



---

## Subcommittees of the House and Senate Committees on Commerce and Labor

### **Paid Family and Medical Leave**

September 17, 2019, at 10:00 a.m.

Pocahontas Building, House Committee Room

[http://dls.virginia.gov/interim\\_studies\\_pfm.html](http://dls.virginia.gov/interim_studies_pfm.html)

---

The Subcommittees of the House and Senate Committees on Commerce and Labor to study Paid Family and Medical Leave (the Subcommittees) met jointly in Richmond with Delegate R. Lee Ware and Senator William M. Stanley, Jr., chairs, presiding.<sup>1</sup> The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [study's website](#).

### **Paid Family and Medical Leave**

#### *SB 1639 (Boysko) and HB 2120 (Carroll Foy)*

Senator Jennifer B. Boysko presented an amendment in the nature of a substitute for SB 1639 from the 2019 Session of the General Assembly. The substitute was considered by the Senate Committee on Commerce and Labor but was not adopted. Senator Boysko stated that she was also presenting HB 2120 on behalf of Delegate Jennifer Carroll Foy, who could not attend the meeting. The substitute for SB 1639 was based on HB 2120 as it was introduced. Staff explained that the biggest difference between the two bills is the agency administering the program.

The bills require either the Department of Labor and Industry (SB 1639) or the Virginia Employment Commission (HB 2120) to establish and administer a paid family and medical leave program with benefits beginning January 1, 2022. Under the program, benefits are paid to eligible employees for family and medical leave. Funding for the program is provided through premiums assessed to employers and employees beginning in 2021. The amount of a benefit is 70 percent of the employee's average weekly wage, not to exceed \$850 per week, which amount is required to be adjusted annually to reflect changes in the statewide average weekly wage. The measure caps the duration of paid leave at 12 weeks in any application year. Self-employed individuals are provided the option of participating in the program.

Senator Boysko expressed that both she and Delegate Carroll Foy have had personal experiences that informed the bills. The program established under the bills would help ease the financial burden of taking time off work to deal with a medical crisis; provide care to a family member; provide care to a child recently born, adopted, or placed in the foster care of the individual; or prepare for the deployment of a family member on active duty in the Armed Forces. Senator Boysko noted that similar programs in other states have had a long track record of success and explained that the program is paid for by a payroll tax contribution that in other states amounts to

---

<sup>1</sup> **Members Present:** Senator William M. Stanley, Jr. (chair), Delegate R. Lee Ware (chair), Delegate Kathy J. Byron, Senator Rosalyn R. Dance, Delegate Eileen Filler-Corn, Delegate Mark L. Keam, Senator L. Louise Lucas, Senator Glen H. Sturtevant, Jr.

**Members Absent:** Delegate Terry G. Kilgore, Senator Richard H. Stuart

about \$5 per employee. While there is a cost associated with the initial implementation of the program, the startup cost will be repaid to the state.

Senator Rosalyn R. Dance and Delegate Kathy J. Byron inquired about the amount of leave available under the bill and how it is determined. Senator Boysko explained that the bills provide up to 12 weeks annually, which is consistent with the Federal Family and Medical Leave Act. The duration of any individual's leave is determined by the individual's health care provider.

#### *HB 2261 (Guzman)*

Delegate Elizabeth R. Guzman presented HB 2261 from the 2019 session of the General Assembly. The bill requires employers with 15 or more employees to provide to each employee paid medical and family leave up to 24 hours in any 12-month period at a rate of 0.46 hours per 40 hours worked. Delegate Guzman noted that 1.2 million employees in the Commonwealth have no paid sick days and that requiring paid sick days will ultimately be a cost-saver for employers. Delegate Guzman asked the Subcommittees what their next steps would be and expressed a desire to continue to be involved in the process. She also mentioned that her original intent for the bill was to require up to 40 hours of paid sick leave and that she hoped the Subcommittees would consider the higher cap figure in their deliberations. Senator Stanley stated, and Delegate Ware agreed, that the Subcommittees planned to meet again this fall and make recommendations to their respective full Committees on Commerce and Labor.

