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SENATE BILL NO. 1122

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 58.1-322.02 of the Code of Virginia and to amend the Code of Virginia by adding in Title 60.2 a chapter numbered 8, consisting of sections numbered 60.2-800 through 60.2-821, relating to paid family and medical leave insurance program; notice requirements; civil action.

Patrons—Boysko, Deeds, Locke, Bagby, Salim, Srinivasan and Williams Graves; Delegate: Shin

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-322.02 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 60.2 a chapter numbered 8, consisting of sections numbered 60.2-800 through 60.2-821, as follows:

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, (i) for taxable years beginning before January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the subtractions specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or \$5,500, whichever amount is less; however, only those persons in the ranks of O6 and below shall be entitled to the subtractions specified in this clause.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such

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59 plan or program were subject to taxation under the income tax in another state.

60 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or  
61 savings trust account with the Commonwealth Savers Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.)  
62 of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to  
63 a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

64 13. All military pay and allowances, to the extent included in federal adjusted gross income and not  
65 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by  
66 order of the President of the United States with the consent of Congress in a combat zone or qualified  
67 hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal  
68 Revenue Code.

69 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real  
70 property or the sale or exchange of an easement to real property which results in the real property or the  
71 easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time  
72 not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax  
73 credit under this chapter for donating land for its preservation shall be allowed for three years following the  
74 year in which the subtraction is taken.

75 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty  
76 for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the  
77 amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such  
78 military basic pay amount is equal to or exceeds \$30,000.

79 16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all  
80 employment for the taxable year is \$15,000 or less.

81 17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

82 18. a. Any amount received as military retirement income by an individual awarded the Congressional  
83 Medal of Honor.

84 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to \$10,000 of  
85 military benefits; and for taxable years beginning on and after January 1, 2023, but before January 1, 2024,  
86 up to \$20,000 of military benefits.

87 c. For taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to \$30,000 of  
88 military benefits; and for taxable years beginning on and after January 1, 2025, up to \$40,000 of military  
89 benefits.

90 d. For purposes of subdivisions b and c, "military benefits" means any (i) military retirement income  
91 received for service in the Armed Forces of the United States, (ii) qualified military benefits received  
92 pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the  
93 Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S.  
94 Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed  
95 Forces of the United States. The subtraction allowed by subdivision b shall be allowed only for military  
96 benefits received by an individual age 55 or older. The subtraction allowed by subdivision c shall be allowed  
97 for military benefits received by an individual of any age. No subtraction shall be allowed pursuant to  
98 subdivisions b and c if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant  
99 to subdivision a or any other provision of Virginia or federal law.

100 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden  
101 from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages,  
102 reparations, or other consideration received by a victim or target of Nazi persecution to compensate such  
103 individual for performing labor against his will under the threat of death, during World War II and its prelude  
104 and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the  
105 proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its  
106 prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall  
107 only apply to an individual who was the first recipient of such items of income and who was a victim or  
108 target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

109 As used in this subdivision:

110 "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European  
111 countries allied with Nazi Germany, or any other neutral European country or area in Europe under the  
112 influence or threat of Nazi invasion.

113 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the  
114 Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in  
115 any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions  
116 with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of  
117 such assets by entities or persons in the Swiss Confederation during World War II and its prelude and  
118 aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his  
119 will, under the threat of death, during World War II and its prelude and direct aftermath.

120 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased

121 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction  
122 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross  
123 income in accordance with § 134 of the Internal Revenue Code.

124 21. The death benefit payments from an annuity contract that are received by a beneficiary of such  
125 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an  
126 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this  
127 subdivision shall be allowed only for that portion of the death benefit payment that is included in federal  
128 adjusted gross income.

129 22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49  
130 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a  
131 launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch  
132 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

133 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49  
134 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National  
135 Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched  
136 from an airport or spaceport in Virginia.

137 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as  
138 investment services partnership interest income (otherwise known as investment partnership carried interest  
139 income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income  
140 shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other  
141 technology business approved by the Secretary of Administration, provided that the business has its principal  
142 office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to  
143 the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the  
144 dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a  
145 "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an  
146 investment in the same business.

147 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the  
148 taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time  
149 home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest  
150 income or other income for federal income tax purposes attributable to such person's first-time home buyer  
151 savings account.

152 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken  
153 under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds  
154 withdrawn from the first-time home buyer savings account were used for any purpose other than the payment  
155 of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to  
156 recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the  
157 payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the  
158 payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to  
159 the total balance in the account at such time.

160 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by  
161 reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant  
162 to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii)  
163 transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another  
164 account established pursuant to such chapter for the benefit of another qualified beneficiary.

165 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings  
166 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

167 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable  
168 to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision,  
169 "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

170 27. a. Income, including investment services partnership interest income (otherwise known as investment  
171 partnership carried interest income), attributable to an investment in a Virginia venture capital account. To  
172 qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but  
173 before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a  
174 company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be  
175 allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax  
176 credit under § 58.1-339.4 for the same investment.

177 b. As used in this subdivision 27:

178 "Qualified portfolio company" means a company that (i) has its principal place of business in the  
179 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or  
180 service other than the management or investment of capital; and (iii) provides equity in the company to the  
181 Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not

182 include a company that is an individual or sole proprietorship.

