



The 2026 Virginia Employment Law Update

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AGENDA

2026 VA
Legislative
Update

2025 VA law
refresher

Federal
agency update



2026 Virginia Legislative Update

Legislative Deadlines

- » General session January 14 to March 14, 2026
- » Governor action deadline was April 13, 2026
- » Reconvened session on April 22, 2026
- » Deadline for Governor to sign/veto remaining legislation is May 23, 2026

New employment laws

Minimum
wage

Wage
transparency

Virginia
Human Rights
Act

First
Responder
Protection

Wage & Hour

Paid Sick Leave

Paid Family
Medical Leave

Child Labor

Minimum Wage (HB1/SB1)

- » 2026 minimum wage: \$12.77
- » January 1, 2027: minimum wage → \$13.75
- » January 1, 2028: minimum wage → \$15.00
- » January 1, 2029: minimum wage to increase annually based on consumer price index
- » Eliminates the agricultural worker exemption

Wage Transparency (SB215 / HB636)

- » Effective July 1, 2026
- » Prohibits prospective employer from:
 - » Seeking wage or salary history from applicant
 - » Relying on wage or salary history of applicant in making a hiring decision
 - » Relying on wage or salary history of applicant to determine pay
 - » Retaliating against an employee/applicant for refusing to provide wage or salary history
 - » Failing to disclose a good-faith salary range in public or internal job posting
 - » 15-day notice and cure period
- » Establishes a private cause of action and statutory damages (\$1,000 to \$10,000) plus attorneys' fees and equitable relief

Virginia Human Rights Act (SB100)

- » Effective July 1, 2026
- » Expands the definition of “employer”
 - » Some claims only apply to employers with 15 or more employees, now VHRA covers to employers with 5 or more employees
- » Expands the statute of limitations to file administrative charge from 300 days to 2 years.
- » SB258 – Includes “menopause or perimenopause” as a protected category
- » SB790 – Requires health insurers to cover “medically necessary” treatments related to menopause and perimenopause.

First Responder Protection (SB100)

- » Effective July 1, 2026
- » Create new Virginia Code Sec. 40.1-27.5
- » Prohibits employers from retaliating against volunteer firefighters, EMS, or other recognized emergency responder
- » Employers are not required to pay employees for missed time
- » Exception for essential employees
- » Creates a private cause of action with damages plus attorneys' fees

Paid Family Medical Leave (SB2 / HB1207)

- » Statewide program, funded by new payroll tax
- » Tax paid 50/50 by employers and employees (small business exemption)
- » Administered by the Virginia Employment Commission
- » Payroll contributions begin April 1, 2028
- » Benefits available beginning December 1, 2028

Paid Family Medical Leave cont'd

» Covers

- » Caring for a new child (birth, adoption, foster care)
- » Serious health condition
- » Caring for family member with serious health condition
- » Military duty
- » Domestic violence / stalking

» Benefits

- » 12 weeks of paid leave (approximately 80% of pay, not to exceed 100% of Virginia Average Weekly Wage)

Paid Family Medical Leave cont'd

» Employer responsibilities:

- » Coordinate payroll withholdings
- » Provide required employee notices
- » Process employee leave requests

Paid Sick Leave (HB 5)

- » Would take effect July 1 each year, phased in
 - » 50 or more employees – 2027
 - » 25 or more employees – 2028
 - » All employers - 2029
- » Requires employers to provide 1 hour of paid sick leave for every 30 hours worked, up to 40 hours per year
- » Employers can front load 40 hours of accrual
- » Carries over from year-to-year, no payout required upon termination

Wage & Hour (HB238)

- » Effective July 1, 2026
- » Amends several Virginia wage & hour laws
- » Increases remedies available for misclassification (triple damages)
- » Increases remedies available for minimum wage violations (triple damages)
- » Expands the definition of “wages” (bonuses, commissions)
- » Creates new powers of OAG investigating wage complaints
- » Expands statute of limitations and damages on overtime claims

Heat Illness Protections (HB1092 / SB288)

- » Mandates Virginia's Safety and Health Codes Board create new heat illness standards by May 1, 2028
- » Standards must include:
 - » Requirement to provide employees water, rest, shade or cool environments, and acclimatization protocols and training
 - » Heat procedures for workplaces above a certain temperature
 - » Emergency response procedures

Introduced but not passed

- » Workplace violence program for larger employers
- » Expansion of the Virginia Whistleblower Protection Act
- » Providing notice of EEOC statute of limitations to employees for certain laws
- » Repeal of “right-to-work”
- » Collective action for minimum wage violation
- » Prohibition on retaliation based on immigration status (or coercion with threats of deportation)

Child Labor (SB 10 / HB 275)

» Effective July 1, 2026

- » Prohibits employing minors in positions deemed hazardous by VDOLI or DOL
- » Sets prohibitions based on age and industry (for instance no employment of children less than 14 in restaurants or hotel/motel food departments).
- » New requirements for hiring minors in apprenticeship programs



2025 Virginia law refresher

Reminder of other Virginia changes

- » Expanded non-compete restriction
- » “Ethnic origin” is a protected class to include in employee handbooks
- » Organ donation leave policy may be required
- » Vicarious liability for sexual assault by employees
- » Virginia Organ Donation Leave
- » RetirePath VA
- » VA minimum wage increased to \$12.77 January 1, 2026



Federal Agency Priorities

Department of Labor

- » [No longer seeking liquidated damages](#) in administrative proceedings (legal opinion)
- » Pausing 5th Circuit appeal of salary threshold (directing enforcement priorities)
 - » Minimum to remain at \$35,308
- » New independent contractor rule:
 - » Back to economic realities test: Control, opportunity for profit or loss, skill required, permanence, and whether work is integral to business
- » Reduced enforcement budget and resources

Occupational Safety and Health Administration

- » Reduced penalties for certain employers

- » Lower penalty previously applied to 10-employee companies, now 25-employee companies

- » Increased discretion not to penalize

- » 20% penalty reduction for first time offenders or those investigated in past 5 years with no violation found

- » Reduced enforcement budget and resources

Equal Employment Opportunity Commission

- » Focus on reverse discrimination, elimination of DEI and affirmative action programs
- » Defending the binary reality of sex, including women's rights to single-sex spaces at work
- » Protecting workers from religious bias
- » Protecting Americans from national origin discrimination
- » New EEOC guidance on [DEI discrimination](#)

QUESTIONS?

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