
SUBSTITUTE HOUSE BILL 1213

State of Washington

69th Legislature

2025 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Berry, Fosse, Reed, Obras, Fitzgibbon, Alvarado, Mena, Macri, Ryu, Farivar, Doglio, Simmons, Peterson, Street, Wylie, Pollet, Ormsby, Lekanoff, Salahuddin, and Hill)

READ FIRST TIME 02/12/25.

1 AN ACT Relating to expanding protections for workers in the state
2 paid family and medical leave program; amending RCW 50A.05.020,
3 50A.10.030, 50A.15.020, 50A.20.010, 50A.20.020, 50A.30.010,
4 50A.24.010, 50A.35.010, and 50A.35.020; adding new sections to
5 chapter 50A.24 RCW; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 50A.05.020 and 2019 c 13 s 30 are each amended to
8 read as follows:

9 (1) The department shall establish and administer the family and
10 medical leave program and pay family and medical leave benefits as
11 specified in this title. The department shall adopt government
12 efficiencies to improve administration and reduce costs. These
13 efficiencies shall include, to the extent feasible, combined
14 reporting and payment, with a single return, of premiums under this
15 title and contributions under chapter 50.24 RCW.

16 (2) The department shall establish procedures and forms for
17 filing applications for benefits under this title. The department
18 shall notify the employer within five business days of an application
19 being filed.

20 (3) The department shall use information sharing and integration
21 technology to facilitate the disclosure of relevant information or

1 records by the department, so long as an employee consents to the
2 disclosure as required under RCW 50A.15.040.

3 (4) Information contained in the files and records pertaining to
4 an employee under this chapter are confidential and not open to
5 public inspection, other than to public employees in the performance
6 of their official duties, except as provided in chapter 50A.25 RCW.

7 (5) The department shall develop and implement an outreach
8 program to ensure that employees who may be qualified to receive
9 family and medical leave benefits under this title are made aware of
10 these benefits. Outreach information shall explain, in an easy to
11 understand format, eligibility requirements, the application process,
12 weekly benefit amounts, maximum benefits payable, notice and
13 certification requirements, reinstatement and nondiscrimination
14 rights, confidentiality, voluntary plans, and the relationship
15 between employment protection, leave from employment, and wage
16 replacement benefits under this title and other laws, collective
17 bargaining agreements, and employer policies. Outreach information
18 shall be available in English and other primary languages as defined
19 in RCW 74.04.025.

20 (6) (a) The department shall conduct regular outreach to employers
21 regarding employer responsibilities under this title, which must
22 include but is not limited to providing information on premium
23 collection under chapter 50A.10 RCW, notice requirements under
24 chapter 50A.20 RCW, and employment protection under chapter 50A.35
25 RCW.

26 (b) The department is authorized to inspect and audit employer
27 files and records relating to the family and medical leave program,
28 including employer voluntary plans. The department may conduct
29 periodic audits of employer files and records for the purposes of
30 assisting with and otherwise enforcing compliance with this title.

31 **Sec. 2.** RCW 50A.10.030 and 2023 c 116 s 1 are each amended to
32 read as follows:

33 (1) The department shall assess for each individual in employment
34 with an employer and for each individual electing coverage a premium
35 based on the amount of the individual's wages subject to subsection
36 (4) of this section.

37 (2) The commissioner shall determine the percentage of paid
38 claims related to family leave benefits and the percentage of paid
39 claims related to medical leave benefits and set the family leave

1 premium and the medical leave premium by applying the proportional
2 share of paid claims for each type of leave to the total premium rate
3 set in subsection (6) of this section.

4 (3) (a) For family leave premiums, an employer may deduct from the
5 wages of each employee up to the full amount of the premium required.

6 (b) For medical leave premiums, an employer may deduct from the
7 wages of each employee up to 45 percent of the full amount of the
8 premium required.

9 (c) An employer may elect to pay all or any portion of the
10 employee's share of the premium for family leave or medical leave
11 benefits, or both.

12 (4) The commissioner must annually set a maximum limit on the
13 amount of wages that is subject to a premium assessment under this
14 section that is equal to the maximum wages subject to taxation for
15 social security as determined by the social security administration.