183 "Virginia venture capital account" means an investment fund that has been certified by the Department as  
 184 a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator  
 185 of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i)  
 186 indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio  
 187 companies and (ii) providing documentation that it employs at least one investor who has at least four years  
 188 of professional experience in venture capital investment or substantially equivalent experience. "Substantially  
 189 equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or  
 190 university in economics, finance, or a similar field of study. The Department may require an investment fund  
 191 to provide documentation of the investor's training, education, or experience as deemed necessary by the  
 192 Department to determine substantial equivalency. If the Department determines that the investment fund  
 193 employs at least one investor with the experience set forth herein, the Department shall certify the investment  
 194 fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50  
 195 percent of the capital committed to its fund in qualified portfolio companies.

196 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a  
 197 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before  
 198 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family  
 199 member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer  
 200 who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same  
 201 investment.

202 b. As used in this subdivision 28:

203 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115

204 .

205 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of §  
 206 2.2-115.

207 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856,  
 208 that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as  
 209 a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to  
 210 December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at  
 211 least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the  
 212 Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a  
 213 Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds  
 214 in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double  
 215 distressed.

216 29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real  
 217 property by condemnation proceedings.

218 30. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received by the  
 219 taxpayer under the Rebuild Virginia program established by the Governor and administered by the  
 220 Department of Small Business and Supplier Diversity.

221 31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful  
 222 incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of  
 223 Chapter 3 of Title 8.01.

224 32. *For taxable years beginning on and after January 1, 2027, any amount of family and medical leave*  
 225 *benefits paid to a covered individual pursuant to Chapter 8 (§ 60.2-800 et seq.) of Title 60.2.*

#### 226 CHAPTER 8.

#### 227 PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.

#### 228 § 60.2-800. Definitions.

229 *As used in this chapter, unless the context requires a different meaning:*

230 "Application year" means the 12-month period beginning on the first day of the calendar week in which  
 231 an individual files an application for family and medical leave benefits.

232 "Armed Forces" means the Armed Forces of the United States, the Reserves of the Armed Forces of the  
 233 United States, or the Virginia National Guard.

234 "Board" means the Paid Family and Medical Leave Advisory Board.

235 "Child" includes a child of any age, including an adult child.

236 "Covered individual" means any individual other than an employee of the Commonwealth who:

237 1. Either:

238 a. Meets the minimum monetary eligibility criteria set forth in subdivision A 1 of § 60.2-612; or

239 b. Is self-employed, elects coverage, and meets the requirements of § 60.2-802;

240 2. Meets the administrative requirements outlined in this chapter and in regulations; and

241 3. Submits an application.

242 "Covered service member" means either (i) a member of the Armed Forces who is (a) undergoing medical

243 treatment, recuperation, or therapy; (b) otherwise in outpatient status; or (c) otherwise on the temporary  
 244 disability retired list for a serious injury or illness that was incurred by the member in the line of duty while  
 245 on active duty in the Armed Forces, or a serious injury or illness that existed before the beginning of the  
 246 member's active duty and was aggravated by service in the line of duty, or (ii) a former member of the Armed  
 247 Forces who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that was  
 248 incurred by the member in the line of duty while on active duty in the Armed Forces, or a serious injury or  
 249 illness that existed before the beginning of the member's active duty and was aggravated by service in the line  
 250 of duty and manifested before or after the member was discharged or released from service.

251 "Domestic partner" means a person not less than 18 years of age who (i) is dependent upon the covered  
 252 individual for support as shown by either unilateral dependence or mutual interdependence that is evidenced  
 253 by a nexus of factors, including (a) common ownership of real or personal property, (b) common  
 254 householding, (c) children in common, (d) signs of intent to marry, (e) shared budgeting, and (f) the length of  
 255 the personal relationship with the covered individual, or (ii) has registered as the domestic partner of the  
 256 covered individual with any registry of domestic partnerships maintained by the employer of either party, or  
 257 in any state, county, city, town, or village in the United States.

258 "Employer" has the same meaning as provided in § 60.2-210, except that, for the purposes of this chapter,  
 259 "employer" does not include the Commonwealth.

260 "Family and medical leave benefits" means the benefits provided under the terms of this chapter.

261 "Family member" means:

262 1. A biological, adopted, or foster child, a stepchild or legal ward, a child of a domestic partner, or a  
 263 child to whom the covered individual stands in loco parentis;

264 2. A biological, adoptive, or foster parent, stepparent, or legal guardian of a covered individual or a  
 265 covered individual's spouse or domestic partner, or a person who stood in loco parentis when the covered  
 266 individual or the covered individual's spouse or domestic partner was a minor child;

267 3. A person to whom the covered individual is legally married under the laws of any state, or a domestic  
 268 partner of a covered individual;

269 4. A grandparent, grandchild, or sibling, whether through a biological, foster, adoptive, or step  
 270 relationship, of the covered individual or the covered individual's spouse or domestic partner; or

271 5. Any individual whose close association with a covered individual is the equivalent of a family  
 272 relationship.

273 "FMLA" means the federal Family and Medical Leave Act, 29 U.S.C. § 2601 et seq.

274 "Fund" means the Family and Medical Leave Insurance Trust Fund established under § 60.2-805.

275 "Health care provider" means a person licensed under the law of the jurisdiction in which such person  
 276 practices to provide medical or emergency services, including doctors, nurses, emergency room personnel,  
 277 and certified midwives.

278 "Military member" means a member of the Armed Forces.

279 "Next of kin" has the meaning ascribed thereto in § 101(17) of the FMLA, 29 U.S.C. § 2611(17).

280 "Qualifying exigency leave" means leave based on a need arising out of a covered individual's family  
 281 member's active duty service or notice of an impending call or order to active duty in the Armed Forces,  
 282 including providing for the care or other needs of the military member's child or other family member,  
 283 making financial or legal arrangements for the military member, attending counseling, attending military  
 284 events or ceremonies, spending time with the military member during a rest and recuperation leave or  
 285 following return from deployment, or making arrangements following the death of the military member.

