



## Employment Law Note

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### A Busy Washington Legislature Creates New Requirements and Emerging Risks for Employers



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It has been a busy year for legislative activity impacting Washington employers. While some of the new and amended laws may appear to address scenarios straight out of a science fiction novel, employers should nevertheless take steps to prepare for compliance.

#### Modifications to the State WARN Act

Washington's analogue of the federal Worker Adjustment and Retraining Notification ("WARN") Act (known as the STABLE Act) was modified in March 2026. The law requires certain employers to provide employees with 60 days' advance written notice of business closures or layoffs. The recent legislative changes amended the definition of "employer" to exclude Native American tribes and imposes stricter notice requirements. Specifically, the names and addresses of employees impacted by the layoff are no longer required to be included in written notices to affected employees who are not represented by a union. In contrast, a new requirement mandates the disclosure of the names and addresses of employees that have been impacted by closings or layoffs to the employees' bargaining representative and the Employment Security Department. This information is no longer subject to public disclosure under the Public Records Act. The purpose of these legislative changes is to better protect employee privacy.

The changes to the law took immediate effect on March 17, 2026. Employers should review any layoff notice forms to ensure protected information is not accidentally disseminated.

#### Adoption of "Trigger" Labor Law for Private Employers

Washington's Engrossed Substitute House Bill 2471 ("ESHB 2471") establishes a state-administered collective

bargaining framework for private-sector employers that historically were subject to the jurisdiction of the National Labor Relations Board ("NLRB") under specific conditions. Specifically, ESHB 2471 would become operative—or "triggered"—if: (1) federal labor law no longer preempts state regulations; or (2) the NLRB chooses not to exercise jurisdiction over specific employers or sectors. Generally speaking, ESHB 2471 is "triggered" and becomes applicable if federal law does not preempt state regulation of private-sector labor relations or if the NLRB does not have jurisdiction, declines to exercise jurisdiction, or is deprived of jurisdiction over a particular employer, group of employees, trade, or industry.

If triggered, the Washington State Public Employment Relations Commission ("PERC") would assume jurisdiction over labor disputes between private-sector employers and labor organizations. Historically, PERC's jurisdiction has been largely limited to public-sector labor relations, with only a few narrow private-sector exceptions.

Importantly, the law includes a mandatory interest arbitration requirement for private-sector employers. If an agreement between an employer and certified bargaining representative cannot be reached within six months following initial certification of the bargaining unit, or within six months following expiration of a collective bargaining agreement, all remaining disputes must be submitted to binding interest arbitration unless the parties mutually agree otherwise.

#### New Protections for Domestic Workers

Washington State House Bill 2355—frequently referred to as the "Domestic Workers Bill of Rights"—was signed into law by Governor Bob Ferguson in March 2026 and goes into effect July 1, 2027. The law extends Washington's employment and labor standards to domestic workers who previously were exempt due to working in private residences. Under the law, individuals who compensate

a worker for domestic services in a private residence for four or more hours per month are classified as hiring entities and are subject to legal obligations. "Domestic worker" includes nannies, housekeepers, house cleaners, house managers, cooks, gardeners, and home care providers. Excluded from the definition are casual babysitters or individuals who perform house-sitting, pet-sitting, or dog-walking services. The working relationship must be formalized through an agreement that is in a language the worker understands, including pay rate, hours, and terms of employment. Domestic workers must be paid at least the state minimum wage and 1.5 times their regular rate for hours over 40 per week. Employers must give advance written notice before terminating employment; failure to do so requires severance pay. Employers may not monitor workers in bathrooms, bedrooms, or private communications, nor take possession of personal documents.

Workers can take legal action if discriminated against based on race, gender, national origin, or other protected status in violation of the Washington Law Against Discrimination by filing a complaint with the Department of Labor and Industries or pursuing private legal action to enforce their rights. Penalties can be up to \$40,000 for repeat violations.

Anyone who employs domestic workers in a private residence should review whether an agreement is necessary and the rate at which they employ domestic workers to ensure compliance before the new law takes effect on July 1 of next year.

## Ban on Requiring Employees to Undergo Microchip Implantation

This is not science fiction. In March 2026, Governor Ferguson signed House Bill 2303 into law, which forbids employers from requesting, requiring, or coercing workers or job applicants to undergo a subcutaneous microchip implantation. Employees who believe an

employer has violated the law can seek injunctive relief, actual damages, punitive damages, and attorneys' fees and costs. Washington is not unique in enacting this law, which took effect on June 11, 2026. At least 11 states have laws that prohibit employers from requiring employees to be implanted with a microchip.

The takeaway, in case it is unclear: Do not require employees to be implanted by a microchip.

## Notification to Employees Regarding Federal I-9 audits

Washington's Immigrant Worker Protection Act was passed in March 2026 and goes into effect on October 1, 2026. Under the Act, if the federal government sends a Washington employer a Notice of Intent ("NOI") to inspect Forms I-9 and related employment records of their employees, the employer must provide the impacted workers with the notice as well as engage in certain follow-up communications.

Specifically, employers must notify employees within five business days of receiving the NOI. The notice to employees must include a copy of the NOI, the date of the NOI, and a description of the records requested. It must be in English and the five most commonly spoken non-English languages in Washington. It must also be posted in a conspicuous workplace location or transmitted directly to employees using the employer's regular method of communication.

Additionally, within five business days of receiving the inspection results, employers must provide individual notice to each affected employee explaining the obligations of both the employer and the employee arising from the inspection findings.

Employers with questions on the latest developments in labor and employment law and how they may affect your workplace are encouraged to contact Sebris Busto James.

For more information about this month's Employment Law Note  
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