16 (5) (a) Employers with fewer than 50 employees employed in the
17 state are not required to pay the employer portion of premiums for
18 family and medical leave.

19 (b) If an employer with fewer than 50 employees elects to pay the
20 premiums, the employer is then eligible for assistance under ((RCW
21 ~~50A.24.010~~) section 8 of this act.

22 (6) (a) On or around October 20th of each year, the commissioner
23 must calculate the total premium rate as follows:

24 (i) Calculate an amount that equals 140 percent of the prior
25 fiscal year's expenses, including the total amount of benefits paid
26 and the department's administrative costs;

27 (ii) Subtract the balance of the family and medical leave
28 insurance account created in RCW 50A.05.070 as of September 30th from
29 the amount determined in (a) (i) of this subsection (6); and

30 (iii) Divide the difference in (a) (ii) of this subsection (6) by
31 the prior fiscal year's taxable wages. The quotient must be carried
32 to the fourth decimal place and then rounded up to the nearest one
33 hundredth of one percent.

34 (b) The commissioner must set the total premium rate at the rate
35 calculated in (a) of this subsection (6) subject to the following
36 conditions:

37 (i) If the commissioner determines the total premium rate
38 calculated in (a) of this subsection exceeds a rate necessary to
39 maintain a three-month reserve at the end of the following rate
40 collection year, the commissioner must set the total premium rate at

1 the minimum rate necessary to close the rate collection year with a
2 three-month reserve; and

3 (ii) The total premium rate must not exceed 1.20 percent.

4 (c) For the purposes of this subsection (6):

5 (i) "Taxable wages" means the total amount of wages subject to a
6 premium assessment under this section for all individuals in
7 employment with an employer and all individuals electing coverage.

8 (ii) "Three-month reserve" means the average monthly expenses,
9 including the total amount of benefits paid and the department's
10 administrative costs, in the prior 12 calendar months from the date
11 of the calculation in this subsection multiplied by three.

12 (7) (a) The employer must collect from the employees the premiums
13 provided under this section through payroll deductions and remit the
14 amounts collected to the department.

15 (b) In collecting employee premiums through payroll deductions,
16 the employer shall act as the agent of the employees and shall remit
17 the amounts to the department as required by this title.

18 (c) On September 30th of each year, the department shall average
19 the number of employees reported by an employer on the last day of
20 each quarter over the last four completed calendar quarters to
21 determine the size of the employer for the next calendar year for the
22 purposes of this section (~~and~~), RCW 50A.24.010, and section 8 of
23 this act.

24 (8) Premiums shall be collected in the manner and at such
25 intervals as provided in this title and directed by the department.

26 (9) Premiums collected under this section are placed in trust for
27 the employees and employers that the program is intended to assist.

28 (10) A city, code city, town, county, or political subdivision
29 may not enact a charter, ordinance, regulation, rule, or resolution:

30 (a) Creating a paid family or medical leave insurance program
31 that alters or amends the requirements of this title for any private
32 employer;

33 (b) Providing for local enforcement of the provisions of this
34 title; or

35 (c) Requiring private employers to supplement duration of leave
36 or amount of wage replacement benefits provided under this title.

37 **Sec. 3.** RCW 50A.15.020 and 2022 c 233 s 3 are each amended to
38 read as follows:

1 (1) Beginning January 1, 2020, family and medical leave are
2 available and benefits are payable to a qualified employee under this
3 section.

4 (a) Following a waiting period consisting of the first seven
5 consecutive calendar days, benefits are payable when family or
6 medical leave is required. However, no waiting period is required for
7 leave for the birth or placement of a child, or for leave because of
8 any qualifying exigency as defined under RCW 50A.05.010(10)(c). The
9 waiting period begins the previous Sunday of the week when an
10 otherwise eligible employee takes leave for the minimum claim
11 duration under subsection (2)(c) of this section. Eligible employees
12 may satisfy the waiting period requirement while simultaneously
13 receiving paid time off for any part of the waiting period.