286 "Retaliatory personnel action" means denial of any right guaranteed under this chapter, including any  
 287 threat, discharge, suspension, demotion, or reduction of hours, any other adverse action against a covered  
 288 individual for the exercise of any right guaranteed under this chapter, or reporting or threatening to report a  
 289 covered individual's suspected citizenship or immigration status or the suspected citizenship or immigration  
 290 status of a family member of the covered individual to a federal, state, or local agency. "Retaliatory  
 291 personnel action" also includes interference with or punishment for in any manner participating in or  
 292 assisting an investigation, proceeding, or hearing under this chapter.

293 "Safety services" means:

294 1. Legal or law-enforcement assistance or remedies to ensure the health and safety of an individual,  
 295 including preparing for and participating in protective order proceedings or other civil or criminal legal  
 296 proceedings related to domestic violence, harassment, sexual assault, or stalking;

297 2. Medical treatment or recovery services for injuries caused by domestic violence, harassment, sexual  
 298 assault, or stalking;

299 3. Counseling from a licensed mental health professional relating to an experience of domestic violence,  
 300 harassment, sexual assault, or stalking;

301 4. Services from a victim services provider; and

302 5. Relocation and home security services to ensure the safety of an individual who has experienced  
 303 domestic violence, harassment, sexual assault, or stalking.

304 "Serious health condition" means an illness, injury, impairment, pregnancy, recovery from childbirth, or

305 *physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care*  
 306 *facility or continuing treatment by a health care provider.*

307 *"Workweek" means a calendar week.*

308 **§ 60.2-801. Paid family and medical leave insurance program.**

309 *A. By January 1, 2027, the Commission shall establish and administer a paid family and medical leave*  
 310 *insurance program and shall begin collecting contributions as provided in this chapter. By January 1, 2028,*  
 311 *the Commission shall begin receiving claims and paying family and medical leave benefits to covered*  
 312 *individuals.*

313 *B. Upon the filing of a claim pursuant to this chapter, the Commission shall notify the employer of such*  
 314 *claim within five business days.*

315 *C. Information contained in the files and records relating to a claimant under this chapter are*  
 316 *confidential and not open to public inspection other than to public employees in the performance of their*  
 317 *official duties. However, such claimant or an authorized representative of such claimant may review such*  
 318 *files and records or receive specific information from such records upon the presentation of such claimant's*  
 319 *signed authorization.*

320 *D. The Department of Human Resource Management shall adopt rules to ensure that its policies relating*  
 321 *to family and medical leave for employees of the Commonwealth, including parental leave under § 2.2-1210,*  
 322 *provide employees of the Commonwealth with leave benefits equal to or greater than the leave benefits*  
 323 *provided to a covered individual under the paid family and medical leave insurance program pursuant to this*  
 324 *chapter, including as described in subdivision A 1 of § 60.2-816.*

325 *E. The Commissioner shall adopt regulations as necessary to implement this chapter.*

326 **§ 60.2-802. Eligibility for benefits; certification.**

327 *A. Beginning January 1, 2028, family and medical leave benefits shall be payable to any covered*  
 328 *individual who:*

329 *1. Because of birth, adoption, or placement through foster care, is caring for a new child during the first*  
 330 *year after the birth, adoption, or placement of that child;*

331 *2. Is caring for a family member with a serious health condition;*

332 *3. Has a serious health condition that makes the covered individual unable to perform the functions of the*  
 333 *position of such individual's employment;*

334 *4. Is caring for a covered service member who is the covered individual's next of kin or other family*  
 335 *member;*

336 *5. Is eligible for qualifying exigency leave arising out of the fact that a family member of the covered*  
 337 *individual is on active duty, or has been notified of an impending call or order to active duty, in the Armed*  
 338 *Forces; or*

339 *6. Is seeking safety services for the covered individual or a family member.*

340 *B. A claim for family and medical leave benefits shall include one of the following supporting*  
 341 *certifications:*

342 *1. For a claimant seeking family and medical leave benefits due to a serious health condition, certification*  
 343 *from a physician or health care provider (i) describing such condition, (ii) stating the date on which such*  
 344 *condition commenced and the probable duration of such condition, (iii) including a statement that such*  
 345 *claimant is unable to perform job functions due to such condition, and (iv) including other appropriate*  
 346 *medical facts as required by the Commission.*

347 *2. For a claimant seeking family and medical leave benefits due to the serious health condition of a family*  
 348 *member, certification from a physician or health care provider (i) describing such condition, (ii) stating the*  
 349 *date on which such condition commenced and the probable duration of such condition, (iii) including a*  
 350 *statement that such condition requires such claimant to care for such family member and an estimated*  
 351 *duration of such care, and (iv) including other appropriate medical facts as required by the Commission.*

352 *3. For a claimant seeking family and medical leave benefits due to the birth of a child, certification in the*  
 353 *form of either (i) such child's birth certificate or (ii) another document issued by a health care provider or*  
 354 *physician stating such child's birth date.*

355 *4. For a claimant seeking family and medical leave benefits due to the placement of a child with such*  
 356 *claimant for adoption or foster care, certification in the form of a document issued by such child's health care*  
 357 *provider or physician, by an adoption or foster care agency involved in such placement, or by other*  
 358 *individuals as determined by the Commission that verifies the occurrence and date of such placement.*

359 *5. For a claimant seeking family and medical leave benefits for qualifying exigency leave, certification*  
 360 *including (i) a copy of the family member's active-duty orders, (ii) other documentation issued by the Armed*  
 361 *Forces, or (iii) other documentation as permitted by the Commission.*

362 *6. For a claimant seeking family and medical leave benefits in order to care for a family member who is a*  
 363 *covered service member, certification including (i) the date on which the serious health condition*  
 364 *commenced, (ii) the probable duration of the condition, (iii) the appropriate medical facts within the*  
 365 *knowledge of the health care provider as required by the Commission, (iv) a statement that the claimant is*

366 needed to care for the family member, (v) an estimate of the amount of time that the claimant is needed to  
 367 care for the family member, and (vi) an attestation by the claimant that the health condition is connected to  
 368 the covered service member's military service as required by this chapter.

