

After the 2026 General Assembly, Virginia's employment law environment is undergoing a structural shift toward broader employee protections, increased litigation exposure, and mandated benefits. Below are the top changes to employment law that health care employers should be aware of and begin implementing changes to address.

Unless otherwise stated, the effective date of these changes to the law is July 1, 2026. Links to the legislation are provided below.

If you have any questions or require additional information, please contact Brent Rawlings (brawlings@vhha.com) or Julie Dime (jdime@vhha.com).

Covenants Not to Compete

Covenants Not to Compete; Health Care Professionals

[HB627 \(Herring\)](#)/ [SB128 \(VanValkenburg\)](#) provides that no employer can enter into, enforce, or threaten to enforce a covenant not to compete with a health care professional. The legislation defines "health care professional" as any person licensed, registered, or certified by the Board of Medicine, Nursing, Counseling, Optometry, Psychology, or Social Work. The legislation provides that any employer that violates the prohibition against covenants not to compete with a health care professional is subject to the civil penalty in current law of \$10,000 for each violation. The legislation also authorizes health care professions to bring civil actions against employers for violations. The provisions of the legislation specify that it shall not invalidate, alter, or otherwise affect any contracts, covenants, or agreements entered into or renewed prior to July 1, 2026, and clarifies that nothing in the law shall serve to limit the creation or application of certain nondisclosure agreements, covenants not to compete as part of a sale of business, or including in employment agreements certain provisions relating to repayment of all or a pro-rated portion of recruitment-related costs and non-solicitation of customers of the employer. **The law is effective July 1, 2026.**

Covenants Not to Compete; Key Employees and Professionals

[SB170 \(McPike\)](#) provides that no covenant not to compete, as defined in existing law, between an employer and an employee is enforceable if such employer discharges such employee from employment without providing severance benefits or other monetary payment to such employee that is disclosed upon execution of the covenant not to compete, unless the employee is discharged for cause. The provisions of the legislation shall not invalidate, alter, or otherwise affect any contracts, covenants, or agreements entered into or renewed prior to July 1, 2026. **The law is effective July 1, 2026.**

Paid Sick Leave

[HB5 \(Convirs-Fowler\)](#)/ [SB199 \(Favola\)](#)/ [SB 372 \(Caroll Foy\)](#) expands provisions of the Code that currently require one hour of paid sick leave for every 30 hours worked for home health workers to cover all employees of private employers and state and local governments. All employees accrue a minimum of 1 hour of paid sick leave for every 30 hours worked and salaried employees will be assumed to work 40 hours each workweek for purposes of accrual. The legislation allows employers to provide a more generous paid sick leave policy than prescribed by its provisions and specifies that employees, in addition to using paid sick leave for their physical or mental illness or to care for a family member, may use paid sick leave to seek or obtain certain services or to relocate or secure an existing home due to domestic abuse, sexual assault, or stalking. The legislation provides that certain health care workers who work no more than 30 hours per month may waive the right to accrue and use paid sick leave. The legislation also provides that employers are not required to provide paid sick leave to certain health care workers who are employed on a pro re nata, or as-needed, basis, regardless of the number of hours worked. The legislation authorizes the Commissioner, in the case of a knowing violation, to subject an employer to a civil penalty not to exceed \$150 for the first violation, \$300 for the second violation, and \$500 for each successive violation. The Commissioner may also institute proceedings on behalf of an employee to enforce compliance with the provisions of this legislation. Additionally, the legislation authorizes an aggrieved employee to bring a civil action against the employer in which he may recover double the amount of any unpaid sick leave and the amount of any actual damages suffered as the result of the employer's violation. SB 372 was incorporated into SB 199. **The legislation has a delayed effective date of July 1, 2027, and requires the Commissioner to promulgate regulations regarding employee notification and employer recordkeeping requirements.**

Paid Family and Medical Leave Insurance Program

HB1207 (Sewell)/ SB2 (Boysko) requires the Virginia Employment Commission to establish and administer a paid family and medical leave insurance program with benefits **beginning January 1, 2029**. Under the program, benefits are paid to covered individuals, as defined in the legislation, for family and medical leave. Funding for the program is provided through premiums assessed to employers and employees **beginning July 1, 2028**. The legislation provides that the amount of a benefit is 80 percent of the employee's average weekly wage, not to exceed 100 percent of the statewide average weekly wage, which amount is required to be adjusted annually to reflect changes in the statewide average weekly wage. The legislation caps the duration of paid leave at 12 weeks in any application year and provides self-employed individuals the option of participating in the program. The legislation also establishes that employers may apply to the Commission for approval to meet their obligations under the law through a private plan where certain conditions are met.