14 (b) Benefits may continue during the continuance of the need for
15 family or medical leave, subject to the maximum and minimum weekly
16 benefits, duration, and other conditions and limitations established
17 in this title.

18 (2) The weekly benefit shall be prorated by the percentage of
19 hours on leave compared to the number of hours provided as the
20 typical workweek hours as defined in RCW 50A.05.010.

21 (a) The benefits in this section, if not a multiple of one
22 dollar, shall be reduced to the next lower multiple of one dollar.

23 (b) Hours on leave claimed for benefits under this title, if not
24 a multiple of one hour, shall be reduced to the next lower multiple
25 of one hour.

26 (c) The minimum claim duration payment is for (~~eight~~) four
27 consecutive hours of leave.

28 (3)(a) The maximum duration of paid family leave may not exceed
29 (~~twelve~~) 12 times the typical workweek hours during a period of
30 (~~fifty-two~~) 52 consecutive calendar weeks.

31 (b) The maximum duration of paid medical leave may not exceed
32 (~~twelve~~) 12 times the typical workweek hours during a period of
33 (~~fifty-two~~) 52 consecutive calendar weeks. This leave may be
34 extended an additional two times the typical workweek hours if the
35 employee experiences a serious health condition with a pregnancy that
36 results in incapacity.

37 (c) An employee is not entitled to paid family and medical leave
38 benefits under this title that exceeds a combined total of
39 (~~sixteen~~) 16 times the typical workweek hours. The combined total
40 of family and medical leave may be extended to (~~eighteen~~) 18 times

1 the typical workweek hours if the employee experiences a serious
2 health condition with a pregnancy that results in incapacity.

3 (4) (a) Any paid leave benefits under this chapter used in the
4 postnatal period by an employee eligible for benefits under RCW
5 50A.05.010(23) (a) (ii) (B) must be medical leave, subject to the
6 maximum and minimum weekly benefits, duration, and other conditions
7 and limitations established in this title, unless the employee
8 chooses to use family leave during the postnatal period.

9 (b) Certification of a serious health condition is not required
10 for paid leave benefits used in the postnatal period by an employee
11 eligible for benefits under RCW 50A.05.010(23) (a) (ii) (B).

12 (5) The weekly benefit for family and medical leave shall be
13 determined as follows: If the employee's average weekly wage is: (a)
14 Equal to or less than one-half of the state average weekly wage, then
15 the benefit amount is equal to (~~ninety~~) 90 percent of the
16 employee's average weekly wage; or (b) greater than one-half of the
17 state average weekly wage, then the benefit amount is the sum of: (i)
18 Ninety percent of one-half of the state average weekly wage; and (ii)
19 (~~fifty~~) 50 percent of the difference of the employee's average
20 weekly wage and one-half of the state average weekly wage.

21 (6) (a) The maximum weekly benefit for family and medical leave
22 that occurs on or after January 1, 2020, shall be (~~one thousand~~
23 ~~dollars~~) \$1,000. By September 30, 2020, and by each subsequent
24 September 30th, the commissioner shall adjust the maximum weekly
25 benefit amount to (~~ninety~~) 90 percent of the state average weekly
26 wage. The adjusted maximum weekly benefit amount takes effect on the
27 following January 1st.

28 (b) The minimum weekly benefit shall not be less than (~~one~~
29 ~~hundred dollars~~) \$100 per week except that if the employee's average
30 weekly wage at the time of family or medical leave is less than (~~one~~
31 ~~hundred dollars~~) \$100 per week, the weekly benefit shall be the
32 employee's full wage.

33 **Sec. 4.** RCW 50A.20.010 and 2019 c 13 s 12 are each amended to
34 read as follows:

35 (1) Whenever an employee of an employer who is qualified for
36 benefits under this title is absent from work to provide family
37 leave, or take medical leave for more than seven consecutive days,
38 the employer shall provide the employee with a written statement of
39 the employee's rights under this title in a form prescribed by the

1 commissioner. The statement must be provided to the employee within
2 five business days after the employee's seventh consecutive day of
3 absence due to family or medical leave, or within five business days
4 after the employer has received notice that the employee's absence is
5 due to family or medical leave, whichever is later.

