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HOUSE BILL NO. 1016

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact §§ 51.1-1110 and 51.1-1155 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1210, relating to parental leave benefits.*

Patrons—Toscano and Levine

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-1110 and 51.1-1155 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1210 as follows:

§ 2.2-1210. Parental leave benefits.

A. *On and after July 1, 2018, the Department shall implement and administer a program for parental leave benefits, that shall consist of leave for biological and adoptive parents, for full-time state employees with one or more years of continuous employment with the Commonwealth who (i) are the biological parent of a child under one year of age or (ii) adopt a child under one year of age. Such employees shall be eligible to receive six weeks of parental leave, comparable to the amount of leave awarded for maternity leave under the Sickness and Disability Program pursuant to Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, as provided in subsection B to account for absence due to the care of a child, provided that the employee gives reasonable prior notice to his agency head of the intent to take parental leave. The eligibility of a biological parent to receive leave coverage shall expire on the day that a child reaches one year of age.*

B. *Parental leave coverage shall commence upon the expiration of a seven-day waiting period. Such waiting period shall commence for leave coverage for a biological parent on the day that a child is born and for adoption leave coverage on the day that the employee takes custody of a child. Parental leave coverage shall provide income replacement for a percentage of an eligible employee's creditable compensation for the remainder of the six-week period as specified in subdivisions 1 and 2.*

1. *Except as provided in subdivision 2:*

<i>Months of state service</i>	<i>Work days of 100% replacement of creditable compensation</i>	<i>Work days of 80% replacement of creditable compensation</i>
<i>Less than 60</i>	<i>5</i>	<i>20</i>
<i>60 or more</i>	<i>25</i>	<i>0</i>

2. *For eligible employees commencing employment or reemployment on or after July 1, 2009:*

<i>Months of state service</i>	<i>Work days of 100% replacement of creditable compensation</i>	<i>Work days of 60% replacement of creditable compensation</i>
<i>Less than 60</i>	<i>0</i>	<i>25</i>
<i>60 or more</i>	<i>25</i>	<i>0</i>

C. *Parental leave shall not be considered sick leave, short-term disability, long-term disability, or family and personal leave for the purposes of Chapter 11 (§ 51.1-1100 et seq.) or 11.1 (§ 51.1-1150 et seq.) of Title 51.1. If a state employee is eligible for both parental leave pursuant to this section and maternity leave pursuant to Chapter 11 or 11.1 of Title 51.1 for the same child, the first six weeks of the employee's leave shall be covered by the provisions of this section. Upon the expiration of parental leave, if the employee provides a notification to her employer from her physician that she is unable to return to work, she shall receive income replacement under short-term disability pursuant to Chapter 11 or 11.1 of Title 51.1, as applicable.*

D. *If the employee does not claim parental leave benefits within one year of the birth or adoption of a child, such benefits shall not accumulate for any subsequent use.*

E. *If two state employees are eligible for parental leave for the same child, only one such employee shall claim parental leave. If a state employee is eligible for parental leave pursuant to this section and another state employee is eligible for maternity leave under Chapter 11 (§ 51.1-1100 et seq.) or 11.1 (§ 51.1-1150 et seq.) of Title 51.1 for the same child, only one such employee shall claim paid leave under such programs.*

F. *The Department shall develop guidelines and policies for the implementation of parental leave benefits.*

INTRODUCED

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§ 51.1-1110. Short-term disability benefit.

A. Except as provided in subsection D of § 51.1-1103, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

B. Except as provided in subsections C, ~~and E~~, *and G* of this section and § 51.1-1131, short-term disability coverage shall provide income replacement for a percentage of a participating employee's creditable compensation during the period specified below that an employee is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, based on the number of months of state service as an eligible employee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
Less than 60	5	20	100
60 to 119	25	25	75
120 to 179	25	50	50
180 or more	25	75	25

C. For all eligible employees commencing employment or reemployment on or after July 1, 2009, except as provided in subsections B, ~~and E~~, *and G* of this section and § 51.1-1131, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous state service after employment or reemployment and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods that he is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, based on the number of months of continuous state service, as determined by the Board or its designee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
60 to 119	25	25	75
120 to 179	25	50	50
180 or more	25	75	25

D. Creditable compensation during periods an employee receives short-term disability benefits shall include general salary increases awarded during the period of short-term disability coverage.

E. An employee's disability credits may be used, on a day for day basis, to extend the period an employee receives short-term disability benefits paid at 100 percent of replacement of creditable compensation.

F. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave *except as provided in subsection G*, or (iv) periodic absences due to a major chronic condition as defined by the Board or its designee.

G. If an employee is eligible for both parental leave pursuant to § 2.2-1210 and maternity leave pursuant to this section for the same child, the first six weeks of the employee's leave shall be covered by the provisions of § 2.2-1210. Upon the expiration of parental leave, if the employee provides a notification to her employer from her physician that she is unable to return to work, the employee shall receive income replacement under short-term disability pursuant to this section. Such income replacement shall commence upon the expiration of a seven-calendar-day waiting period as provided in subsection A.

§ 51.1-1155. Short-term disability benefit.

A. Except as provided in subsection B of § 51.1-1153, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

B. Except as provided in *subsection E* and § 51.1-1171, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous service

attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

	Work Days of 100%	Work Days of 80%	Work Days of 60%
Months of	Replacement of	Replacement of	Replacement of
Continuous	Creditable	Creditable	Creditable
Service	Compensation	Compensation	Compensation
60-119	25	25	75
120-179	25	50	50
180 or more	25	75	25

C. Creditable compensation during periods an employee receives short-term disability benefits shall include salary increases awarded during the period covered by short-term disability benefits.

D. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave *except as provided in subsection E*, or (iv) periodic absences due to a major chronic condition as defined by the Board or its designee.

E. *If an employee is eligible for both parental leave pursuant to § 2.2-1210 and maternity leave pursuant to this section for the same child, the first six weeks of the employee's leave shall be covered by the provisions of § 2.2-1210. Upon the expiration of parental leave, if the employee provides a notification to her employer from her physician that she is unable to return to work, the employee shall receive income replacement under short-term disability pursuant to this section. Such income replacement shall commence upon the expiration of a seven-calendar-day waiting period as provided in subsection A.*

2. That the provisions of this act providing parental leave coverage shall apply only to an eligible state employee who takes custody of a child in the course of an adoption on or after January 1, 2018, or, for a biological parent, for a child born on or after January 1, 2018.