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**HOUSE BILL 1399**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Robinson, Doglio, Sells, Hudgins, Ormsby, Springer, Gregerson, and Frame; by request of Employment Security Department

1 AN ACT Relating to paid family and medical leave; amending RCW  
2 50A.04.010, 50A.04.015, 50A.04.020, 50A.04.025, 50A.04.030,  
3 50A.04.035, 50A.04.040, 50A.04.045, 50A.04.055, 50A.04.060,  
4 50A.04.065, 50A.04.070, 50A.04.075, 50A.04.080, 50A.04.085,  
5 50A.04.090, 50A.04.095, 50A.04.100, 50A.04.105, 50A.04.110,  
6 50A.04.115, 50A.04.120, 50A.04.125, 50A.04.145, 50A.04.160,  
7 50A.04.165, 50A.04.170, 50A.04.175, 50A.04.185, 50A.04.195,  
8 50A.04.200, 50A.04.205, 50A.04.215, 50A.04.220, 50A.04.225,  
9 50A.04.230, 50A.04.235, 50A.04.240, 50A.04.245, 50A.04.250,  
10 50A.04.255, 50A.04.260, 50A.04.265, 50A.04.505, 50A.04.510,  
11 50A.04.520, 50A.04.525, 50A.04.540, 50A.04.550, 50A.04.555,  
12 50A.04.560, 50A.04.565, 50A.04.580, 50A.04.590, 50A.04.595,  
13 50A.04.600, 50A.04.610, 50A.04.615, 50A.04.625, 50A.04.645,  
14 50A.04.650, 50A.04.655, 50A.04.660, 50A.04.900, 50.29.021,  
15 43.20A.080, and 42.56.410; reenacting and amending RCW 26.23.060;  
16 adding new chapters to Title 50A RCW; recodifying RCW 50A.04.005,  
17 50A.04.010, 50A.04.195, 50A.04.200, 50A.04.205, 50A.04.210,  
18 50A.04.215, 50A.04.220, 50A.04.225, 50A.04.235, 50A.04.255,  
19 50A.04.265, 50A.04.900, 50A.04.105, 50A.04.110, 50A.04.115,  
20 50A.04.120, 50A.04.125, 50A.04.015, 50A.04.020, 50A.04.030,  
21 50A.04.035, 50A.04.040, 50A.04.045, 50A.04.050, 50A.04.055,  
22 50A.04.060, 50A.04.065, 50A.04.240, 50A.04.250, 50A.04.230,  
23 50A.04.600, 50A.04.605, 50A.04.610, 50A.04.615, 50A.04.620,

1 50A.04.625, 50A.04.630, 50A.04.635, 50A.04.640, 50A.04.645,  
2 50A.04.650, 50A.04.655, 50A.04.660, 50A.04.665, 50A.04.025,  
3 50A.04.245, 50A.04.260, 50A.04.085, 50A.04.095, 50A.04.100,  
4 50A.04.090, 50A.04.130, 50A.04.135, 50A.04.140, 50A.04.145,  
5 50A.04.150, 50A.04.155, 50A.04.160, 50A.04.165, 50A.04.170,  
6 50A.04.175, 50A.04.180, 50A.04.185, 50A.04.190, 50A.04.500,  
7 50A.04.505, 50A.04.510, 50A.04.515, 50A.04.520, 50A.04.525,  
8 50A.04.530, 50A.04.535, 50A.04.540, 50A.04.545, 50A.04.550,  
9 50A.04.555, 50A.04.560, 50A.04.565, 50A.04.570, 50A.04.575,  
10 50A.04.580, 50A.04.585, 50A.04.590, 50A.04.595, 50A.04.070,  
11 50A.04.075, and 50A.04.080; and prescribing penalties.

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

13 **Sec. 1.** RCW 50A.04.010 and 2018 c 141 s 1 are each amended to  
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this (~~chapter~~) title.

17 (1) "Child" includes a biological, adopted, or foster child, a  
18 stepchild, or a child to whom the employee stands in loco parentis,  
19 is a legal guardian, or is a de facto parent, regardless of age or  
20 dependency status.

21 (2) "Commissioner" means the commissioner of the department or  
22 the commissioner's designee.

23 (3) "Department" means the employment security department.

24 (4) (a) "Employee" means an individual who is in the employment of  
25 an employer.

26 (b) "Employee" does not include employees of the United States of  
27 America.

28 (5) "Employee's average weekly wage" means the quotient derived  
29 by dividing the employee's total wages during the two quarters of the  
30 employee's qualifying period in which total wages were highest by  
31 twenty-six. If the result is not a multiple of one dollar, the  
32 department must round the result to the next lower multiple of one  
33 dollar.

34 (6) (a) "Employer" means: (i) Any individual or type of  
35 organization, including any partnership, association, trust, estate,  
36 joint stock company, insurance company, limited liability company, or  
37 corporation, whether domestic or foreign, or the receiver, trustee in  
38 bankruptcy, trustee, or the legal representative of a deceased

1 person, having any person in employment or, having become an  
2 employer, has not ceased to be an employer as provided in this  
3 (~~chapter~~) title; (ii) the state, state institutions, and state  
4 agencies; and (iii) any unit of local government including, but not  
5 limited to, a county, city, town, municipal corporation,  
6 quasi-municipal corporation, or political subdivision.

7 (b) "Employer" does not include the United States of America.

8 (7) (a) "Employment" means personal service, of whatever nature,  
9 unlimited by the relationship of master and servant as known to the  
10 common law or any other legal relationship performed for wages or  
11 under any contract calling for the performance of personal services,  
12 written or oral, express or implied. The term "employment" includes  
13 an individual's entire service performed within or without or both  
14 within and without this state, if:

15 (i) The service is localized in this state; or

16 (ii) The service is not localized in any state, but some of the  
17 service is performed in this state; and

18 (A) The base of operations of the employee is in the state, or if  
19 there is no base of operations, then the place from which such  
20 service is directed or controlled is in this state; or

21 (B) The base of operations or place from which such service is  
22 directed or controlled is not in any state in which some part of the  
23 service is performed, but the individual's residence is in this  
24 state.

25 (b) "Employment" does not include:

26 (i) Self-employed individuals;

27 (ii) Services for remuneration when it is shown to the  
28 satisfaction of the commissioner that:

29 (A) (I) Such individual has been and will continue to be free from  
30 control or direction over the performance of such service, both under  
31 his or her contract of service and in fact; and

32 (II) Such service is either outside the usual course of business  
33 for which such service is performed, or that such service is  
34 performed outside of all the places of business of the enterprises  
35 for which such service is performed; and

36 (III) Such individual is customarily engaged in an independently  
37 established trade, occupation, profession, or business, of the same  
38 nature as that involved in the contract of service; or

39 (B) As a separate alternative:

1 (I) Such individual has been and will continue to be free from  
2 control or direction over the performance of such service, both under  
3 his or her contract of service and in fact; and

4 (II) Such service is either outside the usual course of business  
5 for which such service is performed, or that such service is  
6 performed outside of all the places of business of the enterprises  
7 for which such service is performed, or the individual is  
8 responsible, both under the contract and in fact, for the costs of  
9 the principal place of business from which the service is performed;  
10 and

11 (III) Such individual is customarily engaged in an independently  
12 established trade, occupation, profession, or business, of the same  
13 nature as that involved in the contract of service, or such  
14 individual has a principal place of business for the work the  
15 individual is conducting that is eligible for a business deduction  
16 for federal income tax purposes; and

17 (IV) On the effective date of the contract of service, such  
18 individual is responsible for filing at the next applicable filing  
19 period, both under the contract of service and in fact, a schedule of  
20 expenses with the internal revenue service for the type of business  
21 the individual is conducting; and

22 (V) On the effective date of the contract of service, or within a  
23 reasonable period after the effective date of the contract, such  
24 individual has established an account with the department of revenue,  
25 and other state agencies as required by the particular case, for the  
26 business the individual is conducting for the payment of all state  
27 taxes normally paid by employers and businesses and has registered  
28 for and received a unified business identifier number from the state  
29 of Washington; and

30 (VI) On the effective date of the contract of service, such  
31 individual is maintaining a separate set of books or records that  
32 reflect all items of income and expenses of the business which the  
33 individual is conducting; or

34 (iii) Services that require registration under chapter 18.27 RCW  
35 or licensing under chapter 19.28 RCW rendered by an individual when:

36 (A) The individual has been and will continue to be free from  
37 control or direction over the performance of the service, both under  
38 the contract of service and in fact;

39 (B) The service is either outside the usual course of business  
40 for which the service is performed, or the service is performed

1 outside of all the places of business of the enterprise for which the  
2 service is performed, or the individual is responsible, both under  
3 the contract and in fact, for the costs of the principal place of  
4 business from which the service is performed;

5 (C) The individual is customarily engaged in an independently  
6 established trade, occupation, profession, or business, of the same  
7 nature as that involved in the contract of service, or the individual  
8 has a principal place of business for the business the individual is  
9 conducting that is eligible for a business deduction for federal  
10 income tax purposes, other than that furnished by the employer for  
11 which the business has contracted to furnish services;

12 (D) On the effective date of the contract of service, the  
13 individual is responsible for filing at the next applicable filing  
14 period, both under the contract of service and in fact, a schedule of  
15 expenses with the internal revenue service for the type of business  
16 the individual is conducting;

17 (E) On the effective date of the contract of service, or within a  
18 reasonable period after the effective date of the contract, the  
19 individual has an active and valid certificate of registration with  
20 the department of revenue, and an active and valid account with any  
21 other state agencies as required by the particular case, for the  
22 business the individual is conducting for the payment of all state  
23 taxes normally paid by employers and businesses and has registered  
24 for and received a unified business identifier number from the state  
25 of Washington;

26 (F) On the effective date of the contract of service, the  
27 individual is maintaining a separate set of books or records that  
28 reflect all items of income and expenses of the business that the  
29 individual is conducting; and

30 (G) On the effective date of the contract of service, the  
31 individual has a valid contractor registration pursuant to chapter  
32 18.27 RCW or an electrical contractor license pursuant to chapter  
33 19.28 RCW.

34 (8) "Employment benefits" means all benefits provided or made  
35 available to employees by an employer, including group life  
36 insurance, health insurance, disability insurance, sick leave, annual  
37 leave, educational benefits, and pensions (~~except benefits that are  
38 provided by a practice or written policy of an employer or through an  
39 employee benefit plan as defined in 29 U.S.C. Sec. 1002(3))~~).

1 (9) "Family leave" means any leave taken by an employee from  
2 work:

3 (a) To participate in providing care, including physical or  
4 psychological care, for a family member of the employee made  
5 necessary by a serious health condition of the family member;

6 (b) To bond with the employee's child during the first twelve  
7 months after the child's birth, or the first twelve months after the  
8 placement of a child under the age of eighteen with the employee; or

9 (c) Because of any qualifying exigency as permitted under the  
10 federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E)  
11 and 29 C.F.R. Sec. 825.126(~~((a))~~) (b)(1) through (~~((8))~~) (9), as they  
12 existed on October 19, 2017, for family members as defined in  
13 subsection (10) of this section.

14 (10) "Family member" means a child, grandchild, grandparent,  
15 parent, sibling, or spouse of an employee.

16 (11) "Grandchild" means a child of the employee's child.

17 (12) "Grandparent" means a parent of the employee's parent.

18 (13) "Health care provider" means: (a) A person licensed as a  
19 physician under chapter 18.71 RCW or an osteopathic physician and  
20 surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced  
21 registered nurse practitioner under chapter 18.79 RCW; or (c) any  
22 other person determined by the commissioner to be capable of  
23 providing health care services.

24 (14) "Medical leave" means any leave taken by an employee from  
25 work made necessary by the employee's own serious health condition.

26 (15) "Parent" means the biological, adoptive, de facto, or foster  
27 parent, stepparent, or legal guardian of an employee or the  
28 employee's spouse, or an individual who stood in loco parentis to an  
29 employee when the employee was a child.

30 (16) "Period of incapacity" means an inability to work, attend  
31 school, or perform other regular daily activities because of a  
32 serious health condition, treatment of that condition or recovery  
33 from it, or subsequent treatment in connection with such inpatient  
34 care.

35 (17) "Premium" or "premiums" means the payments required by RCW  
36 50A.04.115 (as recodified by this act) and paid to the department for  
37 deposit in the family and medical leave insurance account under RCW  
38 50A.04.220 (as recodified by this act).

39 (18) "Qualifying period" means the first four of the last five  
40 completed calendar quarters or, if eligibility is not established,

1 the last four completed calendar quarters immediately preceding the  
2 application for leave.

3 (19)(a) "Remuneration" means all compensation paid for personal  
4 services including commissions and bonuses and the cash value of all  
5 compensation paid in any medium other than cash.

6 (b) Previously accrued compensation, other than severance pay or  
7 payments received pursuant to plant closure agreements, when assigned  
8 to a specific period of time by virtue of a collective bargaining  
9 agreement, individual employment contract, customary trade practice,  
10 or request of the individual compensated, is considered remuneration  
11 for the period to which it is assigned. Assignment clearly occurs  
12 when the compensation serves to make the individual eligible for all  
13 regular fringe benefits for the period to which the compensation is  
14 assigned.

15 (c) Remuneration also includes settlements or other proceeds  
16 received by an individual as a result of a negotiated settlement for  
17 termination of an individual written employment contract prior to its  
18 expiration date. The proceeds are deemed assigned in the same  
19 intervals and in the same amount for each interval as compensation  
20 was allocated under the contract.

21 (d) Remuneration does not include:

22 (i) The payment of tips;

23 (ii) Supplemental benefit payments made by an employer to an  
24 employee in addition to any paid family or medical leave benefits  
25 received by the employee; or

26 (iii) Payments to members of the armed forces of the United  
27 States, including the organized militia of the state of Washington,  
28 for the performance of duty for periods not exceeding seventy-two  
29 hours at a time.

30 (20)(a) "Serious health condition" means an illness, injury,  
31 impairment, or physical or mental condition that involves:

32 (i) Inpatient care in a hospital, hospice, or residential medical  
33 care facility, including any period of incapacity; or

34 (ii) Continuing treatment by a health care provider. A serious  
35 health condition involving continuing treatment by a health care  
36 provider includes any one or more of the following:

37 (A) A period of incapacity of more than three consecutive, full  
38 calendar days, and any subsequent treatment or period of incapacity  
39 relating to the same condition, that also involves:

1 (I) Treatment two or more times, within thirty days of the first  
2 day of incapacity, unless extenuating circumstances exist, by a  
3 health care provider, by a nurse or physician's assistant under  
4 direct supervision of a health care provider, or by a provider of  
5 health care services, such as a physical therapist, under orders of,  
6 or on referral by, a health care provider; or

7 (II) Treatment by a health care provider on at least one occasion  
8 which results in a regimen of continuing treatment under the  
9 supervision of the health care provider;

10 (B) Any period of incapacity due to pregnancy, or for prenatal  
11 care;

12 (C) Any period of incapacity or treatment for such incapacity due  
13 to a chronic serious health condition. A chronic serious health  
14 condition is one which:

15 (I) Requires periodic visits, defined as at least twice a year,  
16 for treatment by a health care provider, or by a nurse under direct  
17 supervision of a health care provider;

18 (II) Continues over an extended period of time, including  
19 recurring episodes of a single underlying condition; and

20 (III) May cause episodic rather than a continuing period of  
21 incapacity, including asthma, diabetes, and epilepsy;

22 (D) A period of incapacity which is permanent or long term due to  
23 a condition for which treatment may not be effective. The employee or  
24 family member must be under the continuing supervision of, but need  
25 not be receiving active treatment by, a health care provider,  
26 including Alzheimer's, a severe stroke, or the terminal stages of a  
27 disease; or

28 (E) Any period of absence to receive multiple treatments,  
29 including any period of recovery from the treatments, by a health  
30 care provider or by a provider of health care services under orders  
31 of, or on referral by, a health care provider, either for: (I)  
32 Restorative surgery after an accident or other injury; or (II) a  
33 condition that would likely result in a period of incapacity of more  
34 than three consecutive, full calendar days in the absence of medical  
35 intervention or treatment, such as cancer, severe arthritis, or  
36 kidney disease.

37 (b) The requirement in (a)(i) and (ii) of this subsection for  
38 treatment by a health care provider means an in-person visit to a  
39 health care provider. The first, or only, in-person treatment visit  
40 must take place within seven days of the first day of incapacity.



1 (c) Whether additional treatment visits or a regimen of  
2 continuing treatment is necessary within the thirty-day period shall  
3 be determined by the health care provider.

4 (d) The term extenuating circumstances in (a)(ii)(A)(I) of this  
5 subsection means circumstances beyond the employee's control that  
6 prevent the follow-up visit from occurring as planned by the health  
7 care provider. Whether a given set of circumstances are extenuating  
8 depends on the facts. For example, extenuating circumstances exist if  
9 a health care provider determines that a second in-person visit is  
10 needed within the thirty-day period, but the health care provider  
11 does not have any available appointments during that time period.