Prohibition on Wage and Salary History; Posting of Wage Range

SB215 (Boysko)/ HB636 (Maldonado) prohibits a prospective employer from (i) seeking the wage or salary history of a prospective employee; (ii) relying on the wage or salary history of a prospective employee in considering the prospective employee for employment; (iii) relying on the wage or salary history of a prospective employee in determining the wages or salary the prospective employee is to be paid upon hire; (iv) refusing to interview, hire, employ, or promote or otherwise retaliating against a prospective or current employee for not providing wage or salary history or requesting a wage or salary range; (v) failing or refusing to disclose in each public and internal posting for each job, promotion, transfer, or other employment opportunity the wage, salary, or wage or salary range; and (vi) failing to set a wage or salary range in good faith. The legislation allows employers a 15-day period to remedy any violation after receiving notice, before an employee may initiate legal action. The legislation establishes a cause of action for an aggrieved prospective employee or employee and provides that an employer that violates such prohibitions may be subject to a civil penalty of up to \$1,000 for a first violation or up to \$5,000 for a subsequent violation. **The law is effective July 1, 2026.**

Minimum Wage

SB1 (Lucas)/HB1 (Ward) increases the minimum wage incrementally to \$15.00 per hour by January 1, 2028. The legislation codifies the adjusted state hourly minimum wage of \$12.77 per hour that is effective January 1, 2026, and increases the minimum wage to \$13.75 per hour **effective January 1, 2027**, and to \$15.00 per hour **effective January 1, 2028**. **Effective January 1, 2029, and annually thereafter**, the legislation requires the minimum wage to be adjusted to reflect increases in the consumer price index.

Virginia Human Rights Act

Definition of Employer; Statute of Limitations

SB637 (Ebbin) changes the definition of "employer" for purposes of nondiscrimination in employment to include a person employing (i) five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, or (ii) one or more domestic workers. The legislation also extends the statute of limitations to file a complaint with the Office of Civil Rights of the Department of Law from 300 days to two years. **The law is effective July 1, 2026.**

Unlawful Discriminatory Practices, Civil Actions, Statute of Limitations

HB925 (Lopez) provides that a complaint alleging discrimination in employment in violation of the Virginia Human Rights Act shall be filed no later than two years from the day upon which the alleged discriminatory practice occurred. Under current law, the filing requirement is no later than 300 days. The legislation further provides that if 180 days have passed since a complaint was filed in a local human rights commission, an aggrieved person may commence a timely civil action in an appropriate general district or circuit court. Under current law, such allowance is limited to filings in the Office of Civil Rights of the Department of Law. **The law is effective July 1, 2026.**

Litigation; Appeal Bonds

HB1111 (Hernandez) increases the cap currently in place for suspension bonds and irrevocable letters of credit for appellants during the pendency of an appeal of a civil action from \$25 million to \$50 million, regardless of the value of the judgment. The legislation also requires, beginning April 1, 2031, and at each five-year interval ending on April 1 thereafter, this monetary cap to be adjusted to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor. **This legislation is effective July 1, 2026.**

Volunteer Emergency Responders

SB100 (Stanley) prohibits an employer from discharging, disciplining, threatening, discriminating against, or penalizing an employee or taking other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges of employment solely because the employee fails to report for work because such employee is serving as a voluntary emergency responder and is actively responding to an emergency alarm or during a state of emergency, provided that certain requirements are met. The legislation provides that no employer shall be required to pay an employee for work time missed while serving as a voluntary emergency responder but permits such employee to use paid sick leave or other paid leave instead of unpaid time off if such employee has accrued such leave. The legislation permits a person who alleges a violation of its provisions to bring a civil action seeking injunctive relief, reinstatement, and compensation for lost wages, benefits, and other remuneration. **This legislation is effective July 1, 2026.**

Wage Violations

HB 238 (Lopez) expands Virginia law to allow employees to bring civil actions for a broader range of wage violations, including minimum wage, overtime, and misclassification, not just unpaid wages. It requires courts to award back wages, interest, and reasonable attorney's fees, and generally provides for double damages, with triple damages available for knowing violations. The legislation also authorizes the Attorney General to investigate and pursue civil enforcement actions, including seeking injunctions and monetary relief on behalf of workers. An employee cannot be awarded an amount already recovered on their behalf by the Attorney General or the Commissioner for the same violation. There is a good faith defense, which allows employers to show that the act or omission giving rise to such action was in good faith and that the employer had reasonable grounds for believing that his act or omission was not in violation of this article. If the employer establishes this defense, neither the court nor the Commissioner may award additional damages or impose further penalties. However, an employer may only assert the good faith defense if the violation is cured within 14 days of notice by paying all unlawfully withheld wages. **This legislation is effective July 1, 2026.**

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