



2025 Employment Law Update

Thank you for joining us!
The presentation will begin shortly.



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Welcome

Krista Slosburg
Shareholder, Employment Team Leader



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Meet Our Team



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Housekeeping

- We will have a dedicated Q&A period at the end of the program. Please submit your questions via the Q&A box.
- This session is being recorded. The PowerPoint slides and session recording will be shared next week.
- Disclaimer: This presentation is for informational purposes only and does not constitute legal advice. Viewing this presentation does not create an attorney-client relationship. For advice on specific situations, please consult legal counsel.

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Employment Update

2025 Legislative Session

Valerie Walker & Sarah Wixson

November 13, 2025



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On the Agenda

- Equal Pay & Opportunities Act
- Fair Chance Act
- Pregnancy Accommodations
- Personnel Files
- Washington's WARN Act
- Paid Sick Leave
- Unemployment for Striking Workers
- ICE



Equal Pay & Opportunities Act

- 2023 law to promote pay transparency
- Requires job postings to include wage scale and benefits
- Changes
 - Limiting definition of job posting
 - Limiting required disclosures
 - Safe harbor: 7/27/25 – 7/27/27 notice and opportunity to cure
 - Statutory damages: modified to range rather than fixed amount
- RCW 49.58.110
- **Amendments became effective July 27, 2025**



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Equal Pay & Opportunities Act

- Limiting definition of job posting:
 - Excludes “a solicitation for recruiting job applicants that is digitally replicated and published without an employer’s consent”
- Limited disclosures
 - If the employer is only offering a fixed wage amount for the new position or promotion, employer only needs to disclose that amount
- Safe harbor from 7/27/25 to 7/27/27
 - Person must provide written notice
 - Employer gets opportunity to correct
 - If employer corrects job posting \leq 5 business days of receiving notice and contacts (if applicable) third-party posting entity with demand to correct the posting, then ...
 - No penalties, damages, or other relief!

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Equal Pay & Opportunities Act - Damages

- Previously: statutory damages were \$5,000 per violation
- Update: \$100 to \$5,000 per violation depending on:
 - Willful or repeat violation?
 - What is necessary to deter future noncompliance?
 - Consider purpose of chapter (i.e., promote fairness among workers and equitable compensation)

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Fair Chance Act

- 2018 law to protect job applicants with a criminal history
- Changes to when employer is allowed to request information about applicant's criminal history
- New limits on employer's ability to reject applicants and take adverse action against employees based on applicant's criminal history
- RCW 49.94.005, 49.94.010, and 49.94.030
- **Amendments effective July 1, 2026**

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Fair Chance Act

- Previously: bar applied until after employer determined the applicant is otherwise qualified
- Change: bar applies until after employer *makes offer of employment*
 - Offer can be conditioned on obtaining the applicant's criminal record



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Fair Chance Act

- New limits re: "tangible adverse employment action" (TAEC)
- Applies to applicants & employees
 - Applicant: Reject an otherwise qualified applicant
 - Employee: Terminate, suspend, discipline, demote, or deny promotion.
- Barred where action based on:
 - Arrest Record
 - EXCEPTION: on bail or released on their own personal recognizance pending trial
 - Juvenile Conviction Record
 - Adult Conviction Record
 - EXCEPTION: employer has **legitimate business reasons** for the action

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Fair Chance Act

- If using **legitimate business reasons** exception, employer must:
 - Provide initial notice before taking action
 - Cite record relied upon
 - Hold position open for min. 2 business days to provide reasonable opportunity for providing correction, explanation, and information
 - Provide written decision at time of action with documentation as to reasoning and assessment of relevant factors.
 - Seriousness, # and types, time since, position duties, place/way position will be performed, and info re: rehab, good conduct, work experience, education, training



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Fair Chance Act—Damages

- AGO enforces this statute
- Maximum monetary penalties increased, now:
 - 1st violation, \$1500
 - 2nd violation, \$3000
 - 3rd+ violation, \$15,000
 - Payable to applicant or employee or “aggrieved person”
- Damages could include unpaid wages, reasonable attorneys’ fees, and costs

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Pregnancy Accommodations

- 2017 law to protect pregnant employees
- Healthy Starts Act required employers ≥ 15 employees to provide reasonable accommodations to pregnant employees
 - EXCEPTION: undue hardship
- Changes:
 - Law becomes part of WLAD
 - Enforcement moves from AGO to L&I
 - Expands coverage and accommodations
 - New paid lactation accommodation breaks
- Adds to Title 49 RCW, amends RCW 2.36.100, repeals RCW 43.10.005
- **Amendments effective July 1, 2027**

