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SENATE BILL NO. 1581

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 18, 2019)

(Patron Prior to Substitute—Senator Suetterlein)

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.

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 eight 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 six months of the birth or adoption of a child younger than age 18.

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. All legal holidays designated pursuant to § 2.2-3300 shall not be counted against parental leave. 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 eight 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 six months of the birth or adoption of a child, such benefits shall not accumulate for any subsequent use.

E. If both parents of a child are eligible to claim parental leave benefits, each parent shall receive parental leave, which may be taken concurrently, consecutively, or at different times.

F. On July 1, 2020, and each July 1 thereafter, each state agency's human resource manager shall submit to the Department, in a form and containing such data as prescribed by the Department, a report on the use of parental leave by agency employees for the preceding fiscal year.

§ 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 |

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 Months of | Work days of 100% | Work days of 80% | Work days of 60% |
|----------------------------|-------------------------|-------------------------|-------------------------|
| 70 state service | replacement of | replacement of | replacement of |
| 71 creditable compensation | 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 eight 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 Months of | Work Days of 100% | Work Days of 80% | Work Days of 60% |
|------------------|-------------------|------------------|------------------|
| 107 Continuous | Replacement of | Replacement of | Replacement of |
| 108 Service | Creditable | Creditable | Creditable |
| 109 Compensation | 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 eight 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.*