

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 330

An Act to amend the Code of Virginia by adding a section numbered 40.1-27.5, relating to protection of employees; volunteer emergency responders; civil action.

[S 100]

Approved April 6, 2026

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 40.1-27.5 as follows:

§ 40.1-27.5. Retaliation against employee for absence due to serving as voluntary emergency responder prohibited.

A. As used in this section:

"State of emergency" has the same meaning as provided in § 44-146.16.

"Volunteer emergency responder" means an active member in good standing of a volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision.

B. No employer shall discharge, discipline, threaten, discriminate against, or penalize an employee or take other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges of employment solely because the employee fails to report for work at his place of employment because such employee is serving as a volunteer emergency responder (i) actively responding to an emergency alarm or (ii) during a state of emergency, provided that such employee provides the employer (a) notice that such employee is rendering emergency services in response to an emergency alarm or state of emergency at least one hour before such employee is scheduled to report for work and (b) upon returning to his place of employment, a copy of the incident report and a certification by the incident commander or other official or officer in charge affirming that such employee was actively engaged in and necessary for rendering such emergency services. Such certification shall include the date and time at which the employee was relieved from rendering emergency services. An employee who is actively engaged in rendering emergency services for more than one consecutive work day shall provide notice pursuant to clause (a) on each day such employee is absent from work.

C. No employer shall be required to pay an employee for any work time missed while such employee is serving as a volunteer emergency responder pursuant to this section. However, in lieu of taking unpaid time off for such service, such employee may use paid sick leave or other paid leave if such employee has accrued or is otherwise entitled to such leave.

D. No provision of this section shall apply to any employee who is deemed an essential employee by statute or contract.

E. A person who alleges a violation of this section may bring a civil action in a court of competent jurisdiction within one year of the employer's prohibited retaliatory action. The court may order as a remedy to the employee (i) an injunction to restrain continued violation of this section, (ii) the reinstatement of the employee to the same position held before the retaliatory action or to an equivalent position, and (iii) compensation for lost wages, benefits, and other remuneration, together with interest thereon, as well as reasonable attorney fees and costs.