12 (e) Treatment for purposes of (a) of this subsection includes,  
13 but is not limited to, examinations to determine if a serious health  
14 condition exists and evaluations of the condition. Treatment does not  
15 include routine physical examinations, eye examinations, or dental  
16 examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of  
17 continuing treatment includes, but is not limited to, a course of  
18 prescription medication, such as an antibiotic, or therapy requiring  
19 special equipment to resolve or alleviate the health condition, such  
20 as oxygen. A regimen of continuing treatment that includes taking  
21 over-the-counter medications, such as aspirin, antihistamines, or  
22 salves, or bed rest, drinking fluids, exercise, and other similar  
23 activities that can be initiated without a visit to a health care  
24 provider, is not, by itself, sufficient to constitute a regimen of  
25 continuing treatment for purposes of this (~~chapter~~) title.

26 (f) Conditions for which cosmetic treatments are administered,  
27 such as most treatments for acne or plastic surgery, are not serious  
28 health conditions unless inpatient hospital care is required or  
29 unless complications develop. Ordinarily, unless complications arise,  
30 the common cold, the flu, ear aches, upset stomach, minor ulcers,  
31 headaches other than migraines, routine dental or orthodontia  
32 problems, and periodontal disease are examples of conditions that are  
33 not serious health conditions and do not qualify for leave under this  
34 (~~chapter~~) title. Restorative dental or plastic surgery after an  
35 injury or removal of cancerous growths are serious health conditions  
36 provided all the other conditions of this section are met. Mental  
37 illness resulting from stress or allergies may be serious health  
38 conditions, but only if all the conditions of this section are met.

39 (g)(i) Substance abuse may be a serious health condition if the  
40 conditions of this section are met. However, leave may only be taken

1 for treatment for substance abuse by a health care provider or by a  
2 licensed substance abuse treatment provider. Absence because of the  
3 employee's use of the substance, rather than for treatment, does not  
4 qualify for leave under this (~~(chapter)~~) title.

5 (ii) Treatment for substance abuse does not prevent an employer  
6 from taking employment action against an employee. The employer may  
7 not take action against the employee because the employee has  
8 exercised his or her right to take medical leave for treatment.  
9 However, if the employer has an established policy, applied in a  
10 nondiscriminatory manner that has been communicated to all employees,  
11 that provides under certain circumstances an employee may be  
12 terminated for substance abuse, pursuant to that policy the employee  
13 may be terminated whether or not the employee is presently taking  
14 medical leave. An employee may also take family leave to care for a  
15 covered family member who is receiving treatment for substance abuse.  
16 The employer may not take action against an employee who is providing  
17 care for a covered family member receiving treatment for substance  
18 abuse.

19 (h) Absences attributable to incapacity under (a)(ii)(B) or (C)  
20 of this subsection qualify for leave under this (~~(chapter)~~) title  
21 even though the employee or the family member does not receive  
22 treatment from a health care provider during the absence, and even if  
23 the absence does not last more than three consecutive, full calendar  
24 days. For example, an employee with asthma may be unable to report  
25 for work due to the onset of an asthma attack or because the  
26 employee's health care provider has advised the employee to stay home  
27 when the pollen count exceeds a certain level. An employee who is  
28 pregnant may be unable to report to work because of severe morning  
29 sickness.

30 (~~((20))~~) (21) "Service is localized in this state" has the same  
31 meaning as described in RCW 50.04.120.

32 (~~((21))~~) (22) "Spouse" means a husband or wife, as the case may  
33 be, or state registered domestic partner.

34 (~~((22))~~) (23) "State average weekly wage" means the most recent  
35 average weekly wage calculated under RCW 50.04.355 and available on  
36 January 1st of each year.

37 (~~((23))~~) (24) "Typical workweek hours" means:

38 (a) For an hourly employee, the average number of hours worked  
39 per week by an employee since the beginning of the qualifying period;  
40 and

1 (b) Forty hours for a salaried employee, regardless of the number  
2 of hours the salaried employee typically works.

3 (~~((24))~~) (25) "Wage" or "wages" means (~~(the same as "wages" under~~  
4 ~~RCW 50.04.320(2), except that)~~):

5 (~~(The term employment as used in RCW 50.04.320(2) is defined~~  
6 ~~in this chapter)~~) For the purpose of premium assessment, the  
7 remuneration paid by an employer to an employee. The maximum wages  
8 subject to a premium assessment are those wages as set by the  
9 commissioner under RCW 50A.04.115(4) (as recodified by this act);  
10 (and)

11 (~~(the maximum wages subject to a premium assessment are those~~  
12 ~~wages as set by the commissioner under RCW 50A.04.115(4). "Wages")~~)  
13 For the purpose of payment of benefits, the remuneration paid by one  
14 or more employers to an employee for employment during the employee's  
15 qualifying period. At the request of an employee, wages may be  
16 calculated on the basis of remuneration payable. The department shall  
17 notify each employee that wages are calculated on the basis of  
18 remuneration paid, but at the employee's request a redetermination  
19 may be performed and based on remuneration payable; and

20 (c) For the purpose(~~(s)~~) of (~~(elective)~~) a self-employed person  
21 electing coverage under RCW 50A.04.105 (~~(has)~~) (as recodified by this  
22 act), the meaning (~~(as)~~) is defined by rule.

23 **Sec. 2.** RCW 50A.04.015 and 2017 3rd sp.s. c 5 s 3 are each  
24 amended to read as follows:

25 Employees are eligible for family and medical leave benefits as  
26 provided in this (~~(chapter)~~) title after working for at least eight  
27 hundred twenty hours in employment during the qualifying period.

28 **Sec. 3.** RCW 50A.04.020 and 2017 3rd sp.s. c 5 s 6 are each  
29 amended to read as follows:

30 (1)(a) Beginning January 1, 2020, family and medical leave are  
31 available and benefits are payable to a qualified employee under this  
32 section. Following a waiting period consisting of the first seven  
33 consecutive calendar days of leave, benefits are payable when family  
34 or medical leave is required. However, no waiting period is required  
35 for leave for the birth or placement of a child. The waiting period  
36 begins when an otherwise eligible employee takes leave for the  
37 minimum claim duration under subsection (2)(c) of this section.

1       **(b)** Benefits may continue during the continuance of the need for  
2 family and medical leave, subject to the maximum and minimum weekly  
3 benefits, duration, and other conditions and limitations established  
4 in this ~~((chapter))~~ title. Successive periods of family and medical  
5 leave caused by the same or related injury or sickness are deemed a  
6 single period of family and medical leave only if separated by less  
7 than four months.

8       (2) The weekly benefit shall be prorated by the percentage of  
9 hours on leave compared to the number of hours provided as the  
10 typical workweek hours as defined in RCW 50A.04.010 (as recodified by  
11 this act).

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

14       (b) Hours on leave claimed for benefits under this ~~((chapter))~~  
15 title, if not a multiple of one hour, shall be reduced to the next  
16 lower multiple of one hour.

17       (c) The minimum claim duration payment is for eight consecutive  
18 hours of leave.

19       (3)(a) The maximum duration of paid family leave may not exceed  
20 twelve times the typical workweek hours during a period of fifty-two  
21 consecutive calendar weeks.

22       (b) The maximum duration of paid medical leave may not exceed  
23 twelve times the typical workweek hours during a period of fifty-two  
24 consecutive calendar weeks. This leave may be extended an additional  
25 two times the typical workweek hours if the employee experiences a  
26 serious health condition with a pregnancy that results in incapacity.

27       (c) An employee is not entitled to paid family and medical leave  
28 benefits under this ~~((chapter))~~ title that exceeds a combined total  
29 of sixteen times the typical workweek hours. The combined total of  
30 family and medical leave may be extended to eighteen times the  
31 typical workweek hours if the employee experiences a serious health  
32 condition with a pregnancy that results in incapacity.

33       (4) The weekly benefit for family and medical leave shall be  
34 determined as follows: If the employee's average weekly wage is: (a)  
35 ~~((Fifty percent))~~ Equal to or less than one-half of the state average  
36 weekly wage, then the ~~((employee's weekly))~~ benefit amount is equal  
37 to ninety percent of the employee's average weekly wage; or (b)  
38 greater than ~~((fifty percent))~~ one-half of the state average weekly  
39 wage, then the ~~((employee's weekly))~~ benefit amount is the sum of:  
40 (i) Ninety percent of ~~((the employee's average weekly wage up to~~

1 ~~fifty percent~~) one-half of the state average weekly wage; and (ii)  
2 fifty percent of the difference of the employee's average weekly wage  
3 (~~that is greater than fifty percent~~) and one-half of the state  
4 average weekly wage.

5 (5) (a) The maximum weekly benefit for family and medical leave  
6 that occurs on or after January 1, 2020, shall be one thousand  
7 dollars. By September 30, 2020, and by each subsequent September  
8 30th, the commissioner shall adjust the maximum weekly benefit amount  
9 to ninety percent of the state average weekly wage. The adjusted  
10 maximum weekly benefit amount takes effect on the following January  
11 1st.

12 (b) The minimum weekly benefit shall not be less than one hundred  
13 dollars per week except that if the employee's average weekly wage at  
14 the time of family and medical leave is less than one hundred dollars  
15 per week, the weekly benefit shall be the employee's full wage.

16 **Sec. 4.** RCW 50A.04.025 and 2017 3rd sp.s. c 5 s 31 are each  
17 amended to read as follows:

18 (1) Except as provided in RCW 50A.04.600(5) (as recodified by  
19 this act) and subsection (6) of this section, any employee who takes  
20 family or medical leave under this (~~chapter~~) title is entitled, on  
21 return from the leave:

22 (a) To be restored by the employer to the position of employment  
23 held by the employee when the leave commenced; or

24 (b) To be restored by the employer to an equivalent position with  
25 equivalent employment benefits, pay, and other terms and conditions  
26 of employment.

27 (2) The taking of leave under this (~~chapter~~) title may not  
28 result in the loss of any employment benefits accrued before the date  
29 on which the leave commenced.

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

32 (a) The accrual of any seniority or employment benefits during  
33 any period of leave; or

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

37 (4) As a condition of restoration under subsection (1) of this  
38 section for an employee who has taken medical leave, the employer may  
39 have a uniformly applied practice or policy that requires each such

1 employee to receive certification from the employee's health care  
2 provider that the employee is able to resume work.

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

7 (6) (a) This section does not apply unless the employee: (i) Works  
8 for an employer with fifty or more employees; (ii) has been employed  
9 by the current employer for twelve months or more; and (iii) has  
10 worked for the current employer for at least one thousand two hundred  
11 fifty hours during the twelve months immediately preceding the date  
12 on which leave will commence. For the purposes of this subsection, an  
13 employer shall be considered to employ fifty or more employees if the  
14 employer employs fifty or more employees for each working day during  
15 each of twenty or more calendar workweeks in the current or preceding  
16 calendar year.

17 (b) An employer may deny restoration under this section to any  
18 salaried employee who is among the highest paid ten percent of the  
19 employees employed by the employer within seventy-five miles of the  
20 facility at which the employee is employed if:

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

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

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

28 **Sec. 5.** RCW 50A.04.030 and 2017 3rd sp.s. c 5 s 12 are each  
29 amended to read as follows:

30 (1) If the necessity for leave for the birth or placement of a  
31 child with the employee is foreseeable based on an expected birth or  
32 placement, the employee shall provide the employer with not less than  
33 thirty days' notice, before the date the leave is to begin, of the  
34 employee's intention to take leave for the birth or placement of a  
35 child, except that if the date of the birth or placement requires  
36 leave to begin in less than thirty days, the employee shall provide  
37 such notice as is practicable.

1 (2) If the necessity for leave for a family member's serious  
2 health condition or the employee's serious health condition is  
3 foreseeable based on planned medical treatment, the employee:

4 (a) Must make a reasonable effort to schedule the treatment so as  
5 not to disrupt unduly the operations of the employer, subject to the  
6 approval of the health care provider of the employee or the health  
7 care provider of the family member, as appropriate; and

8 (b) Must provide the employer with not less than thirty days'  
9 notice, before the date the leave is to begin, of the employee's  
10 intention to take leave for a family member's serious health  
11 condition or the employee's serious health condition, except that if  
12 the date of the treatment requires leave to begin in less than thirty  
13 days, the employee must provide such notice as is practicable.

14 (3) The employer may waive any or all of the employee notice  
15 requirements in this section and in RCW 50A.04.035(1)(f) (as  
16 recodified by this act).

17 **Sec. 6.** RCW 50A.04.035 and 2017 3rd sp.s. c 5 s 13 are each  
18 amended to read as follows:

19 (1) Family and medical leave insurance benefits are payable to an  
20 employee during a period in which the employee is unable to perform  
21 his or her regular or customary work because he or she is on family  
22 and medical leave if the employee:

23 (a) Files an application for benefits as required by rules  
24 adopted by the commissioner;

25 (b) Has met the eligibility requirements of RCW 50A.04.015 (as  
26 recodified by this act) or the elective coverage requirements under  
27 RCW 50A.04.105 (as recodified by this act);

28 (c) Consents to the disclosure of information or records deemed  
29 private and confidential under state law. Initial disclosure of this  
30 information and these records by another state agency to the  
31 department is solely for purposes related to the administration of  
32 this ~~((chapter))~~ title. Further disclosure of this information or  
33 these records is subject to chapter ~~((50.13))~~ 50A.--- RCW ~~((and))~~  
34 (the new chapter created in section 84 of this act), RCW  
35 50A.04.195(3) (as recodified by this act), and RCW 50A.04.080 (as  
36 recodified by this act);

37 ~~((Discloses whether or not he or she owes child support~~  
38 ~~obligations as defined in RCW 50.40.050;~~

39 ~~(-e-))~~ Provides his or her social security number;

1       ~~((f))~~ (e) Provides a document authorizing the family member's  
2 or employee's health care provider, as applicable, to disclose the  
3 family member's or employee's health care information in the form of  
4 the certification of a serious health condition;

5       ~~((g))~~ (f) Provides the employer from whom family and medical  
6 leave is to be taken with written notice of the employee's intention  
7 to take family leave in the same manner as an employee is required to  
8 provide notice in RCW 50A.04.030 (as recodified by this act) and, in  
9 the employee's initial application for benefits, attests that written  
10 notice has been provided, unless notice has been waived by the  
11 employer under RCW 50A.04.030(3) (as recodified by this act); and

12       ~~((h) If requested by the employer,)~~ (g) Provides documentation  
13 of a military exigency, if requested by the employer.

14       (2) An employee who is not in employment for an employer at the  
15 time of filing an application for benefits is exempt from subsection  
16 (1) ~~((g))~~ (f) and ~~((h))~~ (g) of this section.

17       **Sec. 7.** RCW 50A.04.040 and 2017 3rd sp.s. c 5 s 7 are each  
18 amended to read as follows:

19       (1) Benefits provided under this ~~(chapter)~~ title shall be paid  
20 periodically and promptly, except when an employer contests a period  
21 of family or medical leave. The department must send the first  
22 benefit payment to the employee within fourteen calendar days after  
23 the first properly completed weekly application is received by the  
24 department. Subsequent payments must be sent at least biweekly  
25 thereafter. If the employer contests an initial application for  
26 family or medical leave benefits, the employer must notify the  
27 employee and the department in a manner prescribed by the  
28 commissioner within eighteen days of receipt of notice from the  
29 department of the employee's filing of an application for benefits,  
30 as provided under RCW 50A.04.195 (as recodified by this act). Failure  
31 to timely contest an initial application shall constitute a waiver of  
32 objection to the family or medical leave application. Any inquiry  
33 which requires the employee's response in order to continue benefits  
34 uninterrupted or unmodified shall provide a reasonable time period in  
35 which to respond and include a clear and prominent statement of the  
36 deadline for responding and consequences of failing to respond.

37       (2) If an employee has received one or more benefit payments  
38 under this ~~(chapter)~~ title, is in continued claim status, and his  
39 or her eligibility for benefits is questioned by the department or



1 contested by the employer, the employee will be conditionally paid  
2 benefits without delay for any periods for which the employee files a  
3 claim for benefits, until and unless the employee has been provided  
4 adequate notice and an opportunity to be heard. The employee's right  
5 to retain such payments is conditioned upon the department's finding  
6 the employee to be eligible for such payments.

7 (a) At the employee's request, the department may hold  
8 conditional payments until the question of eligibility has been  
9 resolved.

10 (b) Payments will be issued for any benefits withheld under (a)  
11 of this subsection if the department determines the employee is  
12 eligible for benefits.

13 (c) If it is determined that the employee is ineligible for the  
14 weeks paid conditionally, the overpayment cannot be waived and must  
15 be repaid.

16 (3) The department must develop, in rule, a process by which an  
17 employer may contest an initial application for family or medical  
18 leave benefits.