#### **Proponents**

##### *Tara Gibson, Campaign for a Family Friendly Economy*

Ms. Gibson stated that she has spoken to many Virginia families that are working harder than ever but are still struggling. They need time off to take care of themselves and others. She relayed the story of Ben, who had to move back home to take care of a sick family member. Ben found it hard to balance time off with working and was often too tired to remember if he got the dosage of his family member's medication correct. Ms. Gibson also told the story of Val, from Richmond, who because of anxiety and stress can't remember the first few months after her child was born. Ms. Gibson stated that paid family and medical leave is supported by small business owners who know that a balance between home and work life leads to better employees. Finally, Ms. Gibson noted that the United States is the only country in the developed world without a national program for paid family and medical leave.

##### *Dominic Procopio, Main Street Alliance*

Mr. Procopio stated that he has spoken with more than 350 businesses that have challenges related to family and medical leave. He noted that more than 66 percent of small businesses support a paid family and medical leave program. A statewide program is the only way a small business could afford to provide this benefit, and it would allow a small business to compete with a bigger employer for talent. Mr. Procopio stated that small businesses in states with similar programs have not seen dramatic cost increases or adverse effects. Mr. Procopio also told the story of a restaurant owner who had to work just days after she had given birth and stated how many small business owners face similar challenges.

##### *Freddy Meija, The Commonwealth Institute*

Mr. Meija provided an overview of state paid family and medical leave programs, some specific details on Oregon's program, and an analysis on the potential impact by race of such a program



in the Commonwealth. Mr. Meija explained that eight states and the District of Columbia have some form of paid medical and family leave programs. However, some programs are not yet providing benefits and only four states currently administer benefits. There is a wide variety across state programs. The biggest differences between the states are the amount of leave available and the funding model. Some programs are entirely employee-funded, others are funded jointly by employers and employees, and other programs use one model for family leave and the other model for medical leave.

Mr. Meija explained that Oregon's paid family and medical leave program cost \$15.9 million in general fund dollars. Premiums will begin in January 2022, and benefits will begin in January 2023. The premiums will be split by an employer and employee on a 60/40 basis. The program offers up to 12 weeks annually for family or medical leave. There is an exemption for employers with fewer than 25 employees. Under the program workers receive benefits on a sliding scale based on their earnings, with a maximum benefit of up to 120 percent of the state average weekly wage.

Mr. Meija stated that while a paid family and medical leave program in the Commonwealth would benefit all working people, it would especially benefit women of color. Women of color are more likely to be key or sole breadwinners in their families and therefore stand to benefit most from such a program. Mr. Meija noted that 70 percent of Latinx workers and 60 percent of black workers in Virginia cannot take unpaid leave through the federal Family and Medical Leave Act.

Delegate Byron asked Mr. Meija about the funding models and noted that employees in states with programs with the employee-funded model have been taxed billions of dollars for the benefit. Delegate Ware wanted to know more about program solvency through the economic crisis that began in 2008. Mr. Meija stated that the programs did not run into issues because utilization of such programs does not increase during a recession the way unemployment does. Delegate Ware asked Mr. Meija to send more detailed information on that point.

*Jim Dau, AARP*

Mr. Dau stated that there are more than one million unpaid family caregivers in Virginia. According to an AARP survey of Virginia voters over the age of 40, more than one in 10 have experienced being a family caregiver, and more than 40 percent of those worked while giving care. Nearly one in five had to switch from a full-time job to a part-time job, two-thirds had to spend their own money to provide care, and 30 percent had to spend their retirement savings to do so. These individuals were forced to sacrifice their short-term, medium-term, and long-term financial security to provide care to a family member. Of those surveyed, nearly 90 percent supported giving caregivers more flexibility in their jobs, and more than 75 percent—over 70 percent from each political party—support some degree of paid family and medical leave.

*David Broader, Service Employees International Union 512*

Mr. Broader stated that he hears frequently about the need for paid family and medical leave. He told the story of Alex, who only has two weeks of paid parental leave, and of Joyce, who had to miss work because of an unexpected hospitalization. Mr. Broader stated that his wife was diagnosed with breast cancer while their kids were young. She needed chemotherapy and surgery and is now cancer-free. The Broader family never would have made it through the adversity caused by his wife's treatment and recovery if they didn't have paid family and medical leave to



take the time they needed. Mr. Broader stated that every family in Virginia deserves the same benefits his family received.

