

**SENATE BILL NO. 2**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
(Proposed by the Senate Committee on Commerce and Labor  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Boysko)

*A BILL to amend and reenact §§ 38.2-107.2, 38.2-135, 38.2-316, and 38.2-1800 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-107.3 and 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.*

SENATE BILL NO. 2

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

12 1. That §§ 38.2-107.2, 38.2-135, 38.2-316, and 38.2-1800 of the Code of Virginia are amended and  
13 reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-107.3 and by  
14 adding in Title 60.2 a chapter numbered 8, consisting of sections numbered 60.2-800 through 60.2-821,  
15 as follows:

## **§ 38.2-107.2. Private family leave insurance.**

17        "**Family** "Private family leave insurance" means an insurance policy issued to an employer related to a  
18        benefit program provided to an employee to pay for a percentage or portion of the employee's income loss  
19        due to (i) the birth of a child or adoption of a child by the employee; (ii) placement of a child with the  
20        employee for foster care; (iii) care of a family member of the employee who has a serious health condition; or  
21        (iv) circumstances arising out of the fact that the employee's family member who is a service member is on  
22        active duty or has been notified of an impending call or order to active duty. **Family** *Private family* leave  
23        insurance may be written as an amendment or rider to a group disability income policy, included in a group  
24        disability income policy, or written as a separate group insurance policy purchased by an employer.

### **§ 38.2-107.3. Paid family and medical leave insurance.**

*"Paid family and medical leave insurance" means an insurance policy issued to an employer that meets the minimum requirements necessary for approval pursuant to § 60.2-816 to qualify as a private plan through which such employer may fulfill its obligations under the paid family and medical leave insurance program (§ 60.2-800 et seq.), as determined by the Virginia Employment Commission.*

**§ 38.2-135. Classes of insurance companies may be licensed to write.**

31 Except as otherwise provided in this title and subject to any conditions and restrictions imposed therein,

32 any insurer licensed to transact the business of insurance in the Commonwealth, other than life insurers and  
33 title insurers, may be licensed to write one or more of the classes of insurance enumerated in Article 2  
34 (§ 38.2-101 et seq.) of this chapter that it is authorized under its charter to write, except life insurance,  
35 industrial life insurance, credit life insurance, variable life insurance, modified guaranteed life insurance,  
36 annuities, variable annuities, modified guaranteed annuities, and title insurance. An insurer licensed to write  
37 life insurance shall not be licensed to write any additional class of insurance except modified guaranteed life  
38 insurance, variable life insurance, annuities, modified guaranteed annuities, variable annuities, credit life  
39 insurance, credit accident and sickness insurance, accident and sickness insurance, industrial life insurance,  
40 *and private family leave insurance, and paid family and medical leave insurance.* An insurer licensed to write  
41 title insurance shall not be licensed to write any additional class of insurance. However, any life insurer that  
42 has been licensed to write and has been actively engaged in writing life insurance and any additional class of  
43 insurance set out in Article 2 (§ 38.2-101 et seq.) of this chapter continuously during a period of 20 years  
44 immediately preceding July 1, 1952, may continue to be licensed to write those classes of insurance. No  
45 company shall write any class of insurance unless it has a current annual license from the Commission to do  
46 so.

47 **§ 38.2-316. Policy forms to be filed with Commission; notice of approval or disapproval; exceptions.**

48 A. No policy of life insurance, industrial life insurance, variable life insurance, modified guaranteed life  
49 insurance, group life insurance, *private family leave insurance, paid family and medical leave insurance,*  
50 accident and sickness insurance, or group accident and sickness insurance; no annuity, modified guaranteed  
51 annuity, pure endowment, variable annuity, group annuity, group modified guaranteed annuity, or group  
52 variable annuity contract; no health services plan, legal services plan, dental or optometric services plan, or  
53 health maintenance organization contract; no dental plan organization dental benefit contract; and no fraternal  
54 benefit certificate nor any certificate or evidence of coverage issued in connection with such policy, contract,  
55 or plan issued or issued for delivery in Virginia shall be delivered or issued for delivery in the  
56 Commonwealth unless a copy of the form has been filed with the Commission. In addition to the above  
57 requirement, no policy of accident and sickness insurance *or, private family leave insurance, or paid family*  
58 *and medical leave insurance* shall be delivered or issued for delivery in the Commonwealth unless the rate  
59 manual showing rates, rules, and classification of risks applicable thereto has been filed with the  
60 Commission.

61 B. Except as provided in this section, no application form shall be used with the policy or contract and no  
62 rider or endorsement shall be attached to or printed or stamped upon the policy or contract unless the form of

63 such application, rider or endorsement has been filed with the Commission. No individual certificate and no  
64 enrollment form shall be used in connection with any group life insurance policy, group accident and sickness  
65 insurance policy, group annuity contract, group variable annuity contract, *group private family leave*  
66 *insurance policy*, or group *paid family and medical* leave insurance policy unless the form for the certificate  
67 and enrollment form have been filed with the Commission.