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Pregnancy Accommodations

- Expansion of coverage:
 - Employers ≥ 1 employees
 - Employers includes religious/sectarian non-profits
- Expansion of accommodations:
 - Scheduling flexibility includes postpartum visits (not just prenatal visits)



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Pregnancy Accommodations

- New paid lactation breaks
 - For any break or travel time to off-site location for breast milk expression:
 - Employee must be paid
 - Employee cannot be required to use paid leave
 - This time is in addition to regular meal and rest periods



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Providing Personnel File & Written Reason for Discharge

- New definition for personnel file
- Changes to deadlines (more time!)
- New right to sue and statutory damages
- RCW 49.12.240-250
- **Amendments became effective July 27, 2025**

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Personnel File

- There is now a definition of “personnel file,” records re:
 - job application
 - performance evaluations
 - nonactive or closed discipline
 - leave and reasonable accommodation
 - payroll
 - payroll agreements



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Personnel File

- Request may be from current or former employee or designee
 - Former employee = separated from employer w/in 3 years of person's request
- Deadline to provide a copy: 21 days after written request

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Written Statement of Discharge

- Request may be from former employee or designee
- Signed written statement of discharge must state:
 - Effective date of discharge
 - Reason(s) for discharge, if employer had reason(s)
- Deadline to provide a copy: 21 days after written request



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Personnel File & Written Statement of Discharge – Damages

- Employees or former employees may sue for violations
- Statutory Damages that increase depending upon delay:
 - After 21 days, \$250
 - After 28 days, \$500
 - After 35 days, \$1,000
 - \$500 for any other violations.

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Washington's WARN Act



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WA Warn Law

- An employer may not order a business closing or a mass layoff until the end of a 60-day period that begins after the employer, pursuant to this section, serves written notice of such action to the department and to the affected employee or, if the employee is represented by a union, to the employee's bargaining representative.
- Employees on paid medical leave cannot be included in mass layoff

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Damages & Penalties

1. Back Pay & attorney fees
2. Civil Penalties of up to \$500 per day



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WA WARN Definitions

- Employer: 50 or more full-time employees
- Employment loss:
 - termination, separation, retirement (no cause)
 - layoff exceeding 6 months
 - reduction in hours by 50%
- Part-time Employees:
 - less than 20 hours a week
 - less than 6 mos.

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Scenario One

Building conversion to low flow toilets.



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Not Required If...

1. Seeking capital
2. Not reasonably foreseeable
3. Natural disaster
4. Construction & hired with the understanding that employment was limited to project

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Scenario Two

Farm workers hired for the 2025 apple season



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Health Benefits—Paid Sick Leave

JANUARY

Family member:

- * lives with you
- * creates an expectation of care
- * child's spouse
- * grandchild/parent

Closure: Emergency/health

Verification: Clarified

JULY 27

Can use paid sick leave for immigration-related proceedings

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Unemployment for Striking Workers

- Up to six weeks
- Waiting period of 15-21 days
- Sunset clause: 2026
- Employer charged for benefits
- No union membership



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ICE

- Have a plan
- Limit “public” spaces and responsible people
- You can’t unknow



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Trivia Time

Krista Slosburg

November 13, 2025



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Salaried Employees

- TRUE OR FALSE:

- A Washington employee can be classified as exempt if they are paid at least \$70,000 per year.

- ANSWER:

- Yes, if you have 50 or less employees. But not for long.



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Salary Threshold Implementation Schedule

For small employers with 1–50 employees

When the rule takes effect	Multiply minimum wage by...	Projected salary threshold, weekly	Projected salary threshold, annual
July 1, 2020	1.25	\$675.00	\$35,100.00
Jan. 1, 2021	1.5	\$821.40	\$42,712.80
Jan. 1, 2022	1.75	\$1,014.30	\$52,743.60
Jan. 1, 2023	1.75	\$1,101.80	\$57,283.60
Jan. 1, 2024	2	\$1,302.40	\$67,724.80
Jan. 1, 2025	2	\$1,332.80	\$69,305.60
Jan. 1, 2026	2.25	\$1,541.70	\$80,168.40
Jan. 1, 2027	2.25	\$1,583.10	\$82,321.20
Jan. 1, 2028	2.5	\$1,796.00	\$93,392.00



* Remember the duties tests!