6 (2) The commissioner shall develop the written statement of
7 employee rights to be distributed by an employer under this section.
8 At a minimum, the statement must explain, in an easy to understand
9 format, eligibility requirements, possible weekly benefits,
10 application processes, employment protection rights, and
11 nondiscrimination rights, and direct the employee to appropriate
12 contacts and portals for more information.

13 **Sec. 5.** RCW 50A.20.020 and 2019 c 13 s 13 are each amended to
14 read as follows:

15 Each employer shall post and keep posted, in conspicuous places
16 on the premises of the employer where notices to employees and
17 applicants for employment are customarily posted, a notice, to be
18 prepared or approved by the commissioner, setting forth excerpts
19 from, or summaries of, the pertinent provisions of this title,
20 including, but not limited to: Eligibility requirements, possible
21 weekly benefits, application processes, employment protection rights,
22 nondiscrimination rights, and other protections, and information
23 pertaining to the filing of a complaint. Any employer that willfully
24 violates this section may be subject to a civil penalty of not more
25 than (~~one hundred dollars~~) \$100 for each separate offense. Any
26 penalties collected by the department under this section shall be
27 deposited into the family and medical leave enforcement account.

28 **Sec. 6.** RCW 50A.30.010 and 2020 c 125 s 9 are each amended to
29 read as follows:

30 (1) An employer may apply to the commissioner for approval of a
31 voluntary plan for the payment of either family leave benefits or
32 medical leave benefits, or both. The application must be submitted on
33 a form and in the manner as prescribed by the commissioner in rule.
34 The fee for the department's review of each application for approval
35 of a voluntary plan is (~~two hundred fifty dollars~~) \$250.

36 (2) The benefits payable as indemnification for loss of wages
37 under any voluntary plan must be separately stated and designated
38 separately and distinctly in the plan from other benefits, if any.

1 (3) Neither an employee nor his or her employer are liable for
2 any premiums for benefits covered by an approved voluntary plan.

3 (4) An employee may only receive payment of benefits for family
4 leave, medical leave, or both from one approved plan at a time. An
5 employee who qualifies for benefits and is simultaneously covered by
6 more than one plan under this title will receive benefits under the
7 plan for which the employee has worked the most hours during the
8 employee's qualifying period. The commissioner must adopt rules to
9 allow benefits or prevent duplication of benefits to employees
10 simultaneously covered by one or more approved voluntary plans and
11 the state program.

12 (5) The commissioner must approve any voluntary plan as to which
13 the commissioner finds that there is at least one employee in
14 employment and all of the following exist:

15 (a) The benefits afforded to the employees must be at least
16 equivalent to the benefits the employees are entitled to as part of
17 the state's family and medical leave program, including but not
18 limited to the duration of leave. The employer must offer at least
19 one-half of the length of leave as provided in RCW 50A.15.020(3) with
20 pay and provide a monetary payment in an amount equal to or higher
21 than the total amount of monetary benefits the employee would be
22 entitled to receive as part of the state-run program. The employer
23 may offer the same duration of leave and monetary benefits as offered
24 under the state program.

25 (b) The sick leave an employee is entitled to under RCW 49.46.210
26 is in addition to the employer's provided benefits and is in addition
27 to any family or medical leave benefits.

28 (c) The plan is available to all of the eligible employees of the
29 employer employed in this state, including future employees.

30 (d) The employer has agreed to make all required payroll
31 deductions, including that:

32 (i) In the case of plan termination or withdrawal, the employer
33 must remit to the department all required moneys under RCW 50A.30.045
34 and 50A.30.065(3); and

35 (ii) If the employer has an approved voluntary plan for either
36 medical leave or family leave but not both, the employer is still
37 obligated to remit to the department premiums owed to the state plan
38 for the portions not covered by the employer's approved voluntary
39 plan.

