

# Rest Assured: Virginia Enacts Paid Sick Leave Law

June 16, 2026

Virginia recently enacted [HB 5, a paid sick leave \(PSL\) law](#), requiring all commonwealth employers to provide paid sick leave on a phased schedule beginning July 1, 2027. Employees will accrue up to 40 hours of PSL annually. Below is a summary of key provisions and recommended compliance steps.

## Phased effective dates and employer coverage

PSL applies to employers on the following phased schedule based on workforce size:

- July 1, 2027: Employers with 50 or more employees
- January 1, 2028: Employers with 25 or more employees
- January 1, 2029: Employers with one or more employees

Whether the employee count is based on total headcount or Virginia-based employees remains unclear and may be addressed in forthcoming regulations. The law exempts certain employees, including home health workers and certain licensed healthcare professionals.

## Accrual and carryover requirements

Employees accrue one hour of paid sick leave for every 30 hours worked, beginning at the start of employment. Any accrued but unused leave must carry over from year to year, though employees may not accrue or use more than 40 hours of leave in a year, unless the employer sets a higher limit. Employees exempt from the Fair Labor Standards Act (FLSA) are assumed to work 40 hours per week for accrual purposes, unless their normal work week is shorter.

Employers may frontload the full 40 hours at the start of the year to satisfy the accrual requirement, in which case they are not required to allow carryover of unused leave into the following year. Employers with existing paid leave policies that provide leave in an amount and under conditions and purposes sufficient to meet the new law's requirements are not required to provide additional paid sick leave. Similarly, employers subject to collective bargaining agreements that meet the requirements of the law are exempt from providing additional paid sick leave.

Employers need not pay out accrued, unused leave upon separation. However, if an employee is rehired within 12 months, previously accrued leave must be reinstated, unless it was paid out at separation.

## PSL uses

Employees may use PSL for the following purposes:

- The employee's own mental or physical illness, injury or health condition, including the need for medical diagnosis, treatment or preventive care.
- Care of a family member with a mental or physical illness, injury or health condition, or who needs medical diagnosis, treatment or preventive care.
- Absences related to domestic violence, sexual assault or stalking, provided the leave is used to seek or obtain medical or mental healthcare, counseling, legal services, relocation or securing an existing home, or other victim services for the employee or the employee's family member.

The law defines “family member” broadly to include:

- A child (biological, adopted, foster, stepchild, legal ward or child to whom the employee stands in loco parentis).
- A parent (biological, adopted, foster, stepparent, adoptive, legal guardian or an individual who stands in loco parentis).
- A spouse or domestic partner.
- Grandparent, grandchild or sibling.
- Individuals for whom the employee provides or arranges health or safety-related care.
- Any other individual related by blood or affinity whose “close association with an employee is the equivalent of a family relationship.”

## Requesting leave

Employees may request leave orally, in writing, electronically or “by any other means acceptable to the employer.” For foreseeable leave, employees must make a good faith effort to provide advance notice and avoid unduly disrupting operations. Employers requiring notice must provide a written notice policy; failure to do so precludes denying leave for noncompliance with notice requirements.

## Documentation

For absences of three or more consecutive workdays, employers may require reasonable documentation that leave was used for a covered purpose. A healthcare professional’s note suffices for health-related leave. For domestic violence, sexual assault or stalking-related leave, acceptable documentation includes a police report, court document, documentation from a victim services advocate or other professional, or the employee’s own written statement.

## Confidentiality

Employers may not require disclosure of detailed health information or details of domestic violence, sexual assault or stalking as a condition of providing leave. Any such information must be treated as confidential and may not be disclosed without the employee’s consent, except as required by law.

## Notice and recordkeeping

The law directs the commissioner of labor and industry to promulgate regulations governing employee notice and employer recordkeeping. Employers must notify employees of their rights (including the right to file complaints or bring civil actions) in writing and through workplace postings, maintain records of leave accrual and use for at least three years, and ensure the confidentiality of any health or domestic violence-related information.

## Anti-retaliation protections

The law prohibits retaliation, including discharge, discipline, threats or discrimination, against employees who request or use PSL, allege violations, participate in investigations or inform others of their PSL rights. PSL may not be counted as an absence under an absence control policy. These protections extend to individuals who allege a violation in good faith, even if the allegation is ultimately mistaken.

## Enforcement and penalties

The commissioner of labor and industry will promulgate implementing regulations to enforce the law. Aggrieved individuals may file a complaint with the commissioner within one year of the date they knew or should have known of the violation, and the commissioner may also initiate investigations at their own discretion.

Employers that knowingly violate the law are subject to civil penalties of up to \$150 for a first violation, \$300 for a

second violation within two years and \$500 for each successive violation within that period. In determining the amount of the civil penalty, the commissioner must consider the size of the business and the gravity of the violation. Notably, the law provides that no civil monetary penalty will be assessed, and no action will be brought against an employer alleged to have violated the law if the employer corrects the alleged violation within a reasonable time to be established by regulation.

In addition, employees also have a private right of action without first exhausting administrative remedies. A prevailing employee is entitled to:

1. Twice the amount of uncompensated sick leave.
2. Twice the amount of actual damages.
3. Injunctive relief.
4. Legal or equitable relief, including reinstatement.
5. Lost wages, benefits and other remuneration, plus interest, attorneys' fees and costs.

The statute of limitations for a civil action is two years from the violation or the date the employee knew or should have known of it.

## Next steps

In light of the new law, Virginia employers should consider the following steps:

- **Review existing leave policies.** Evaluate whether current paid time off policies (e.g. sick leave, vacation, etc.) satisfy the law's requirements and consider whether to update them to comply with PSL or establish a separate PSL benefit for Virginia employees.
- **Prepare to update employee handbooks, notices and systems.** Update handbooks, policies and workplace postings to reflect the new requirements, including employees' rights to file complaints or bring civil actions. Employers should also align payroll and timekeeping systems to track accrual and usage accurately.
- **Train supervisors and managers.** Train management on the law's anti-retaliation provisions and confidentiality protections, among other key provisions.
- **Monitor regulatory developments.** Key issues remain unaddressed, including employer threshold coverage, notice and recordkeeping obligations. Employers should monitor the commonwealth's rulemaking process for additional guidance.

Virginia's most recent legislative session closed with significant new obligations for employers, including a newly enacted paid family and medical leave law; for more detail about the new leave law, please see [this May 1 Cooley alert](#). If you have questions about these new laws, contact the Cooley employment team or one of the lawyers listed below.

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## Key Contacts

Carly Mitchell Washington, DC	cmitchell@cooley.com +1 202 842 7828
MaryBeth Shreiner Reston	mshreiner@cooley.com +1 703 456 8169
Helenanne Connolly Reston	hconnolly@cooley.com +1 703 456 8685
Virat Gupta Washington, DC	vgupta@cooley.com +1 202 962 8362
Anna Matsuo New York	amatsuo@cooley.com +1 212 479 6827
Xara Sunne Washington, DC	xsunne@cooley.com +1 202 728 7105

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