68 C. 1. None of the policies, contracts, and certificates specified in subsection A shall be delivered or issued  
69 for delivery in the Commonwealth and no applications, enrollment forms, riders, and endorsements shall be  
70 used in connection with the policies, contracts, and certificates unless the forms thereof have been approved  
71 in writing by the Commission as conforming to the requirements of this title and not inconsistent with law.

72 2. In addition to the above requirement, no premium rate change applicable to individual accident and  
73 sickness insurance policies, subscriber contracts of health services plans, dental or optometric services plans,  
74 or fraternal benefit contracts providing individual accident and sickness coverage as authorized in  
75 § 38.2-4116 shall be used unless the premium rate change has been approved in writing by the Commission.  
76 No premium rate change applicable to individual or group Medicare supplement policies shall be used unless  
77 the premium rate change has been approved in writing by the Commission.

78 D. The Commission may disapprove or withdraw approval of the form of any policy, contract or  
79 certificate specified in subsection A, or of any application, enrollment form, rider or endorsement, if the  
80 form:

81 1. Does not comply with the laws of the Commonwealth;  
82 2. Has any title, heading, backing or other indication of the contents of any or all of its provisions that is  
83 likely to mislead the policyholder, contract holder or certificate holder; or  
84 3. Contains any provisions that encourage misrepresentation or are misleading, deceptive or contrary to  
85 the public policy of the Commonwealth.

86 E. Within 30 days after the filing of any form requiring approval, the Commission shall notify the  
87 organization filing the form of its approval or disapproval of the form which has been filed, and, in the event  
88 of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an additional 30  
89 days the period within which it shall approve or disapprove the form. Any form received but neither approved  
90 nor disapproved by the Commission shall be deemed approved at the expiration of the 30 days if the period is  
91 not extended, or at the expiration of the extended period, if any; however, no organization shall use a form  
92 deemed approved under the provisions of this section until the organization has filed with the Commission a

93 written notice of its intent to use the form together with a copy of the form and the original transmittal letter  
94 thereof. The notice shall be filed in the offices of the Commission at least 10 days prior to the organization's  
95 use of the form.

96 F. If the Commission proposes to withdraw approval previously given or deemed given to the form of any  
97 policy, contract or certificate, or of any application, rider or endorsement, it shall notify the insurer in writing  
98 at least 15 days prior to the proposed effective date of withdrawal giving its reasons for withdrawal.

99 G. Any insurer or fraternal benefit society aggrieved by the disapproval or withdrawal of approval of any  
100 form may proceed as indicated in § 38.2-1926.

101 H. This section shall not apply to any special rider or endorsement on any policy, except an accident and  
102 sickness insurance policy that relates only to the manner of distribution of benefits or to the reservation of  
103 rights and benefits under such policy, and that is used at the request of the individual policyholder, contract  
104 holder or certificate holder.

105 I. The Commission may exempt any categories of such policies, contracts, and certificates and any  
106 applicable rate manuals from (i) the filing requirements, (ii) the approval requirements of this section, or (iii)  
107 both such requirements. The Commission may modify such requirements, subject to such limitations and  
108 conditions which the Commission finds appropriate. In promulgating an exemption, the Commission may  
109 consider the nature of the coverage, the person or persons to be insured or covered, the competence of the  
110 buyer or other parties to the contract, and other criteria the Commission considers relevant.

111 J. In lieu of complying with the requirements of subsections A, B, and C, any legal services organization  
112 operating, conducting, or administering a legal services plan may provide the Commission with an  
113 informational filing regarding a subscription contract, enrollment form, rider, or endorsement used by the  
114 legal services organization in connection with a legal services plan offered in the Commonwealth together  
115 with written notice of its intent to use the form. Upon providing such informational filing and notice, the legal  
116 services organization may use the subscription contract, enrollment form, rider, or endorsement without its  
117 prior approval by the Commission. This subsection shall not limit the authority of the Commission to review  
118 a legal services plan and any subscription contract, enrollment form, rider, or endorsement used in connection  
119 therewith and to disapprove the use of such form for any of the grounds set forth in subsection D.

120 K. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and  
121 regulations as it may deem necessary to set standards for policy and other form submissions required by this

122 section or § 38.2-3501.

123 **§ 38.2-1800. Definitions.**

124 As used in this chapter:

125 "Agent," "insurance agent," "producer," or "insurance producer," when used without qualification, means  
126 an individual or business entity that sells, solicits, or negotiates contracts of insurance or annuity in the  
127 Commonwealth.

128 "Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance  
129 producer," when used without qualification, means an individual or business entity licensed in the  
130 Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within  
131 the scope of such license and who is appointed by a company licensed in the Commonwealth to sell, solicit,  
132 or negotiate on its behalf contracts of insurance of the classes authorized within the scope of such license and,  
133 if authorized by the company, may collect premiums on those contracts.

134 "Business entity" means a partnership, limited partnership, limited liability company, corporation, or other  
135 legal entity other than a sole proprietorship.

136 "Dental plan organization authority" means the authority in the Commonwealth to sell, solicit, or  
137 negotiate dental benefit contracts on behalf of dental plan organizations licensed under Chapter 61  
138 (§ 38.2-6100 et seq.).

139 "Dental services authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental  
140 services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500 et seq.).