1 (e) The plan will be in effect for a period of not less than one
2 year and, thereafter, continuously unless the commissioner finds that
3 the employer has given notice of withdrawal from the plan in a manner
4 specified by the commissioner in rule. The plan may be withdrawn by
5 the employer on the date of any law increasing the benefit amounts or
6 the date of any change in the rate of employee premiums, if notice of
7 the withdrawal from the plan is transmitted to the commissioner not
8 less than ~~((thirty))~~ 30 days prior to the date of that law or change.
9 If the plan is not withdrawn, it must be amended to conform to
10 provide the increased benefit amount or change in the rate of the
11 employee's premium on the date of the increase or change.

12 (f) The amount of payroll deductions from the wages of an
13 employee in effect for any voluntary plan may not exceed the maximum
14 payroll deduction for that employee as authorized under RCW
15 50A.10.030. The deductions may not be increased on other than an
16 anniversary of the effective date of the plan, except to the extent
17 that any increase in the deductions from the wages of an employee do
18 not exceed the maximum rate authorized under the state program.

19 (g) The voluntary plan provides that an employee of an employer
20 with a voluntary plan for either family leave or medical leave, or
21 both, is eligible for the plan benefits if the employee meets the
22 requirements of RCW 50A.15.010 and has worked at least ~~((three
23 hundred forty))~~ 340 hours for the employer during the ~~((twelve))~~ 12
24 months immediately preceding the date leave will commence.

25 (h) The voluntary plan provides that an employee of an employer
26 with a voluntary plan for either family leave or medical leave, or
27 both, who takes leave under the voluntary plan is entitled to ~~((the))~~
28 employment protection ~~((provisions))~~ in accordance with the
29 requirements contained in RCW 50A.35.010 ~~((if the employee has worked
30 for the employer for at least nine months and nine hundred sixty-five
31 hours during the twelve months immediately preceding the date leave
32 will commence))~~.

33 (i) The voluntary plan provides that the employer maintains the
34 employee's existing health benefits as provided under RCW 50A.35.020.

35 (6) (a) The department must conduct a review of the expenses
36 incurred in association with the administration of the voluntary
37 plans during the first three years after implementation and report
38 its findings to the legislature.

39 (b) The review must include an analysis of the adequacy of the
40 fee in subsection (1) of this section to cover the department's

1 administrative expenses related to reviewing and approving or denying
2 the applications and administering appeals related to voluntary
3 plans. The review must include an estimate of the next year's
4 projected administrative costs related to the voluntary plans. The
5 legislature shall adjust the fee in subsection (1) of this section as
6 needed to ensure the department's administrative expenses related to
7 the voluntary plans are covered by the fee.

8 (c) If the current receipts from the fee in subsection (1) of
9 this section are inadequate to cover the department's administrative
10 expenses related to the voluntary plans, the department may use funds
11 from the family and medical leave insurance account under RCW
12 50A.05.070 to pay for these expenses.

13 **Sec. 7.** RCW 50A.24.010 and 2019 c 13 s 36 are each amended to
14 read as follows:

15 (1) The legislature recognizes that while family leave and
16 medical leave benefit both employees and employers, there may be
17 costs that disproportionately impact small businesses. To equitably
18 balance the risks among employers, the legislature intends to assist
19 small businesses with the costs of an employee's use of family or
20 medical leave as provided in this chapter.

21 (2) Employers with (~~one hundred fifty or fewer~~) 50 to 150
22 employees (~~and employers with fifty or fewer employees who are~~
23 ~~assessed all premiums under RCW 50A.10.030(5)(b))~~) may apply to the
24 department for (~~a grant~~) grants under this section, subject to the
25 requirements of this section.

26 (3)(a) An employer may receive a grant of three thousand dollars
27 if the employer hires a temporary worker to replace an employee on
28 family or medical leave for a period of seven days or more.

29 (b) For an employee's family or medical leave, an employer may
30 receive a grant of up to one thousand dollars as reimbursement for
31 significant additional wage-related costs due to the employee's
32 leave.

33 (c) An employer may receive a grant under (a) or (b) of this
34 subsection, but not both, except that an employer who received a
35 grant under (b) of this subsection may receive a grant of the
36 difference between the grant awarded under (b) of this subsection and
37 three thousand dollars if the employee on leave extended the leave
38 beyond the leave initially planned and the employer hired a temporary
39 worker for the employee on leave.