369 7. For a claimant seeking family and medical leave benefits to seek safety services, a signed statement by  
 370 the covered individual certifying that such benefits are required.

371 C. Any medical or health information required under this section shall be confidential and shall not be  
 372 disclosed except with permission from the claimant providing such information unless disclosure is otherwise  
 373 required by law. Nothing in this section shall be construed to require a claimant to provide as certification  
 374 any information from a health care provider that would be in violation of § 32.1-127.1:03, § 1177 of the  
 375 Social Security Act, 42 U.S.C. § 1320d-6, or the regulations promulgated under § 264(c) of the Health  
 376 Insurance Portability and Accountability Act of 1996, P.L. 104-191.

377 **§ 60.2-803. Duration of benefits.**

378 A. Family and medical leave benefits shall be payable under § 60.2-801 for a maximum of 12 weeks in an  
 379 application year for any covered individual.

380 B. Family and medical leave benefits shall be payable to a covered individual starting the first calendar  
 381 day in an application year that such covered individual meets the eligibility requirements of § 60.2-802.

382 C. The first payment of family and medical leave benefits shall be made to a covered individual within two  
 383 weeks of when such covered individual files an initial claim pursuant to this chapter, and subsequent  
 384 payments shall be made every two weeks thereafter.

385 **§ 60.2-804. Amount of benefits.**

386 A. A covered individual's weekly benefit amount shall be 80 percent of such covered individual's average  
 387 weekly wages during the 12 months preceding such covered individual's initial claim filing, or 80 percent of  
 388 such covered individual's average weekly wages during the time such covered individual worked if less than  
 389 12 months, subject to the maximum specified in subsection C.

390 B. A covered individual's minimum weekly benefit amount shall not be less than \$100 per week except that  
 391 if such covered individual's average weekly wage is less than \$100 per week, the weekly benefit amount shall  
 392 be such covered individual's full wage.

393 C. A covered individual's maximum weekly benefit amount shall be 120 percent of the state average  
 394 weekly wage, as defined in subsection B of § 65.2-500. By September 30 of each year, the Commission shall  
 395 adjust the maximum weekly benefit to reflect any changes in such state average weekly wage. The adjusted  
 396 maximum weekly benefit amount shall take effect on the following January 1.

397 D. No family and medical leave benefits shall be payable for less than eight hours of family and medical  
 398 leave taken in one workweek.

399 **§ 60.2-805. Family and Medical Leave Insurance Trust Fund; appropriation prohibition;  
 400 reimbursement.**

401 A. There is hereby created in the state treasury a special nonreverting fund to be known as the Family and  
 402 Medical Leave Insurance Trust Fund. The Fund shall be established on the books of the Comptroller. All  
 403 payroll contributions remitted pursuant to this chapter, all funds appropriated for the purposes of the Fund,  
 404 and any gifts, donations, grants, bequests, and other funds shall be paid into the state treasury and credited  
 405 to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any  
 406 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the  
 407 general fund but shall remain in the Fund.

408 B. Moneys in the Fund shall be used solely for the payment of benefits under the paid family and medical  
 409 leave insurance program established by the Commission pursuant to this chapter, the administration of such  
 410 program, and any start-up costs associated with such program, including any required payment as provided  
 411 in subsection D.

412 C. The General Assembly shall not appropriate or transfer any of the payroll contributions remitted to the  
 413 Fund for any purpose other than purposes provided for in this section.

414 D. Any moneys provided in the appropriation act for the purposes of establishing the paid family and  
 415 medical leave insurance program shall be repaid from the Fund to the general fund by January 1, 2033.

416 E. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants  
 417 issued by the Comptroller upon written request signed by the Commissioner or his designee.

418 **§ 60.2-806. Contributions.**

419 A. Payroll contributions to the Fund shall be authorized in order to finance the payment of benefits under  
 420 and the administration of the paid family and medical leave insurance program.

421 B. Beginning on January 1, 2027, each employer shall remit to the Fund contributions in the form and  
 422 manner determined by the Commission. No later than October 1, 2026, and annually thereafter, the  
 423 Commissioner shall fix the contribution rate for the coming calendar year in the manner described in this  
 424 subsection, taking into account the repayment requirement provided for in subsection D of § 60.2-805. For  
 425 calendar years 2027 and 2028, the Commissioner shall fix such contribution rate based on sound actuarial  
 426 principles. For calendar year 2029 and thereafter, the Commissioner shall first certify and publish the

427 following information:

428 1. The total amount of family and medical leave benefits paid by the Commission during the previous  
429 fiscal year;

430 2. The total amount remaining in the Fund at the close of such fiscal year;

431 3. The total amount equal to 140 percent of the previous fiscal year's expenditure for family and medical  
432 leave benefits paid and for the administration of the paid family and medical leave insurance program;

433 4. The amount by which the total amount remaining in the Fund at the close of the previous fiscal year is  
434 less than or greater than 140 percent of the previous fiscal year's expenditure for family and medical leave  
435 benefits paid and for the administration of the paid family and medical leave insurance program; and

436 5. The amount by which the contribution rate shall be adjusted to ensure that the Fund shall maintain or  
437 achieve an annualized amount of not less than 140 percent of the previous fiscal year's expenditure for family  
438 and medical leave benefits paid and for the administration of the paid family and medical leave insurance  
439 program. The contribution rate adjustment, if any, made as the result of the Commissioner's certification and  
440 report under this subsection shall supersede the rate previously set forth and shall become effective on  
441 January 1 of the following calendar year.