For large employers with 51 or more employees

When the rule takes effect	Multiply minimum wage by...	Projected salary threshold, weekly	Projected salary threshold, annual
July 1, 2020	1.25	\$675.00	\$35,100.00
Jan. 1, 2021	1.75	\$958.30	\$49,831.60
Jan. 1, 2022	1.75	\$1,014.30	\$52,743.60
Jan. 1, 2023	2	\$1,259.20	\$65,478.40
Jan. 1, 2024	2	\$1,302.40	\$67,724.80
Jan. 1, 2025	2.25	\$1,499.40	\$77,968.80
Jan. 1, 2026	2.25	\$1,541.70	\$80,168.40
Jan. 1, 2027	2.5	\$1,759.00	\$91,468.00
Jan. 1, 2028	2.5	\$1,796.00	\$93,392.00



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Minimum Wage

TRUE OR FALSE:

- You can pay your Washington employees \$16.66 per hour.

ANSWER:

- Yes, but not for long.
- Effective January 1, state minimum wage increases to **\$17.13** per hour.
- Remember local minimum wage rates:
 - Seattle: \$20.76 per hour, set to increase to **\$21.30** per hour in January

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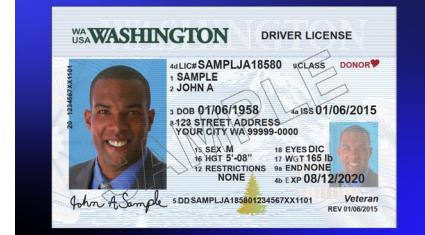
Driver's Licenses

■ TRUE OR FALSE:

- You can require an employee to have a driver's license.

■ ANSWER:

- It depends. Unless driving is an **essential job function** or is related to a **legitimate business purpose** for the position, an employer cannot require a driver's license as a condition of employment or include a statement in a job posting that a driver's license is required.



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Non-Competes

■ TRUE OR FALSE:

- A Washington employee can have a non-compete so long as they earn at least \$100,000 per year.

■ ANSWER:

- False. The current threshold is \$123,394.17, and it increases to **\$126,858.83** in January.

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Meal Periods

- TRUE OR FALSE:

- If an employee misses their meal period, an employer only needs to pay them for the 30-minute missed meal period.

- ANSWER:

- False. If the meal break is interrupted or missed, employers must pay the employee for the time they worked during the meal period. If the employee doesn't receive a rescheduled meal period, **employers must pay employees an additional 30 minutes for each missed meal period**. Failure to do so in a timely manner could result in an employer having to pay up to 120 minutes for each missed meal period.

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Paid Family & Medical Leave (PFML) Update

And What It Means for Reasonable Accommodation and FMLA

Amy Alexander

November 13, 2025



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Overview: Significant Changes to Washington PFML

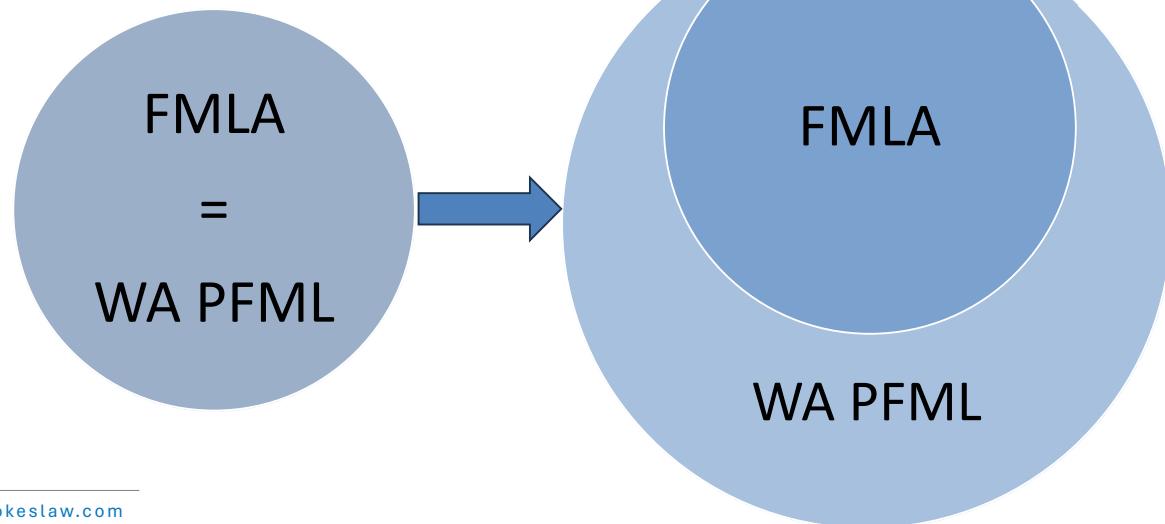
- First major amendments to six-year-old PFML Program
- Dramatically expanded job protection rights
- New concurrent leave mechanism with FMLA
- Reduced minimum leave increment from 8 to 4 hours
- Expanded health insurance continuation
- Enhanced employer notice obligations