1 (4) An employer may (~~apply for~~) receive a grant under this
2 section no more than ten times per calendar year and no more than
3 once for each employee on leave.

4 (5) To be eligible for a grant, the employer must provide the
5 department written documentation showing the temporary worker hired
6 or significant wage-related costs incurred are due to an employee's
7 use of family or medical leave.

8 (~~(6) (The department must assess an employer with fewer than~~
9 ~~fifty employees who receives a grant under this section for all~~
10 ~~premiums for three years from the date of receipt of a grant.~~

11 ~~(7) The grants under this section shall be funded from the family~~
12 ~~and medical leave insurance account.~~

13 ~~(8) The commissioner shall adopt rules as necessary to implement~~
14 ~~this section.~~

15 ~~(9))~~ For the purposes of this section, the number of employees
16 must be calculated as provided in RCW 50A.10.030.

17 (~~(10))~~ (7) An employer who has an approved voluntary plan is
18 not eligible to receive a grant under this section.

19 NEW SECTION. Sec. 8. A new section is added to chapter 50A.24
20 RCW to read as follows:

21 (1) Employers with fewer than 50 employees may apply to the
22 department for grants under this section, subject to the requirements
23 of this section.

24 (2)(a) An employer may receive a grant of \$3,000 if the employer
25 hires a temporary worker to replace an employee on family or medical
26 leave for a period of seven days or more, or if the employer incurs
27 significant additional wage-related costs due to the employee's
28 leave. To be eligible for a grant, the employer must provide the
29 department a written statement attesting that the employer hired a
30 temporary worker or incurred other significant wage-related costs due
31 to an employee's use of family or medical leave.

32 (b) An employer may receive a grant under this subsection no more
33 than 10 times per calendar year and no more than once for each
34 employee on leave.

35 (3)(a) An employer may receive a grant to cover the costs of
36 health care benefits paid by the employer for the employee during the
37 period of leave if:

1 (i) The period of the employee's leave under this title for which
2 the employer paid for health care benefits was at least four
3 continuous workweeks; and

4 (ii) The employer provides the department with documentation of
5 its contributions for the employee's health care benefits during the
6 period of leave.

7 (b) A grant under this subsection (3) must reimburse the employer
8 for the actual amount of the employer's contributions for health care
9 benefits during the employee's leave taken under this title for up to
10 four continuous months, except that the grant may not reimburse
11 monthly costs in excess of the current monthly employer contribution
12 for a state employee's health care coverage through the public
13 employees' benefits board program. The total grant amount under this
14 subsection may not exceed four times the current monthly employer
15 contribution for a state employee's health care coverage through the
16 public employees' benefits board program.

17 (c) An employer may receive a grant under this subsection no more
18 than 10 times per calendar year and no more than once for each
19 employee on leave.

20 (4) The department must assess any employer who receives a grant
21 under this section for all premiums for three years from the date of
22 receipt of a grant.

23 (5) For the purposes of this section, the number of employees
24 must be calculated as provided in RCW 50A.10.030.

25 (6) An employer who has an approved voluntary plan is not
26 eligible to receive a grant under this section.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 50A.24
28 RCW to read as follows:

29 (1) The grants under this chapter must be funded from the family
30 and medical leave insurance account.

31 (2) An application for a grant under this chapter must be
32 submitted no later than 12 months after the employee's first day of
33 leave under this title. A third-party administrator or other agent
34 authorized by the employer may submit an application on the
35 employer's behalf.

36 (3) The department shall submit payment to the employer within 14
37 calendar days after the qualifying employer's completed application
38 is received by the department.

39 (4) The department shall:

1 (a) Promptly notify an employer with fewer than 50 employees of
2 the grants under this chapter if one or more of its employees
3 receives benefits under this title;

4 (b) Make available on its website information on the grants under
5 this chapter and include a link to grant applications within the
6 existing website portal; and

7 (c) Include information on the grants under this chapter when
8 notifying employers and employees of changes to the premium rate
9 under RCW 50A.10.030.

10 (5) The commissioner shall adopt rules as necessary to implement
11 this chapter.