141 "Filed" means received by the Commission.

142 "Health agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate insurance as  
143 defined in §§ 38.2-107.2, ~~38.2-108~~, and through 38.2-109, and including contracts issued by insurers, health  
144 services plans, health maintenance organizations, dental services plans, optometric services plans, and dental  
145 plan organizations licensed in the Commonwealth.

146 "Home protection insurance authority" means the authority in the Commonwealth to sell, solicit, or  
147 negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in the  
148 Commonwealth.

149 "Home state" means the District of Columbia and any state or territory of the United States, except  
150 Virginia, or any province of Canada, in which an insurance producer maintains such person's principal place  
151 of residence or principal place of business and is licensed by that jurisdiction to act as a resident insurance

152 producer.

153 "Legal services insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate  
154 legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in the Commonwealth.

155 "License" means a document issued by the Commission authorizing an individual or business entity to act  
156 as an insurance producer for the lines of authority specified in the document. Except as provided in  
157 § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent, in the licensee to  
158 represent, commit, or bind an insurer.

159 "Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance producer," when  
160 used without qualification, means an individual or business entity licensed in the Commonwealth to sell,  
161 solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such  
162 license.

163 "Life and annuities insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or  
164 negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-105.1,  
165 38.2-106, and 38.2-107.1, respectively, *and private family leave insurance as defined in § 38.2-107.2, and  
166 paid family and medical leave insurance as defined in § 38.2-107.3* on behalf of insurers licensed in the  
167 Commonwealth.

168 "Limited burial insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate  
169 burial insurance society membership where the certificates of membership are used solely to fund preneed  
170 funeral contracts on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.); or  
171 to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that association for  
172 association group life insurance certificates where the funds are used solely to fund preneed funeral contracts.

173 "Limited lines credit insurance agent" means an agent licensed in the Commonwealth whose authority is  
174 restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in the Commonwealth, one or  
175 more of the following coverages to individuals through a master, corporate, group or individual policy: (i)  
176 credit life insurance and credit accident and sickness insurance, but only to the extent authorized in Chapter  
177 37.1 (§ 38.2-3717 et seq.); (ii) credit involuntary unemployment insurance as defined in § 38.2-122.1; (iii)  
178 credit property insurance, as defined in § 38.2-122.2; (iv) mortgage accident and sickness insurance; (v)  
179 mortgage redemption insurance; (vi) mortgage guaranty insurance; and (vii) any other form of insurance  
180 offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit  
181 obligation and that the Commission specifically determines may be sold, solicited, or negotiated by those  
182 holding a limited lines credit insurance agent license. Each insurer that sells, solicits or negotiates any of the

183 coverages set forth in this definition shall provide to each individual whose duties will include selling,  
184 soliciting or negotiating such coverages a program of instruction that may, at the discretion of the  
185 Commission, be submitted for approval by the Commission or reviewed by the Commission subsequent to its  
186 implementation.

187 "Limited lines life and health agent" means an individual or business entity authorized by the Commission  
188 whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority  
189 that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836:  
190 dental services authority; limited burial insurance authority; mutual assessment life and health insurance  
191 authority; optometric services authority; and dental plan organization authority. Limited lines life and health  
192 insurance shall not include life insurance, health insurance, property insurance, casualty insurance, private  
193 family leave insurance, *paid family and medical leave insurance*, and title insurance.

194 "Limited lines property and casualty agent" means an individual or business entity authorized by the  
195 Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type  
196 of authority that the Commission may deem it necessary to recognize for the purposes of complying with  
197 § 38.2-1836: home protection insurance authority; legal services insurance authority; mutual assessment  
198 property and casualty insurance authority; ocean marine insurance authority; pet accident, sickness and  
199 hospitalization insurance authority; portable electronics insurance authority; self storage insurance authority;  
200 and travel insurance. Unless otherwise defined, "limited lines property and casualty insurance" shall not  
201 include life insurance, health insurance, property insurance, casualty insurance, private family leave  
202 insurance, *paid family and medical leave insurance*, and title insurance.

203 "Mortgage accident and sickness insurance authority" means the authority in the Commonwealth to sell,  
204 solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in the  
205 Commonwealth.

206 "Mortgage guaranty insurance authority" means the authority in the Commonwealth to sell, solicit, or  
207 negotiate mortgage guaranty insurance on behalf of insurers licensed in the Commonwealth.

208 "Mortgage redemption insurance authority" means the authority in the Commonwealth to sell, solicit, or  
209 negotiate mortgage redemption insurance on behalf of insurers licensed in the Commonwealth. As used in  
210 this chapter, "mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing term life  
211 insurance policy written in connection with a mortgage transaction for a period of time coinciding with the  
212 term of the mortgage. The initial sum shall not exceed the amount of the indebtedness outstanding at the time

213 the insurance becomes effective, rounded up to the next \$1,000.

214 "Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a motor  
215 vehicle rental company that is in the business of providing primarily private motor vehicles to the public  
216 under a rental agreement for a period of less than six months, and receives no direct or indirect commission  
217 from the insurer, the renter or the vehicle rental company.

