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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Virginia Employment Commission (VEC)
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	16 VAC50-90 [New]
<b>VAC Chapter title(s)</b>	Paid Family & Medical Leave [New]
<b>Action title</b>	Paid Family Medical Leave Implementation Regulations
<b>Date this document was prepared</b>	May 8, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require the Virginia Employment Commission (VEC) to promulgate regulations necessary for implementation of a Paid Family and Medical Leave (PFML) Insurance Program for the Commonwealth of Virginia, as outlined in Code of Virginia § 60.2. VEC intends to promulgate a new chapter of regulations, 16 VAC5-90, to meet this statutory mandate. VEC must promulgate all regulations by April 1, 2028. VEC is initiating this NOIRA to begin a regulatory process to help fulfill this mandate. VEC may promulgate the regulations required by § 60.2 of the Code of Virginia in multiple parts.

## Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

- Paid Family and Medical Leave (PFML)
- Virginia Employment Commission (VEC)

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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The mandate for this regulatory change is a directive from the General Assembly. Specifically, Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly require the VEC to promulgate regulations necessary for implementation of a PFML Insurance Program for the Commonwealth of Virginia, as outlined in Code of Virginia § 60.2.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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The promulgating agency is the Virginia Employment Commission.

VEC has legal authority to issue these regulations pursuant to Chapters 981 and 1093 of the 2026 Virginia Acts of Assembly, which create a new chapter in Title 60.2 of the Code of Virginia, consisting of sections numbered 60.2-800 through 60.2-818, governing the PFML program. Specifically, the second enactment clause of Chapters 981 and 1093 expressly directs VEC to "promulgate all rules and regulations necessary for implementation of this act."

In addition, VEC's general authorizing statute, Section 60.2-111 of the Code of Virginia, provides, in part:

A. It shall be the duty of the Commission to administer this title. The Commission may establish separate divisions as necessary to carry out the duties and powers prescribed by this section. It shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action, including the appointment of advisory groups, as it deems necessary or suitable to that end.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The purpose of this action is to promulgate a new regulatory chapter to establish regulations for Virginia’s new PFML Insurance Program. When established, Virginia’s PFML Insurance Program will protect the public health, safety, and welfare of Virginians by providing up to 12 weeks of paid, job protected leave per year to any eligible worker across the Commonwealth who provides the required supporting certifications for the following reasons:

1. Because of birth, adoption, or placement through foster care, is caring for a new child during the first year after the birth, adoption, or placement of that child;
2. Is caring for a family member with a serious health condition;
3. Has a serious health condition that makes the covered individual unable to perform the functions of the position of such individual's employment;
4. Is caring for a covered service member who is the covered individual's next of kin or other family member;
5. Is eligible for qualifying exigency leave arising out of the fact that a family member of the covered individual is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces; or
6. Is seeking safety services for the covered individual or a family member. Leave to seek safety services under this subdivision is limited to a maximum of four weeks in a benefit year for any covered individual.

## **Substance**

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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VEC intends to promulgate regulations necessary to implement the PFML Insurance Program, as authorized by the Code of Virginia § 60.2, including all regulations required by the text and enactment clause of Chapter 981 and Chapter 1093 of the 2026 Virginia Acts of Assembly and other “rules and regulations necessary for the implementation” of the PFML Insurance Program. VEC may promulgate the regulations required by § 60.2 of the Code of Virginia in multiple parts.

## **Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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There are no viable alternatives to regulation, as the regulation is mandated by the Code of Virginia.

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## Periodic Review and Small Business Impact Review Announcement

This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Virginia Employment Commission is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Ashley Ervin, Assistant Commissioner for Law & Policy, 6606 W. Broad St., Richmond, VA 23230, [VAPFML\\_Comments@vec.virginia.gov](mailto:VAPFML_Comments@vec.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.