

Law & Policy Group

Virginia paid family and medical leave: Overview

June 2026



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Paid family and medical leave

National landscape

Fifteen states, along with **Washington, DC**, and **Puerto Rico**, have enacted laws requiring paid leave for an employee's own serious health condition or disability and — with the exception of Hawaii and Puerto Rico — for qualifying family or caregiving reasons.

Note: New Hampshire enacted a paid family and medical leave mandate for state employees in which private employers can voluntarily participate.

Jurisdiction	Program type
California	State Disability Insurance (SDI) Paid Family Leave (PFL)
Colorado	Family and Medical Leave Insurance Program (FAMLI)
Connecticut	Connecticut Paid Leave (CT PL)
Delaware	Delaware Paid Leave (DPL)
District of Columbia	Universal Paid Leave (UPL)
Hawaii	Temporary Disability Insurance (TDI)
Maine	Paid Family and Medical Leave (PFML)
Maryland	Family and Medical Leave Insurance (FAMLI)
Massachusetts	Paid Family and Medical Leave (PFML)
Minnesota	Minnesota Paid Leave (MPL)
New Jersey	Temporary Disability Insurance (TDI) Family Leave Insurance (FLI)
New York	Disability Benefits Law (DBL) Paid Family Leave (PFL)
Oregon	Paid Leave Oregon (PLO)
Puerto Rico	Nonoccupational Disability Insurance (SINOT) (unofficial English version) Working Mothers Protection Act (WMPA)
Rhode Island	Temporary Disability Insurance (TDI) Temporary Caregiver Insurance (TCI)
Virginia	Paid Family and Medical Leave (PFML)
Washington	Paid Family and Medical Leave (PFML)

Virginia PFML

Contribution and benefits snapshot



Contributions begin April 1, 2028 | Benefits begin December 1, 2028

12 weeks of paid leave per benefit year

- To care for a new child during the first year after birth, adoption, or placement through foster care
- To care for a family member with a serious health condition
- For an individual's own serious health condition that makes the individual unable to perform the functions of their position of employment
- To care for a covered service member who is the covered individual's next of kin or other family member with a serious health condition connected to military service
- Qualifying exigency leave arising out of a family member of the covered individual on active duty, or an impending call or order to active duty, in the Armed Forces
- To seek safety services for a covered individual or family member related to domestic violence, sexual assault or stalking

Max weekly benefit is 100% of state average

- Weekly wage replacement amount is 80% of the employee's average weekly wage (AWW), capped at 100% of the state AWW (SAWW).
- Minimum weekly benefit is \$100.
- Weekly benefit max is adjusted annually by September 30 for following year.

Rate to be determined

Contribution rate to be determined annually by October 1 for the following year; contributions are not capped by statute.

- Employers can charge employees up to 50% of the premium.
- Employers with 10 or fewer employees are exempt from contributions; employees are still required to contribute 50% of premium.

Eligibility

- Employee must have earnings that meet or exceed the unemployment compensation eligibility rules.
- Family member includes spouse, domestic partner, child, parent, sibling, grandparent, grandchild, and any individual residing in the home with an expectation of care.
- Job protection after 120 days of employment.

Covered employers

All employers, including local government employers, with one or more employees working in Virginia.

- Employers with 10 or fewer employees do not have to contribute, but employees still must contribute half of the required premium.
- Not included:
 - State government employers
 - Federal government



Note on small employers

It is currently unclear whether the threshold is based on state or national headcount. Upcoming guidance should clarify.

Covered employees

All individuals primarily working in Virginia

- Full-time and part-time employees
- No exception for seasonal or temporary employees
- Self-employed individuals who elect to participate

Additional requirement

Must be authorized to work in the US at time of leave application

Self-employed individuals

- Includes sole proprietors, partners, and joint venturers residing in Virginia
- 52-week waiting period applies if opting in after 26 weeks (or more) of self-employment
- Election is for a minimum of 3 years; 30 days notice is required to withdraw

Excluded individuals

- Federal government workers and railroad workers
- State government employees
- Self-employed individuals who have not opted in



Eligibility for benefits

Covered employees must meet the [earnings threshold](#) under state unemployment compensation law in the highest 2 quarters of the base period (i.e., first 4 of last 5 completed quarters immediately before leave start date).

Program funding

VEC will annually set the contribution rate by October 1 for the following year; contributions start on April 1, 2028.

Employer payroll contributions assessed against wages paid up to the Social Security taxable wage max.

- Large employers can charge up to 50% of the premium to employees.
- Qualifying small employers (10 or fewer employees) are not required to contribute, but their covered employees must pay 50% of the total premium.