218 "Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor  
219 vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the  
220 public under a rental agreement for a period of less than six months and (ii) whose license in the  
221 Commonwealth is restricted to selling, soliciting, or negotiating only the following insurance coverages, and  
222 solely in connection with and incidental to the rental contract:

223 1. Personal accident insurance that provides benefits in the event of accidental death or injury occurring  
224 during the rental period;

225 2. Liability coverage sold to the renter in excess of the rental company's obligations under § 38.2-2204,  
226 38.2-2205, or Title 46.2, as applicable;

227 3. Personal effects insurance that provides coverages for the loss of or damage to the personal effects of  
228 the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the  
229 rental period;

230 4. Roadside assistance and emergency sickness protection programs; and

231 5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in  
232 connection with and incidental to the rental of vehicles.

233 The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental contract  
234 enrollers.

235 "Mutual assessment life and health insurance authority" means the authority in the Commonwealth to sell,  
236 solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of insurers licensed  
237 under Chapter 39 (§ 38.2-3900 et seq.), but only to the extent permitted under § 38.2-3919.

238 "Mutual assessment property and casualty insurance authority" means the authority in the Commonwealth  
239 to sell, solicit, or negotiate mutual assessment property and casualty insurance on behalf of insurers licensed  
240 under Chapter 25 (§ 38.2-2500 et seq.), but only to the extent permitted under § 38.2-2525.

241 "NAIC" means the National Association of Insurance Commissioners.

242        "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or  
243 prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms  
244 or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains  
245 insurance from insurers for purchasers.

246        "Ocean marine insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate  
247 those classes of insurance classified in § 38.2-126, except those classes specifically classified as inland  
248 marine insurance, on behalf of insurers licensed in the Commonwealth.

249        "Optometric services authority" means the authority in the Commonwealth to sell, solicit, or negotiate  
250 optometric services plan contracts on behalf of optometric services plans licensed under Chapter 45  
251 (§ 38.2-4500 et seq.).

252        "Personal lines agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate  
253 insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124, 38.2-125,  
254 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal,  
255 family, or household needs rather than for business or professional needs.

256        "Pet accident, sickness and hospitalization insurance authority" means the authority in the Commonwealth  
257 to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf of insurers licensed  
258 in the Commonwealth.

259        "Property and casualty insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or  
260 negotiate both personal and commercial lines of insurance as defined in §§ 38.2-107.2, 38.2-107.3, 38.2-110  
261 through 38.2-122.2, and 38.2-124 through 38.2-134 on behalf of insurers licensed in the Commonwealth.

262        "Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of Virginia  
263 whose principal place of business is in Virginia, who is able to demonstrate to the satisfaction of the  
264 Commission that the laws of his home state prevent him from obtaining a resident agent license in that state,  
265 and who affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of licensing  
266 and continuing education, both in Virginia and in the state in which the individual resides, if applicable; (iii) a  
267 partnership duly formed and recorded in Virginia; (iv) a corporation incorporated and existing under the laws  
268 of Virginia; (v) a limited liability company organized and existing under the laws of Virginia; or (vi) a  
269 foreign business entity that is not licensed as a resident agent in any other jurisdiction, and that demonstrates  
270 to the satisfaction of the Commission that its principal place of business is within the Commonwealth of  
271 Virginia.

272        "Restricted nonresident health agent" means a nonresident agent whose license authority in his home state  
273    does not include all of the authority granted under a health agent license in Virginia. The license issued to  
274    such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in  
275    Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

276        "Restricted nonresident life and annuities agent" means a nonresident agent whose license authority in his  
277    home state does not include all of the authority granted under a life and annuities agent license in Virginia.  
278    The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of  
279    insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his  
280    home state.

281        "Restricted nonresident personal lines agent" means a nonresident agent whose license authority in his  
282    home state does not include all of the authority granted under a personal lines agent license in Virginia. The  
283    license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of  
284    insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his  
285    home state.

286        "Restricted nonresident property and casualty agent" means a nonresident agent whose license authority in  
287    his home state does not include all of the authority granted under a property and casualty agent license in  
288    Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on  
289    behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is  
290    authorized in his home state.

291        "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of  
292    an insurer.

293        "Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia  
294    State Bar pursuant to Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1.

295        "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular class of  
296    insurance from one or more insurers.

297        "Surety bail bondsman" means a person licensed as a surety bail bondsman pursuant to Article 11  
298    (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

299        "Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of this  
300    chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4805.1 et

301 seq.).

302 "Terminate" means the cancellation of the relationship between an insurance producer and the insurer, or  
303 the termination of an insurance producer's authority to transact insurance.

304 "Title insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate title  
305 insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance companies  
306 licensed under Chapter 46 (§ 38.2-4600 et seq.).

307 "Uniform Application" means the current version of the NAIC Uniform Application for resident and  
308 nonresident producer licensing.

309 "Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity  
310 Application for resident and nonresident business entities.

311 "Variable contract agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate  
312 variable life insurance and variable annuity contracts on behalf of insurers licensed in the Commonwealth.

