

Virginia Is Changing the Rules:

What Every Employer Needs to Know About Virginia's 2026–2028 Employment Law Updates

May 26, 2026

The Virginia General Assembly's 2026 legislative session produced a wave of new employment laws affecting **noncompete agreements, pay transparency, paid sick leave, and a new state paid family and medical leave program**. This advisory translates each law into action items and provides a prioritized compliance timeline.

⚡ ACTION REQUIRED: July 1, 2026 Deadline

Three laws — noncompete/severance, health care noncompetes, and pay transparency — take effect July 1, 2026. Employers need to update agreements, job postings, and hiring practices before this deadline to avoid potential legal exposure. See the Compliance Timeline below.

1. "Can an employer enforce its noncompete if it fires employee without offering severance?"

New Rule: No Severance in New Agreements = No Enforceable Noncompete

Effective **July 1, 2026**, Virginia law voids any new noncompete agreement where an employer terminates an employee **without cause and without providing severance or other monetary payment**. Va. Code § 40.1-28.7:8(C), enacted by 2026 Va. Acts ch. 883 (S.B. 170).^[1] Key

requirements:

- Employers must disclose the severance obligation at the time the noncompete is signed — not after the fact.^[2]
- If the employee is discharged without cause and no severance is paid, the noncompete is void as a matter of law.
- Any employer violating the statute faces a \$10,000 civil penalty per violation.^[3]
- Any employee (not just low-wage workers) may now bring a civil action for violations.^[4]
- The law does not invalidate or impact contracts entered, amended, or renewed before July 1, 2026.^[5]

☑ Employer Action Items

- Add a clear severance and disclosure provisions to every agreement with noncompetition restrictions signed, amended, or renewed on or after July 1, 2026.

- Until all employment agreements transition to a uniform template, carefully evaluate requirements when terminating any employee covered by a noncompete without cause.
- Evaluate whether the employer's overall approach to noncompetes, non-solicitation, non-disclosure and solicitation requirements remains strategically appropriate.

2. "Can we still use noncompetes with physicians, nurses, therapists, and other licensed providers?"

New Rule: Noncompetes Will Be Prohibited for Licensed Health Care Professionals

Also effective **July 1, 2026**, employers are prohibited from entering into, enforcing, or threatening to enforce a noncompete with any **"health care professional"** — meaning any person licensed, registered, or certified by the Board of Medicine, Nursing, Counseling, Optometry, Psychology, or Social Work. Va. Code § 40.1-28.7:8(A)–(B), enacted by 2026 Va. Acts ch. 1114 (S.B. 128).^[6]

Note: covenants not to compete covering dentists, veterinarians, and practitioners subject to regulatory bars other than those listed are not impacted by these 2026 updates to the statute.

Critical nuances for health care employers:

- The prohibition is immediate for all new agreements as of July 1, 2026. Existing agreements entered or renewed before that date remain enforceable to the extent they comply with Virginia law and are not invalidated.^[7]
- Non-solicitation provisions (narrowly restricting a departing professional from soliciting the employer's existing patients) remain valid but are strictly construed.^[8]
- Non-disclosure and trade secret protection clauses are expressly preserved.^[9]
- Promissory note / repayment provisions for recruitment costs — including relocation, signing bonuses, and training expenses — remain fully enforceable for professionals employed fewer than five years.^[10]
- A sale-of-business exception allows noncompetes when a health care professional sells all or substantially all of the practice or business entity, provided the restriction is reasonable in scope, duration, and geography.^[11]
- Violations carry a \$10,000 civil penalty per violation plus attorneys' fees and lost compensation.^[12]

Healthcare Employer Action Items

- Audit all employment agreements with licensed health care professionals and remove noncompete clauses from templates used on or after July 1, 2026.
- Non-solicitation clauses may continue to be used and often are valuable, but they should be reviewed to ensure they are narrowly drawn.
- Non-disclosure and trade secret provisions remain valid — confirm they are in place where needed.
- Consult counsel before attempting to enforce any existing noncompete against a licensed professional.

3. "Does Virginia now require salary ranges in every job posting?"

New Rule: Pay Transparency and Wage History Restrictions

Effective **July 1, 2026**, Virginia's Pay Transparency statute (Va. Code § 40.1-28.7:12, enacted by 2026 Va. Acts ch. 1063 (H.B. 636)) prohibits employers from seeking an applicant's wage or salary history and requires that every job posting include a pay range.^[13] Employers may not:

- Ask about or rely on a prospective employee's wage or salary history in hiring or compensation decisions.
- Refuse to interview, hire, or promote — or retaliate against — any applicant who declines to provide wage history or who requests a posted pay range.
- Post a job (internal or external) without disclosing a wage, salary, or wage/salary range for the position.^[14]
- Set a pay range that is not established in good faith. Excessively broad ranges will be scrutinized.^[15]

If an applicant **voluntarily** discloses wage history without prompting, the employer may use it only to justify a **higher** offer — never a lower one — and only where consistent with equal pay obligations.