442 C. A self-employed individual electing coverage under § 60.2-815 shall be responsible for the employer's  
443 share of contributions set forth in subsection B on that individual's income from self-employment.

444 D. Each employer of more than 10 employees shall (i) deduct from each employee's wages an amount  
445 equal to 50 percent, or such lesser percentage as may be agreed upon by such employer and employee, of the  
446 contribution required per employee pursuant to subsection B and (ii) remit the full contribution required per  
447 employee pursuant to subsection B to the Commission for deposit into the Fund.

448 E. Each employer of 10 or fewer employees shall deduct from each employee's wages an amount equal to  
449 50 percent of the contribution per employee required of an employer of more than 10 employees pursuant to  
450 subsection B. Such employer of 10 or fewer employees shall remit such deducted amount to the Commission  
451 for deposit into the Fund and shall not be required to make additional contributions.

452 F. Contributions under this section shall not be required for an employee's wages or an individual's  
453 income from self-employment above the contribution and benefit base limit established annually by the  
454 federal Social Security Administration for purposes of the federal Old-Age, Survivors, and Disability  
455 Insurance Benefits program limits pursuant to 42 U.S.C. § 430.

456 **§ 60.2-807. Reduced leave schedule.**

457 A. A covered individual shall have the option to receive paid family and medical leave benefits on an  
458 intermittent or reduced leave schedule in which all of the leave authorized under this chapter is not taken  
459 sequentially. Family and medical leave benefits for an intermittent or reduced leave schedule shall be  
460 prorated.

461 B. Such covered individual shall make a reasonable effort to schedule paid family and medical leave  
462 taken pursuant to this section so as not to unduly disrupt the operations of such covered individual's  
463 employer. Such covered individual shall provide such employer with prior notice of the schedule on which  
464 such covered individual will be taking the leave, to the extent practicable. Paid family and medical leave  
465 taken pursuant to this section shall not result in a reduction of the total amount of leave to which a covered  
466 individual is entitled beyond the amount of leave actually taken.

467 **§ 60.2-808. Leave and employment protection; remedies.**

468 A. Any covered individual who receives family and medical leave benefits shall, upon the expiration of  
469 such leave, be entitled to restoration by the employer to the position held by such covered individual when  
470 such leave commenced, or to a position with equivalent seniority, status, employment benefits, pay, and other  
471 terms and conditions of employment, including fringe benefits and service credits, to which the covered  
472 individual had been entitled at the commencement of such leave.

473 B. During any leave taken pursuant to this chapter, an employer shall maintain any health care benefits to  
474 which a covered individual was entitled prior to taking such leave as if the covered individual had continued  
475 working continuously from the date such covered individual commenced the leave until the date such covered  
476 individual returns from leave, and such covered individual shall continue to pay his share of the cost of  
477 health care benefits as required prior to the commencement of the leave.

478 C. Any employer that violates this section or § 60.2-809 shall be liable to any affected covered individual  
479 for:

480 1. Damages equal to:

481 a. The amount of:

482 (1) Any wages, salary, employment benefits, or other compensation denied or lost to such covered  
483 individual due to the violation; or

484 (2) In a case in which wages, salary, employment benefits, or other compensation has not been denied or  
485 lost to the covered individual, any actual monetary losses sustained by the covered individual due to the  
486 violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the  
487 covered individual;

488 b. Interest on the amount described in subdivision a, calculated at the legal rate; and



489 c. An additional amount as liquidated damages equal to the sum of the amount described in subdivision a  
 490 and the interest described in subdivision b, except that if an employer who has violated this section or §  
 491 60.2-809 proves to the satisfaction of the court that the act or omission that violated this section or §  
 492 60.2-809 was in good faith and that the employer had reasonable grounds for believing that the act or  
 493 omission was not a violation of this section or § 60.2-809, such court may reduce the amount of the liability  
 494 to the amount and interest determined under subdivisions a and b, respectively; and

495 2. Such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

496 D. The court in an action to recover such damages or equitable relief prescribed in subsection C shall, in  
 497 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees, reasonable expert witness  
 498 fees, and other costs of the action to be paid by the defendant.

499 E. Except as provided in subsection F, an action may be brought for a violation of this section or §  
 500 60.2-809 not later than two years after the date of the last event constituting the alleged violation for which  
 501 the action is brought.

502 F. In the case of such action brought for a willful violation of this section or § 60.2-809, such action may  
 503 be brought within three years of the date of the last event constituting the alleged violation for which such  
 504 action is brought.

505 **§ 60.2-809. Retaliatory personnel actions prohibited.**

506 A. No employer or other person shall interfere with, restrain, or deny the exercise of, or the attempt to  
 507 exercise, any right protected under this chapter.

508 B. No employer, employment agency, employee organization, or other person shall take retaliatory  
 509 personnel action or otherwise discriminate against an individual due to such individual's lawful exercise of  
 510 rights protected under this chapter. Such rights include the right to request, file for, apply for, or use benefits  
 511 provided for under this chapter; the right to communicate to the employer or any other person or entity that  
 512 such individual (i) intends to file a claim, a complaint with the Commission or a court, or an appeal or (ii)  
 513 has testified in, intends to testify in, or has otherwise assisted in any investigation, hearing, or proceeding  
 514 under this chapter; the right to inform any person about any employer's alleged violation of this chapter; and  
 515 the right to inform any individual of the individual's rights under this chapter.