313 "Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.), in  
314 accordance with Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby authorized to engage in  
315 the activities set forth in Chapter 60 (§ 38.2-6000 et seq.).

316 **CHAPTER 8.**

317 **PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

318 **§ 60.2-800. Definitions.**

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

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

322 "Armed Forces" means the Armed Forces of the United States, the Reserves of the Armed Forces of the  
323 United States, or the Virginia National Guard.

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

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

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

327 1. Either:

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

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

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

331 3. Submits an application.

332        "*Covered service member*" means either (i) a member of the Armed Forces who is (a) undergoing medical  
333        treatment, recuperation, or therapy; (b) otherwise in outpatient status; or (c) otherwise on the temporary  
334        disability retired list for a serious injury or illness that was incurred by the member in the line of duty while  
335        on active duty in the Armed Forces, or a serious injury or illness that existed before the beginning of the  
336        member's active duty and was aggravated by service in the line of duty, or (ii) a former member of the Armed  
337        Forces who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that was  
338        incurred by the member in the line of duty while on active duty in the Armed Forces, or a serious injury or  
339        illness that existed before the beginning of the member's active duty and was aggravated by service in the line  
340        of duty and manifested before or after the member was discharged or released from service.

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

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

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

351        "*Family member*" means:

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

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

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

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

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

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

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

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

368        "*Military member*" means a member of the Armed Forces.

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

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

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

383        "*Safety services*" means:

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

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

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

391        4. Services from a victim services provider; and

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

394       "Serious health condition" means an illness, injury, impairment, pregnancy, recovery from childbirth, or  
395       physical or mental condition that involves inpatient care in a hospital, hospice, or a residential medical care  
396       facility or continuing treatment by a health care provider.

397       "Workweek" means a calendar week.

398       **§ 60.2-801. Paid family and medical leave insurance program.**

399       A. By January 1, 2028, the Commission shall establish and administer a paid family and medical leave  
400       insurance program. By July 1, 2028, the Commission shall begin collecting contributions as provided in this  
401       chapter. By January 1, 2029, the Commission shall begin receiving claims and paying family and medical  
402       leave benefits to covered individuals.

403       B. Information contained in the files and records relating to a claimant under this chapter are  
404       confidential and not open to public inspection other than to public employees in the performance of their  
405       official duties. However, such claimant or an authorized representative of such claimant may review such  
406       files and records or receive specific information from such records upon the presentation of such claimant's  
407       signed authorization.

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

413       D. The Commissioner shall adopt regulations as necessary to implement this chapter, including (i) a  
414       process for receiving claims filed under this chapter, (ii) the form of any application, (iii) the timeline and  
415       process for providing notice of a claim to an employer, (iv) the timeline and process for making initial claim  
416       determinations, and (v) the timeline and process for requesting information prior to any decision on a claim  
417       being rendered.

418       **§ 60.2-802. Eligibility for benefits; certification.**

419       A. Beginning January 1, 2029, family and medical leave benefits shall be payable to any covered  
420       individual who:

- 421       1. Because of birth, adoption, or placement through foster care, is caring for a new child during the first  
422       year after the birth, adoption, or placement of that child;
- 423       2. Is caring for a family member with a serious health condition;
- 424       3. Has a serious health condition that makes the covered individual unable to perform the functions of the

425 *position of such individual's employment;*

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

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

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

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

434         1. *For a claimant seeking family and medical leave benefits due to a serious health condition, certification*  
435 *from a physician or health care provider (i) describing such condition, (ii) stating the date on which such*  
436 *condition commenced or is expected to commence and the probable duration of such condition, (iii) including*  
437 *a statement that such claimant is unable to perform job functions due to such condition, and (iv) including*  
438 *other appropriate medical facts as required by the Commission. Such certification shall be provided between*  
439 *60 days prior to and 90 days after the start date of leave.*

440         2. *For a claimant seeking family and medical leave benefits due to the serious health condition of a family*  
441 *member, certification from a physician or health care provider (i) describing such condition, (ii) stating the*  
442 *date on which such condition commenced or is expected to commence and the probable duration of such*  
443 *condition, (iii) including a statement that such condition requires such claimant to care for such family*  
444 *member and an estimated duration of such care, and (iv) including other appropriate medical facts as*  
445 *required by the Commission. Such certification shall be provided between 60 days prior to and 90 days after*  
446 *the start date of leave.*

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

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

454         5. *For a claimant seeking family and medical leave benefits for qualifying exigency leave, certification*  
455 *including (i) a copy of the family member's active-duty orders, (ii) other documentation issued by the Armed*

456 Forces, or (iii) other documentation as permitted by the Commission.

457 6. For a claimant seeking family and medical leave benefits in order to care for a family member who is a  
458 covered service member, certification including (i) the date on which the serious health condition commenced  
459 or is expected to commence, (ii) the probable duration of the condition, (iii) the appropriate medical facts  
460 within the knowledge of the health care provider as required by the Commission, (iv) a statement that the  
461 claimant is needed to care for the family member, (v) an estimate of the amount of time that the claimant is  
462 needed to care for the family member, and (vi) an attestation by the claimant that the health condition is  
463 connected to the covered service member's military service as required by this chapter. Such certification  
464 shall be provided between 60 days prior to and 90 days after the start date of leave.