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Job Protection (Before and After)



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Silver Lining for Small Employers?

- Clear standards



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Expanded Job Protection: Phased Implementation

Phase-In Schedule for Smaller Employers

- **January 1, 2026:** Employers with 25+ employees
- **January 1, 2027:** Employers with 15+ employees
- **January 1, 2028:** Employers with 8+ employees

Reduced Tenure Requirement:

- 180 calendar days (vs. 1 year + 1,250 hours)
- Hours worked no longer a factor for job protection eligibility



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Concurrent Leave: Solving the “Stacking” Problem

New Employer Control Over FMLA/PFML Coordination

- **Previous issue:** Employees could take unpaid FMLA first, then apply for paid PFML, extending total job-protected leave
- **New rule:** Employers can run PFML job protection concurrently with FMLA, even if employee delays PFML application
- **Result:** Employee may still receive PFML benefits after FMLA expires, but loses job protection during that period
- **Critical requirement:** Employers must provide strict employee notice to exercise this option

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Concurrent Leave Notice

- Employer is designating and counting employee's unpaid leave as FMLA leave
- If employee's leave is eligible for both FMLA and PFML, their PFML job restoration rights will be shortened by any period of time in which they choose to use only FMLA and not PFML
- Job protection designation does not affect eligibility for PFML benefits
- Amount of FMLA entitlement used
- Amount of FMLA entitlement remaining
- Start and end dates of the employer's 12 month leave year under FMLA
- Start and end dates of unpaid leave
- Total amount of the unpaid leave counting towards the PFML job protection period

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Timing of Concurrent Leave Notice

- Within five business days of initial request for or use of FMLA.

whichever is earlier
- Also, at least monthly for the entire designated 12 month leave year.

translated, if necessary

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Limitations of Concurrent Leave Notice

- The expiration of PFML protected leave is not the end of the inquiry.
- Employees maintain rights under:
 - Sick leave
 - Pregnancy disability leave
 - Pregnancy accommodation leave
 - Disability accommodation

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Return-To-Work Notice Requirement

- Employers must notify employees that it is time to come back to work
- Five business days in advance, provide written notice of:
 - Estimated expiration date of job-protected period
 - Employee's first scheduled return date
- Applies to leaves over 2 continuous weeks or 14 intermittent days
- Translate the notice, if necessary

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Anti-Ghosting Provision

- **Prompt return mandatory:** Employees must report to work on scheduled return date to maintain job protection
- **Job protection ends:** On earlier of first scheduled workday following:
 - Actual leave period under FMLA or PFML, or
 - 16 weeks of leave (18 weeks for pregnancy-related)

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Minimum Leave Increments

- **Minimum leave reduced:** 4 consecutive hours (down from 8 hours)
- Non-exempt employees can now access half-day intermittent PFML
- **Exempt employees:** Partial-day PFML remains challenging

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Expanded Insurance Continuation

- Previously: Required only if employee qualified for FMLA with overlapping periods
- Now: Required during any job-protected PFML leave
- Most employers will maintain insurance for most PFML leaves going forward

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Best Practices and Action Items

- Get your forms ready
- Designate concurrent leave early and often
- Review your policies and internal procedures
- Train, train, train
- Evaluate additional leave requests on a case-by-case basis

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Reasonable Accommodations

- **Accommodation duty continues:** PFML does not suspend ADA/WLAD reasonable accommodation obligations
- **Interactive process trigger:** When employee cannot return on scheduled date, evaluate the need to engage in interactive process regarding extended unpaid leave
- **Medical documentation:** Balance PFML medical certification with interactive process requirements
- **Reduced hours consideration:** 4-hour minimum enables part-time return-to-work accommodations

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Questions

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