516 C. It is unlawful for an employer's absence control policy to count paid family and medical leave taken  
 517 under this chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or  
 518 any other adverse action.

519 D. Protections of this section shall apply to any person who mistakenly but in good faith alleges a  
 520 violation of this chapter.

521 E. This section shall be enforced as provided in subsections C through F of § 60.2-808.

522 **§ 60.2-810. Coordination of benefits.**

523 A. Leave taken with wage replacement under this chapter that also qualifies as leave under the FMLA  
 524 shall run concurrently with leave taken under the FMLA.

525 B. An employer may require that payments made pursuant to this chapter be made concurrently or  
 526 otherwise coordinated with payments made or leave allowed under the terms of disability or family care  
 527 leave under a collective bargaining agreement or employer policy. Such employer shall give employees  
 528 written notice of this requirement.

529 C. Nothing in this chapter shall be construed to limit or reduce an employer's obligation to comply with a  
 530 collective bargaining agreement, an employer policy, or any other provision of law requiring more generous  
 531 leave.

532 D. An individual's right to leave under this chapter shall not be diminished by a collective bargaining  
 533 agreement entered into or renewed, or an employer policy adopted or retained, after January 1, 2026. Any  
 534 agreement by an individual to waive the individual's rights under this chapter is void as against public  
 535 policy.

536 **§ 60.2-811. Notice requirements.**

537 A. An employer shall provide written notice as prescribed in this subsection to each employee upon hiring  
 538 and annually thereafter. An employer shall also provide such written notice to an employee when such  
 539 employee requests leave pursuant to this chapter or when the employer acquires knowledge of an employee's  
 540 intent to take leave that may meet the eligibility requirements of § 60.2-802. Such notice shall include (i) a  
 541 statement of an employee's right to family and medical leave benefits pursuant to this chapter and the terms  
 542 under which such benefits may be used; (ii) the amount of family and medical leave benefits available; (iii)  
 543 the procedure for filing a claim for family and medical leave benefits; (iv) a statement of the right to job  
 544 protection and benefits continuation under § 60.2-808; (v) a statement that discrimination and retaliatory  
 545 personnel actions against a person for requesting, applying for, or using family and medical leave benefits  
 546 are prohibited under § 60.2-809; and (vi) a statement that the employee has a right to file a complaint for a  
 547 violation of this chapter. An employer shall also display and maintain a poster provided by the Commission  
 548 in a conspicuous place accessible to employees at the employer's place of business that contains the  
 549 information required by this section in English, Spanish, and any language that is the first language spoken

550 *by at least five percent of the employer's workforce. The Commissioner may adopt regulations to establish*  
 551 *additional requirements concerning the means by which employers shall provide such notice.*

552 *B. An employee seeking to take leave under the provisions of this chapter shall notify his employer as*  
 553 *soon as practicable.*

554 **§ 60.2-812. Appeals.**

555 *A. The Commissioner shall establish a system for appeals in the case of a denial of a claim for family and*  
 556 *medical leave benefits. In establishing such system, the Commissioner may utilize any and all procedures and*  
 557 *appeals mechanisms established under this title.*

558 *B. Judicial review of any decision with respect to family and medical leave benefits shall be permitted in a*  
 559 *court of competent jurisdiction after a party aggrieved thereby has exhausted all administrative remedies*  
 560 *established by the Commissioner.*

561 *C. The Commissioner shall implement procedures to ensure confidentiality of all information related to*  
 562 *any claims filed or appeals taken to the maximum extent permitted by applicable laws.*

563 **§ 60.2-813. Enforcement.**

564 *A. Contributions required by the provisions of § 60.2-806 that are unpaid on the date on which they are*  
 565 *due and payable, as prescribed by the Commissioner under this chapter, shall bear interest at the rate of one*  
 566 *and one-half percent per month from and after such date until payment plus accrued interest is received by*  
 567 *the Commission. Interest collected pursuant to this chapter shall be paid into the Fund. An employer who*  
 568 *fails to timely remit a contribution or any portion thereof under § 60.2-806 shall be solely responsible for the*  
 569 *interest due under this section.*

570 *B. If, after notice, any employer defaults in any payment of contributions or interest, the amount due shall*  
 571 *be collected by civil action in the name of the Commissioner. The employer adjudged in default shall pay the*  
 572 *fees and costs of such action. Civil actions brought under this chapter to collect contributions or interest or*  
 573 *any penalty from an employer shall be heard by the court at the earliest possible date. Such civil actions may*  
 574 *be brought against any officer, employee, or agent of a corporation or partnership in his individual, personal*  
 575 *capacity when that person willfully fails to cause the employer to pay the appropriate contributions or*  
 576 *interest and he had the authority to do so. No person shall be subject to this section unless it is proved that*  
 577 *such person (i) knew of the failure or attempt to make such payment and (ii) had authority to prevent such*  
 578 *failure or attempt. In addition to the foregoing remedies, the Commissioner shall have such other remedies as*  
 579 *are available to the State Tax Commissioner and county and city treasurers for the collection of taxes*  
 580 *generally. The Commissioner is authorized to compromise, settle, and adjust any contributions, including*  
 581 *interest, or any penalty assessed against any employer where in the judgment of the Commissioner the best*  
 582 *interests of the Commonwealth will be promoted or served. The Commissioner may in such cases accept in*  
 583 *full settlement of the contributions assessed an amount less than that assessed.*