19 **Sec. 8.** RCW 50A.04.045 and 2017 3rd sp.s. c 5 s 5 are each  
20 amended to read as follows:

21 (1) An employee is not entitled to paid family or medical leave  
22 benefits under this (~~chapter~~) title:

23 (a) For any absence occasioned by the willful intention of the  
24 employee to bring about injury to or the sickness of the employee or  
25 another, or resulting from any injury or sickness sustained in the  
26 perpetration by the employee of an illegal act;

27 (b) For any family or medical leave commencing before the  
28 employee becomes qualified for benefits under this (~~chapter~~) title;

29 (c) For an employee who is on suspension from his or her  
30 employment; or

31 (d) For any (~~day in~~) period of time during which a family or  
32 medical leave care recipient works (~~at least part of that day~~) for  
33 remuneration or profit (~~during the same or substantially similar~~  
34 ~~working hours as those of the employer from which family or medical~~  
35 ~~leave benefits are claimed, except that occasional scheduling~~  
36 ~~adjustments with respect to secondary employments shall not prevent~~  
37 ~~receipt of family or medical leave benefits)).~~

38 (2) An employer may (~~allow~~) offer supplemental benefit payments  
39 to an employee (~~who has accrued~~) on family or medical leave in

1 addition to any paid family or medical leave benefits the employee is  
2 receiving. Supplemental benefit payments include, but are not limited  
3 to, vacation, sick, or other paid time off ((to choose whether: (a)  
4 To take such leave; or (b) not to take such leave and receive paid  
5 family or medical leave benefits, as provided in RCW 50A.04.020)).  
6 The choice to receive supplemental benefit payments lies with the  
7 employee. Nothing in this section shall be construed as requiring an  
8 employee to receive or an employer to provide supplemental benefit  
9 payments.

10 (3) An individual is disqualified for benefits for any week he or  
11 she has knowingly and willfully made a false statement or  
12 representation involving a material fact or knowingly and willfully  
13 failed to report a material fact and, as a result, has obtained or  
14 attempted to obtain any benefits under the provisions of this  
15 ((chapter)) title. An individual disqualified for benefits under this  
16 subsection (3) for the:

17 (a) First time is disqualified for an additional twenty-six weeks  
18 beginning with the Sunday of the week in which the determination is  
19 mailed or delivered, and is subject to an additional penalty of  
20 fifteen percent of the amount of benefits overpaid or deemed  
21 overpaid;

22 (b) Second time is also disqualified for an additional fifty-two  
23 weeks beginning with the Sunday of the week in which the  
24 determination is mailed or delivered, and is subject to an additional  
25 penalty of twenty-five percent of the amount of benefits overpaid or  
26 deemed overpaid;

27 (c) Third time and any time thereafter is also disqualified for  
28 an additional one hundred four weeks beginning with the Sunday of the  
29 week in which the determination is mailed or delivered, and is  
30 subject to an additional penalty of fifty percent of the amount of  
31 benefits overpaid or deemed overpaid.

32 (4) All penalties collected under this section must be deposited  
33 in the family and medical leave enforcement account created under RCW  
34 50A.04.225 (as recodified by this act).

35 **Sec. 9.** RCW 50A.04.055 and 2017 3rd sp.s. c 5 s 80 are each  
36 amended to read as follows:

37 (1) If the internal revenue service determines that family or  
38 medical leave benefits under this ((chapter)) title are subject to  
39 federal income tax, the department must advise an employee filing a

1 new application for benefits, at the time of filing such application,  
2 that:

3 (a) The internal revenue service has determined that benefits are  
4 subject to federal income tax;

5 (b) Requirements exist pertaining to estimated tax payments;

6 (c) The employee may elect to have federal income tax deducted  
7 and withheld from the employee's payment of benefits at the amount  
8 specified in the federal internal revenue code; and

9 (d) The employee is permitted to change a previously elected  
10 withholding status.

11 (2) Amounts deducted and withheld from benefits must remain in  
12 the family and medical leave insurance account until transferred to  
13 the federal taxing authority as a payment of income tax.

14 (3) The commissioner shall follow all procedures specified by the  
15 federal internal revenue service pertaining to the deducting and  
16 withholding of income tax.

17 **Sec. 10.** RCW 50A.04.060 and 2017 3rd sp.s. c 5 s 30 are each  
18 amended to read as follows:

19 If an employee (~~(discloses that he or she)~~) owes child support  
20 obligations under RCW 50A.04.035 (as recodified by this act) and the  
21 department determines that the employee is qualified for benefits,  
22 the department shall notify the applicable state or local child  
23 support enforcement agency and deduct and withhold an amount from  
24 benefits in a manner consistent with RCW 50.40.050. Consistent with  
25 RCW 50A.04.035(1)(c) (as recodified by this act), the department may  
26 verify (~~(delinquent)~~) child support obligations with the department  
27 of social and health services.

28 **Sec. 11.** RCW 50A.04.065 and 2017 3rd sp.s. c 5 s 32 are each  
29 amended to read as follows:

30 (1) An individual who is paid any amount as benefits under this  
31 (~~(chapter)~~) title to which he or she is not entitled shall, unless  
32 otherwise relieved pursuant to this section, be liable for repayment  
33 of the amount overpaid. The department shall issue an overpayment  
34 assessment setting forth the reasons for and the amount of the  
35 overpayment. The amount assessed, to the extent not collected, may be  
36 deducted from any future benefits payable to the individual:  
37 PROVIDED, That in the absence of a back pay award, a settlement  
38 affecting the allowance of benefits, fraud, misrepresentation, or

1 willful nondisclosure, every determination of liability shall be  
2 mailed or personally served not later than two years after the close  
3 of or final payment made on the individual's applicable eligibility  
4 period for which the purported overpayment was made, whichever is  
5 later, unless the merits of the claim are subjected to administrative  
6 or judicial review in which event the period for serving the  
7 determination of liability shall be extended to allow service of the  
8 determination of liability during the six-month period following the  
9 final decision affecting the claim.

10 (2) The commissioner may waive an overpayment if the commissioner  
11 finds that the overpayment was not the result of fraud,  
12 misrepresentation, willful nondisclosure, conditional payment, or  
13 fault attributable to the individual and that the recovery thereof  
14 would be against equity and good conscience. An overpayment waived  
15 under this subsection shall be charged against the individual's  
16 applicable entitlement for the eligibility period containing the  
17 weeks to which the overpayment was attributed as though such benefits  
18 had been properly paid.

19 (3) Any assessment herein provided shall constitute a  
20 determination of liability from which an appeal may be had in the  
21 same manner and to the same extent as provided for appeals relating  
22 to determinations in respect to claims for benefits: PROVIDED, That  
23 an appeal from any determination covering overpayment only shall be  
24 deemed to be an appeal from the determination which was the basis for  
25 establishing the overpayment unless the merits involved in the issue  
26 set forth in such determination have already been heard and passed  
27 upon by the appeal tribunal. If no such appeal is taken to the appeal  
28 tribunal by the individual within thirty days of the delivery of the  
29 notice of determination of liability, or within thirty days of the  
30 mailing of the notice of determination, whichever is the earlier, the  
31 determination of liability shall be deemed conclusive and final.  
32 Whenever any such notice of determination of liability becomes  
33 conclusive and final, the commissioner, upon giving at least twenty  
34 days' notice, using a method by which the mailing can be tracked or  
35 the delivery can be confirmed, may file with the superior court clerk  
36 of any county within the state a warrant in the amount of the notice  
37 of determination of liability plus a filing fee under RCW  
38 36.18.012(10). The clerk of the county where the warrant is filed  
39 shall immediately designate a superior court cause number for the  
40 warrant, and the clerk shall cause to be entered in the judgment

1 docket under the superior court cause number assigned to the warrant,  
2 the name of the person(s) mentioned in the warrant, the amount of the  
3 notice of determination of liability, and the date when the warrant  
4 was filed. The amount of the warrant as docketed shall become a lien  
5 upon the title to, and any interest in, all real and personal  
6 property of the person(s) against whom the warrant is issued, the  
7 same as a judgment in a civil case duly docketed in the office of  
8 such clerk. A warrant so docketed shall be sufficient to support the  
9 issuance of writs of execution and writs of garnishment in favor of  
10 the state in the manner provided by law for a civil judgment. A copy  
11 of the warrant shall be mailed within five days of its filing with  
12 the clerk to the person(s) mentioned in the warrant using a method by  
13 which the mailing can be tracked or the delivery can be confirmed.

14 (4) Any employer who is a party to a back pay award or settlement  
15 due to loss of wages shall, within thirty days of the award or  
16 settlement, report to the department the amount of the award or  
17 settlement, the name and social security number of the recipient of  
18 the award or settlement, and the period for which it is awarded. When  
19 an individual has been awarded or receives back pay, for benefit  
20 purposes the amount of the back pay shall constitute wages paid in  
21 the period for which it was awarded. For premium purposes, the back  
22 pay award or settlement shall constitute wages paid in the period in  
23 which it was actually paid. The following requirements shall also  
24 apply:

25 (a) The employer shall reduce the amount of the back pay award or  
26 settlement by an amount determined by the department based upon the  
27 amount of paid family or medical leave benefits received by the  
28 recipient of the award or settlement during the period for which the  
29 back pay award or settlement was awarded;

30 (b) The employer shall pay to the paid family and medical leave  
31 fund, in a manner specified by the commissioner, an amount equal to  
32 the amount of such reduction;

33 (c) The employer shall also pay to the department any premiums  
34 due for paid family and medical leave insurance purposes on the  
35 entire amount of the back pay award or settlement notwithstanding any  
36 reduction made pursuant to (a) of this subsection;

37 (d) If the employer fails to reduce the amount of the back pay  
38 award or settlement as required in (a) of this subsection, the  
39 department shall issue an overpayment assessment against the

1 recipient of the award or settlement in the amount that the back pay  
2 award or settlement should have been reduced; and

3 (e) If the employer fails to pay to the department an amount  
4 equal to the reduction as required in (b) of this subsection, the  
5 department shall issue an assessment of liability against the  
6 employer that shall be collected pursuant to the procedures for  
7 collection of assessments provided herein and in RCW 50A.04.155 (as  
8 recodified by this act).

9 (5) When an individual fails to repay an overpayment assessment  
10 that is due and fails to arrange for satisfactory repayment terms,  
11 the commissioner shall impose an interest penalty of one percent per  
12 month of the outstanding balance. Interest shall accrue immediately  
13 on overpayments assessed pursuant to RCW 50A.04.045 (as recodified by  
14 this act) and shall be imposed when the assessment becomes final. For  
15 any other overpayment, interest shall accrue when the individual has  
16 missed two or more of the individual's monthly payments either  
17 partially or in full.

18 (6) Any penalties and interest collected pursuant to this section  
19 must be deposited into the family and medical leave enforcement  
20 account.

21 (7) The department shall: (a) Conduct social security number  
22 cross-match audits or engage in other more effective activities that  
23 ensure that individuals are entitled to all amounts of benefits that  
24 they are paid; and (b) engage in other detection and recovery of  
25 overpayment and collection activities.

26 **Sec. 12.** RCW 50A.04.070 and 2017 3rd sp.s. c 5 s 71 are each  
27 amended to read as follows:

28 Whenever an employee of an employer who is qualified for benefits  
29 under this ~~((chapter))~~ title is absent from work to provide family  
30 leave, or take medical leave for more than seven consecutive days,  
31 the employer shall provide the employee with a written statement of  
32 the employee's rights under this ~~((chapter))~~ title in a form  
33 prescribed by the commissioner. The statement must be provided to the  
34 employee within five business days after the employee's seventh  
35 consecutive day of absence due to family or medical leave, or within  
36 five business days after the employer has received notice that the  
37 employee's absence is due to family or medical leave, whichever is  
38 later.

1       **Sec. 13.** RCW 50A.04.075 and 2017 3rd sp.s. c 5 s 75 are each  
2 amended to read as follows:

3       Each employer shall post and keep posted, in conspicuous places  
4 on the premises of the employer where notices to employees and  
5 applicants for employment are customarily posted, a notice, to be  
6 prepared or approved by the commissioner, setting forth excerpts  
7 from, or summaries of, the pertinent provisions of this ((chapter))  
8 title and information pertaining to the filing of a complaint. Any  
9 employer that willfully violates this section may be subject to a  
10 civil penalty of not more than one hundred dollars for each separate  
11 offense. Any penalties collected by the department under this section  
12 shall be deposited into the family and medical leave enforcement  
13 account.

14       **Sec. 14.** RCW 50A.04.080 and 2017 3rd sp.s. c 5 s 33 are each  
15 amended to read as follows:

16       (1) In the form and at the times specified in this ((chapter))  
17 title and by the commissioner, an employer shall make reports,  
18 furnish information, and collect and remit premiums as required by  
19 this ((chapter)) title to the department. If the employer is a  
20 temporary help company that provides employees on a temporary basis  
21 to its customers, the temporary help company is considered the  
22 employer for purposes of this section.

23       (2)(a) An employer must keep at the employer's place of business  
24 a record of employment, for a period of six years, from which the  
25 information needed by the department for purposes of this ((chapter))  
26 title may be obtained. This record shall at all times be open to the  
27 inspection of the commissioner.

28       (b) Information obtained under this ((chapter)) title from  
29 employer records is confidential and not open to public inspection,  
30 other than to public employees in the performance of their official  
31 duties. However, an interested party shall be supplied with  
32 information from employer records to the extent necessary for the  
33 proper presentation of the case in question. An employer may  
34 authorize inspection of the employer's records by written consent.

35       (3) The requirements relating to the collection of family and  
36 medical leave premiums are as provided in this ((chapter)) title.  
37 Before issuing a warning letter, the department shall enforce the  
38 collection of premiums through conference and conciliation. These  
39 requirements apply to:

1 (a) An employer that fails under this (~~chapter~~) title to make  
2 the required reports, or fails to remit the full amount of the  
3 premiums when due;

4 (b) An employer that willfully makes a false statement or  
5 misrepresentation regarding a material fact, or willfully fails to  
6 report a material fact, to avoid making the required reports or  
7 remitting the full amount of the premiums when due under this  
8 (~~chapter~~) title;

9 (c) A successor in the manner specified in RCW 50A.04.125 (as  
10 recodified by this act); and

11 (d) An officer, member, or owner having control or supervision of  
12 payment and/or reporting of family and medical leave premiums, or who  
13 is charged with the responsibility for the filing of returns, in the  
14 manner specified in RCW 50A.04.090 (as recodified by this act).

15 (4) Notwithstanding subsection (3) of this section, appeals are  
16 governed by RCW 50A.04.500 (as recodified by this act).

17 **Sec. 15.** RCW 50A.04.085 and 2017 3rd sp.s. c 5 s 72 are each  
18 amended to read as follows:

19 (1) It is unlawful for any employer to:

20 (a) Interfere with, restrain, or deny the exercise of, or the  
21 attempt to exercise, any valid right provided under this (~~chapter~~)  
22 title; or

23 (b) Discharge or in any other manner discriminate against any  
24 employee for opposing any practice made unlawful by this (~~chapter~~)  
25 title.

26 (2) It is unlawful for any person to discharge or in any other  
27 manner discriminate against any employee because the employee has:

28 (a) Filed any complaint, or has instituted or caused to be  
29 instituted any proceeding, under or related to this (~~chapter~~)  
30 title;

31 (b) Given, or is about to give, any information in connection  
32 with any inquiry or proceeding relating to any right provided under  
33 this (~~chapter~~) title; or

34 (c) Testified, or is about to testify, in any inquiry or  
35 proceeding relating to any right provided under this (~~chapter~~)  
36 title.

37 **Sec. 16.** RCW 50A.04.090 and 2017 3rd sp.s. c 5 s 68 are each  
38 amended to read as follows:



1 (1) An employer who willfully fails to make the required reports  
2 is subject to penalties as follows: (a) For the second occurrence,  
3 the penalty is seventy-five dollars; (b) for the third occurrence,  
4 the penalty is one hundred fifty dollars; and (c) for the fourth  
5 occurrence and for each occurrence thereafter, the penalty is two  
6 hundred fifty dollars.

7 (2) An employer who willfully fails to remit the full amount of  
8 the premiums when due is liable, in addition to the full amount of  
9 premiums due and amounts assessed as interest under RCW 50A.04.140  
10 (as recodified by this act), to a penalty equal to the premiums and  
11 interest.

12 (3) Any penalties under this section shall be deposited into the  
13 family and medical leave enforcement account.

14 (4) For the purposes of this section, "willful" means a knowing  
15 and intentional action that is neither accidental nor the result of a  
16 bona fide dispute.

17 (5) The department shall enforce the collection of penalties  
18 through conference and conciliation.

19 (6) These penalties may be appealed as provided in RCW 50A.04.500  
20 through 50A.04.595 (as recodified by this act).