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

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

473 **§ 60.2-803. Duration of benefits.**

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

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

478 C. The first payment of family and medical leave benefits shall be made to a covered individual no later  
479 than two weeks after (i) the Commission has approved an initial claim pursuant to this chapter or (ii) the  
480 duration of leave pursuant to an approved claim pursuant to this chapter has commenced, whichever occurs  
481 later. Subsequent payments shall be made at least every two weeks thereafter.

482 **§ 60.2-804. Amount of benefits.**

483 A. A covered individual's weekly benefit amount shall be 80 percent of such covered individual's average  
484 weekly wages during the 12 months preceding such covered individual's initial claim filing, or 80 percent of  
485 such covered individual's average weekly wages during the time such covered individual worked if less than  
486 12 months, subject to the maximum specified in subsection C.

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

490       *C. A covered individual's maximum weekly benefit amount shall be 100 percent of the state average*  
491       *weekly wage, as described in subsection B of § 65.2-500. By September 30 of each year, the Commission*  
492       *shall adjust the maximum weekly benefit to reflect any changes in such state average weekly wage. The*  
493       *adjusted maximum weekly benefit amount shall take effect on the following January 1.*

494       *D. Claims pursuant to this chapter shall be payable for at least eight hours of family and medical leave*  
495       *accrued in one workweek unless the Commission sets a lower threshold.*

496       **§ 60.2-805. Family and Medical Leave Insurance Trust Fund; appropriation prohibition;**  
497       **reimbursement.**

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

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

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

511       *D. Any moneys provided in the appropriation act for the purposes of establishing the paid family and*  
512       *medical leave insurance program shall be repaid from the Fund to the general fund by January 1, 2034.*

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

515       **§ 60.2-806. Contributions.**

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

518       *B. Beginning on July 1, 2028, each employer shall remit to the Fund contributions in the form and*  
519       *manner determined by the Commission. No later than October 1, 2027, and annually thereafter, the*  
520       *Commissioner shall fix the contribution rate for the coming calendar year in the manner described in this*  
521       *subsection, taking into account the repayment requirement provided for in subsection D of § 60.2-805. For*  
522       *calendar years 2028 and 2029, the Commissioner shall fix such contribution rate based on sound actuarial*  
523       *principles. For calendar year 2030 and thereafter, the Commissioner shall first certify and publish the*  
524       *following information:*

525        1. *The total amounts of the previous fiscal year's expenditures for (i) family and medical leave benefits*  
526       *paid and (ii) the administration of the paid family and medical leave insurance program;*

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

528        3. *The amount by which the contribution rate shall be adjusted to ensure that the projected balance of the*  
529       *Fund as a percentage of total program expenditures does not fall below 40 percent. The contribution rate*  
530       *adjustment, if any, made as the result of the Commissioner's certification and report under this subsection*  
531       *shall supersede the rate previously set forth and shall become effective on January 1 of the following*  
532       *calendar year.*

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

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

539       *E. Each employer of 10 or fewer employees shall deduct from each employee's wages an amount equal to*  
540       *50 percent of the contribution per employee required of an employer of more than 10 employees pursuant to*  
541       *subsection B. Such employer of 10 or fewer employees shall remit such deducted amount to the Commission*  
542       *for deposit into the Fund and shall not be required to make additional contributions.*

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

547       **§ 60.2-807. Reduced leave schedule.**

548       *A. A covered individual shall have the option to receive paid family and medical leave benefits on an*

549 *intermittent or reduced leave schedule in which all of the leave authorized under this chapter is not taken*  
550 *sequentially. Family and medical leave benefits for an intermittent or reduced leave schedule shall be*  
551 *prorated.*

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

558 **§ 60.2-808. Leave and employment protection; remedies.**

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

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

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

571 *1. Damages equal to:*

572 *a. The amount of:*

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

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

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

580       c. An additional amount as liquidated damages equal to the sum of the amount described in subdivision a  
581 and the interest described in subdivision b, except that if an employer who has violated this section or  
582 § 60.2-809 proves to the satisfaction of the court that the act or omission that violated this section or  
583 § 60.2-809 was in good faith and that the employer had reasonable grounds for believing that the act or  
584 omission was not a violation of this section or § 60.2-809, such court may reduce the amount of the liability  
585 to the amount and interest determined under subdivisions a and b, respectively; and

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

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

590       E. Except as provided in subsection F, an action may be brought for a violation of this section or  
591 § 60.2-809 not later than two years after the date of the last event constituting the alleged violation for which  
592 the action is brought.

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

596       **§ 60.2-809. Retaliatory personnel actions prohibited.**

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

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

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

610       D. Protections of this section shall apply to any person who mistakenly but in good faith alleges a

611 violation of this chapter.

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

613 **§ 60.2-810. Coordination of benefits; applicability of chapter.**

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

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

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

623 D. No provision of this chapter shall apply to an employer or employee as such terms are defined in 45  
624 U.S.C. § 351.