Enforcement: The Virginia Attorney General may bring civil actions seeking penalties of up to **\$1,000 (first violation)** and **\$5,000 (subsequent violations)**. Employees have a private right of action within one year. Employers receive a 15-business-day cure window for posting violations upon written notice.^[16]

Employer Action Items

- Revise all job posting templates — internal and external — to include a pay range before July 1, 2026.
- Remove wage/salary history questions from all applications, intake forms, and interviewer scripts.
- Provide targeted training for HR staff and hiring managers.
- Ensure pay ranges are set in good faith and documented to withstand scrutiny.

4. "Is Virginia requiring paid sick leave for all employees?"

New Rule: Statewide Paid Sick Leave — Phased Rollout Starting July 1, 2027

Virginia has enacted a comprehensive paid sick leave law (Va. Code §§ 40.1-33.6:1 – 40.1-33.6:7, 2026 Va. Acts ch. 1129 (S.B. 199)), **operative July 1, 2027 for employers with 50 or more employees**, expanding to all employers by January 1, 2029.^[17] Key provisions:

- Accrual: 1 hour of paid sick leave per 30 hours worked, up to 40 hours per year. Unused leave carries over; an employer may set a higher cap.^[18]
- Permitted uses: Employee's own illness or medical care; care for a covered family member (broadly defined); absences related to domestic violence, sexual assault, or stalking.
- Existing PTO policies that meet the law's requirements satisfy the obligation — no additional leave is required.^[19]
- Employers may not require employees to find a replacement worker or work an alternate shift in exchange for sick leave.
- Retaliation is prohibited; employees may bring private claims for twice the uncompensated leave amount plus attorneys' fees.^[20]

Note: Per diem / PRN health care workers and employees covered by qualifying collective bargaining agreements are exempt.

Employer Action Items (Prepare Now for 2027)

- Audit current PTO/sick leave policies against the new statutory minimums.
- Design or update leave accrual tracking systems and policy coverage if desired.
- Monitor the Commissioner of Labor and Industry's regulations, due by July 1, 2027.
- Post required employee notices once VEC/Department guidance is issued.

5. "Has Virginia enacted a paid family and medical leave law?"

Yes — Virginia's Paid Family and Medical Leave Program Launches in 2028

On **April 22, 2026**, Virginia enacted legislation establishing a statewide **Paid Family and Medical Leave (PFML) insurance program**, administered by the Virginia Employment Commission (VEC). The program will begin collecting payroll contributions on **April 1, 2028** and will begin paying benefits on **December 1, 2028**.

What Benefits Will the Program Provide?

Beginning December 1, 2028, covered individuals may apply for PFML benefits for:

- Birth, adoption, or foster placement — including care for a new child during the first year;
- Caring for a family member with a serious health condition;
- The employee's own serious health condition that prevents them from performing job functions;
- Care for a covered service member who is a family member or next of kin;
- Qualifying military exigency leave; or
- Seeking safety services for domestic violence, sexual assault, or stalking.

Benefits provide **wage replacement of up to 80% of the employee's average weekly wage**, capped at 100% of the statewide average weekly wage, for a maximum of **12 weeks per benefit year**. A minimum weekly benefit of \$100 applies. Leave taken for safety services is capped at four weeks.

Leave may be taken continuously, intermittently, or on a reduced schedule.

Who Is Covered?

"Covered individuals" is defined broadly to include all employees eligible for Virginia unemployment benefits, as well as **self-employed individuals who opt in**. Employees must have been employed by their current employer for at least **120 days** to be entitled to job protection at the conclusion of leave.

How Is the Program Funded?

Contributions will be set by the VEC **no later than October 1, 2027**. The General Assembly's fiscal analysis estimated a contribution rate of approximately **0.72% of wages**. Both employers and employees contribute:

- Employers with 11 or more employees must collect and remit both the employer and employee shares. Employees contribute up to 50% of the per-employee rate.
- Employers with 10 or fewer employees must collect and remit only the employee share (up to 50%); no additional employer contribution is required.
- Payroll deductions may not reduce wages below the applicable minimum wage.

Employers may seek VEC approval for a **private plan** providing equivalent or greater benefits, with reapproval required every two years.

Employment Protections and Enforcement

The law provides strong employee protections:

- Employees are entitled to restoration to the same or an equivalent position following leave, provided they meet the 120-day tenure threshold.
- Employer-provided health care benefits must continue during PFML leave on the same terms, provided the employee continues paying their share.
- Employers may not interfere with, restrain, or deny rights under the law, and may not retaliate or count PFML leave as an attendance violation.