21 **Sec. 17.** RCW 50A.04.095 and 2017 3rd sp.s. c 5 s 73 are each  
22 amended to read as follows:

23 Upon complaint by an employee, the commissioner shall investigate  
24 to determine if there has been compliance with ~~((this chapter))~~ RCW  
25 50A.04.085 (as recodified by this act) and the related rules  
26 ~~((adopted under this chapter))~~. The department will issue a  
27 determination including the findings of the investigation and whether  
28 a violation may have occurred. Determinations are appealable under  
29 chapter 50A.-- RCW (the new chapter created in section 93 of this  
30 act). If the investigation indicates that a violation may have  
31 occurred, a hearing ~~((must))~~ may be held if requested by an  
32 interested party in accordance with chapter 34.05 RCW. The  
33 commissioner must issue a written determination including the  
34 commissioner's findings after the hearing. A judicial appeal from the  
35 commissioner's determination may be taken in accordance with chapter  
36 34.05 RCW.

37 **Sec. 18.** RCW 50A.04.100 and 2017 3rd sp.s. c 5 s 74 are each  
38 amended to read as follows:

1 Any employer who violates RCW 50A.04.085 (as recodified by this  
2 act) is liable for damages equal to:

3 (1) The amount of:

4 (a) Any wages, salary, employment benefits, or other compensation  
5 denied or lost to such employee by reason of the violation; or

6 (b) In a case in which wages, salary, employment benefits, or  
7 other compensation have not been denied or lost to the employee, any  
8 actual monetary losses sustained by the employee as a direct result  
9 of the violation, such as the cost of providing care, up to a sum  
10 equal to wages or salary for the employee for up to sixteen weeks, or  
11 eighteen weeks if the employee experiences a serious health condition  
12 with a pregnancy that results in incapacity.

13 (2)(a) The interest on the amount described in subsection (1) of  
14 this section calculated at the prevailing rate; and

15 (b) For a willful violation, an additional amount as liquidated  
16 damages equal to the sum of the amount described in subsection (1) of  
17 this section and the interest described in this subsection (2). For  
18 purposes of this section, "willful" means a knowing and intentional  
19 action that is neither accidental nor the result of a bona fide  
20 dispute.

21 **Sec. 19.** RCW 50A.04.105 and 2017 3rd sp.s. c 5 s 10 are each  
22 amended to read as follows:

23 (1) For benefits payable beginning January 1, 2020, any self-  
24 employed person, including a sole proprietor, independent contractor,  
25 partner, or joint venturer, may elect coverage under this (~~chapter~~)  
26 title for an initial period of not less than three years and  
27 subsequent periods of not less than one year immediately following a  
28 period of coverage. Those electing coverage under this section must  
29 elect coverage for both family leave and medical leave and are  
30 responsible for payment of one hundred percent of all premiums  
31 assessed to an employee under RCW 50A.04.115 (as recodified by this  
32 act). The self-employed person must file a notice of election in  
33 writing with the department, in a manner as required by the  
34 department in rule. The self-employed person is eligible for family  
35 and medical leave benefits after working eight hundred twenty hours  
36 in the state during the qualifying period following the date of  
37 filing the notice.

38 (2) A self-employed person who has elected coverage may withdraw  
39 from coverage within thirty days after the end of each period of

1 coverage, or at such other times as the commissioner may adopt by  
2 rule, by filing a notice of withdrawal in writing with the  
3 commissioner, such withdrawal to take effect not sooner than thirty  
4 days after filing the notice with the commissioner.

5 (3) The department may cancel elective coverage if the self-  
6 employed person fails to make required payments or file reports. The  
7 department may collect due and unpaid premiums and may levy an  
8 additional premium for the remainder of the period of coverage. The  
9 cancellation shall be effective no later than thirty days from the  
10 date of the notice in writing advising the self-employed person of  
11 the cancellation.

12 (4) Those electing coverage are considered employers or employees  
13 where the context so dictates.

14 (5) For the purposes of this section, "independent contractor"  
15 means an individual excluded from employment under RCW  
16 50A.04.010(7)(b)(ii) and (iii) (as recodified by this act).

17 (6) In developing and implementing the requirements of this  
18 section, the department shall adopt government efficiencies to  
19 improve administration and reduce costs. These efficiencies may  
20 include, but are not limited to, requiring that payments be made in a  
21 manner and at intervals unique to the elective coverage program.

22 (7) The department shall adopt rules for determining the hours  
23 worked and the wages of individuals who elect coverage under this  
24 section and rules for enforcement of this section.

25 **Sec. 20.** RCW 50A.04.110 and 2018 c 141 s 2 are each amended to  
26 read as follows:

27 A federally recognized tribe may elect coverage under RCW  
28 50A.04.105 (as recodified by this act). The department shall adopt  
29 rules to implement this section.

30 **Sec. 21.** RCW 50A.04.115 and 2017 3rd sp.s. c 5 s 8 are each  
31 amended to read as follows:

32 (1)(a) Beginning January 1, 2019, the department shall assess for  
33 each individual in employment with an employer and for each  
34 individual electing coverage a premium based on the amount of the  
35 individual's wages subject to subsection (4) of this section.

36 (b) The premium rate for family leave benefits shall be equal to  
37 one-third of the total premium rate.

1 (c) The premium rate for medical leave benefits shall be equal to  
2 two-thirds of the total premium rate.

3 (2) For calendar year 2022 and thereafter, the commissioner shall  
4 determine the percentage of paid claims related to family leave  
5 benefits and the percentage of paid claims related to medical leave  
6 benefits and adjust the premium rates set in subsection (1)(b) and  
7 (c) of this section by the proportional share of paid claims.

8 (3)(a) Beginning January 1, 2019, and ending December 31, 2020,  
9 the total premium rate shall be four-tenths of one percent of the  
10 individual's wages subject to subsection (4) of this section.

11 (b) For family leave premiums, an employer may deduct from the  
12 wages of each employee up to the full amount of the premium required.

13 (c) For medical leave premiums, an employer may deduct from the  
14 wages of each employee up to forty-five percent of the full amount of  
15 the premium required.

16 (d) An employer may elect to pay all or any portion of the  
17 employee's share of the premium for family leave or medical leave  
18 benefits, or both.

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

23 (5)(a) Employers with fewer than fifty employees employed in the  
24 state are not required to pay the employer portion of premiums for  
25 family and medical leave.

26 (b) If an employer with fewer than fifty employees elects to pay  
27 the premiums, the employer is then eligible for assistance under RCW  
28 50A.04.230 (as recodified by this act).

29 (6) For calendar year 2021 and thereafter, the total premium rate  
30 shall be based on the family and medical leave insurance account  
31 balance ratio as of September 30th of the previous year. The  
32 commissioner shall calculate the account balance ratio by dividing  
33 the balance of the family and medical leave insurance account by  
34 total covered wages paid by employers and those electing coverage.  
35 The division shall be carried to the fourth decimal place with the  
36 remaining fraction disregarded unless it amounts to five hundred-  
37 thousandths or more, in which case the fourth decimal place shall be  
38 rounded to the next higher digit. If the account balance ratio is:

39 (a) Zero to nine hundredths of one percent, the premium is six  
40 tenths of one percent of the individual's wages;

1 (b) One tenth of one percent to nineteen hundredths of one  
2 percent, the premium is five tenths of one percent of the  
3 individual's wages;

4 (c) Two tenths of one percent to twenty-nine hundredths of one  
5 percent, the premium is four tenths of one percent of the  
6 individual's wages;

7 (d) Three tenths of one percent to thirty-nine hundredths of one  
8 percent, the premium is three tenths of one percent of the  
9 individual's wages;

10 (e) Four tenths of one percent to forty-nine hundredths of one  
11 percent, the premium is two tenths of one percent of the individual's  
12 wages; or

13 (f) Five tenths of one percent or greater, the premium is one  
14 tenth of one percent of the individual's wages.

15 (7) Beginning January 1, 2021, if the account balance ratio  
16 calculated in subsection (6) of this section is below five hundredths  
17 of one percent, the commissioner must assess a solvency surcharge at  
18 the lowest rate necessary to provide revenue to pay for the  
19 administrative and benefit costs of family and medical leave, for the  
20 calendar year, as determined by the commissioner. The solvency  
21 surcharge shall be at least one-tenth of one percent and no more than  
22 six-tenths of one percent and be added to the total premium rate for  
23 family and medical leave benefits.

24 (8) (a) The employer must collect from the employees the premiums  
25 and any surcharges provided under this section through payroll  
26 deductions and remit the amounts collected to the department.

27 (b) In collecting employee premiums through payroll deductions,  
28 the employer shall act as the agent of the employees and shall remit  
29 the amounts to the department as required by this (~~chapter~~) title.

30 (c) On September 30th of each year, the department shall average  
31 the number of employees reported by an employer over the last four  
32 completed calendar quarters to determine the size of the employer for  
33 the next calendar year for the purposes of this section and RCW  
34 50A.04.230 (as recodified by this act).

35 (9) Premiums shall be collected in the manner and at such  
36 intervals as provided in this (~~chapter~~) title and directed by the  
37 department.

38 (10) Premiums collected under this section are placed in trust  
39 for the employees and employers that the program is intended to  
40 assist.

1 (11) A city, code city, town, county, or political subdivision  
2 may not enact a charter, ordinance, regulation, rule, or resolution:

3 (a) Creating a paid family or medical leave insurance program  
4 that alters or amends the requirements of this (~~chapter~~) title for  
5 any private employer;

6 (b) Providing for local enforcement of the provisions of this  
7 (~~chapter~~) title; or

8 (c) Requiring private employers to supplement duration of leave  
9 or amount of wage replacement benefits provided under this  
10 (~~chapter~~) title.

11 **Sec. 22.** RCW 50A.04.120 and 2017 3rd sp.s. c 5 s 9 are each  
12 amended to read as follows:

13 (1) An employer may file an application with the department for a  
14 conditional waiver for the payment of family and medical leave  
15 premiums, assessed under RCW 50A.04.115 (as recodified by this act),  
16 for any employee who is:

17 (a) Physically based outside of the state;

18 (b) Employed in the state on a limited or temporary work  
19 schedule; and

20 (c) Not expected to be employed in the state for eight hundred  
21 twenty hours or more in a qualifying period.

22 (2) The department must approve an application that has been  
23 signed by both the employee and employer verifying their belief that  
24 the conditions in this subsection will be met during the qualifying  
25 period.

26 (3) If the employee exceeds the eight hundred twenty hours or  
27 more in a (~~qualifying~~) period of four consecutive complete calendar  
28 quarters, the conditional waiver expires and the employer and  
29 employee will be responsible for their shares of all premiums that  
30 would have been paid during (~~the qualifying~~) this period (~~in which~~  
31 ~~the employee exceeded the eight hundred twenty hours~~) had the waiver  
32 not been granted. Upon payment of the missed premiums, the employee  
33 will be credited for the hours worked and will be eligible for  
34 benefits under this (~~chapter~~) title as if the premiums were  
35 originally paid.

36 **Sec. 23.** RCW 50A.04.125 and 2017 3rd sp.s. c 5 s 67 are each  
37 amended to read as follows:

1 Whenever any employer quits business, or sells out, exchanges, or  
2 otherwise disposes of the employer's business or stock of goods, any  
3 premiums payable under this (~~chapter~~) title shall become  
4 immediately due and payable, and the employer shall, within ten days,  
5 make a return and pay the premiums due; and any person who becomes a  
6 successor to such business shall become liable for the full amount of  
7 the premiums and withhold from the purchase price a sum sufficient to  
8 pay any premiums due from the employer until such time as the  
9 employer produces a receipt from the employment security department  
10 showing payment in full of any premiums due or a certificate that no  
11 premium is due and, if such premium is not paid by the employer  
12 within ten days from the date of such sale, exchange, or disposal,  
13 the successor shall become liable for the payment of the full amount  
14 of premiums, and the payment thereof by such successor shall, to the  
15 extent thereof, be deemed a payment upon the purchase price, and if  
16 such payment is greater in amount than the purchase price the amount  
17 of the difference shall become a debt due such successor from the  
18 employer. A successor may not be liable for any premiums due from the  
19 person from whom that person has acquired a business or stock of  
20 goods if that person gives written notice to the employment security  
21 department of such acquisition and no assessment is issued by the  
22 department within one hundred eighty days of receipt of such notice  
23 against the former operator of the business and a copy thereof mailed  
24 to such successor.

25 **Sec. 24.** RCW 50A.04.145 and 2017 3rd sp.s. c 5 s 60 are each  
26 amended to read as follows:

27 If the amount of premiums, interest, or penalties assessed by the  
28 commissioner by order and notice of assessment provided in this  
29 (~~chapter~~) title is not paid within ten days after the service or  
30 mailing of the order and notice of assessment, the commissioner or  
31 his or her duly authorized representative may collect the amount  
32 stated in said assessment by the distraint, seizure, and sale of the  
33 property, goods, chattels, and effects of said delinquent employer.  
34 There shall be exempt from distraint and sale under this section such  
35 goods and property as are exempt from execution under the laws of  
36 this state.

37 **Sec. 25.** RCW 50A.04.160 and 2017 3rd sp.s. c 5 s 63 are each  
38 amended to read as follows:

1 Whenever any order and notice of assessment or jeopardy  
2 assessment has become final in accordance with the provisions of this  
3 (~~chapter~~) title the commissioner may file with the clerk of any  
4 county within the state a warrant in the amount of the notice of  
5 assessment plus interest, penalties, and a filing fee under RCW  
6 36.18.012(10). The clerk of the county wherein the warrant is filed  
7 shall immediately designate a superior court cause number for such  
8 warrant, and the clerk shall cause to be entered in the judgment  
9 docket under the superior court cause number assigned to the warrant,  
10 the name of the employer mentioned in the warrant, the amount of the  
11 tax, interest, penalties, and filing fee and the date when such  
12 warrant was filed. The aggregate amount of such warrant as docketed  
13 shall become a lien upon the title to, and interest in all real and  
14 personal property of the employer against whom the warrant is issued,  
15 the same as a judgment in a civil case duly docketed in the office of  
16 such clerk. Such warrant so docketed shall be sufficient to support  
17 the issuance of writs of execution and writs of garnishment in favor  
18 of the state in the manner provided by law in the case of civil  
19 judgment, wholly or partially unsatisfied. The clerk of the court  
20 shall be entitled to a filing fee under RCW 36.18.012(10), which  
21 shall be added to the amount of the warrant, and charged by the  
22 commissioner to the employer or employing unit. A copy of the warrant  
23 shall be mailed to the employer or employing unit using a method by  
24 which the mailing can be tracked or the delivery can be confirmed  
25 within five days of filing with the clerk.

26 **Sec. 26.** RCW 50A.04.165 and 2017 3rd sp.s. c 5 s 56 are each  
27 amended to read as follows:

28 The claim of the employment security department for any premiums,  
29 interest, or penalties not paid when due, shall be a lien prior to  
30 all other liens or claims and on a parity with prior tax liens  
31 against all property and rights to property, whether real or  
32 personal, belonging to the employer. In order to avail itself of the  
33 lien hereby created, the department shall file with any county  
34 auditor where property of the employer is located a statement and  
35 claim of lien specifying the amount of delinquent premiums, interest,  
36 and penalties claimed by the department. From the time of filing for  
37 record, the amount required to be paid shall constitute a lien upon  
38 all property and rights to property, whether real or personal, in the  
39 county, owned by the employer or acquired by him or her. The lien



1 shall not be valid against any purchaser, holder of a security  
2 interest, mechanic's lien, or judgment lien creditor until notice  
3 thereof has been filed with the county auditor. This lien shall be  
4 separate and apart from, and in addition to, any other lien or claim  
5 created by, or provided for in, this (~~chapter~~) title. When any such  
6 notice of lien has been so filed, the commissioner may release the  
7 same by filing a certificate of release when it shall appear that the  
8 amount of delinquent premiums, interest, and penalties have been  
9 paid, or when such assurance of payment shall be made as the  
10 commissioner may deem to be adequate. Fees for filing and releasing  
11 the lien provided herein may be charged to the employer and may be  
12 collected from the employer utilizing the remedies provided in this  
13 (~~chapter~~) title for the collection of premiums.

14 **Sec. 27.** RCW 50A.04.170 and 2017 3rd sp.s. c 5 s 57 are each  
15 amended to read as follows:

16 In the event of any distribution of an employer's assets pursuant  
17 to an order of any court, including any receivership, probate, legal  
18 dissolution, or similar proceeding, or in case of any assignment for  
19 the benefit of creditors, composition, or similar proceeding,  
20 premiums, interest, or penalties then or thereafter due shall be a  
21 lien upon all the assets of such employer. Said lien is prior to all  
22 other liens or claims except prior tax liens, other liens provided by  
23 this (~~chapter~~) title, and claims for remuneration for services of  
24 not more than two hundred fifty dollars to each claimant earned  
25 within six months of the commencement of the proceeding. The mere  
26 existence of a condition of insolvency or the institution of any  
27 judicial proceeding for legal dissolution or of any proceeding for  
28 distribution of assets shall cause such a lien to attach without  
29 action on behalf of the commissioner or the state. In the event of an  
30 employer's adjudication in bankruptcy, judicially confirmed extension  
31 proposal, or composition, under the federal bankruptcy act of 1898,  
32 as amended, premiums, interest, or penalties then or thereafter due  
33 shall be entitled to such priority as provided in that act, as  
34 amended.