12 **Sec. 10.** RCW 50A.35.010 and 2019 c 13 s 4 are each amended to
13 read as follows:

14 (1) (a) Except as provided in RCW 50A.30.010(5) and subsections
15 (6) and (7) of this section, ~~((any))~~ an employee ~~((who takes family))~~
16 is entitled to employment restoration upon returning from:

17 (i) Family or medical leave under this title, regardless of
18 whether the employee also qualifies for and receives concurrent leave
19 under the federal family and medical leave act of 1993 (Act Feb. 5,
20 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of
21 this section), as provided under RCW 50A.15.110; or

22 (ii) Unpaid leave protected by the federal family and medical
23 leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it
24 existed on the effective date of this section) during a period in
25 which the employee was eligible for benefits under this title but did
26 not apply for and receive those benefits, excluding unpaid sick leave
27 or temporary disability taken for pregnancy or childbirth under
28 chapter 49.60 RCW or as an accommodation under RCW 43.10.005, subject
29 to the notice requirements in subsection (8) of this section.

30 (b) For purposes of this section, "employment restoration" and
31 "employment protection" mean that the employee is entitled, on return
32 from the leave:

33 ~~((a))~~ (i) To be restored by the employer to the position of
34 employment held by the employee when the leave commenced; or

35 ~~((b))~~ (ii) To be restored by the employer to an equivalent
36 position with equivalent employment benefits, pay, and other terms
37 and conditions of employment.

1 (2) The taking of leave under this title may not result in the
2 loss of any employment benefits accrued before the date on which the
3 leave commenced.

4 (3) Nothing in this section shall be construed to entitle any
5 restored employee to:

6 (a) The accrual of any seniority or employment benefits during
7 any period of leave; or

8 (b) Any right, benefit, or position of employment other than any
9 right, benefit, or position to which the employee would have been
10 entitled had the employee not taken the leave.

11 (4) As a condition of restoration under subsection (1) of this
12 section for an employee who has taken medical leave, the employer may
13 have a uniformly applied practice or policy that requires each such
14 employee to receive certification from the employee's health care
15 provider that the employee is able to resume work.

16 (5) Nothing in this section shall be construed to prohibit an
17 employer from requiring an employee on leave to report periodically
18 to the employer on the status and intention of the employee to return
19 to work.

20 (6) (a) This section does not apply unless the employee (~~(i)~~
21 ~~Works for an employer with fifty or more employees; (ii) has been~~
22 ~~employed by the current employer for twelve months or more; and (iii)~~
23 ~~has worked for the current employer for at least one thousand two~~
24 ~~hundred fifty hours during the twelve months immediately preceding~~
25 ~~the date on which leave will commence. For the purposes of this~~
26 ~~subsection, an employer shall be considered to employ fifty or more~~
27 ~~employees if the employer employs fifty or more employees for each~~
28 ~~working day during each of twenty or more calendar workweeks in the~~
29 ~~current or preceding calendar year~~) began employment with the
30 current employer at least 90 calendar days before taking the leave.

31 (b) An employer may deny restoration under this section to any
32 salaried employee who is among the highest paid (~~(ten)~~) 10 percent of
33 the employees employed by the employer within (~~(seventy-five)~~) 75
34 miles of the facility at which the employee is employed if:

35 (i) Denial is necessary to prevent substantial and grievous
36 economic injury to the operations of the employer;

37 (ii) The employer notifies the employee of the intent of the
38 employer to deny restoration on such basis at the time the employer
39 determines that the injury would occur; and

1 (iii) The leave has commenced and the employee elects not to
2 return to employment after receiving the notice.

3 (7)(a) Except by written agreement between the employer and
4 employee or between the employer and an employee bargaining unit, the
5 employee forfeits the right to employment restoration under this
6 section if the employee does not exercise it upon the earlier of:

7 (i) The first scheduled work day following the period of leave
8 under subsection (1)(a) of this section; or

9 (ii) The first scheduled work day following a continuous period
10 of, or combined intermittent periods of a total of, 16 typical
11 workweeks of leave under subsection (1)(a) of this section taken
12 during a period of 52 consecutive calendar weeks, except this period
13 is extended to 18 typical workweeks of leave under subsection (1)(a)
14 of this section taken during a period of 52 consecutive calendar
15 weeks if any of the leave was taken as a result of a serious health
16 condition with a pregnancy resulting in incapacity.