*Natasha Crosby, LGBTQ Chamber of Richmond*

Ms. Crosby, explained that, as a real estate agent and small business owner, if she doesn't do any given task, then it doesn't get done. She is one medical emergency from financial disaster. She hopes to grow her business and create jobs in the Commonwealth but cannot afford to offer a competitive benefits package to attract talented employees. A paid family and medical leave program would help level the playing field for small businesses. Ms. Crosby stated that although the LGBTQ community has made progress toward equity, its struggle continues. Ms. Crosby expressed concern over whether the bills provided the same benefits for the LGBTQ community. Senator Stanley prompted Senator Boysko to verify that the bill was inclusive. Senator Boysko responded that the bill is inclusive of the LGBTQ community.

*Sarah Jane Glynn, Ph.D., Center for American Progress and the National Academy of Social Insurance*

Dr. Glynn stated that she is an expert on paid family and medical leave programs. She has done research for paid leave implementation at both the state and federal level and has worked with a number of different states and municipalities to help determine best practices for designing and implementing paid family and medical leave programs. Dr. Glynn explained that paid family and medical leave is not meant for short-term illness. She added that while caring for a new child gets more attention, it is not the most common form of leave taken. Half of the leave is taken for an individual's own medical needs, and leave taken to provide end-of-life care is also a significant portion of leave taken under these programs.

Dr. Glynn explained that paid family and medical leave is not a new concept and there have been temporary disability insurance programs in some states since the 1940s. The programs are self-sustaining, self-funded, and effectively administered. Social insurance programs are inexpensive to run and have a low cost per person because the risk is spread across a centralized risk pool. Virginia already has programs like this for other benefits.

Dr. Glynn explained that qualifying for leave requires verification. While this is easy for a new child, medical determinations can be more complicated. Verification is best done through the state rather than through the employer because then the employee's doctor can provide more medical details without having to disclose medical conditions to the employer. The length of leave is determined by the doctor based on the condition and the type of job. Fraud has been virtually nonexistent in such programs.

Senator Stanley asked Dr. Glynn how long it takes for an individual to receive benefits. Dr. Glynn stated that some states do better than others. The key is to use data, like employment and salary information, that the state already has to expedite the process. Senator Stanley requested that Dr. Glynn return to the Subcommittees' next meeting if she is available.

*Jessica Mason, Ph.D., National Partnership for Women and Families*

Dr. Mason explained that paid family and medical leave is a benefit that nearly everyone needs at some point in life. Only 17 percent of employees nationwide have such a benefit. Almost one-third of employees have no sick days or other access to paid time off. Similar programs are operational in four states. States typically cover all private-sector employees who meet earnings



requirements. Universal coverage keeps it simple and cost-effective. Programs have not had solvency concerns and some have even expanded their coverage. Premiums are adjusted annually to ensure solvency. Dr. Mason stated that programs are also about fairness. They help to close the wage gap and uplift the working and middle class. The Commonwealth can learn from the best practices of other states with paid family and programs.

## **Conclusion**

Following the testimony of the proponents, Senator Stanley announced that because of time constraints, individuals in opposition would be given an opportunity to speak at the next meeting of the Subcommittees. Additionally, the Subcommittees will hear from the agencies tasked with administering the program in the bills.

Delegate Eileen Filler-Corn emphasized the importance of the work on the issues before the Subcommittees. She thanked the bill patrons, the chairmen of the Subcommittees, and the speakers. She explained that the personal stories provided by the speakers make a difference to those working on the issue. Delegate Mark L. Keam noted that the notion of work is changing. The Commonwealth needs to find solutions that address where the workforce is going, not just where it has been. Senator Stanley asked that the Subcommittees continue to work together to find acceptable solutions to the problem. He then adjourned the meeting.

## **Next Meeting**

The next meeting of the Subcommittees will take place on October 21, 2019, at 10:00 a.m. in the House Committee Room of the Pocahontas Building.

---

For more information, see the [study's website](#) or contact the Division of Legislative Services staff:

Tom Stevens, Senior Attorney, DLS  
tstevens@dls.virginia.gov  
804-698-1821

---