35 **Sec. 28.** RCW 50A.04.175 and 2017 3rd sp.s. c 5 s 64 are each  
36 amended to read as follows:

37 (1) If after due notice, any employer defaults in any payment of  
38 premiums, interest, or penalties, the amount due may be collected by

1 civil action in the name of the state, and the employer adjudged in  
2 default shall pay the cost of such action. Any lien created by this  
3 (~~chapter~~) title may be foreclosed by decree of the court in any  
4 such action. Civil actions brought under this (~~chapter~~) title to  
5 collect premiums, interest, or penalties from an employer shall be  
6 heard by the court at the earliest possible date and shall be  
7 entitled to preference upon the calendar of the court over all other  
8 civil actions except petitions for judicial review under this  
9 (~~chapter~~) title, cases arising under the unemployment compensation  
10 laws of this state, and cases arising under the industrial insurance  
11 laws of this state.

12 (2) Any employing unit that is not a resident of this state and  
13 that exercises the privilege of having one or more individuals  
14 perform service for it within this state, and any resident employing  
15 unit that exercises that privilege and thereafter removes from this  
16 state, shall be deemed thereby to appoint the secretary of state as  
17 its agent and attorney for the acceptance of process in any action  
18 under this (~~chapter~~) title. In instituting such an action against  
19 any such employing unit the commissioner shall cause such process or  
20 notice to be filed with the secretary of state and such service shall  
21 be sufficient service upon such employing unit, and shall be of the  
22 same force and validity as if served upon it personally within this  
23 state: PROVIDED, That the commissioner shall forthwith send notice of  
24 the service of such process or notice, together with a copy thereof,  
25 by registered mail, return receipt requested, to such employing unit  
26 at its last known address and such return receipt, the commissioner's  
27 affidavit of compliance with the provisions of this section, and a  
28 copy of the notice of service shall be appended to the original of  
29 the process filed in the court in which such action is pending.

30 **Sec. 29.** RCW 50A.04.185 and 2017 3rd sp.s. c 5 s 54 are each  
31 amended to read as follows:

32 The commissioner may compromise any claim for premiums, interest,  
33 or penalties due and owing from an employer, and any amount owed by  
34 an individual because of benefit overpayments existing or arising  
35 under this (~~chapter~~) title in any case where collection of the full  
36 amount due and owing, whether reduced to judgment or otherwise, would  
37 be against equity and good conscience. Whenever a compromise is made  
38 by the commissioner in the case of a claim for premiums, interest, or  
39 penalties, whether reduced to judgment or otherwise, there shall be

1 placed on file in the department a statement of the amount of  
2 premiums, interest, and penalties imposed by law and claimed due,  
3 attorneys' fees and costs, if any, a complete record of the  
4 compromise agreement, and the amount actually paid in accordance with  
5 the terms of the compromise agreement. Whenever a compromise is made  
6 by the commissioner in the case of a claim of a benefit overpayment,  
7 whether reduced to judgment or otherwise, there shall be placed on  
8 file in the department a statement of the amount of the benefit  
9 overpayment, attorneys' fees and costs, if any, a complete record of  
10 the compromise agreement, and the amount actually paid in accordance  
11 with the terms of the compromise agreement. If any such compromise is  
12 accepted by the commissioner, within such time as may be stated in  
13 the compromise or agreed to, such compromise shall be final and  
14 conclusive and except upon showing of fraud or malfeasance or  
15 misrepresentation of a material fact the case shall not be reopened  
16 as to the matters agreed upon. In any suit, action, or proceeding,  
17 such agreement or any determination, collection, payment, adjustment,  
18 refund, or credit made in accordance therewith shall not be annulled,  
19 modified, set aside, or disregarded.

20 **Sec. 30.** RCW 50A.04.195 and 2017 3rd sp.s. c 5 s 29 are each  
21 amended to read as follows:

22 (1) The department shall establish and administer the family and  
23 medical leave program and pay family and medical leave benefits as  
24 specified in this (~~chapter~~) title. The department shall adopt  
25 government efficiencies to improve administration and reduce costs.  
26 These efficiencies shall include, to the extent feasible, combined  
27 reporting and payment, with a single return, of premiums under this  
28 (~~chapter~~) title and contributions under chapter 50.24 RCW.

29 (2) The department shall establish procedures and forms for  
30 filing applications for benefits under this (~~chapter~~) title. The  
31 department shall notify the employer within five business days of an  
32 application being filed.

33 (3) The department shall use information sharing and integration  
34 technology to facilitate the disclosure of relevant information or  
35 records by the department, so long as an employee consents to the  
36 disclosure as required under RCW 50A.04.035 (as recodified by this  
37 act).

38 (4) Information contained in the files and records pertaining to  
39 an employee under this chapter are confidential and not open to

1 public inspection, other than to public employees in the performance  
2 of their official duties, except as provided in chapter 50A.--- RCW  
3 (the new chapter created in section 84 of this act). (~~However, the~~  
4 ~~employee or an authorized representative of an employee may review~~  
5 ~~the records or receive specific information from the records on the~~  
6 ~~presentation of the signed authorization of the employee. An employer~~  
7 ~~or the employer's duly authorized representative may review the~~  
8 ~~records of an employee employed by the employer in connection with a~~  
9 ~~pending application. At the department's discretion, other persons~~  
10 ~~may review records when such persons are rendering assistance to the~~  
11 ~~department at any stage of the proceedings on any matter pertaining~~  
12 ~~to the administration of this chapter.))~~)

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

26 (6) 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.

29 **Sec. 31.** RCW 50A.04.200 and 2017 3rd sp.s. c 5 s 28 are each  
30 amended to read as follows:

31 (1) The commissioner shall appoint an advisory committee to  
32 review issues and topics of interest related to this ((~~chapter~~))  
33 title.

34 (2) The committee is composed of ten members: (a) Four members  
35 representing employees' interests in paid family and medical leave,  
36 each of whom shall be appointed from a list of at least four names  
37 submitted by a recognized statewide organization of employees; (b)  
38 four members representing employers, each of whom shall be appointed  
39 from a list of at least four names submitted by a recognized

1 statewide organization of employers; and (c) two ex officio members,  
2 without a vote, one of whom shall represent the department and the  
3 other shall be the ombuds for the family and medical leave program.  
4 The member representing the department shall be the chair.

5 (3) The committee shall provide comment on department rule  
6 making, policies, implementation of this (~~chapter~~) title,  
7 utilization of benefits, and other initiatives, and study issues the  
8 committee determines to require its consideration.

9 (4) The members shall serve without compensation, but are  
10 entitled to reimbursement for travel expenses as provided in RCW  
11 43.03.050 and 43.03.060. The committee may utilize such personnel and  
12 facilities of the department as it needs, without charge. All  
13 expenses of the committee must be paid by the family and medical  
14 leave insurance account.

15 **Sec. 32.** RCW 50A.04.205 and 2017 3rd sp.s. c 5 s 88 are each  
16 amended to read as follows:

17 (1) The commissioner shall establish an ombuds office for family  
18 and medical leave within the department. The ombuds shall be  
19 appointed by the governor and report directly to the commissioner of  
20 the department. The ombuds is available to all employers and  
21 employees in the state.

22 (2) The person appointed ombuds shall hold office for a term of  
23 six years and shall continue to hold office until reappointed or  
24 until his or her successor is appointed. The governor may remove the  
25 ombuds only for neglect of duty, misconduct, or inability to perform  
26 duties. Any vacancy shall be filled by similar appointment for the  
27 remainder of the unexpired term.

28 (3) The ombuds shall:

29 (a) Offer and provide information on family and medical leave to  
30 employers and employees;

31 (b) Act as an advocate for employers and employees in their  
32 dealings with the department;

33 (c) Identify, investigate, and facilitate resolution of disputes  
34 and complaints under this (~~chapter~~) title; and

35 (d) Refer complaints to the department when appropriate.

36 (4) The ombuds may conduct surveys of employees. Survey questions  
37 and results are confidential and not subject to public disclosure.

38 (5) The ombuds is not liable for the good faith performance of  
39 responsibilities under this (~~chapter~~) title.

1       (6) All of the ombuds' records and files relating to any  
2 complaint or investigation made pursuant to carrying out the ombuds'  
3 duties and the identities of complainants, witnesses, workers, or  
4 employers shall remain confidential unless disclosure is authorized  
5 by the complainant worker or his or her guardian or legal  
6 representative or the employer or the employer's legal  
7 representative. No disclosures may be made outside the office of the  
8 ombuds without the consent of the named witnesses or complainants  
9 unless the disclosure is made without the identity of any of the  
10 individuals being disclosed.

11       **Sec. 33.** RCW 50A.04.215 and 2017 3rd sp.s. c 5 s 85 are each  
12 amended to read as follows:

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

15       **Sec. 34.** RCW 50A.04.220 and 2017 3rd sp.s. c 5 s 82 are each  
16 amended to read as follows:

17       (1) The family and medical leave insurance account is created in  
18 the custody of the state treasurer. All receipts from premiums  
19 imposed under this (~~chapter~~) title must be deposited in the  
20 account. Expenditures from the account may be used only for the  
21 purposes of the family and medical leave program. Only the  
22 commissioner or the commissioner's designee may authorize  
23 expenditures from the account. The account is subject to the  
24 allotment procedures under chapter 43.88 RCW. An appropriation is  
25 required for administrative expenses, but not for benefit payments.

26       (2) Money deposited in the account shall remain a part of the  
27 account until expended pursuant to the requirements of this  
28 (~~chapter~~) title or transferred in accordance with subsection (3) of  
29 this section. The commissioner shall maintain a separate record of  
30 the deposit, obligation, expenditure, and return of funds so  
31 deposited. Any money so deposited which either will not be obligated  
32 within the period specified by the appropriations act or remains  
33 unobligated at the end of the period, and any money which has been  
34 obligated within the period but will not be expended, shall be  
35 returned promptly to the family and medical leave insurance account.

36       (3) Money shall be transferred from the family and medical leave  
37 insurance account and deposited in the unemployment trust fund solely  
38 for the repayment of benefits not charged to employers as defined in

1 RCW 50.29.021(4) (a) (vii). The commissioner shall direct the transfer,  
2 which must occur on or before the cut-off date as defined in RCW  
3 50.29.010.

4 (4) Money transferred as provided in subsection (3) of this  
5 section for the repayment of benefits not charged to employers shall  
6 be deposited in the unemployment compensation fund and shall remain a  
7 part of the unemployment compensation fund until expended pursuant to  
8 RCW 50.16.030. The commissioner shall maintain a separate record of  
9 the deposit, obligation, expenditure, and return of funds so  
10 deposited. Any money so deposited which either will not be obligated  
11 within the period specified by the appropriation law or remains  
12 unobligated at the end of the period, and any money which has been  
13 obligated within the period but will not be expended, shall be  
14 returned promptly to the account of this state in the unemployment  
15 trust fund.

16 **Sec. 35.** RCW 50A.04.225 and 2017 3rd sp.s. c 5 s 76 are each  
17 amended to read as follows:

18 The family and medical leave enforcement account is created in  
19 the custody of the state treasurer. Any money in the family leave  
20 insurance account created in section 19, chapter 357, Laws of 2007 is  
21 transferred to the account created in this section. Any penalties and  
22 interest collected under RCW 50A.04.045 (as recodified by this act),  
23 50A.04.065 (as recodified by this act), 50A.04.075 (as recodified by  
24 this act), 50A.04.080 (as recodified by this act), 50A.04.090 (as  
25 recodified by this act), 50A.04.140 (as recodified by this act), and  
26 50A.04.655 (as recodified by this act) shall be deposited into the  
27 account and shall be used only for the purposes of administering and  
28 enforcing this (~~chapter~~) title. Only the commissioner may authorize  
29 expenditures from the account. The account is subject to allotment  
30 procedures under chapter 43.88 RCW, but an appropriation is not  
31 required for expenditures.

32 **Sec. 36.** RCW 50A.04.230 and 2017 3rd sp.s. c 5 s 84 are each  
33 amended to read as follows:

34 (1) The legislature recognizes that while family leave and  
35 medical leave benefit both employees and employers, there may be  
36 costs that disproportionately impact small businesses. To equitably  
37 balance the risks among employers, the legislature intends to assist

1 small businesses with the costs of an employee's use of family or  
2 medical leave.

3 (2) Employers with one hundred fifty or fewer employees and  
4 employers with fifty or fewer employees who are assessed all premiums  
5 under RCW 50A.04.115(5)(b) (as recodified by this act) may apply to  
6 the department for a grant under this section.

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

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

14 (c) An employer may receive a grant under (a) or (b) of this  
15 subsection, but not both, except that an employer who received a  
16 grant under (b) of this subsection may receive a grant of the  
17 difference between the grant awarded under (b) of this subsection and  
18 three thousand dollars if the employee on leave extended the leave  
19 beyond the leave initially planned and the employer hired a temporary  
20 worker for the employee on leave.

21 (4) An employer may apply for a grant no more than ten times per  
22 calendar year and no more than once for each employee on leave.

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

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

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

32 (8) The commissioner shall adopt rules as necessary to implement  
33 this section.

34 (9) For the purposes of this section, the number of employees  
35 must be calculated as provided in RCW 50A.04.115 (as recodified by  
36 this act).

37 (10) An employer who has an approved voluntary plan is not  
38 eligible to receive a grant under this section.



1       **Sec. 37.** RCW 50A.04.235 and 2017 3rd sp.s. c 5 s 87 are each  
2 amended to read as follows:

3       Nothing in this (~~chapter~~) title requires any party to a  
4 collective bargaining agreement in existence on October 19, 2017, to  
5 reopen negotiations of the agreement or to apply any of the rights  
6 and responsibilities under this (~~chapter~~) title unless and until  
7 the existing agreement is reopened or renegotiated by the parties or  
8 expires.

9       **Sec. 38.** RCW 50A.04.240 and 2017 3rd sp.s. c 5 s 69 are each  
10 amended to read as follows:

11       (1) Leave from employment under this (~~chapter~~) title is in  
12 addition to leave from employment during which benefits are paid or  
13 are payable under Title 51 RCW or other applicable federal or state  
14 industrial insurance laws.

15       (2) In any week in which an employee is eligible to receive  
16 benefits under Title 50 or 51 RCW, or other applicable federal or  
17 state unemployment compensation, industrial insurance, or disability  
18 insurance laws, the employee is disqualified from receiving family or  
19 medical leave benefits under this (~~chapter~~) title.

20       **Sec. 39.** RCW 50A.04.245 and 2017 3rd sp.s. c 5 s 70 are each  
21 amended to read as follows:

22       If required by the federal family and medical leave act, as it  
23 existed on October 19, 2017, during any period of family or medical  
24 leave taken under this (~~chapter~~) title, the employer shall maintain  
25 any existing health benefits of the employee in force for the  
26 duration of such leave as if the employee had continued to work from  
27 the date the employee commenced family or medical leave until the  
28 date the employee returns to employment. If the employer and employee  
29 share the cost of the existing health benefits, the employee remains  
30 responsible for the employee's share of the cost. This section does  
31 not apply to an employee who is not in employment for an employer at  
32 the time of filing an application for benefits.

33       **Sec. 40.** RCW 50A.04.250 and 2017 3rd sp.s. c 5 s 79 are each  
34 amended to read as follows:

35       (1) Leave under this (~~chapter~~) title and leave under the  
36 federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L.  
37 103-3, 107 Stat. 6, as it existed on October 19, 2017) is in addition

1 to any leave for sickness or temporary disability because of  
2 pregnancy or childbirth.

3 (2) Unless otherwise expressly permitted by the employer, leave  
4 taken under this (~~chapter~~) title must be taken concurrently with  
5 any leave taken under the federal family and medical leave act of  
6 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on  
7 October 19, 2017).

8 **Sec. 41.** RCW 50A.04.255 and 2017 3rd sp.s. c 5 s 77 are each  
9 amended to read as follows:

10 Nothing in this (~~chapter~~) title shall be construed to modify or  
11 affect any state or local law prohibiting discrimination on the basis  
12 of race, creed, religion, color, national origin, families with  
13 children, sex, marital status, sexual orientation including gender  
14 expression or identity, age, honorably discharged veteran or military  
15 status, or the presence of any sensory, mental, or physical  
16 disability or the use of a trained dog guide or service animal by a  
17 person with a disability.

18 **Sec. 42.** RCW 50A.04.260 and 2017 3rd sp.s. c 5 s 78 are each  
19 amended to read as follows:

20 (1) Nothing in this (~~chapter~~) title shall be construed to  
21 discourage employers from:

22 (a) Adopting or retaining leave policies more generous than any  
23 policies that comply with the requirements under this (~~chapter~~)  
24 title; or

25 (b) Making (~~payments to supplement the~~) supplemental benefit  
26 payments as provided under RCW (~~50A.04.020~~) 50A.04.045 (as  
27 recodified by this act) to an employee on paid family or medical  
28 leave.