Wages subject to premium contributions

- Undefined in the PFML law
- Unemployment compensation statutes define wages as all remuneration, including:
 - Commissions
 - Bonuses
 - Tips
 - Back pay, dismissal pay, severance pay
 - Any other payment during employment and thereafter, including a medium other than cash
- Premiums calculated on gross earnings, before federal income tax, state income tax, and FICA taxes are deducted

Rules related to **premium payments and wage reports** will be developed by VEC.

Definitions

Family member

- Spouse or domestic partner, child, parent, sibling
- Grandparent or spouse's grandparent, grandchild
- Individual who regularly resides in employee's home or where the relationship creates expectation of care AND depends on employee for care
- Includes step, foster, adopted relationships
- BUT does not include in-laws and home residents with no expectation of care



Serious health condition

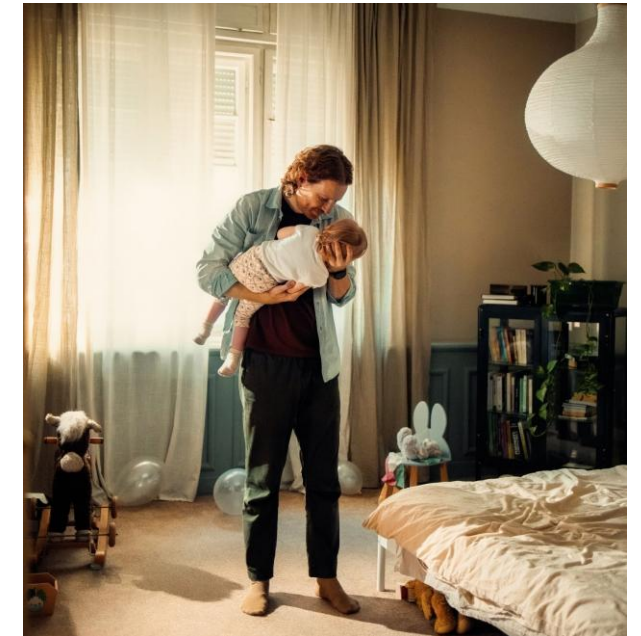
An illness, injury, impairment, pregnancy, recovery from childbirth, or physical or mental condition involving:

- Inpatient care in a hospital, hospice, or a residential medical care facility
- Continuing treatment by a healthcare provider

Benefit year

52-week period starting on leave start date, except:

- 53-week period, if filing of new valid claim would result in overlapping any quarter of base period of a previously filed new claim.



Intermittent/reduced schedule leave

All types of PFML can be taken on an intermittent basis or reduced schedule.

Requirements for intermittent leave

- No minimum increment requirement is stated in the law.
 - Note that federal FMLA allows intermittent leave in periods of whole weeks, single days, hours, and smaller increments.
 - Under federal FMLA, employers must allow employees to use leave in the smallest increment of time allowed for other forms of leave, as long as it is **not more than one hour**.
- Weekly benefit amount is prorated.
- Coordination between employer and employee is required.
- Employee must provide prior notice of leave schedule, to the extent practicable.
- Employee must make a reasonable effort not to unduly disrupt operations.
- Employer cannot reduce PFML allotment beyond what is actually used.
- Same rules apply to private plans.



Weekly benefit amount



Individual AWW. Based on total wage received in the base period (generally, the most recent 4 completed calendar quarters before leave starts).

Calculation

- Weekly benefit amount is 80% of covered individual's AWW.
- Calculations use the state AWW in effect at the time the benefit amount is first determined.

Minimum weekly benefit: \$100, or individual's AWW, if less

Maximum weekly benefit: 100% of state AWW

Set annually by September 30 and applicable on the following January 1.

Claim application process



Employee obligations in claim certification

- **Serious health condition certification required.** Appropriate healthcare provider/physician must describe the serious health condition, the start date and probable duration, and other facts required by VEC.
- **Additional requirements.** Statement of need to care for family member or being unable to perform job functions may also be required.
- **Other certification requirements apply for:**
 - New child bonding
 - Qualifying exigency
 - Covered service member care
 - Safety services

Required employer notices

Post a written notice, provided by VEC, in a conspicuous place in the workplace.

Post in English, Spanish, and any other language that is first language spoken for 5% or more workers.

Provide a detailed notice upon hire, annually, when leave is requested, and when employer knows of an employee's intent to take leave.

Notify employees about how PFML will **coordinate with other paid benefits**.

Includes any disability or family care leave through employer policy or collective bargaining agreement.

