



2026 Virginia Employment Law Update: Key Legislative Changes and Employer Action Items

Context and Legislative Overview



Overview of the 2026 Virginia Employment Law Landscape

Comprehensive Employment Law Reforms

The 2026 session enacted broad reforms covering hiring, compensation, leave, and post-employment rules.

Expanded Employee Protections

New laws enhance employee rights with mandatory paid leave, anti-discrimination measures, and wage protections.

Enforcement and Compliance Risks

Stronger enforcement tools increase litigation risk, urging employers to act proactively on compliance.

Strategic Employer Planning

Employers must integrate new laws into policies and plan budgets for phased paid leave rollouts.



Wage and Hour Reforms



Minimum Wage Increases and Long-Term Cost Planning

Scheduled Wage Increases

Virginia's minimum wage will increase progressively to \$15.00 by 2028 with future hikes indexed to inflation.

Employer Challenges

Scheduled increases cause wage compression and pressure pay structures, impacting morale and retention.

Long-Term Financial Planning

Employers should integrate wage hikes into budgeting, especially in labor-intensive sectors with removed exemptions.

Proactive Compensation Strategies

Analyzing pay bands and transparent communication help employers manage compliance and workforce expectations.

A man in a dark suit, white shirt, and patterned tie is holding a stack of US dollar bills. He is looking down at the money. The background is a plain, light color.

Expanded Wage Enforcement and Litigation Exposure

Expanded Wage Definition

Bonuses, commissions, and incentives are now explicitly defined as wages, increasing employer liability for noncompliance.

Enhanced Litigation Rights

Employees can now bring lawsuits for wage violations with statutory damages and mandatory attorney fees, raising financial risks.

Employer Compliance Strategies

Employers should conduct wage audits, review pay policies, and train staff to reduce litigation risks and ensure compliance.

Why should you care?

Hiring Transparency and Compensation Practices



Pay Transparency Requirements in Job Postings

Legal Requirements

Virginia's 2026 law mandates wage ranges in all job postings, covering new roles and internal opportunities.

Good Faith Salary Ranges

Salary ranges must reflect actual pay scales or budgeted amounts, avoiding vague or hypothetical figures.

Enforcement and Compliance

Enforcement includes civil penalties and private actions; a notice-and-cure option allows brief correction period.

Organizational Impact

Employers must align compensation philosophies and prepare recruiters to discuss pay transparently and lawfully.



Salary History Bans and Recruiting Practice Changes

Restrictions on Salary History

Employers are banned from asking about past wages or using salary history in hiring decisions unless voluntarily disclosed under limited conditions.

Compliance and Training

Organizations must retrain recruiters and revise hiring materials to avoid prohibited salary history inquiries and ensure legal compliance.

Market-Based Compensation

Compensation decisions now focus on market and role factors, moving away from applicants' prior earnings to promote equity.

Employer Branding Benefits

Aligning recruitment with transparent pay strategies reduces legal risk and enhances employer brand in a competitive labor market.



Restrictive Covenants



Non-Compete Enforceability Now Tied to Severance/Cause

Linking Severance to Enforceability

Virginia's 2026 law voids non-competes if severance is not provided upon termination without cause.

Shift from Traditional Analysis

The new statute replaces reasonableness tests with a clear severance-based enforceability condition.

Employer Compliance and Risks

Employers must update contracts, reassess terminations, and consider alternatives to non-competes to mitigate risks.

Penalties and Employee Rights

Violations may result in \$10,000 fines and allow employees to pursue private legal actions.



Expanded Ban on Healthcare Non- Competes

Ban on Healthcare Non-Competes

The 2026 reforms prohibit non-compete agreements for licensed healthcare professionals to protect patient access and workforce mobility.

Impact on Employers

Healthcare employers must revise talent retention strategies and cannot rely on non-competes for protecting patient relationships.

Compliance and Risk Management

Organizations should review existing agreements and align HR and legal practices to avoid enforcement actions and reputational risks.