625 E. An individual's right to leave under this chapter shall not be diminished by a collective bargaining  
626 agreement entered into or renewed, or an employer policy adopted or retained, after January 1, 2027. Any  
627 agreement by an individual to waive the individual's rights under this chapter is void as against public  
628 policy.

629 **§ 60.2-811. Notice requirements.**

630 A. An employer shall provide written notice as prescribed in this subsection to each employee upon hiring  
631 and annually thereafter. An employer shall also provide such written notice to an employee when such  
632 employee requests leave pursuant to this chapter or when the employer acquires knowledge of an employee's  
633 intent to take leave that may meet the eligibility requirements of § 60.2-802. Such notice shall include (i) a  
634 statement of an employee's right to family and medical leave benefits pursuant to this chapter and the terms  
635 under which such benefits may be used; (ii) the amount of family and medical leave benefits available; (iii)  
636 the procedure for filing a claim for family and medical leave benefits; (iv) a statement of the right to job  
637 protection and benefits continuation under § 60.2-808; (v) a statement that discrimination and retaliatory  
638 personnel actions against a person for requesting, applying for, or using family and medical leave benefits  
639 are prohibited under § 60.2-809; and (vi) a statement that the employee has a right to file a complaint for a  
640 violation of this chapter. An employer shall also display and maintain a poster provided by the Commission  
641 in a conspicuous place accessible to employees at the employer's place of business that contains the

642 *information required by this section in English, Spanish, and any language that is the first language spoken*  
643 *by at least five percent of the employer's workforce. The Commissioner may adopt regulations to establish*  
644 *additional requirements concerning the means by which employers shall provide such notice.*

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

647 **§ 60.2-812. Appeals.**

648 *A. The Commissioner shall establish a system for appeals within 90 days of a denial of a claim for family*  
649 *and medical leave benefits. In establishing such system, the Commissioner may utilize any and all procedures*  
650 *and appeals mechanisms established under this title.*

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

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

656 **§ 60.2-813. Enforcement.**

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

663 *B. If, after notice, any employer defaults in any payment of contributions or interest, the amount due shall*  
664 *be collected by civil action in the name of the Commissioner. The employer adjudged in default shall pay the*  
665 *fees and costs of such action. Civil actions brought under this chapter to collect contributions or interest or*  
666 *any penalty from an employer shall be heard by the court at the earliest possible date. Such civil actions may*  
667 *be brought against any officer, employee, or agent of a corporation or partnership in his individual, personal*  
668 *capacity when that person willfully fails to cause the employer to pay the appropriate contributions or*  
669 *interest and he had the authority to do so. No person shall be subject to this section unless it is proved that*  
670 *such person (i) knew of the failure or attempt to make such payment and (ii) had authority to prevent such*  
671 *failure or attempt. In addition to the foregoing remedies, the Commissioner shall have such other remedies as*  
672 *are available to the Tax Commissioner and county and city treasurers for the collection of taxes generally.*

673 *The Commissioner is authorized to compromise, settle, and adjust any contributions, including interest, or*  
674 *any penalty assessed against any employer where in the judgment of the Commissioner the best interests of*  
675 *the Commonwealth will be promoted or served. The Commissioner may in such cases accept in full settlement*  
676 *of the contributions assessed an amount less than that assessed.*

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

684 **§ 60.2-814. Erroneous payments and disqualification for benefits.**

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

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

693 **§ 60.2-815. Elective coverage.**

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

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

703 **§ 60.2-816. Private employer plans; exemption from contributions.**

704       A. Employers may apply to the Commission for approval to meet their obligations under this chapter  
705       through a private plan. The Commission may approve such private plan if the Commission determines that  
706       such private plan:

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

709       a. The provision of family and medical leave benefits for all purposes specified in subsection A of  
710       § 60.2-802;

711       b. The provision of family and medical leave benefits for the maximum number of weeks required in  
712       § 60.2-803 per application year;

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

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

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

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

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

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

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

728       2. Complies with the following provisions:

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

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

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

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

- 737       *a. Failing to pay benefits;*
- 738       *b. Failing to pay benefits timely and in a manner consistent with the provisions of this chapter;*
- 739       *c. Failing to maintain an adequate surety bond;*
- 740       *d. Misusing private plan money;*
- 741       *e. Failing to submit reports or comply with other requirements or terms set by the Commission; or*
- 742       *f. Failing to comply with this chapter or regulations promulgated pursuant to this chapter.*

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

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

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

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

755       *G. The Commission, in consultation with the State Corporation Commission, may establish rules,  
756       processes for data sharing, and a memorandum of understanding related to their respective roles in  
757       implementing the approval of coverage pursuant to this section, authorizing products, and requiring filings  
758       related to private family leave insurance, paid family and medical leave, group disability, and individual or  
759       group accident and sickness policies.*

760       *H. No employer shall be deemed to fulfill its obligations under this chapter through a private family leave  
761       insurance policy as defined in § 38.2-107.2 unless the Commission determines that such policy, in  
762       combination with a temporary disability insurance policy issued to such employer, meets the minimum  
763       requirements necessary for approval pursuant to this section.*

764       **§ 60.2-817. Federal income tax treatment.**

765       *If the Internal Revenue Service determines that family and medical leave benefits under this chapter are*

766    subject to federal income tax, the Commission shall advise any covered individual filing a new claim for  
767    family and medical leave benefits, at the time of filing such claim, that:

- 768    1. The Internal Revenue Service has determined that benefits are subject to federal income tax;
- 769    2. Requirements exist pertaining to estimated tax payments;
- 770    3. The individual may elect to have federal income tax deducted and withheld from the individual's  
771    payment of benefits in the amount specified in the federal Internal Revenue Code; and
- 772    4. The individual is permitted to change a previously elected withholding status.