Law does not require PFML information in **earnings statements**.





Employee notice to employer

Timing

- **General.** Employees must notify employers of need for leave **as soon as practicable**, regardless of whether leave is foreseeable or unforeseeable.
- **Intermittent leave.** Employee must provide prior notice of leave schedule, to the extent practicable.

Method

Law does not address:

- If employee notice can be oral or electronic or must be in writing
- If employer can impose its usual and customary notice requirements on PFML leave

Benefit eligibility

Financial requirement

In the highest two quarters in the base period, earnings at least equal to or greater than lowest amount in unemployment compensation table (currently, \$3,000).

No minimum hours worked requirement.

Benefit payments

Benefit payments are made every two weeks; methods are TBD.



Disqualifications, benefit reductions

- Law does not address receipt of unemployment compensation or workers compensation benefits on eligibility for, or amount of, PFML benefits.
- Law allows employers to coordinate other employer-provided disability or family care leave, with notice to employee.

Minimum period

Claims are payable after a period of at least eight hours of leave in one work week.

VEC may set a lower threshold.

Benefit proration

Benefits are prorated if the employee takes leave intermittently or works on a reduced schedule.



Coordination with other benefits

Federal FMLA

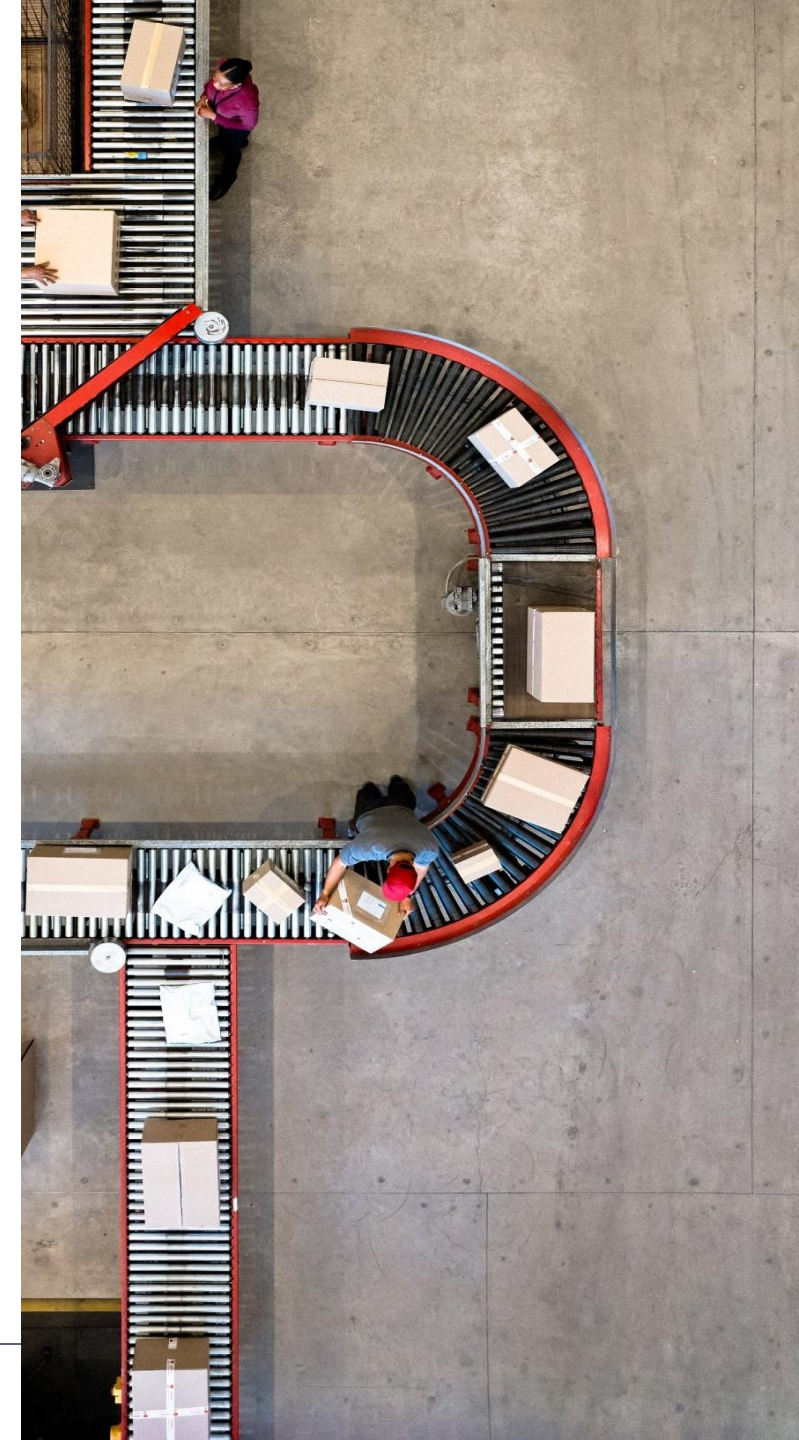
- VA PFML and federal FMLA run concurrently when available for the same reason.
- Employer must provide written notice to employee that the time taken under FMLA may reduce the amount of PFML time they can take.