Expanded Anti- Discrimination Protections



Virginia Human Rights Act Expansion to Smaller Employers

Expanded Employer Coverage

The VHRA now applies to employers with five or more employees, increasing protection coverage significantly.

Extended Filing Deadline

Employees have up to two years to file claims under the VHRA, extending the previous 300-day limit.

Risk Mitigation and Enforcement

Proactive compliance helps reduce legal risks and fosters a positive workplace culture amid heightened enforcement.



Mandatory Paid Leave Frameworks



Statewide Paid Sick Leave Requirements

Accrual and Usage Rules

Employees accrue one hour of paid sick leave per 30 hours worked, capped at 40 hours annually for personal or family health needs.

Implementation and Planning

Employers must plan early for the phased rollout starting in 2027, integrating new leave policies into existing systems.

Compliance and Enforcement

The law includes enforcement via lawsuits and state investigations, highlighting the need for accurate recordkeeping and clear communication.

Multi-State Employer Considerations

Employers operating in multiple states should harmonize Virginia's sick leave rules with other state policies to minimize disruption.



Paid Family and Medical Leave Insurance Program

Program Overview and Eligibility

Virginia's PFML offers up to 12 weeks of paid leave for birth, adoption, health, caregiving, military, and safety needs.

Funding and Administration

The program is funded by payroll contributions from both employers and employees and is administered by the state commission.

Employer Preparation

Employers should budget contributions, update leave policies, and educate employees to ensure smooth PFML integration.



Arbitration



Arbitration Changes

Consumer Contracts

Changes how consumer arbitrations can be maintained by “high – volume arbitration service provider” (HVASP)– such as the AAA.

Arbitrator Selection

Seeks to force HVASPs to create an “acceptable impartial system” for arbitrator selection. The AAA’s current Consumer Rules would comply.

Payment of Arbitration Fees

Requires HVASPs to bill companies the whole cost of the arbitration and require payment of fees within 30 days of the commencement of arbitration. Otherwise, consumer can unilaterally withdraw from arbitration, file in court, and be able to recover damages, attorney’s fees, and “sanctions.”

Appeal Bond Caps Increased



Overdue Increase or a boon for plaintiff's lawyers?

Virginia House Bill 1111, enacted during the 2026 legislative session, increased the statutory cap for civil litigation appeal bonds and irrevocable letters of credit.

- **New Bond Cap:** The maximum monetary cap for suspension bonds and irrevocable letters of credit required to stay the collection of a civil judgment during an appeal was increased from \$25 million to **\$50 million**.
- **Inflation Adjustments:** Beginning April 1, 2031, and every five years thereafter, the \$50 million cap will be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers (CPI-U).
- **Criminal Appeals Exemptions:** The act also clarified that appeal, suspension, and injunction bonds or letters of credit are not required in criminal appeals as security for costs. [1]



Heat Illness Prevention



On April 13, 2026, Gov. Abigail Spanberger signed companion bills H.B. 1092 and S.B. 288, directing Virginia's Safety and Health Codes Board, in consultation with the Department of Labor and Industry, to develop heat regulations no later than May 1, 2028.

- These regulations will require employers to provide rest periods and access to drinking water and shade (or climate-controlled environments).
- The forthcoming rule will include provisions on acclimatization, training on heat illness prevention, emergency response, and “heat and high-heat procedures when the temperature equals or exceeds heat thresholds set by the board.”

Filling the void left by OSHA's still-uncompleted proposed heat standard

The law contain exceptions for when employees provide emergency services and when heat exposure lasts less than 15 consecutive minutes.

AI – The Rise of the Machines is Here



AI tools have quickly become widely accessible – not just to lawyers, but to employees and claimants.

- Lexis Nexis’s 2026 Employment Litigation Report found pro se plaintiffs more than doubled in federal employment cases between 2021 and 2025 – from 9.7% to 16.5% of federal complaints. Another survey reported a 49% surge last year (2025) of pro se plaintiffs.
- In 2025, there were 26,635 federal employment lawsuits – the highest numbers in a decade.

Questions?

Scan the QR code for updates and insights from Jackson Lewis attorneys, delivered straight to your inbox.

