

WASHINGTON

Washington Amends PFML to Limit Stacking, Expand Job Protection

Washington state has passed amendments to its paid family and medical leave (PFML) program. Notable changes reinforce the requirement that PFML run concurrently with leave under the federal Family and Medical Leave Act (FMLA). Other provisions expand job restoration and affect the continuation of health care for employees on leave. The state is also tasked with creating a notice of PFML rights.

The amendments take effect **Jan. 1, 2026**.

Expansion of Job Restoration

Currently, the job restoration provisions in the unamended PFML law apply only to employees who:

- Work for an employer with at least 50 employees;
- Have been employed by the employer for at least 12 months; and
- Worked for the employer at least 1,250 hours during the 12 months immediately preceding the leave.

The amendments revise the eligibility provisions so that employees will no longer need to satisfy the 12 months/1,250 hours work thresholds. Instead, employees will be entitled to job restoration if they have worked for their employer for at least **180 days** before taking the leave.

In addition, the job restoration requirement will apply to employers with **fewer than 50 employees**, following the phased-in schedule below:

- Twenty-five or more employees: beginning Jan. 1, 2026;
- Fifteen or more employees: beginning Jan. 1, 2027; and
- Eight or more employees: beginning Jan. 1, 2028.

The amendments provide that employees forfeit their right to job restoration unless they exercise that right by the first scheduled workday following leave.

However, if the leave has exceeded two weeks, the employer must provide at least five days' advance written notice to the employee of the expiration of employment restoration and the date of their first scheduled workday.

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Highlights

Job Protection

Amendments to the PFML law expand job restoration requirements to smaller employers and lower employee eligibility requirements for job restoration.

Reinforcing Limits on Stacking

The changes allow employers to count FMLA leave against PFML maximum entitlements, but only with notice to employees.

New Employee Notice

The Employment Security Department must create a notice of employee rights.

Employment restoration rules will apply to successively smaller groups of employers beginning Jan. 1, 2026.

Restriction on Stacking PFML and FMLA Leave

The current law already provides that PFML be used concurrently with FMLA leave. However, there is no mechanism for reducing PFML or employment protection when employees take FMLA leave before using PFML in the same year (a practice known as “stacking” leave).

The amendments allow employers to count an employee’s FMLA leave against their job-protected PFML entitlement when the FMLA leave qualifies for PFML, even if the employee does not apply for or receive PFML. The amendments thus restrict an employee’s ability to preserve PFML for later use.

These new provisions will apply only if the employer gives the employee **written notice** containing specific required information, including that the employee’s unpaid leave is being designated as FMLA leave and counted against the employee’s job-protected PFML maximum, among other things. The notice must be provided:

- Within five business days of the employee requesting or using FMLA leave—whichever is earlier; and
- Every month for the rest of the employee’s FMLA year.

Continuation of Health Care Coverage

The amendments alter the health care coverage requirement by mandating that employers maintain employee coverage during any PFML for which the employee is entitled to job protection. The current PFML law, by contrast, requires that health care coverage be continued only if there is at least one day of overlap with FMLA leave.

Notice of PFML Rights

The PFML law requires employers to provide written notice of PFML rights within five business days after an employee’s seventh consecutive day of absence due to family or medical leave or within five business days after the employer has received notice that the employee’s absence is due to family or medical leave, whichever is later.

The amendments charge the commissioner of the Employment Security Department with developing the required employee notice, which must explain eligibility requirements, possible weekly benefits, application processes, employment protection rights and nondiscrimination rights, and direct the employee to appropriate contacts and portals for more information. The notice must be in an easy-to-understand format.

Next Steps for Employers

Employers should familiarize themselves with the new requirements before they take effect Jan. 1, 2026. In particular, employers must ensure their policies reflect the changes to job restoration and the continuation of health care coverage under the law. Employers wishing to take advantage of the new provisions limiting leave stacking must comply with the new notice requirements included in those amendments.

Employers should also watch for a new employee notice and any official guidance on the amendments from the department.