Remedies for violations include lost wages and benefits, liquidated damages equal to the amount of lost compensation (unless the employer establishes good faith), equitable relief including reinstatement, and attorneys' fees. The statute of limitations is one year for most claims and three years for willful violations.

Leave Coordination

- PFML leave runs concurrently with FMLA leave and any other leave provided under a collective bargaining agreement or employer policy. Employers will need to review and align existing leave policies to ensure proper coordination, including any existing PTO, parental leave, and disability leave.

Employer Action Items (Plan Ahead for 2028)

- Watch for VEC contribution rates (due by October 1, 2027) and claims/notice regulations.
- Assess how existing parental leave, PTO, disability, and FMLA policies will coordinate with PFML.
- Evaluate the private plan option versus participation in the state program.
- Build internal processes, forms, and training for handling PFML requests.
- Post VEC-issued workplace notices once available.

Employer Compliance Timeline: Prioritized Action Plan

Effective Date	Required Employer Action
⚡ URGENT July 1, 2026	Noncompete + Severance: Audit existing noncompetes; add severance and disclosure provisions to new agreements; consult counsel before any no-cause termination without severance.
⚡ URGENT July 1, 2026	Health Care Noncompetes: Remove noncompete clauses from all new health care professional agreements; track renewal dates and amendments and review enforcement posture for existing agreements as permitted by law.
⚡ URGENT July 1, 2026	Pay Transparency: Add pay ranges to all job postings (internal and external); remove wage history questions from applications and interview guides; train HR and hiring managers on new requirements.
Oct. 1, 2027	PFML Contribution Rates: VEC must publish initial contribution rates. Begin modeling payroll impact and evaluating private plan option.
July 1, 2027 (50+ employees)	Paid Sick Leave: Launch accrual/tracking systems; update leave policies; post required employee notices; review compliance with Commissioner regulations.
April 1, 2028	PFML Contributions Begin: Begin payroll deductions and remittances to VEC (or begin operating approved private plan).
Jan. 1, 2028 (25–49 employees)	Paid Sick Leave: Coverage extends to mid-size employers.

Dec. 1, 2028

PFML Benefits Begin: Employees may file leave claims. Ensure notice, job-protection, and health-benefit continuation processes are operational.

Jan. 1, 2029 (All employers)

Paid Sick Leave: All employers with at least one employee become covered.

References

- [1] Va. Code § 40.1-28.7:8(C), enacted by 2026 Va. Acts ch. 883 (S.B. 170), eff. July 1, 2026.
- [2] 2026 Va. Acts ch. 883, § 2 (savings clause for contracts entered/renewed before July 1, 2026).
- [3] Va. Code § 40.1-28.7:8(F), as amended by 2026 Va. Acts ch. 883.
- [4] Va. Code § 40.1-28.7:8(E), as amended by 2026 Va. Acts ch. 883.
- [5] 2026 Va. Acts ch. 883, § 2.
- [6] Va. Code § 40.1-28.7:8(A)–(B), enacted by 2026 Va. Acts ch. 1114 (S.B. 128), eff. July 1, 2026.
- [7] 2026 Va. Acts ch. 1114, § 2 (savings clause for contracts entered or renewed prior to July 1, 2026).
- [8] Va. Code § 40.1-28.7:8(H)(2), as amended by 2026 Va. Acts ch. 1114.
- [9] Va. Code § 40.1-28.7:8(G)(1), as amended by 2026 Va. Acts ch. 1114.
- [10] Va. Code § 40.1-28.7:8(H)(1), as amended by 2026 Va. Acts ch. 1114.
- [11] Va. Code § 40.1-28.7:8(G)(2), as amended by 2026 Va. Acts ch. 1114.
- [12] Va. Code § 40.1-28.7:8(E)–(F), as amended by 2026 Va. Acts ch. 1114.
- [13] Va. Code § 40.1-28.7:12, enacted by 2026 Va. Acts ch. 1063 (H.B. 636), eff. July 1, 2026.
- [14] Va. Code § 40.1-28.7:12(B)(5).
- [15] Va. Code § 40.1-28.7:12(B)(6).
- [16] Va. Code § 40.1-28.7:12(E)–(F).
- [17] Va. Code §§ 40.1-33.6:1 through 40.1-33.6:7, enacted by 2026 Va. Acts ch. 1129 (S.B. 199), operative July 1, 2027.
- [18] Va. Code § 40.1-33.6:2(A).
- [19] Va. Code § 40.1-33.6:2(E).
- [20] Va. Code §§ 40.1-33.6:6 and 40.1-33.6:7.
- [21] Virginia PFML Act, enacted April 22, 2026; VEC-administered program; contributions begin April 1, 2028; benefits begin December 1, 2028.

For questions about this advisory, please contact the [Hancock Daniel Employment Law Team](#) at (804) 967-9604 or visit hancockdaniel.com.

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