584 *C. When an unsatisfied execution has been returned by an officer, and the employer against whom the*  
 585 *judgment has been obtained on which the execution was issued continues in default of payment of*  
 586 *contributions, or any portion thereof, such employer may be enjoined from operating and doing business in*  
 587 *the Commonwealth until such contributions have been paid. The Circuit Court of the City of Richmond shall*  
 588 *have exclusive original jurisdiction to grant such injunction upon the complaint of the Commissioner. Notice*  
 589 *of the time and place when the application for the injunction will be made shall be served on the employer*  
 590 *and a copy of the bill of complaint shall be served with the notice.*

591 **§ 60.2-814. Erroneous payments and disqualification for benefits.**

592 *A. An individual shall be disqualified from family and medical leave benefits for one year if the individual*  
 593 *is determined by the Commissioner to have willfully made a false statement or misrepresentation regarding a*  
 594 *material fact, or willfully failed to report a material fact, to obtain benefits under this chapter.*

595 *B. If family and medical leave benefits are paid erroneously or as a result of willful misrepresentation, or*  
 596 *if a claim for family and medical leave benefits is rejected after benefits are paid, the Commission may seek*  
 597 *repayment of benefits from the recipient. The Commissioner shall exercise his discretion to waive, in whole*  
 598 *or in part, the amount of any such payments where the recovery would be against equity and good*  
 599 *conscience.*

600 **§ 60.2-815. Elective coverage.**

601 *A. A self-employed person, including a sole proprietor, partner, or joint venturer, may elect coverage*  
 602 *under this chapter for an initial period of not less than three years. The self-employed person shall file a*  
 603 *notice of election in writing with the Commissioner, as required by the Commission. Such election shall*  
 604 *become effective on the date such notice is filed, provided that such self-employed person agrees to supply*  
 605 *any information concerning income that the Commission deems necessary.*

606 *B. A self-employed person who has elected coverage may withdraw from coverage within 30 days after*  
 607 *the end of the three-year period of coverage, or at such other times as the Commissioner may prescribe by*  
 608 *rule, by filing written notice with the Commissioner, such withdrawal to take effect not sooner than 30 days*  
 609 *after filing such notice.*

610 **§ 60.2-816. Private employer plans; exemption from contributions.**

611 *A. Employers may apply to the Commission for approval to meet their obligations under this chapter*

612 through a private plan. The Commission may approve such private plan if the Commission determines that  
613 such private plan:

614 1. Confers all of the same rights, protections, and benefits provided to covered individuals under this  
615 chapter, including:

616 a. The provision of family and medical leave benefits for all purposes specified in subsection A of §  
617 60.2-802;

618 b. The provision of family and medical leave benefits for the maximum number of weeks required in §  
619 60.2-803 per application year;

620 c. The provision of family and medical leave benefits as specified in subdivision A 3 § 60.2-802 for a  
621 covered individual with a serious health condition;

622 d. A wage replacement rate for all family and medical leave benefits that equals or exceeds the rate  
623 required by subsection A of § 60.2-804;

624 e. A maximum weekly family and medical leave benefit amount that equals or exceeds the amount  
625 specified in subsection C of § 60.2-804 and a minimum weekly family and medical leave benefit amount that  
626 equals or exceeds the amount specified in subsection B of § 60.2-804;

627 f. The provision of family and medical leave benefits on an intermittent basis as specified in § 60.2-807;

628 g. No additional conditions or restrictions on family and medical leave benefits, or leave taken in  
629 accordance with such benefits, beyond those explicitly authorized by this chapter or regulations issued  
630 pursuant to this chapter;

631 h. The provision of family and medical leave benefits to any employee covered under such private plan  
632 who would otherwise be eligible for such benefits pursuant to this chapter; and

633 i. An employee contribution amount that does not exceed the amount such employee would otherwise  
634 contribute for family and medical leave benefits pursuant to § 60.2-806.

635 2. Complies with the following provisions:

636 a. Such private plan shall provide family and medical leave benefits for all eligible employees throughout  
637 the course of their employment;

638 b. If such private plan is in the form of self-insurance, the employer shall furnish a bond to the  
639 Commonwealth in a form, amount, and manner determined by the Commission; and

640 c. If such plan is in the form of a third-party provider of insurance, the forms of the policy must be issued  
641 by an insurer approved by the Commission.

642 B. The Commission shall withdraw approval for an employer's private plan pursuant to subsection A if  
643 such employer violates the terms or conditions of such private plan, including by:

644 a. Failing to pay benefits;

645 b. Failing to pay benefits timely and in a manner consistent with the provisions of this chapter;

646 c. Failing to maintain an adequate surety bond;

647 d. Misusing private plan money;

648 e. Failing to submit reports or comply with other requirements or terms set by the Commission; or

649 f. Failing to comply with this chapter or regulations promulgated pursuant to this chapter.

650 C. An employee covered by a private plan approved under this section shall retain all applicable rights  
651 provided in §§ 60.2-808 and 60.2-809.

652 D. A contested determination or denial of family and medical leave insurance benefits by a private plan is  
653 subject to appeal before the Commission and any court of competent jurisdiction pursuant to § 60.2-812.

654 E. The Commission shall establish a fine structure for employers and entities offering private plans that  
655 violate this section. The Commission shall transfer any fines collected pursuant to this subsection to the state  
656 treasurer for deposit into the Fund. The Commission shall establish a process for the determination,  
657 assessment, and appeal of fines under this subsection.

658 F. The Commission shall annually determine the total amount expended by the Commission for costs  
659 arising from the administration of private plans. Each employer offering a private plan pursuant to this  
660 section shall reimburse the Commission for the costs arising out of the private plans in the amount, form, and  
661 manner determined by the Commission.

