State & Local Compliance Update
USI EMPLOYEE BENEFITS

June 23, 2026

Virginia Enacts Paid Sick Leave Law

On May 20, 2026, Virginia enacted legislation[1] establishing a statewide paid sick leave ("PSL") program covering nearly all employees in Virginia.[2] Beginning as early as **July 1, 2027**, covered employers must provide covered employees with paid sick leave that accrues based on hours worked and may be used for specified health and safety-related reasons. The Virginia Department of Labor and Industry (the "Department") is responsible for issuing PSL regulations by July 1, 2027, and enforcing the PSL law.

COVERED EMPLOYERS

Virginia's PSL law generally applies to all Virginia employers (public or private), including the Commonwealth of Virginia itself, as well as its agencies, institutions, and political subdivisions.

Covered employers must provide PSL to covered employees beginning on the following phased effective dates based on workforce size:

- **Beginning July 1, 2027:** Employers with 50 or more employees;
- **Beginning January 1, 2028:** Employers with 25 or more employees; and
- **Beginning January 1, 2029:** Employers with at least 1 employee.

It is currently unclear whether the above employer size thresholds are based on total employee headcount across the United States or Virginia-based employees only.

COVERED EMPLOYEES

Virginia's PSL law generally applies to all employees in Virginia employed by a covered employer, except for home health workers[3] and certain other categories of health care workers.[4]

[1] A copy of the legislation's text can be found at: https://lis.virginia.gov/bill-details/20261/SB199/text/CHAP1129.
[2] The law significantly expands PSL coverage in Virginia, which was previously required only for home health workers.
[3] Home health workers are subject to separate Virginia PSL requirements. For additional details, please see USI's Compliance Update, Home Health Workers to Receive Paid Sick Leave in Virginia (July 27, 2021).
[4] Specifically, health care workers who work either on an as-needed basis or for no more than 30 hours per week on average and: (1) are licensed, registered, or certified by a health regulatory board within the Virginia Department of Health

Additionally, employees covered by the Longshore and Harbor Workers' Compensation Act and subject to a collective bargaining agreement in effect on July 1, 2027, are exempt from Virginia PSL requirements until the earlier of: (i) the collective bargaining agreement's expiration, or (ii) December 31, 2030.

ACCRUAL AND CARRYOVER OF PSL

Upon hire, covered employees begin accruing (and may use) a minimum of 1 hour of PSL for every 30 hours worked.[5] Any accrued but unused PSL must carry over to the following year. However, employees generally cannot accrue or use more than 40 hours of PSL per year (though employers may choose to offer a higher cap).

Covered employers may choose to avoid the carryover requirement by granting the full 40 hours of PSL to eligible employees at the beginning of the year (i.e., frontloading).

INTERACTION WITH EXISTING LEAVE POLICIES

Covered employers are not required to provide additional PSL to the extent they:

- Maintain a paid time off or other paid leave policy that either meets or exceeds PSL requirements and may be used for the same purposes and under the same conditions; or
- Are party to a bona fide collective bargaining agreement requiring the employer to provide an amount of paid leave to covered employees that either meets or exceeds PSL requirements and may be used for the same purposes and under the same conditions.

PERMITTED USES OF PSL

Covered employees may use PSL for:

- Their own or a family member's[6] mental or physical illness, injury, or health condition (including seeking diagnosis, care, treatment, or preventive care); or
- Absences for services related to domestic violence, sexual assault, or stalking.

ADMINISTRATION OF PSL

The law establishes several operational requirements for the use of PSL, including that:

- Covered employers must provide PSL upon an eligible employee's request.

Professions; or (2) are employed by the University of Virginia Medical Center, Virginia Commonwealth University Health System Authority, or a facility licensed by the Virginia Department of Health. Health care workers who work on an as-needed basis and are employed by any agency licensed by the Virginia Department of Behavioral Health and Developmental Services are also exempt from Virginia PSL requirements.

[5] Employees who are exempt from the Fair Labor Standards Act are assumed to work 40 hours per week for Virginia PSL accrual purposes, unless their normal work week is shorter. Additionally, employees who are employed and compensated on a fee-for-service basis shall accrue paid sick leave in accordance with forthcoming regulations, to be issued by the Department by July 1, 2027.

