

Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement

PUBLISHED:

ORIGINAL

Bill Number: HB 1921 ER

Patron: Ward

Bill Title: Relating to Employment: Paid Sick Leave; Civil Penalties

Bill Summary: Expands provisions of the Code that currently require one hour of paid sick leave for every 30 hours worked for home health workers to cover all employees of private employers and state and local governments. The bill requires that employees who are employed and compensated on a fee-for-service basis accrue paid sick leave in accordance with regulations adopted by the Commissioner of Labor and Industry. The bill provides that employees transferred to a separate division or location remain entitled to previously accrued paid sick leave and that employees retain their accrued sick leave under any successor employer. The bill allows employers to provide a more generous paid sick leave policy than prescribed by its provisions. Employees, in addition to using paid sick leave for their physical or mental illness or to care for a family member, may use paid sick leave for their need for services or relocation due to domestic abuse, sexual assault, or stalking.

The bill provides that certain health care workers who work no more than 30 hours per month may waive the right to accrue and use paid sick leave. The bill also provides that employers are not required to provide paid sick leave to certain health care workers who are employed on a pro re nata, or as-needed, basis, regardless of the number of hours worked. The bill requires the Commissioner to promulgate regulations regarding employee notification and employer recordkeeping requirements.

The bill authorizes the Commissioner, in the case of a knowing violation, to subject an employer to a civil penalty not to exceed \$150 for the first violation, \$300 for the second violation, and \$500 for each successive violation. The Commissioner may institute proceedings on behalf of an employee to enforce compliance with the provisions of this bill. Additionally, an aggrieved employee is authorized to bring a civil action against the employer in which he may recover double the amount of any unpaid sick leave and the amount of any actual damages suffered as the result of the employer's violation. The bill has a delayed effective date of July 1, 2026.

Budget Amendment Necessary: No

Items Impacted: 288 (DMAS), 350 (DOLI)

Explanation: The proposed legislation will require expenditures which the Department of Medical Assistance Services (DMAS) and Department of Labor and Industry (DOLI) will be unable to absorb with existing resources. See table and fiscal analysis below.

Fiscal Summary: It is anticipated that this bill will result in a general fund expenditure impact of \$9.3 million and a nongeneral fund expenditure impact of \$8.9 million beginning in FY 2027, with higher amounts in future years. Also, it is anticipated that this bill will result in an indeterminate general fund revenue impact.

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General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
DMAS	\$0	\$0	\$7,968,288	\$8,904,103	\$9,254,297	\$9,683,552
DOLI	\$0	\$0	\$1,348,227	\$1,257,227	\$1,257,227	\$1,257,227
TOTAL	\$0	\$0	\$9,316,515	\$10,161,330	\$10,511,524	\$10,940,779

Nongeneral Fund Expenditure Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
DMAS	\$0	\$0	\$8,907,233	\$9,953,206	\$10,343,890	\$10,822,696

Fiscal Analysis:

Department of Labor and Industry:

The Department of Labor and Industry (DOLI) would be responsible for enforcing this bill by promulgating guidelines, monitoring, and compliance. The agency estimates that approximately 1,200 annual complaints that will need to be investigated, resulting in a workload increase requiring eight new positions: five Compliance Officers, one Compliance Officer Supervisor, one Hearing and Legal Services Officer, and one Hearing and Legal Services Officer Mediator, totaling to \$1.25 million general fund in annual costs. The agency also anticipates that necessary upgrades to software systems will result in a one-time cost of \$91,000.

Employers who violate the provisions of the bill may be subject to a fine of up to \$150 for the first violation, \$300 for a second violation within two years, and \$500 for subsequent violations. Revenue from these fines would be deposited to the general fund, the exact amount will be dependent on the number of violations and is indeterminate.

Department of Medical Assistance Services:

According to DMAS, this bill would impact Medicaid expenditures through consumer directed attendant care. In the consumer directed model of care, the Medicaid members select their personal care, respite or companion care attendants and the Medicaid program pays for the wages of the attendant plus appropriate employer taxes and benefits. Currently, home health care workers who are consumer directed attendants and who work more than twenty hours a week receive one hour of sick leave for every thirty hours worked with a maximum of forty hours per year. This bill removes the requirement that home health care workers work on average twenty hours or more a week to qualify for accruing sick leave hours.

DMAS estimates that 7.2 percent of the current hours worked do not qualify for accruing sick leave because the attendant works fewer than twenty hours per week. One hour of sick leave is earned for every 30 hours worked. DMAS states billable rates would need to be raised by 0.24 percent, as calculated by one hour for every thirty, times 7.2 percent. Attendants who work less than twenty hours a week would not reach the forty hours per year limit. With a start date of July 1, 2026, and one month payment lag this rate increase is

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estimated to cost \$2.2 million (\$1.0 million general fund) in FY 2027 and \$2.5 million (\$1.2 million general fund) in FY 2028.

The bill also expands paid sick leave requirements to include individuals who provide personal care, respite, or companion services to an individual who receives agency directed services. In an agency directed model of service, a home care agency employs the attendants who provide personal and respite care. While DMAS does not have information as to the extent home care agencies are currently providing sick leave, it is assumed that this bill's provisions would increase home care agency operating costs similar to those experienced in consumer direction. The following information is provided if it is the intent of the bill for the state to recognize the cost to impacted home care agencies. Consumer directed rates had an increase of \$0.34 per hour in northern Virginia and \$0.26 per hour outside of Northern Virginia to pay for the sick leave benefit. Should assumptions similar to those used to generate consumer directed costs be applied to home care agency directed care, then DMAS reports that rates would need to be increased by 1.45 percent in northern Virginia and 1.32 percent outside of northern Virginia. With a start date of July 1, 2026, and one month claims payment lag, costs of a rate increase for all personal care providers are estimated to be \$16.9 million (\$8.0 million general fund) in FY 2027 and \$18.9 million (\$8.9 million general fund) in FY 2028.

Commonwealth Agencies and Localities:

The bill includes all agencies, institutions, and political subdivisions as employers. The Virginia Sickness and Disability Program (VSDP) provides sick leave, including coverage for short- and long-term illness and disabilities. The amount of sick leave provided to employees covered by VSDP is set by the Virginia Code. Sick leave under VSDP does not roll over from year to year; instead, an employee receives a new allotment of sick leave each year. VSDP currently provides full-time employees in VSDP with less than 60 months of state service 64 hours of sick leave annually. Full-time employees with 60 or more months of state service receive 72 or 80 hours of sick leave, depending on their tenure. Thus, full-time employees in VSDP already receive more sick leave than required by the bill, though it should be noted that VSDP participating part-time employees receive 32 or 40 hours of sick leave annually, depending on their tenure.

Other: None.