662 **§ 60.2-817. Income tax subtraction notice; federal income tax treatment.**

663 A. The Commission shall advise any covered individual filing a claim for family and medical leave  
664 benefits, at the time such claim is filed, of the availability of a Virginia individual income tax subtraction for  
665 such benefits pursuant to subdivision 32 of § 58.1-322.02.

666 B. If the Internal Revenue Service determines that family and medical leave benefits under this chapter  
667 are subject to federal income tax, the Commission shall advise any covered individual filing a new claim for  
668 family and medical leave benefits, at the time of filing such claim, that:

669 1. The Internal Revenue Service has determined that benefits are subject to federal income tax;

670 2. Requirements exist pertaining to estimated tax payments;

671 3. The individual may elect to have federal income tax deducted and withheld from the individual's  
672 payment of benefits in the amount specified in the federal Internal Revenue Code; and

673 4. The individual is permitted to change a previously elected withholding status.

674 **§ 60.2-818. Reports; public dashboard.**

675 By April 1, 2029, and annually thereafter, the Commission shall report to the General Assembly on  
 676 projected and actual program participation by purpose listed in § 60.2-802, gender of beneficiaries, race and  
 677 ethnicity of beneficiaries, age of beneficiaries, amount of benefits paid to beneficiaries per week, premium  
 678 rates, fund balances, outreach efforts, and, for leaves taken under subdivision A 2 of § 60.2-802, family  
 679 members for whom leave was taken to provide care.

680 By July 1, 2026, the Commission shall develop and continually update a publicly accessible online  
 681 dashboard with information including the number of claims filed and approved and the average times for  
 682 claim approval, in the aggregate and divided by the purpose for which leave is requested, and additional  
 683 information as the Commission deems appropriate.

684 **§ 60.2-819. Public education.**

685 The Commission shall develop and conduct a public education campaign to inform workers and  
 686 employers regarding the availability of family and medical leave benefits. Such campaign shall include  
 687 multiple ways to communicate to employers and employees about the new benefit system and leave rights,  
 688 contributions, timeline, and eligibility requirements. Such campaign shall be an ongoing function of the  
 689 Commission for the duration of the paid family and medical leave insurance program. In conducting and  
 690 planning such campaign, the Commission shall consult with the Paid Family and Medical Leave Advisory  
 691 Board established in § 60.2-821 and work with other stakeholders, including chambers of commerce, trade  
 692 associations, nonprofit organizations, and labor unions, to develop and implement a statewide  
 693 communication outreach strategy. Such campaign shall also include targeted outreach and education for  
 694 small businesses. Outreach information shall be available in English, Spanish, Korean, Tagalog, Vietnamese,  
 695 Urdu, Arabic, and other languages spoken by more than five percent of the Commonwealth's population. The  
 696 Commission shall deliver to the Board quarterly updates on applications, approvals, and any additional  
 697 information as requested by the Board.

698 **§ 60.2-820. Sharing technology.**

699 The Commission is encouraged to use state data collection and technology to the extent possible and to  
 700 integrate the provisions of this chapter with existing state policies.

701 **§ 60.2-821. Paid Family and Medical Leave Advisory Board.**

702 A. The Paid Family and Medical Leave Advisory Board is established as an advisory board, within the  
 703 meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board is to report to  
 704 and advise the Commissioner on the implementation and administration of this chapter.

705 B. The Board shall have a total membership of 15 members that shall consist of four legislative members  
 706 and 11 nonlegislative citizen members. Members shall be appointed as follows: two members of the Senate,  
 707 to be appointed by the Senate Committee on Rules; two members of the House of Delegates, to be appointed  
 708 by the Speaker of the House of Delegates; three nonlegislative citizen members to be appointed by the Senate  
 709 Committee on Rules; two nonlegislative citizen members to be appointed by the Speaker of the House of  
 710 Delegates; and six nonlegislative citizen members to be appointed by the Governor, one of whom shall be a  
 711 representative of the business community, one of whom shall be a representative of a small business, one of  
 712 whom shall be a representative of a labor union, one of whom shall be a representative of an advocacy  
 713 organization focused on economic issues impacting children and families, one of whom shall be a  
 714 representative of an organization that advocates on behalf of people with serious health conditions or  
 715 disabilities, and one of whom shall have skill, knowledge, and experience in family and medical leave  
 716 programs.

717 Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. Legislative members  
 718 of the Board shall serve terms coincident with their terms of office.

719 C. Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill  
 720 vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in  
 721 the same manner as the original appointments. No nonlegislative citizen member shall serve more than two  
 722 consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy  
 723 shall not constitute a term in determining the member's eligibility for reappointment.

724 D. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the  
 725 members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman, but  
 726 no less than four times a year.

727 E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12.  
 728 Nonlegislative citizen members of the Board shall not receive compensation but shall be reimbursed for all  
 729 reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813  
 730 and 2.2-2825.

731 **2. That the Virginia Employment Commission shall promulgate all rules and regulations necessary for**  
 732 **implementation of this act by July 1, 2026.**

733 **3. That by January 1, 2026, the Department of Human Resource Management (the Department) shall**  
 734 **modify the Commonwealth's policies relating to family and medical leave pursuant to subsection D of §**

735 60.2-801 of the Code of Virginia, as created by this act. In modifying such policies, the Department  
736 shall not reduce any existing leave or benefits available to an employee of the Commonwealth that are  
737 more generous than the leave and benefits provided under the paid family and medical leave insurance  
738 program, as created by this act. The Governor shall include any necessary funding to support such  
739 modifications in "The Budget Bill" submitted for the 2026-2028 biennium pursuant to § 2.2-1509 of the  
740 Code of Virginia.

**INTRODUCED**

SB1122