Disability and paid family leave

Employers can require PFML benefit payments to run concurrently with, or be otherwise coordinated with, disability or family care leave under a collective bargaining agreement or employer's policy with advance written notice.

Accrued PTO, vacation, sick leave

- The law doesn't address PFML coordination with employer-provided accrued paid leave. Guidance from VEC may answer questions like:
 - Whether the employer can require use of accrued paid leave to top-off the PFML benefit, or if it will be the employee's choice
 - If employees can choose to use accrued paid leave in lieu of PFML and if doing so would reduce their PFML entitlement.
- Virginia's paid sick leave law (first effective July 2027 for large employers) entitles employees to accrue up to 40 hours of paid leave per year.



Private employer plans

Employers can provide a private plan that meets or exceeds state requirements. The plan must cover all Virginia PFML qualifying events.

Application process, overview

- Private plan can be insured or self-insured.
- Insured plan must use VEC-approved forms.
- Self-insured plan must “demonstrate sufficient financial capacity” to meet claim obligations.
- VEC will determine timing, fees, and deadlines.
- Renewals occur every 2 years.

Plan terms, overview

- Employer does not have discretion to determine benefit year (unlike with federal FMLA).
- No separate private plan notice is required.
 - One may be required by future VEC regulations.
- Benefits are required for the “course of employment.”
 - This suggests private plans do not have to cover qualifying events occurring after employment separation.
 - Watch for VEC guidance to confirm.
- Employee contributions cannot exceed what is required under the state plan.
- Employer cannot impose additional conditions or restrictions on leave or benefits.
- VEC can take these adverse actions:
 - Withdraw approval of private plan.
 - Issue penalties.

Reporting, recordkeeping requirements

Reporting and recordkeeping requirements will be determined by the VEC.

Employee rights



Healthcare benefits

All healthcare benefits must continue for employees and dependents.

- Same conditions apply as before leave started.
- Employees must continue to pay share of premiums.

"Healthcare benefits" are not defined, but may include medical, dental, vision, and other coverages.



Job protection

- After 120 days of employment, employee is entitled to same or equivalent position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment.
- No exceptions for layoffs, project workers, similar situations



Other benefits

Law does not address continuation of other employer-provided benefits for employees on PFML (e.g., pension, 401(k), vacation, or sick leave accrual).



Interference, retaliation, antidiscrimination

- Interference, restraint, or denial of the exercise or attempt to exercise rights under the law is prohibited.
- Discrimination and retaliation against an individual exercising rights under the law is prohibited.
- Employers cannot take adverse actions for taking leave under any absence control policy.
- Protections apply if employee — in good faith — mistakenly alleges violation.
- Penalties apply for employer violations.

Enforcement and penalties



Civil action

- Employees, state attorney general, may sue up to 1 year after alleged violation (3 years, if willful)
- Potential liability
 - Two times lost wages or actual monetary losses, plus interest
 - Reasonable attorneys' fees and other costs
 - Equitable relief (like employment, reinstatement, and promotion)

Other VEC, Department of Labor, and Industry actions

- Investigations
- Subpoenas
- Repayment of unpaid contributions, plus 1.5% per month interest until payment
- Civil actions to collect unpaid contributions against any officer, employee, or agent of employer with authority to cause payment
- Injunctive relief to prohibit employer from operating in Virginia for failure to pay

Other penalties

Covered individuals making false statements are potentially subject to:

- Prosecution for a Class 1 misdemeanor and PFML disqualification for 5 years, if willful or with intent to commit fraud
- PFML disqualification for 3 years, if reckless or willful failure to report a material fact
- Repayment of any erroneously paid benefits

Federal taxation of contributions and benefits

Starting with 2027 tax year, federal taxation of benefits from public plan

- Family leave benefit payments *are considered gross income* but *not considered wages* for federal employment tax purposes (i.e., FICA).
- Medical leave benefit payments attributable to the required employer contribution *are considered gross income* to the employee and *are considered wages* for federal employment tax purposes.
 - All other medical leave benefit payments *are excluded from gross income* and *are not considered wages* for federal employment tax purposes.