29 (2) Any agreement by an individual to waive, release, or commute  
30 his or her rights under this (~~chapter~~) title is void as against  
31 public policy.

32 (3) After January 1, 2020, subject to RCW 50A.04.235 (as  
33 recodified by this act), an employee's rights under this (~~chapter~~)  
34 title may not be diminished by a collective bargaining agreement or  
35 employer policy.

36 **Sec. 43.** RCW 50A.04.265 and 2017 3rd sp.s. c 5 s 81 are each  
37 amended to read as follows:

1        This (~~chapter~~) title does not create a continuing entitlement  
2 or contractual right. The legislature reserves the right to amend or  
3 repeal all or part of this (~~chapter~~) title at any time, and a  
4 benefit or other right granted under this (~~chapter~~) title exists  
5 subject to the legislature's power to amend or repeal this  
6 (~~chapter~~) title. There is no vested private right of any kind  
7 against such amendment or repeal.

8        **Sec. 44.** RCW 50A.04.505 and 2017 3rd sp.s. c 5 s 36 are each  
9 amended to read as follows:

10        (1) When an order and notice of assessment has been served upon  
11 or mailed to a delinquent employer, the employer may within thirty  
12 days file an appeal with the department, stating that the assessment  
13 is unjust or incorrect and requesting a hearing. The appeal must set  
14 forth the reasons why the assessment is objected to and the amount of  
15 premiums, if any, which the employer admits to be due. If no appeal  
16 is filed, the assessment shall be conclusively deemed to be just and  
17 correct except that in such case, and in cases where payment of  
18 premiums, interest, or penalties has been made pursuant to a jeopardy  
19 assessment, the commissioner may properly entertain a subsequent  
20 application for refund. The filing of an appeal on a disputed  
21 assessment with the administrative law judge stays the distraint and  
22 sale proceeding provided for in this (~~chapter~~) title until a final  
23 decision has been made, but the filing of an appeal shall not affect  
24 the right of the commissioner to perfect a lien, as provided by this  
25 (~~chapter~~) title, upon the property of the employer. The filing of a  
26 petition on a disputed assessment stays the accrual of interest and  
27 penalties on the disputed premiums until a final decision is made.

28        (2) Within thirty days after notice of denial of refund or  
29 adjustment has been mailed or delivered, whichever is the earlier, to  
30 an employer, the employer may file an appeal with the department for  
31 a hearing unless assessments have been appealed from and have become  
32 final. The employer shall set forth the reasons why such hearing  
33 should be granted and the amount which the employer believes should  
34 be adjusted or refunded. If no appeal is filed within said thirty  
35 days, the determination of the commissioner as stated in the notice  
36 shall be final.

37        **Sec. 45.** RCW 50A.04.510 and 2017 3rd sp.s. c 5 s 53 are each  
38 amended to read as follows:

1 (1) A determination of amount of benefits potentially payable  
2 under this ((chapter)) title is not a basis for appeal. However, the  
3 determination is subject to request by the employee on family and  
4 medical leave for redetermination by the commissioner at any time  
5 within one year from the date of delivery or mailing of such  
6 determination, or any redetermination thereof. A redetermination  
7 shall be furnished to the employee in writing and provide the basis  
8 for appeal.

9 (2) A determination of denial of benefits becomes final, in the  
10 absence of timely appeal therefrom. The commissioner may redetermine  
11 such determinations at any time within one year from delivery or  
12 mailing to correct an error in identity, omission of fact, or  
13 misapplication of law with respect to the facts.

14 (3) A determination of allowance of benefits becomes final, in  
15 the absence of a timely appeal therefrom. The commissioner may  
16 redetermine such allowance at any time within two years following the  
17 eligibility period in which such allowance was made in order to  
18 recover any benefits for which recovery is provided under this  
19 ((chapter)) title.

20 (4) A redetermination may be made at any time: (a) To conform to  
21 a final court decision applicable to either an initial determination  
22 or a determination of denial or allowance of benefits; (b) in the  
23 event of a back pay award or settlement affecting the allowance of  
24 benefits; or (c) in the case of misrepresentation or willful failure  
25 to report a material fact. Written notice of any such redetermination  
26 shall be promptly given by mail or delivered to such interested  
27 parties as were notified of the initial determination or  
28 determination of denial or allowance of benefits and any new  
29 interested party or parties who, pursuant to such rule as the  
30 commissioner may adopt, would be an interested party.

31 **Sec. 46.** RCW 50A.04.520 and 2017 3rd sp.s. c 5 s 38 are each  
32 amended to read as follows:

33 In any proceeding before an administrative law judge involving an  
34 appeal from a disputed order and notice of assessment or a disputed  
35 denial of refund or adjustment, the administrative law judge, after  
36 affording the parties a reasonable opportunity for hearing, shall  
37 affirm, modify, or set aside the notice of assessment or denial of  
38 refund. The parties shall be duly notified of such decision together  
39 with the reasons, which shall be deemed to be the final decision

1 unless within thirty days after the date of notification or mailing,  
2 whichever is the earlier, of such decision, further appeal is  
3 perfected pursuant to the provisions of this (~~chapter~~) title  
4 relating to review by the commissioner.

5 **Sec. 47.** RCW 50A.04.525 and 2018 c 141 s 4 are each amended to  
6 read as follows:

7 (1) In any proceeding before an administrative law judge  
8 involving a dispute of an employee's initial determination, claim for  
9 waiting period credit or claim for benefits, all matters and  
10 provisions of this (~~chapter~~) title relating to the employee's  
11 initial determination, or right to receive such credit or benefits  
12 for the period in question, shall be deemed to be in issue  
13 irrespective of the particular ground or grounds set forth in the  
14 notice of appeal in single employee cases.

15 (2) In any proceeding before an administrative law judge  
16 involving an employee's right to benefits, all parties shall be  
17 afforded an opportunity for hearing after not less than seven days'  
18 notice in accordance with RCW 34.05.434.

19 (3) In any proceeding involving an appeal relating to benefit  
20 determinations or benefit claims, the administrative law judge, after  
21 affording the parties reasonable opportunity for fair hearing, shall  
22 render its decision affirming, modifying, or setting aside the  
23 determination or decisions of the department. The parties shall be  
24 duly notified of such decision together with the reasons, which shall  
25 be deemed to be the final decision unless, within thirty days after  
26 the date of notification or mailing, whichever is the earlier, of  
27 such decision, further appeal is perfected pursuant to RCW 50A.04.535  
28 (as recodified by this act).

29 **Sec. 48.** RCW 50A.04.540 and 2018 c 141 s 5 are each amended to  
30 read as follows:

31 After having acquired jurisdiction for review, the commissioner  
32 shall review the proceedings in question. Prior to rendering a  
33 decision, the commissioner may order the taking of additional  
34 evidence by an administrative law judge to be made a part of the  
35 record in the case. Upon the basis of evidence submitted to the  
36 administrative law judge and such additional evidence as the  
37 commissioner may order to be taken, the commissioner shall render a  
38 decision in writing affirming, modifying, or setting aside the

1 decision of the administrative law judge. Alternatively, the  
2 commissioner may order further proceedings to be held before the  
3 administrative law judge, upon completion of which the administrative  
4 law judge shall issue a new decision in writing affirming, modifying,  
5 or setting aside the previous decision of the administrative law  
6 judge. The new decision of the administrative law judge may be  
7 appealed as provided under RCW 50A.04.535 (as recodified by this  
8 act). The commissioner shall mail the decision of the commissioner to  
9 the interested parties at their last known addresses.

10 **Sec. 49.** RCW 50A.04.550 and 2017 3rd sp.s. c 5 s 48 are each  
11 amended to read as follows:

12 Any finding, determination, conclusion, declaration, or final  
13 order made by the commissioner, or his or her representative or  
14 delegate, or by an appeal tribunal, administrative law judge,  
15 reviewing officer, or other agent of the department for the purposes  
16 of this (~~chapter~~) title, shall not be conclusive, nor binding, nor  
17 admissible as evidence in any separate action outside the scope of  
18 this (~~chapter~~) title between an employee and the employee's present  
19 or prior employer before an arbitrator, court, or judge of this state  
20 or the United States, regardless of whether the prior action was  
21 between the same or related parties or involved the same facts or was  
22 reviewed pursuant to RCW 50A.04.565 (as recodified by this act).

23 **Sec. 50.** RCW 50A.04.555 and 2017 3rd sp.s. c 5 s 41 are each  
24 amended to read as follows:

25 For good cause shown the administrative law judge or the  
26 commissioner may waive the time limitations for administrative  
27 appeals or petitions set forth in this (~~chapter~~) title.

28 **Sec. 51.** RCW 50A.04.560 and 2017 3rd sp.s. c 5 s 47 are each  
29 amended to read as follows:

30 (1) In all court proceedings under or pursuant to this  
31 (~~chapter~~) title the decision of the commissioner shall be prima  
32 facie correct, and the burden of proof shall be upon the party  
33 attacking the decision.

34 (2) If the court determines that the commissioner has acted  
35 within the commissioner's power and has correctly construed the law,  
36 the decision of the commissioner shall be confirmed; otherwise, the  
37 decision shall be reversed or modified. In case of a modification or

1 reversal the superior court shall refer the decision to the  
2 commissioner with an order directing the commissioner to proceed in  
3 accordance with the findings of the court.

4 (3) Whenever any order and notice of assessment shall have become  
5 final in accordance with the provisions of this (~~chapter~~) title,  
6 the court shall upon application of the commissioner enter a judgment  
7 in the amount provided for in the order and notice of assessment, and  
8 the judgment shall have and be given the same effect as if entered  
9 pursuant to a civil action instituted in the court.

10 **Sec. 52.** RCW 50A.04.565 and 2018 c 141 s 6 are each amended to  
11 read as follows:

12 Judicial review of a decision of the commissioner involving the  
13 review of a decision of an administrative law judge under this  
14 (~~chapter~~) title may be had only in accordance with the procedural  
15 requirements of RCW 34.05.452.

16 **Sec. 53.** RCW 50A.04.580 and 2017 3rd sp.s. c 5 s 49 are each  
17 amended to read as follows:

18 An individual shall not be charged fees of any kind in any  
19 proceeding involving the employee's application for initial  
20 determination, or claim for waiting period credit, or claim for  
21 benefits, under this (~~chapter~~) title by the commissioner or his or  
22 her representatives, or by an appeal tribunal, or any court, or any  
23 officer thereof. Any employee in any such proceeding before the  
24 commissioner or any appeal tribunal may be represented by counsel or  
25 other duly authorized agent who shall neither charge nor receive a  
26 fee for such services in excess of an amount found reasonable by the  
27 officer conducting such proceeding.

28 **Sec. 54.** RCW 50A.04.590 and 2017 3rd sp.s. c 5 s 52 are each  
29 amended to read as follows:

30 (1) Whenever any appeal is taken from any decision of the  
31 commissioner to any court, all expenses and costs incurred by the  
32 commissioner, including court reporter costs and attorneys' fees and  
33 all costs taxed against such commissioner, shall be paid out of the  
34 family and medical leave enforcement account.

35 (2) Neither the commissioner nor the state shall be charged any  
36 fee for any service rendered in connection with litigation under this  
37 (~~chapter~~) title by the clerk of any court.

1       **Sec. 55.** RCW 50A.04.595 and 2017 3rd sp.s. c 5 s 51 are each  
2 amended to read as follows:

3       The remedies provided in this (~~chapter~~) title for determining  
4 the justness or correctness of assessments, refunds, adjustments, or  
5 claims shall be exclusive and no court shall entertain any action to  
6 enjoin an assessment or require a refund or adjustment except in  
7 accordance with the provisions of this (~~chapter~~) title. Matters  
8 which may be determined by the procedures set out in this (~~chapter~~)  
9 title shall not be the subject of any declaratory judgment.

10       **Sec. 56.** RCW 50A.04.600 and 2018 c 141 s 7 are each amended to  
11 read as follows:

12       (1) An employer may apply to the commissioner for approval of a  
13 voluntary plan for the payment of either family leave benefits or  
14 medical leave benefits, or both. The application must be submitted on  
15 a form and in the manner as prescribed by the commissioner in rule.  
16 The fee for the department's review of each application for approval  
17 of a voluntary plan is two hundred fifty dollars.

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

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

23       (4) (~~Except as provided in this section, an employee covered by~~  
24 ~~an approved voluntary plan at the commencement of a period of family~~  
25 ~~leave or a medical leave benefit period is not entitled to benefits~~  
26 ~~from the state program. Benefits payable to that employee is the~~  
27 ~~liability of the approved voluntary plan under which the employee was~~  
28 ~~covered at the commencement of the family leave or medical leave~~  
29 ~~benefit period, regardless of any subsequent serious health condition~~  
30 ~~or family leave which may occur during the benefit period.)) An  
31 employee may only receive payment of benefits for family leave,  
32 medical leave, or both from one approved plan at a time. An employee  
33 who qualifies for benefits and is simultaneously covered by more than  
34 one plan under this title will receive benefits under the plan for  
35 which the employee has worked the most hours during the employee's  
36 qualifying period. The commissioner must adopt rules to allow  
37 benefits or prevent duplication of benefits to employees  
38 simultaneously covered by one or more approved voluntary plans and  
39 the state program.~~



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

4 (a) The benefits afforded to the employees must be at least  
5 equivalent to the benefits the employees are entitled to as part of  
6 the state's family and medical leave program, including but not  
7 limited to the duration of leave. The employer must offer at least  
8 one-half of the length of leave as provided in RCW 50A.04.020(3) (as  
9 recodified by this act) with pay and provide a monetary payment in an  
10 amount equal to or higher than the total amount of monetary benefits  
11 the employee would be entitled to receive as part of the state-run  
12 program. The employer may offer the same duration of leave and  
13 monetary benefits as offered under the state program.

14 (b) The sick leave an employee is entitled to under RCW 49.46.210  
15 is in addition to the employer's provided benefits and is in addition  
16 to any family and medical leave benefits.

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

19 (d) The employer has agreed to make the payroll deductions  
20 required, if any, and transmit the proceeds to the department for any  
21 portions not collected for the voluntary plan.

22 (e) The plan will be in effect for a period of not less than one  
23 year and, thereafter, continuously unless the commissioner finds that  
24 the employer has given notice of withdrawal from the plan in a manner  
25 specified by the commissioner in rule. The plan may be withdrawn by  
26 the employer on the date of any law increasing the benefit amounts or  
27 the date of any change in the rate of employee premiums, if notice of  
28 the withdrawal from the plan is transmitted to the commissioner not  
29 less than thirty days prior to the date of that law or change. If the  
30 plan is not withdrawn, it must be amended to conform to provide the  
31 increased benefit amount or change in the rate of the employee's  
32 premium on the date of the increase or change.

33 (f) The amount of payroll deductions from the wages of an  
34 employee in effect for any voluntary plan may not exceed the maximum  
35 payroll deduction for that employee as authorized under RCW  
36 50A.04.115 (as recodified by this act). The deductions may not be  
37 increased on other than an anniversary of the effective date of the  
38 plan, except to the extent that any increase in the deductions from  
39 the wages of an employee do not exceed the maximum rate authorized  
40 under the state program.

1 (g) The voluntary plan provides that an employee of an employer  
2 with a voluntary plan for either family leave or medical leave, or  
3 both, is eligible for the plan benefits if the employee meets the  
4 requirements of RCW 50A.04.015 (as recodified by this act) and has  
5 worked at least three hundred forty hours for the employer during the  
6 twelve months immediately preceding the date leave will commence.

7 (h) The voluntary plan provides that an employee of an employer  
8 with a voluntary plan for either family leave or medical leave, or  
9 both, who takes leave under the voluntary plan is entitled to the  
10 employment protection provisions contained in RCW 50A.04.025 (as  
11 recodified by this act) if the employee has worked for the employer  
12 for at least nine months and nine hundred sixty-five hours during the  
13 twelve months immediately preceding the date leave will commence.

14 (i) The voluntary plan provides that the employer maintains the  
15 employee's existing health benefits as provided under RCW 50A.04.245  
16 (as recodified by this act).

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

21 (b) The review must include an analysis of the adequacy of the  
22 fee in subsection (1) of this section to cover the department's  
23 administrative expenses related to reviewing and approving or denying  
24 the applications and administering appeals related to voluntary  
25 plans. The review must include an estimate of the next year's  
26 projected administrative costs related to the voluntary plans. The  
27 legislature shall adjust the fee in subsection (1) of this section as  
28 needed to ensure the department's administrative expenses related to  
29 the voluntary plans are covered by the fee.

30 (c) If the current receipts from the fee in subsection (1) of  
31 this section are inadequate to cover the department's administrative  
32 expenses related to the voluntary plans, the department may use funds  
33 from the family and medical leave insurance account under RCW  
34 50A.04.220 (as recodified by this act) to pay for these expenses.