17 (b) For any continuous period of leave exceeding two typical
18 workweeks or any combined intermittent periods of leave exceeding 14
19 typical workweeks, the employer must provide at least five business
20 days advance written notice to the employee, in a language understood
21 by the employee and transmitted by a method reasonably certain to be
22 received promptly by the employee, regarding the estimated expiration
23 of the right of employment restoration and the date of the employee's
24 first scheduled work day under this subsection.

25 (c) The expiration of the periods under (a)(ii) of this
26 subsection does not affect an employee's eligibility for paid family
27 and medical leave benefits under this title.

28 (8)(a) In order for unpaid leave under subsection (1)(a)(ii) of
29 this section to qualify for employment restoration rights under this
30 section and count towards the maximum periods in subsection
31 (7)(a)(ii) of this section, the employer must provide written notice
32 to the employee, in a language understood by the employee and
33 transmitted by a method reasonably certain to be received promptly by
34 the employee, of the following:

35 (i) That the employer is designating and counting the employee's
36 unpaid leave against the employee's entitlement under the federal
37 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3,
38 107 Stat. 6, as it existed on the effective date of this section),
39 including specifying the amount of the entitlement used and
40 remaining;

1 (ii) The start and end dates of the employer's designated 12-
2 month leave year under the federal family and medical leave act of
3 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the
4 effective date of this section);

5 (iii) Since the employee is eligible for paid family or medical
6 leave under this title but is not applying for and receiving
7 benefits, that the employer is counting the unpaid leave towards the
8 maximum periods in subsection (7)(a)(ii) of this section, including
9 specifying the start and end dates of the unpaid leave, and the total
10 amount of the unpaid leave counting toward those maximum periods; and

11 (iv) That the use of unpaid leave counting against the periods in
12 subsection (7)(a)(ii) of this section does not affect the employee's
13 eligibility for paid family or medical leave benefits under this
14 title.

15 (b) The employer must provide the written notice required by this
16 subsection:

17 (i) Within five business days of the earlier of either the
18 employee's initial request for or use of unpaid leave protected by
19 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
20 P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this
21 section); and

22 (ii) At least monthly for the remainder of the employer's
23 designated 12-month leave year.

24 (9) For purposes of auditing compliance or otherwise enforcing
25 this chapter, the department may require the employer to collect and
26 report information on the exercise of employment restoration rights
27 under this section.

28 (10) This section does not alter or limit the rights and
29 protections available to employees under other state or federal laws,
30 including but not limited to sick leave or temporary disability taken
31 for pregnancy or childbirth under chapter 49.60 RCW or as an
32 accommodation under RCW 43.10.005, sick leave taken under RCW
33 49.46.210, or leave protected by the federal family and medical leave
34 act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed
35 on the effective date of this section).

36 **Sec. 11.** RCW 50A.35.020 and 2019 c 13 s 39 are each amended to
37 read as follows:

38 ~~((If required by the federal family and medical leave act, as it~~
39 ~~existed on October 19, 2017)) (1) Except as provided under subsection~~

1 (2) of this section, during any period of family or medical leave
2 taken under this title, the employer shall maintain any existing
3 health benefits of the employee in force for the duration of such
4 leave as if the employee had continued to work from the date the
5 employee commenced family or medical leave until the date the
6 employee returns to employment. If the employer and employee share
7 the cost of the existing health benefits, the employee remains
8 responsible for the employee's share of the cost.

9 (2) This section does not apply ((to an)) if:

10 (a) An employee ((who)) is not ((in employment for an)) employed
11 by the employer at the time of filing an application for benefits;

12 (b) An employee is not entitled to employment protection under
13 RCW 50A.35.010; or

14 (c) The employee did not exercise the right to employment
15 protection within the time periods provided under RCW 50A.35.010(7).

16 NEW SECTION. Sec. 12. This act takes effect January 1, 2026.

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