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HOUSE BILL NO. 2234

Offered January 9, 2019

Prefiled January 8, 2019

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.*

Patron—Robinson

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, 2019, the Department shall implement and administer parental leave benefits. The benefits shall consist of 12 weeks of paid leave and shall provide 100 percent income replacement of an eligible employee's creditable compensation, as defined in § 51.1-124.3.*

B. *An employee shall be eligible for parental leave benefits if he:*

1. *Is a full-time state employee with one or more years of continuous employment with the Commonwealth;*

2. *Gives reasonable prior notice to his agency head of his intent to claim parental leave benefits; and*

3. *Claims parental leave benefits within one year of the birth or adoption of a child.*

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 12 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.*

§ 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 |

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| 59 | 120 to 179 | 25 | 50 | 50 |
| 60 | 180 or more | 25 | 75 | 25 |

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

| | | | | |
|----|---------------|-------------------------|-------------------------|-------------------------|
| 69 | | Work days of 100% | Work days of 80% | Work days of 60% |
| 70 | Months of | replacement of | replacement of | replacement of |
| 71 | state service | creditable compensation | creditable compensation | creditable compensation |
| 72 | 60 to 119 | 25 | 25 | 75 |
| 73 | 120 to 179 | 25 | 50 | 50 |
| 74 | 180 or more | 25 | 75 | 25 |

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

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

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

83 *G. If an employee is eligible for both parental leave pursuant to § 2.2-1210 and maternity leave*
 84 *pursuant to this section for the same child, the first 12 weeks of the employee's leave shall be covered*
 85 *by the provisions of § 2.2-1210. Upon the expiration of parental leave, if the employee provides a*
 86 *notification to her employer from her physician that she is unable to return to work, the employee shall*
 87 *receive income replacement under short-term disability pursuant to this section. Such income*
 88 *replacement shall commence upon the expiration of a seven-calendar-day waiting period as provided in*
 89 *subsection A.*

90 **§ 51.1-1155. Short-term disability benefit.**

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

99 B. Except as provided in *subsection E of this section* and § 51.1-1171, short-term disability coverage
 100 shall provide income replacement for (i) 60 percent of a participating employee's creditable
 101 compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a
 102 participating employee's creditable compensation during the periods specified below, based on the
 103 number of months of continuous service attained by an employee who is disabled, on maternity leave, or
 104 takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as
 105 follows:

| | | | | |
|-----|-------------|-------------------|------------------|------------------|
| 106 | | Work Days of 100% | Work Days of 80% | Work Days of 60% |
| 107 | Months of | Replacement of | Replacement of | Replacement of |
| 108 | Continuous | Creditable | Creditable | Creditable |
| 109 | Service | Compensation | Compensation | Compensation |
| 110 | 60-119 | 25 | 25 | 75 |
| 111 | 120-179 | 25 | 50 | 50 |
| 112 | 180 or more | 25 | 75 | 25 |

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

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

118 *E. If an employee is eligible for both parental leave pursuant to § 2.2-1210 and maternity leave*
 119 *pursuant to this section for the same child, the first 12 weeks of the employee's leave shall be covered*
 120 *by the provisions of § 2.2-1210. Upon the expiration of parental leave, if the employee provides a*
 121 *notification to her employer from her physician that she is unable to return to work, the employee shall*

122 *receive income replacement under short-term disability pursuant to this section. Such income*
123 *replacement shall commence upon the expiration of a seven-calendar-day waiting period as provided in*
124 *subsection A.*
125 **2. That the provisions of this act providing parental leave benefits shall apply only to an eligible**
126 **state employee who takes custody of a child in the course of an adoption on or after January 1,**
127 **2019, or, for a biological parent, for a child born on or after January 1, 2019.**

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