VEC will notify claimants about federal tax treatment of PFML benefits.

- If elected, federal taxes will be withheld.
- Covered individuals have the right to change a previously elected withholding status.

Contributions to public plan

- Employers in the public plan may deduct required employer PFML contribution amounts as state excise tax payments.
- Required employee contributions *are included as gross income* on Form W-2 and considered wages subject to federal employment taxes.
 - Employee premium contributions should be listed under Box 14 of the W-2 form with the label “MEPFML”.

For more information, see [Revenue Ruling 2025-4](#), [Notice 2026-6](#), and our GRIST, [IRS clarifies taxation of state and DC PFML contributions, benefits](#).

Paid family and medical leave (PFML) employer tax credit

One Big Beautiful Bill Act (HR 1) section 70304, effective 2026

Permanently extends the employer tax credit for PFML, which was first available for wages paid in 2018 and set to expire December 31, 2025.

Provision	Current law	Changes made by OBBBA
Determination of tax credit	Based on wages paid to qualifying employees on leave	Adds employer option to determine credit based on premiums paid for an insured policy*
Eligible employer	If treated as a single employer under IRC § 52(a) and (b), then treated as a single taxpayer	If treated as a single employer under IRC § 414(b) and (c), then treated as a single employer; new exception for a “substantial and legitimate business reason” for an entity within the controlled group not providing the benefit
State-mandated benefits	Not taken into account in determining if the employer policy provides at least 50% wage replacement	Taken into account to determine if employer policy provides at least 50% wage replacement, but not taken into account for determining the credit amount
Qualifying employee	Employed at least 1 year and earning less than 60% of the highly compensated employee threshold	Employed at least 1 year (but employer can reduce this to 6 months), earning less than 60% of the highly compensated employee threshold AND customarily employed at least 20 hours per week

*Currently eight states allow life or disability carriers to write group paid family leave policies.
For more information, see our GRIST, *Permanent, improved tax credit for paid family and medical leave.*

Background

IRC § 45S provides a tax credit for employers that provide PFML to all eligible employees.

Employer eligibility requirements

- Written paid leave **policy**.
- Provide at least **two weeks of paid leave** for “qualifying employees” who work full-time (and a pro-rata amount for part-time employees).
- Leave can be used for one or more federal **FMLA reasons**.
- Wage replacement is at least **50% of wages**.
- Available general business **tax credit ranges from 12.5% to 25%** of wages paid to qualifying employees on leave (or insurance premium paid).

State PMFL and federal FMLA comparison

	State PFML	Federal FMLA
Paid	Yes	No
Leave use	- Employee's own serious health condition - Care for family member with a serious health condition - Bond with new child - Handle qualifying exigency related to active military duty - Care for next of kin or family member who is a covered service member with a serious health condition - Safety services related to domestic abuse, sexual assault or stalking of the employee or a family member	- Employee's own serious health condition - Care for family member with a serious health condition - Bond with new child - Handle qualifying exigency related to active military duty - Care for next of kin who is a covered service member with a serious illness or injury
Eligibility	<u>Earnings of at least the highest 2 quarters in base period equal to or greater than lowest amount in <u>unemployment compensation table</u></u> - No service or hours worked requirement	One year of service and 1,250 hours worked in the past 12 months
Job protection	Yes, after 120 days of employment	Yes
Leave duration	Up to 12 weeks of leave	Up to 12 for most qualifying reasons 26 to care for a covered service member with a serious illness or injury (combined maximum of 26)
Who is a covered family member?	Same as federal FMLA, plus domestic partners, grandparents, grandchildren and siblings of the covered individual, designated individuals	Biological, adoptive, step or foster parent, or any other individual who stood in <i>loco parentis</i> to the employee when the employee was a child; biological, adopted, step-, or foster child, legal ward, or child of a person standing in <i>loco parentis</i> who is either younger than 18, or age 18 or older and incapable of self-care because of a mental or physical disability; spouse

Virginia Paid Leave Resources

State resources

- Law: 2026 Chs. [981/1093](#) (SB 2/HB 1207)
- Regulations: TBA
- [Virginia Employment Commission \(VEC\) webpage](#)
- [FAQ](#)
- VEC: 866-832-2363 or [customer contact form](#)

Mercer resources

- [State paid family and medical leave contributions and benefits](#) (February 6, 2026)
- [Virginia enacts paid family and medical leave mandate](#) (June 17, 2026)
- [Law & Policy Insights](#)



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