



Employment Law Note

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Changes Coming to Washington's Paid Family and Medical Leave Law for 2026



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Washington employers should take note of significant changes to the State's Paid Family and Medical Leave law (PFML) starting in 2026. The [legislative amendments to RCW 50A](#), passed in April 2025, go into effect January 1, 2026. The State also recently announced new premium rates for next year.

Paid Leave Premiums to Increase

In late October, the Washington Employment Security Department (ESD), which administers the Paid Leave program, announced an increase in premium rates for 2026. The premium rate will increase from 0.92% to 1.13%. As employers should by now be accustomed, the premium required to fund Paid Leave is split between employers and employees. Employers will pay 28.57% of the premium while employees will contribute the remaining 71.43%. Employers with fewer than 50 employees in 2026 are not required to pay the employer portion of the premium but must still collect and pay employees' premiums on their behalf.

Premiums are withheld from gross wages, excluding tips, through the Social Security cap, which is \$184,500 in 2026. After reaching the cap, employers should stop collecting premiums but continue to report the employee's wages to ESD.

Employers should notify employees of the new premium amount prior to January 1, 2026. ESD intends to update its [mandatory posters](#) and optional paystub inserts to reflect the new premium amount by the end of November. The new premium applies to

each pay period in 2026. Note that employers cannot retroactively withhold premiums from employees.

Additionally, the 2025 legislative updates contain a provision requiring ESD to conduct regular outreach to employers regarding their responsibilities, including related to premium rates and the availability of grants to help small businesses with the costs associated with employees on leave.

Major Changes to Job Protection Requirements for Small Businesses

Under current PFML requirements, absent certain exceptions, employers with over 50 employees must offer job protection benefits, provided the employee worked for the employer for 12 months or at least 1,250 hours during the 12 months immediately preceding the commencement of the leave. Job protection benefits, also known as job restoration benefits, entitle the employee to be returned to the same or a substantially similar position with equivalent pay, benefits, and other terms and conditions of employment following the use of protected leave.

Starting in 2026, ESD will phase in job protection benefits for those who work for smaller employers. In 2026, employers with 25 or more employees will be required to offer job restoration to employees who have worked for the employer for at least 180 calendar days (6 months) before taking leave. In 2027, the employer size drops to those with 15 or more employees, and in 2028, employers with eight or more employees will be required to offer job protection benefits.

Absent a written agreement between the employer and the employee or their union, employees will forfeit their job restoration rights if they fail to return to work on the earlier of either their first scheduled work day following the leave period, or before reaching a combined 16 typical workweeks of intermittent leave over the prior 52 consecutive calendar weeks. For those on intermittent leave because of a serious health condition with a pregnancy, the leave total is extended to 18 weeks.

For continuous leaves longer than two weeks, employers must provide at least five business days' advance written notice to the employee of the date of the expiration of their leave and their expected return-to-work date. Employers may estimate the return-to-work date for employees on intermittent leave based on the information provided by the employee and by ESD to the employer. The notice must be sent in a language understood by the employee and sent in a manner reasonably certain to be received promptly by the employee.

Limits Imposed on “Leave Stacking”

The 2025 legislative amendments provide restrictions on what is known as “leave stacking.” Employees of larger employers subject to the federal Family and Medical Leave Act (FMLA) could generally elect to use FMLA and PFML consecutively or separately to create a longer protected leave period. For example, an employee could take 12 weeks of FMLA and then 12 weeks of PFML, provided they had a qualifying family or medical condition. Beginning in 2026, an employer can limit job restoration rights to the FMLA covered leave if the employee was eligible for PFML benefits but did not apply for and receive those benefits. An

employee could choose to apply for PFML benefits later but would not be entitled to job restoration benefits.

To avail themselves of the leave-stacking restrictions, employers must comply with strict notice requirements. The employer must provide written notice to the employee that it is designating and counting the employee's leave against their FMLA entitlement, identify the amount of entitlement used and remaining, identify the applicable 12-month leave year under FMLA used by the employer, and notify the employee that since they are eligible, but did not apply for, PFML, the employer is counting the unpaid leave against the maximum PFML entitlement. The written notice must be sent within five business days of the earlier of either the employee's request for or use of FMLA leave. Thereafter, the employer must provide the notice at least monthly for the remainder of the designated leave year.

Minimum Claim Duration and Healthcare Benefits

Starting in 2026, the minimum duration period to claim PFML leave will be reduced from eight consecutive hours to four consecutive hours.

Additionally, employers will be required to offer continuation of healthcare benefits to employees for the full period of job-protected leave. Currently, the law requires at least one day of overlap between FMLA and PFML to maintain coverage (and therefore did not apply to employers not subject to FMLA).

Employers with questions on the latest developments in state and federal employment law are encouraged to contact Sebris Busto James.

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