773    **§ 60.2-818. Reports; public dashboard.**

774    By April 1, 2030, and annually thereafter, the Commission shall report to the General Assembly on  
775    projected and actual program participation by purpose listed in § 60.2-802, gender of beneficiaries, race and  
776    ethnicity of beneficiaries, age of beneficiaries, amount of benefits paid to beneficiaries per week, premium  
777    rates, fund balances, outreach efforts, and, for leaves taken under subdivision A 2 of § 60.2-802, family  
778    members for whom leave was taken to provide care.

779    The Commission shall develop and continually update a publicly accessible online dashboard with  
780    information including the number of claims filed and approved and the average times for claim approval, in  
781    the aggregate and divided by the purpose for which leave is requested, and additional information as the  
782    Commission deems appropriate. The dashboard shall be developed and launched no later than the date on  
783    which family and medical leave benefits are first paid pursuant to this chapter.

784    **§ 60.2-819. Public education.**

785    The Commission shall develop and conduct a public education campaign to inform workers and  
786    employers regarding the availability of family and medical leave benefits. Such campaign shall include  
787    multiple ways to communicate to employers and employees about the new benefits system and leave rights,  
788    contributions, timeline, and eligibility requirements. Such campaign shall be an ongoing function of the  
789    Commission for the duration of the paid family and medical leave insurance program. In conducting and  
790    planning such campaign, the Commission shall consult with the Board established in § 60.2-821 and work  
791    with other stakeholders, including chambers of commerce, trade associations, nonprofit organizations, and  
792    labor unions, to develop and implement a statewide communication outreach strategy. Such campaign shall  
793    also include targeted outreach and education for small businesses. Outreach information shall be available  
794    in English, Spanish, Korean, Tagalog, Vietnamese, Urdu, Arabic, and other languages spoken by more than  
795    five percent of the Commonwealth's population. The Commission shall deliver to the Board quarterly updates  
796    on applications, approvals, and any additional information as requested by the Board.

797     § 60.2-820. *Sharing technology.*

798     *The Commission is encouraged to use state data collection and technology to the extent possible and to*  
799     *integrate the provisions of this chapter with existing state policies. To the extent permitted by law, the*  
800     *Commonwealth may make relevant data sources from state agencies available to the Commission for the*  
801     *purposes of implementing the provisions of this chapter to increase the efficiency of eligibility and benefit*  
802     *determinations under this chapter.*

803     § 60.2-821. *Paid Family and Medical Leave Advisory Board.*

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

807     B. *The Board shall have a total membership of 18 members that shall consist of five legislative members*  
808     *and 13 nonlegislative citizen members. Members shall be appointed as follows: two members of the Senate,*  
809     *to be appointed by the Senate Committee on Rules; three members of the House of Delegates, to be appointed*  
810     *by the Speaker of the House of Delegates; three nonlegislative citizen members to be appointed by the Senate*  
811     *Committee on Rules; two nonlegislative citizen members to be appointed by the Speaker of the House of*  
812     *Delegates; and eight nonlegislative citizen members to be appointed by the Governor, one of whom shall be a*  
813     *representative of the business community, one of whom shall be a representative of a small business, one of*  
814     *whom shall be a representative of a labor union, one of whom shall be a representative of an advocacy*  
815     *organization focused on economic issues impacting children and families, one of whom shall be a*  
816     *representative of an organization that advocates on behalf of people with serious health conditions or*  
817     *disabilities, one of whom shall be a public technology expert or a technical advisor on information*  
818     *technology and data for the Commonwealth, one of whom shall be a human-centered design expert, and one*  
819     *of whom shall have skill, knowledge, and experience in family and medical leave programs.*

820     *Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. Legislative members*  
821     *of the Board shall serve terms coincident with their terms of office.*

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

827     D. *The Board shall elect a chairman and vice-chairman from among its membership. A majority of the*

828 members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman, but  
829 no less than four times a year.

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

834 **2. That the Virginia Employment Commission shall promulgate all rules and regulations necessary for**  
835 **implementation of this act by July 1, 2028.**

836 **3. That by January 1, 2029, the Department of Human Resource Management (the Department) shall**  
837 **modify the Commonwealth's policies relating to family and medical leave pursuant to subsection C of**  
838 **§ 60.2-801 of the Code of Virginia, as created by this act. In modifying such policies, the Department**  
839 **shall not reduce any existing leave or benefits available to an employee of the Commonwealth that are**  
840 **more generous than the leave and benefits provided under the paid family and medical leave insurance**  
841 **program, as created by this act.**