35 **Sec. 57.** RCW 50A.04.610 and 2017 3rd sp.s. c 5 s 22 are each  
36 amended to read as follows:

37 (1) To be eligible for any family and medical leave, an employee  
38 must be in employment for eight hundred twenty hours during the  
39 qualifying period, by an employer with a voluntary plan or an

1 employer utilizing the state family and medical leave plan. An  
2 employee qualifies for benefits under an employer's voluntary plan  
3 (~~only~~) after the employee works at least three hundred forty hours  
4 for the current employer.

5 (2) An employer with an approved voluntary plan may waive the  
6 requirements in subsection (1) of this section, in whole or in part,  
7 to allow an employee to be immediately eligible for coverage under  
8 the employer's voluntary plan.

9 (3) An employee who had coverage under the state plan retains  
10 coverage under the state plan until such time as the employee is  
11 qualified for coverage under the new employer's voluntary plan.

12 (~~(3)~~) (4) An employee who was eligible for benefits under a  
13 voluntary plan is immediately eligible for benefits under a new  
14 employer's voluntary plan.

15 **Sec. 58.** RCW 50A.04.615 and 2017 3rd sp.s. c 5 s 23 are each  
16 amended to read as follows:

17 (1) An employee is no longer covered by an approved voluntary  
18 plan if family leave or the employee's medical leave occurred after  
19 the employment relationship with the voluntary plan employer ends, or  
20 if the commissioner terminates a voluntary plan.

21 (2) An employee who has ceased to be covered by an approved  
22 voluntary plan is, if otherwise eligible, immediately entitled to  
23 benefits from the state program to the same extent as though there  
24 had been no exemption as provided in this (~~chapter~~) title.

25 **Sec. 59.** RCW 50A.04.625 and 2017 3rd sp.s. c 5 s 17 are each  
26 amended to read as follows:

27 An employer may assume all or a greater part of the cost of the  
28 voluntary plan than required under the state program. An employer may  
29 deduct from the wages of an employee covered by the voluntary plan,  
30 for the purpose of providing the benefits specified in this  
31 (~~chapter~~) title, an amount not in excess of that which would be  
32 required if the employee was not covered by the plan.

33 **Sec. 60.** RCW 50A.04.645 and 2017 3rd sp.s. c 5 s 27 are each  
34 amended to read as follows:

35 (1) The commissioner must approve any amendment to a voluntary  
36 plan adjusting the provisions thereof, as to periods after the  
37 effective date of the amendment, when the commissioner finds: (a)

1 That the plan, as amended, will conform to the standards set forth in  
2 this (~~chapter~~) title; and (b) that notice of the amendment has been  
3 delivered to the employees at least ten days prior to the approval.

4 (2) Nothing contained in this section is intended to deny or  
5 limit the right of the commissioner to adopt supplementary rules  
6 regarding voluntary plans.

7 **Sec. 61.** RCW 50A.04.650 and 2017 3rd sp.s. c 5 s 21 are each  
8 amended to read as follows:

9 (1) The commissioner may terminate any voluntary plan if the  
10 commissioner finds that there is risk that the benefits accrued or  
11 that will accrue will not be paid or for other good cause shown.

12 (2) The commissioner must give notice of the commissioner's  
13 intention to terminate a plan to the employer at least ten days  
14 before taking any final action. The notice must state the effective  
15 date and the reason for the termination.

16 (3) On the effective date of the termination of a plan by the  
17 commissioner, all moneys in the plan, including moneys paid by the  
18 employer, moneys paid by the employees, moneys owed to the voluntary  
19 plan by the employer but not yet paid to the plan, and any interest  
20 accrued on all these moneys, must be remitted to the department and  
21 deposited into the family and medical leave insurance account.

22 (4) The employer may, within ten days from mailing or personal  
23 service of the notice, file an appeal in the time, manner, method,  
24 and procedure provided in RCW 50A.04.500 (as recodified by this act).

25 (5) The payment of benefits and the transfer of moneys in the  
26 voluntary plan may not be delayed during an employer's appeal of the  
27 termination of a voluntary plan.

28 (6) If an employer's voluntary plan has been terminated by the  
29 commissioner the employer is not eligible to apply for approval of  
30 another voluntary plan for a period of three years.

31 **Sec. 62.** RCW 50A.04.655 and 2017 3rd sp.s. c 5 s 20 are each  
32 amended to read as follows:

33 (1) An employer of a voluntary plan found to have violated this  
34 (~~chapter~~) title shall be assessed the following monetary penalties:

35 (a) One thousand dollars for the first violation; and

36 (b) Two thousand dollars for the second and subsequent  
37 violations.

1 (2) The commissioner shall waive collection of the penalty if the  
2 employer corrects the violation within thirty days of receiving a  
3 notice of the violation and the notice is for a first violation.

4 (3) The commissioner may waive collection of any penalties if the  
5 commissioner determines the violation to be an inadvertent error by  
6 the employer.

7 (4) Monetary penalties collected under this section shall be  
8 deposited in the family and medical leave enforcement account.

9 (5) The department shall enforce the collection of penalties  
10 through conference and conciliation.

11 (6) These penalties may be appealed as provided in RCW 50A.04.500  
12 through 50A.04.595 (as recodified by this act).

13 **Sec. 63.** RCW 50A.04.660 and 2017 3rd sp.s. c 5 s 24 are each  
14 amended to read as follows:

15 An employer may appeal any adverse decision by the department  
16 ~~((regarding the))~~ related to voluntary plans. ~~((and))~~ An employee may  
17 appeal any adverse decision by an employer ~~(('s denial of liability~~  
18 ~~upon the claim of an employee for family or medical leave benefits~~  
19 ~~under an approved plan, in the manner specified under))~~ or the  
20 employer's agent related to voluntary plans. Appeals are subject to  
21 RCW 50A.04.500 (as recodified by this act).

22 **Sec. 64.** RCW 50A.04.900 and 2017 3rd sp.s. c 5 s 101 are each  
23 amended to read as follows:

24 If any part of this ~~((chapter))~~ title is found to be in conflict  
25 with federal requirements that are a prescribed condition to the  
26 allocation of federal funds to the state or the eligibility of  
27 employers in this state for federal unemployment tax credits, the  
28 conflicting part of this ~~((chapter))~~ title is inoperative solely to  
29 the extent of the conflict, and the finding or determination does not  
30 affect the operation of the remainder of this ~~((chapter))~~ title.  
31 Rules adopted under this ~~((chapter))~~ title must meet federal  
32 requirements that are a necessary condition to the receipt of federal  
33 funds by the state or the granting of federal unemployment tax  
34 credits to employers in this state.

35 **Sec. 65.** RCW 50.29.021 and 2017 3rd sp.s. c 5 s 83 are each  
36 amended to read as follows:

1 (1) This section applies to benefits charged to the experience  
2 rating accounts of employers for claims that have an effective date  
3 on or after January 4, 2004.

4 (2)(a) An experience rating account shall be established and  
5 maintained for each employer, except employers as described in RCW  
6 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
7 payments in lieu of contributions, taxable local government employers  
8 as described in RCW 50.44.035, and those employers who are required  
9 to make payments in lieu of contributions, based on existing records  
10 of the employment security department.

11 (b) Benefits paid to an eligible individual shall be charged to  
12 the experience rating accounts of each of such individual's employers  
13 during the individual's base year in the same ratio that the wages  
14 paid by each employer to the individual during the base year bear to  
15 the wages paid by all employers to that individual during that base  
16 year, except as otherwise provided in this section.

17 (c) When the eligible individual's separating employer is a  
18 covered contribution paying base year employer, benefits paid to the  
19 eligible individual shall be charged to the experience rating account  
20 of only the individual's separating employer if the individual  
21 qualifies for benefits under:

22 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and  
23 became unemployed after having worked and earned wages in the bona  
24 fide work; or

25 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through  
26 (x).

27 (3) The legislature finds that certain benefit payments, in whole  
28 or in part, should not be charged to the experience rating accounts  
29 of employers except those employers described in RCW 50.44.010,  
30 50.44.030, and 50.50.030 who have properly elected to make payments  
31 in lieu of contributions, taxable local government employers  
32 described in RCW 50.44.035, and those employers who are required to  
33 make payments in lieu of contributions, as follows:

34 (a) Benefits paid to any individual later determined to be  
35 ineligible shall not be charged to the experience rating account of  
36 any contribution paying employer, except as provided in subsection  
37 (5) of this section.

38 (b) Benefits paid to an individual filing under the provisions of  
39 chapter 50.06 RCW shall not be charged to the experience rating  
40 account of any contribution paying employer only if:

1 (i) The individual files under RCW 50.06.020(1) after receiving  
2 crime victims' compensation for a disability resulting from a  
3 nonwork-related occurrence; or

4 (ii) The individual files under RCW 50.06.020(2).

5 (c) Benefits paid which represent the state's share of benefits  
6 payable as extended benefits defined under RCW 50.22.010(6) shall not  
7 be charged to the experience rating account of any contribution  
8 paying employer.

9 (d) In the case of individuals who requalify for benefits under  
10 RCW 50.20.050 or 50.20.060, benefits based on wage credits earned  
11 prior to the disqualifying separation shall not be charged to the  
12 experience rating account of the contribution paying employer from  
13 whom that separation took place.

14 (e) Benefits paid to an individual who qualifies for benefits  
15 under RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as  
16 applicable, shall not be charged to the experience rating account of  
17 any contribution paying employer.

18 (f) With respect to claims with an effective date on or after the  
19 first Sunday following April 22, 2005, benefits paid that exceed the  
20 benefits that would have been paid if the weekly benefit amount for  
21 the claim had been determined as one percent of the total wages paid  
22 in the individual's base year shall not be charged to the experience  
23 rating account of any contribution paying employer. This subsection  
24 (3)(f) does not apply to the calculation of contribution rates under  
25 RCW 50.29.025 for rate year 2010 and thereafter.

26 (g) The forty-five dollar increase paid as part of an  
27 individual's weekly benefit amount as provided in RCW 50.20.1201 and  
28 the twenty-five dollar increase paid as part of an individual's  
29 weekly benefit amount as provided in RCW 50.20.1202 shall not be  
30 charged to the experience rating account of any contribution paying  
31 employer.

32 (h) With respect to claims where the minimum amount payable  
33 weekly is increased to one hundred fifty-five dollars pursuant to RCW  
34 50.20.1201(3), benefits paid that exceed the benefits that would have  
35 been paid if the minimum amount payable weekly had been calculated  
36 pursuant to RCW 50.20.120 shall not be charged to the experience  
37 rating account of any contribution paying employer.

38 (i) Upon approval of an individual's training benefits plan  
39 submitted in accordance with RCW 50.22.155(2), an individual is  
40 considered enrolled in training, and regular benefits beginning with

1 the week of approval shall not be charged to the experience rating  
2 account of any contribution paying employer.

3 (j) Training benefits paid to an individual under RCW 50.22.155  
4 shall not be charged to the experience rating account of any  
5 contribution paying employer.

6 (4) (a) A contribution paying base year employer, except employers  
7 as provided in subsection (6) of this section, not otherwise eligible  
8 for relief of charges for benefits under this section, may receive  
9 such relief if the benefit charges result from payment to an  
10 individual who:

11 (i) Last left the employ of such employer voluntarily for reasons  
12 not attributable to the employer;

13 (ii) Was discharged for misconduct or gross misconduct connected  
14 with his or her work not a result of inability to meet the minimum  
15 job requirements;

16 (iii) Is unemployed as a result of closure or severe curtailment  
17 of operation at the employer's plant, building, worksite, or other  
18 facility. This closure must be for reasons directly attributable to a  
19 catastrophic occurrence such as fire, flood, or other natural  
20 disaster;

21 (iv) Continues to be employed on a regularly scheduled permanent  
22 part-time basis by a base year employer and who at some time during  
23 the base year was concurrently employed and subsequently separated  
24 from at least one other base year employer. Benefit charge relief  
25 ceases when the employment relationship between the employer  
26 requesting relief and the claimant is terminated. This subsection  
27 does not apply to shared work employers under chapter 50.60 RCW;

28 (v) Continues to be employed on a regularly scheduled permanent  
29 part-time basis by a base year employer and who qualified for two  
30 consecutive unemployment claims where wages were attributable to at  
31 least one employer who employed the individual in both base years.  
32 Benefit charge relief ceases when the employment relationship between  
33 the employer requesting relief and the claimant is terminated. This  
34 subsection does not apply to shared work employers under chapter  
35 50.60 RCW;

36 (vi) Was hired to replace an employee who is a member of the  
37 military reserves or National Guard and was called to federal active  
38 military service by the president of the United States and is  
39 subsequently laid off when that employee is reemployed by their



1 employer upon release from active duty within the time provided for  
2 reemployment in RCW 73.16.035; or

3 (vii) Worked for an employer for twenty weeks or less, and was  
4 laid off at the end of temporary employment when that employee  
5 temporarily replaced a permanent employee receiving family or medical  
6 leave benefits under (~~this chapter~~) Title 50A RCW, and the layoff  
7 is due to the return of that permanent employee. This subsection  
8 (4)(a)(vii) applies to claims with an effective date on or after  
9 January 1, 2020.

10 (b) The employer requesting relief of charges under this  
11 subsection must request relief in writing within thirty days  
12 following mailing to the last known address of the notification of  
13 the valid initial determination of such claim, stating the date and  
14 reason for the separation or the circumstances of continued  
15 employment. The commissioner, upon investigation of the request,  
16 shall determine whether relief should be granted.

17 (5) When a benefit claim becomes invalid due to an amendment or  
18 adjustment of a report where the employer failed to report or  
19 inaccurately reported hours worked or remuneration paid, or both, all  
20 benefits paid will be charged to the experience rating account of the  
21 contribution paying employer or employers that originally filed the  
22 incomplete or inaccurate report or reports. An employer who  
23 reimburses the trust fund for benefits paid to workers and who fails  
24 to report or inaccurately reported hours worked or remuneration paid,  
25 or both, shall reimburse the trust fund for all benefits paid that  
26 are based on the originally filed incomplete or inaccurate report or  
27 reports.

28 (6) An employer's experience rating account may not be relieved  
29 of charges for a benefit payment and an employer who reimburses the  
30 trust fund for benefit payments may not be credited for a benefit  
31 payment if a benefit payment was made because the employer or  
32 employer's agent failed to respond timely or adequately to a written  
33 request of the department for information relating to the claim or  
34 claims without establishing good cause for the failure and the  
35 employer or employer's agent has a pattern of such failures. The  
36 commissioner has the authority to determine whether the employer has  
37 good cause under this subsection.

38 (a) For the purposes of this subsection, "adequately" means  
39 providing accurate information of sufficient quantity and quality

1 that would allow a reasonable person to determine eligibility for  
2 benefits.

3 (b) (i) For the purposes of this subsection, "pattern" means a  
4 benefit payment was made because the employer or employer's agent  
5 failed to respond timely or adequately to a written request of the  
6 department for information relating to a claim or claims without  
7 establishing good cause for the failure, if the greater of the  
8 following calculations for an employer is met:

9 (A) At least three times in the previous two years; or

10 (B) Twenty percent of the total current claims against the  
11 employer.

12 (ii) If an employer's agent is utilized, a pattern is established  
13 based on each individual client employer that the employer's agent  
14 represents.

15 **Sec. 66.** RCW 26.23.060 and 2000 c 86 s 4 and 2000 c 29 s 1 are  
16 each reenacted and amended to read as follows:

17 (1) The division of child support may issue a notice of payroll  
18 deduction:

19 (a) As authorized by a support order that contains a notice  
20 clearly stating that child support may be collected by withholding  
21 from earnings, wages, or benefits without further notice to the  
22 obligated parent; or

23 (b) After service of a notice containing an income-withholding  
24 provision under this chapter or chapter 74.20A RCW.

25 (2) The division of child support shall serve a notice of payroll  
26 deduction upon a responsible parent's employer or upon the employment  
27 security department for the state in possession of or owing any  
28 benefits from the unemployment compensation fund to the responsible  
29 parent pursuant to Title 50 RCW or from the paid family and medical  
30 leave program under Title 50A RCW:

31 (a) In the manner prescribed for the service of a summons in a  
32 civil action;

33 (b) By certified mail, return receipt requested;

34 (c) By electronic means if there is an agreement between the  
35 secretary and the person, firm, corporation, association, political  
36 subdivision, department of the state, or agency, subdivision, or  
37 instrumentality of the United States to accept service by electronic  
38 means; or

1 (d) By regular mail to a responsible parent's employer unless the  
2 division of child support reasonably believes that service of process  
3 in the manner prescribed in (a) or (b) of this subsection is required  
4 for initiating an action to ensure employer compliance with the  
5 withholding requirement.