[6] "Family member" is broadly defined to include: (1) children (biological, adopted, foster, stepchild, legal ward, or child to whom the employee stands in loco parentis), regardless of age; (2) parents (biological, adopted, foster, stepparent, adoptive, legal guardian, or an individual who stands in loco parentis); (3) spouses or domestic partners; (4) grandparents, grandchildren, or siblings (biological, foster, adoptive, or step) of an employee or the employee's spouse or domestic partner; (5) individuals for whom the employee provides or arranges health or safety-related care; and (6) any other individual related by blood or affinity whose close association with an employee is the equivalent of a family relationship.

- When the need to use PSL is foreseeable, eligible employees must:
  - (i) Make a good-faith effort to provide advance notice to the employer of the need to use PSL, and
  - (ii) Make a reasonable effort to schedule their use of PSL in a manner that does not unduly disrupt the employer's operations.
- Eligible employees must take PSL in hourly increments, unless the employer allows smaller increments.

Covered employers may require reasonable documentation for PSL absences lasting 3 or more consecutive work days. However, the law is restrictive regarding this required documentation, and what constitutes "reasonable documentation" depends on the reason for the PSL. Documentation signed by a health care professional indicating that PSL is necessary (e.g., a doctor's note) is considered "reasonable" for PSL related to the employee's or a family member's health. Separately, a police report, court order, other legal documentation, or an employee's written statement is considered "reasonable" for safety-related PSL.

The law does not require payout of unused PSL upon termination, resignation, or other separation from employment. However, if an employee separates from employment and the same employer then rehires that employee within 12 months of the separation, the employer generally must reinstate any previously accrued but unused PSL for that employee, unless the employer previously paid out that PSL at separation.

EMPLOYER RESTRICTIONS AND ANTI-RETALIATION PROTECTIONS

The law prohibits covered employers from:

- Requiring employees to find a replacement worker during periods of PSL;
- Requiring employees to work alternate shifts to make up for the use of PSL; and
- Requiring employees to disclose details of health information, domestic violence, sexual assault, or stalking as a condition of using PSL.

Additionally, the law contains anti-retaliation rules prohibiting employers from interfering with, restraining, or denying eligible employees' rights to use PSL and from taking adverse employment actions based on PSL use.

NOTICE, RECORDKEEPING, AND CONFIDENTIALITY REQUIREMENTS

Covered employers that require eligible employees to provide advance notice of the need to use PSL must provide employees with a written policy, including procedures describing how employees must provide notice.

The law also directs the Department to issue forthcoming regulations, which will require covered employers to:

- Notify employees of PSL rights, both through written notice and workplace postings, including their right to file a complaint or bring a civil action alleging violations of the law;
- Maintain records of PSL accrual and usage for at least 3 years; and

- Ensure the confidentiality of any protected health information or information regarding domestic violence, sexual assault, or stalking that the employer possesses about an employee or an employee's family member.

ENFORCEMENT AND PENALTIES

The statute authorizes the Department to:

- Investigate complaints;
- Enter covered employers' premises, including to review records;
- Issue subpoenas;
- Issue notices of violation and require corrective action; and
- Impose civil penalties of up to:
  - $150 for a first violation;
  - $300 for a second violation within two years; and
  - $500 for subsequent violations within two years.

The Commissioner of the Department or the Attorney General of Virginia may also commence administrative proceedings or bring civil actions against covered employers to enforce the PSL law.

Covered employees also have a private right of action under which they may bring a civil action against employers for alleged violations of the PSL law within two years from the date of the alleged violation or the date the employee knew or should have known of the violation. Potential remedies available under this private right of action include:

- Payment of twice the amount of any uncompensated sick leave or actual damages suffered;
- Injunctive relief;
- Compensation for any lost wages, benefits, other remuneration, interest, and reasonable attorney fees and costs;
- Reinstatement of the employee to the same or an equivalent position (in the case of retaliatory actions); and
- Other legal or equitable relief as appropriate

EMPLOYER NEXT STEPS

The Department will provide further details about Virginia's PSL program through regulations and other administrative guidance in the coming months as implementation is finalized.

In the meantime, covered employers should begin to:

- Determine when they will become subject to the law based on their workforce size; and
- Create processes to track hours worked, leave accrual, and usage.

Covered employers may also want to begin reviewing their existing paid time off and/or sick leave policies and employee handbooks to determine whether updates are necessary and whether there is any potential overlap with Virginia's PSL requirements. This may be especially important for multi-state employers that have attempted to create uniform leave policies to satisfy the different leave laws across these jurisdictions.

RESOURCES

- A copy of the statute can be found at: https://lis.virginia.gov/bill-details/20261/SB199/text/CHAP1129

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