and Employees

The new PFML program will apply to employers that have paid wages of at least \$1,500 in any quarter of the current or preceding year, or who have employed at least one person for part of a day in each of 20 weeks during that time.

Self-employed workers may opt into the program.

Employees are eligible for PFML if they meet the income eligibility requirements for the state's unemployment insurance program. However, state employees and railroad workers are not covered, although a section of the bill ensures that state employees will receive an equivalent benefit.

### Leave

Eligible employees receive up to 12 weeks of PFML per year for the following reasons:

- Child bonding (during the first year after the child's birth, adoption or placement);
- Their employee's own or a family member's serious health condition;
- Care for a military service member who is a family member;
- Military exigency (family deployment leave); and
- Safety leave (only four weeks permitted annually of leave necessitated by domestic violence against or harassment, sexual assault or stalking of the employee or a family member).

Family member is defined expansively and includes (beyond an employee's immediate family members), the employee's grandparents and grandchildren, siblings, domestic partners and individuals who live in the employee's home or have a relationship with the employee that creates an expectation that the employee will care for them.

The law specifies what kind of documentation is required to support each qualifying reason for leave.

Leave may be taken intermittently or on a reduced schedule, but the employee must make a reasonable effort to schedule that kind of leave so as not to unduly disrupt the employer's operations.

### Compensation

Workers on PFML receive 80% of their average weekly wage, with a weekly minimum PFML benefit of \$100 and a weekly maximum of the state average weekly net earnings as defined in the state workers' compensation law.

The weekly maximum benefit is adjusted yearly.

### Funding

The program is funded by contributions split equally between workers and employers with more than 10 employees. Smaller employers are exempt from the employer contribution, although, as with larger employers that are not exempt, they must withhold their employees' contributions and remit them to the state.

The contribution rate will be set by Oct. 1, 2027, and contributions will begin the following April. The rate will be adjusted annually.

## Notice Requirements

The PFML law contains notice obligations for both employers and employees.

Employers must provide employees with written notice of specific features of the law at the following times:

- Upon hiring and annually thereafter; and
- When an employee requests PFML leave, or when the employer acquires knowledge of an employee's intent to take leave that may meet the eligibility requirements of PFML.

Employers must also post a workplace poster, to be produced by the state, containing the same information about PFML required in the notice.

Employees must notify their employer of their intent to take leave as soon as practicable.

## Job Protection

Employees who have worked for their current employer for at least 120 days before their PFML leave must be restored to their position (or an equivalent) upon returning from leave.

## Continuation of Benefits, Interaction With Other Benefits

The law requires employers to continue health care benefits for employees on PFML. Employees remain responsible for any portion of the benefit they were required to pay before going on leave.

PFML leave runs concurrently with leave under the federal Family and Medical Leave Act. In addition, employers may require that PFML payments be coordinated with payments or leave allowed under their disability or family care policy, if they provide written notice of the requirement.

## Enforcement and Penalties

Employers are prohibited from retaliating against employees for seeking or taking PFML, including counting PFML as an absence that may lead to an adverse action as part of an absence control policy.

Employer violations of the law are subject to damages of up to 12 weeks' wages or actual monetary losses, plus interest, in addition to liquidated damages of an equal amount. Damages may be reduced for good-faith mistakes.

Violations are also subject to equitable relief such as employment, reinstatement and promotion.

## Private Plans

Employers may apply for approval of private plans that provide paid family and medical leave benefits equal to or greater than the benefits provided under the PFML law.

## Next Steps for Employers

Although contributions for the new PFML program do not begin until April 1, 2028, employers should start familiarizing themselves with the program's requirements and reviewing their leave policies for any needed updates.

The statute tasks the Virginia Employment Commission with creating PFML regulations by April 1, 2028. Employers should watch for the regulations and any guidance materials published by the state, particularly those addressing the process and deadlines for private plan approval.