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SENATE BILL NO. 866

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 5, 2020)

(Patron Prior to Substitute—Senator Favola)

A *BILL to amend the Code of Virginia by adding in Chapter 39 of Title 2.2 a section numbered 2.2-3904, relating to the Virginia Human Rights Act; discrimination on the basis of pregnancy, childbirth, or related medical conditions.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 39 of Title 2.2 a section numbered 2.2-3904 as follows:

§ 2.2-3904. Unlawful discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions; civil action by private parties.

A. As used in this section:

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

"Unlawful discrimination on the basis of pregnancy, childbirth, or related medical conditions" includes discrimination against a person because such person may become pregnant or has been pregnant.

B. No employer employing more than five but fewer than 15 persons shall unlawfully discriminate against or discharge any such person on the basis of pregnancy, childbirth, or related medical conditions, including lactation.

C. An aggrieved person may commence a civil action in an appropriate general district or circuit court having jurisdiction over the person who allegedly unlawfully discriminated against such person in violation of this chapter. Any such action shall be brought within 300 days from the date of the unlawful discrimination, or, if the employee has filed a complaint with the Division of Human Rights of the Department of Law or a local human rights or human relations agency or commission within 300 days of the unlawful discrimination, such action shall be brought within 90 days from the date that the Division or a local human rights or human relations agency or commission has rendered a final disposition on the complaint.

D. If the court or jury finds that unlawful discrimination has occurred, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by law, and the court may award reasonable attorney fees and costs and may grant as relief any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice, or order such affirmative action as may be appropriate.

E. Causes of action based upon the public policies reflected in this chapter shall be exclusively limited to those actions, procedures, and remedies, if any, afforded by applicable federal or state civil rights statutes or local ordinances. Nothing in this section or § 2.2-3900 shall be deemed to alter, supersede, or otherwise modify the authority of the Division or of any local human rights or human relations commissions established pursuant to § 15.2-853 or 15.2-965.