6 (3) Service of a notice of payroll deduction upon an employer or  
7 employment security department requires the employer or employment  
8 security department to immediately make a mandatory payroll deduction  
9 from the responsible parent's unpaid disposable earnings or  
10 unemployment compensation benefits. The employer or employment  
11 security department shall thereafter deduct each pay period the  
12 amount stated in the notice divided by the number of pay periods per  
13 month. The payroll deduction each pay period shall not exceed fifty  
14 percent of the responsible parent's disposable earnings.

15 (4) A notice of payroll deduction for support shall have priority  
16 over any wage assignment, garnishment, attachment, or other legal  
17 process.

18 (5) The notice of payroll deduction shall be in writing and  
19 include:

20 (a) The name and social security number of the responsible  
21 parent;

22 (b) The amount to be deducted from the responsible parent's  
23 disposable earnings each month, or alternate amounts and frequencies  
24 as may be necessary to facilitate processing of the payroll  
25 deduction;

26 (c) A statement that the total amount withheld shall not exceed  
27 fifty percent of the responsible parent's disposable earnings;

28 (d) The address to which the payments are to be mailed or  
29 delivered; and

30 (e) A notice to the responsible parent warning the responsible  
31 parent that, despite the payroll deduction, the responsible parent's  
32 privileges to obtain and maintain a license, as defined in RCW  
33 74.20A.320, may not be renewed, or may be suspended if the parent is  
34 not in compliance with a support order as defined in RCW 74.20A.320.

35 (6) An informational copy of the notice of payroll deduction  
36 shall be mailed to the last known address of the responsible parent  
37 by regular mail.

38 (7) An employer or employment security department that receives a  
39 notice of payroll deduction shall make immediate deductions from the  
40 responsible parent's unpaid disposable earnings and remit proper

1 amounts to the Washington state support registry within seven working  
2 days of the date the earnings are payable to the responsible parent.

3 (8) An employer, or the employment security department, upon whom  
4 a notice of payroll deduction is served, shall make an answer to the  
5 division of child support within twenty days after the date of  
6 service. The answer shall confirm compliance and institution of the  
7 payroll deduction or explain the circumstances if no payroll  
8 deduction is in effect. The answer shall also state whether the  
9 responsible parent is employed by or receives earnings from the  
10 employer or receives unemployment compensation benefits from the  
11 employment security department, whether the employer or employment  
12 security department anticipates paying earnings or unemployment  
13 compensation benefits and the amount of earnings. If the responsible  
14 parent is no longer employed, or receiving earnings from the  
15 employer, the answer shall state the present employer's name and  
16 address, if known. If the responsible parent is no longer receiving  
17 unemployment compensation benefits from the employment security  
18 department, the answer shall state the present employer's name and  
19 address, if known.

20 The returned answer or a payment remitted to the division of  
21 child support by the employer constitutes proof of service of the  
22 notice of payroll deduction in the case where the notice was served  
23 by regular mail.

24 (9) The employer may deduct a processing fee from the remainder  
25 of the responsible parent's earnings after withholding under the  
26 notice of payroll deduction, even if the remainder is exempt under  
27 RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for  
28 the first disbursement made to the Washington state support registry;  
29 and (b) one dollar for each subsequent disbursement to the registry.

30 (10) The notice of payroll deduction shall remain in effect until  
31 released by the division of child support, the court enters an order  
32 terminating the notice and approving an alternate arrangement under  
33 RCW 26.23.050, or until the employer no longer employs the  
34 responsible parent and is no longer in possession of or owing any  
35 earnings to the responsible parent. The employer shall promptly  
36 notify the office of support enforcement when the employer no longer  
37 employs the parent subject to the notice. For the employment security  
38 department, the notice of payroll deduction shall remain in effect  
39 until released by the division of child support or until the court  
40 enters an order terminating the notice.

1 (11) The division of child support may use uniform interstate  
2 withholding forms adopted by the United States department of health  
3 and human services to take withholding actions under this section  
4 whether the responsible parent is receiving earnings or unemployment  
5 compensation in this state or in another state.

6 **Sec. 67.** RCW 43.20A.080 and 1997 c 58 s 1005 are each amended to  
7 read as follows:

8 (1) The department shall provide the employment security  
9 department quarterly with the names and social security numbers of  
10 all clients in the WorkFirst program and any successor state welfare  
11 program.

12 (2) The information provided by the employment security  
13 department under RCW 50.13.060 for statistical analysis and welfare  
14 program evaluation purposes may be used only for statistical  
15 analysis, research, and evaluation purposes as provided in RCW  
16 74.08A.410 and 74.08A.420. Through individual matches with accessed  
17 employment security department confidential employer wage files, only  
18 aggregate, statistical, group level data shall be reported. Data  
19 sharing by the employment security department may be extended to  
20 include the office of financial management and other such  
21 governmental entities with oversight responsibility for this program.

22 (3) The department and other agencies of state government shall  
23 protect the privacy of confidential personal data supplied under RCW  
24 50.13.060 consistent with federal law, chapters 50.13 and 50A.---  
25 (the new chapter created in section 84 of this act) RCW, and the  
26 terms and conditions of a formal data-sharing agreement between the  
27 employment security department and agencies of state government,  
28 however the misuse or unauthorized use of confidential data supplied  
29 by the employment security department is subject to the penalties in  
30 RCW 50.13.080 and section 81 of this act.

31 **Sec. 68.** RCW 42.56.410 and 2005 c 274 s 421 are each amended to  
32 read as follows:

33 Records maintained by the employment security department and  
34 subject to chapter 50.13 or 50A.--- (the new chapter created in  
35 section 84 of this act) RCW if provided to another individual or  
36 organization for operational, research, or evaluation purposes are  
37 exempt from disclosure under this chapter.

1        NEW SECTION.    **Sec. 69.** Any assignment, pledge, or encumbrance of  
2 any right to benefits that are or may become due or payable under  
3 this title is void. Such rights to benefits are exempt from levy,  
4 execution, attachment, or any other remedy whatsoever provided for  
5 the collection of debts, except as provided in RCW 50A.04.060 (as  
6 recodified by this act). Benefits received by any employee, so long  
7 as they are not commingled with other funds of the recipient, are  
8 exempt from any remedy whatsoever for collection of all debts except  
9 debts incurred for necessities furnished to such employee or the  
10 employee's spouse or dependents during the time when such individual  
11 was receiving family or medical leave. Any waiver of any exemption  
12 provided for in this section is void.

13        NEW SECTION.    **Sec. 70.** (1) If information provided to the  
14 department by another governmental agency is held private and  
15 confidential by state or federal law, the department may not release  
16 such information unless otherwise provided in this title.

17        (2) Information provided to the department by another  
18 governmental entity conditioned upon privacy and confidentiality  
19 under a provision of law is to be held private and confidential  
20 according to the agreement between the department and the other  
21 governmental agency unless otherwise provided in this title.

22        (3) The department may hold private and confidential information  
23 obtained for statistical analysis, research, or study purposes if the  
24 information was supplied voluntarily, conditioned upon maintaining  
25 confidentiality of the information.

26        (4) Persons requesting disclosure of information held by the  
27 department under subsection (1) or (2) of this section shall request  
28 such disclosure from the agency providing the information to the  
29 department rather than from the department.

30        NEW SECTION.    **Sec. 71.** (1) Any information or records concerning  
31 an individual or employer obtained by the department pursuant to the  
32 administration of this title shall be private and confidential,  
33 except as otherwise provided in this chapter or RCW 50A.04.205 (as  
34 recodified by this act).

35        (2) This chapter does not create a rule of evidence.

1        NEW SECTION.    **Sec. 72.**    The commissioner has the authority to  
2 adopt, amend, or rescind rules interpreting and implementing this  
3 chapter.

4        NEW SECTION.    **Sec. 73.**    (1) An individual shall have access to  
5 all records and information concerning that individual held by the  
6 department unless the information is exempt from disclosure under RCW  
7 42.56.410.

8        (2) An employer shall have access to:

9        (a) Its own records relating to any claim or determination for  
10 family or medical leave benefits by an individual;

11        (b) Records and information relating to a decision to allow or  
12 deny benefits if the decision is based on material information  
13 provided by the employer; and

14        (c) Records and information related to that employer's premium  
15 assessment.

16        (3) The department may disclose records and information deemed  
17 confidential under this chapter to a third party acting on behalf of  
18 an individual or employer that would otherwise be eligible to receive  
19 records under subsection (1) or (2) of this section when the  
20 department receives a signed release from the individual or employer.  
21 The release must include a statement:

22        (a) Specifically identifying the information that is to be  
23 disclosed;

24        (b) That state government files will be accessed to obtain that  
25 information;

26        (c) Of the specific purpose or purposes for which the information  
27 is sought and a statement that information obtained under the release  
28 will only be used for that purpose or purposes; and

29        (d) Indicating all the parties who may receive the information  
30 disclosed.

31        NEW SECTION.    **Sec. 74.**    (1) Any interested party, as defined by  
32 rule, in a proceeding before the appeal tribunal or commissioner  
33 shall have access to any information or records deemed private and  
34 confidential under this chapter if the information or records are  
35 material to the issues in that proceeding.

36        (2) No decision by the commissioner or the appeals tribunal shall  
37 be deemed private and confidential under this chapter unless the  
38 decision is based on information obtained in a closed hearing.

1        NEW SECTION.    **Sec. 75.**    (1) Information or records deemed private  
2 and confidential under this chapter shall be available to parties to  
3 judicial or formal administrative proceedings only upon a written  
4 finding by the presiding officer that the need for the information or  
5 records in the proceeding outweighs any reasons for the privacy and  
6 confidentiality of the information or records.

7        (2) Information or records deemed private and confidential under  
8 this chapter shall not be available in discovery proceedings unless  
9 the court in which the action has been filed has made the finding in  
10 subsection (1) of this section. A judicial or administrative subpoena  
11 directed to the department must contain this finding. A subpoena for  
12 records or information under this section must be submitted in a  
13 manner prescribed by the department.

14        NEW SECTION.    **Sec. 76.**    (1) The department may enter into data-  
15 sharing contracts and may disclose records and information deemed  
16 confidential to state government agencies under this chapter only if  
17 permitted under subsection (2) of this section and section 78 of this  
18 act. A state government agency must need the records or information  
19 for an official purpose and must also provide:

20        (a) An application in writing to the department for the records  
21 or information containing a statement of the official purposes for  
22 which the state government agency needs the information or records  
23 and specifically identify the records or information sought from the  
24 department; and

25        (b) A written verification of the need for the specific  
26 information from the director, commissioner, chief executive, or  
27 other official of the requesting state government agency either on  
28 the application or on a separate document.

29        (2) The department may disclose information or records deemed  
30 confidential under this chapter to the following state government  
31 agencies:

32        (a) To the department of social and health services to identify  
33 child support obligations;

34        (b) To the department of revenue to determine potential tax  
35 liability or employer compliance with registration and licensing  
36 requirements;

37        (c) To the department of labor and industries to compare records  
38 or information to detect improper or fraudulent claims;



1 (d) To the office of financial management for the purpose of  
2 conducting periodic salary or fringe benefit studies pursuant to law;

3 (e) To the office of the state treasurer and any financial or  
4 banking institutions deemed necessary by the office of the state  
5 treasurer and the department for the proper administration of funds;

6 (f) To the office of the attorney general for purposes of legal  
7 representation;

8 (g) To a county clerk for the purpose of RCW 9.94A.760 if  
9 requested by the county clerk's office;

10 (h) To the office of administrative hearings for the purpose of  
11 administering the administrative appeal process;

12 (i) To the department of enterprise services for the purpose of  
13 agency administration and operations; and

14 (j) To the consolidated technology services agency for the  
15 purpose of enterprise technology support.

16 NEW SECTION. **Sec. 77.** The state legislature may have access to  
17 information or records deemed private and confidential under this  
18 chapter if the following requirements are met:

19 (1) The legislature, a legislative committee, a legislator, or a  
20 staff member finds that the information or records are necessary and  
21 for official purposes; and

22 (2) The individuals and organizations whose information is  
23 contained within the confidential records requested must provide a  
24 signed disclosure that manifests the individual's or organization's  
25 informed consent to the disclosure of the records or information to  
26 the legislature, legislative committee, legislator, or staff member.

27 NEW SECTION. **Sec. 78.** The department may disclose information  
28 or records deemed confidential under this chapter to the federal  
29 internal revenue service if the information is deemed necessary by  
30 the department to administer RCW 50A.04.055 (as recodified by this  
31 act).

32 NEW SECTION. **Sec. 79.** Nothing in this chapter shall be  
33 construed as limiting or restricting the effect of RCW 42.56.070(8).

34 NEW SECTION. **Sec. 80.** The family and medical leave program of  
35 the department may disclose information or records deemed private and  
36 confidential under this chapter to any private person or

1 organization, and by extension, the agents of any private person or  
2 organization, when the disclosure is necessary to permit private  
3 contracting parties to assist in the operation, management, and  
4 implementation of the department in instances where certain  
5 departmental functions may be delegated to private parties to  
6 increase the department's efficiency or quality of service to the  
7 public. The private person or organization shall use the information  
8 or records solely for the purpose for which the information was  
9 disclosed and shall be bound by the same rules of privacy and  
10 confidentiality as department employees.

11 NEW SECTION. **Sec. 81.** (1) All private persons, government  
12 agencies, and organizations authorized to receive information from  
13 the department under this chapter have an affirmative obligation to  
14 take all reasonable actions necessary to prevent the disclosure of  
15 confidential information.

16 (2) The disclosure of any records or information by a private  
17 person, government agency, or organization that obtained the records  
18 or information from the department under this chapter is prohibited  
19 unless expressly permitted by this chapter.

20 (3) If misuse or an unauthorized disclosure of confidential  
21 records or information occurs, all parties who are aware of the  
22 violation must inform the department immediately and must take all  
23 reasonably available actions to rectify the disclosure to the  
24 department's standards.

25 (4) The misuse or unauthorized release of records or information  
26 deemed private and confidential under this chapter by any private  
27 person, government agency, or organization to which access is  
28 permitted by this section shall subject the person, government  
29 agency, or organization to a civil penalty of up to twenty thousand  
30 dollars in 2018 and annually adjusted by the department based on  
31 changes in the United States consumer price index for all urban  
32 consumers. Other applicable sanctions under state and federal law  
33 also apply.

34 (5) Suit to enforce this section shall be brought by the attorney  
35 general and the amount of any penalties collected shall be paid into  
36 the department's family and medical leave enforcement account. The  
37 attorney general may recover reasonable attorneys' fees for any  
38 action brought to enforce this section.

1        NEW SECTION.     **Sec. 82.**     Where the family and medical leave  
2 program of the department contracts to provide services to other  
3 governmental or private organizations, the department may disclose to  
4 those organizations information or records deemed private and  
5 confidential that have been acquired in the performance of the  
6 department's obligations under the contracts.

7        NEW SECTION.     **Sec. 83.**     Nothing in this chapter shall prevent the  
8 disclosure of information or records deemed private and confidential  
9 under this chapter if all details identifying an individual or  
10 employing unit are deleted so long as the information or records  
11 cannot be foreseeably combined with other publicly available  
12 information to reveal the identity of an individual or employing  
13 unit.

14       NEW SECTION.     **Sec. 84.**     Sections 70 through 83 of this act  
15 constitute a new chapter in Title 50A RCW.

16       NEW SECTION.     **Sec. 85.**     RCW 50A.04.005, 50A.04.010, 50A.04.195,  
17 50A.04.200,     50A.04.205,     50A.04.210,     50A.04.215,     50A.04.220,  
18 50A.04.225, 50A.04.235, 50A.04.255, 50A.04.265, and 50A.04.900 are  
19 each recodified as sections in a new chapter in Title 50A RCW.

20       NEW SECTION.     **Sec. 86.**     RCW 50A.04.105, 50A.04.110, 50A.04.115,  
21 50A.04.120, and 50A.04.125 are each recodified as sections in a new  
22 chapter in Title 50A RCW.

23       NEW SECTION.     **Sec. 87.**     Section 69 of this act is codified and  
24 RCW 50A.04.015, 50A.04.020, 50A.04.030, 50A.04.035, 50A.04.040,  
25 50A.04.045,     50A.04.050,     50A.04.055,     50A.04.060,     50A.04.065,  
26 50A.04.240, and 50A.04.250 are each recodified as sections in a new  
27 chapter in Title 50A RCW.

28       NEW SECTION.     **Sec. 88.**     RCW 50A.04.230 is recodified as a section  
29 in a new chapter in Title 50A RCW.

30       NEW SECTION.     **Sec. 89.**     RCW 50A.04.600, 50A.04.605, 50A.04.610,  
31 50A.04.615,     50A.04.620,     50A.04.625,     50A.04.630,     50A.04.635,  
32 50A.04.640,     50A.04.645,     50A.04.650,     50A.04.655,     50A.04.660, and

1 50A.04.665 are each recodified as sections in a new chapter in Title  
2 50A RCW.

3 NEW SECTION. **Sec. 90.** RCW 50A.04.025, 50A.04.245, and  
4 50A.04.260 are each recodified as sections in a new chapter in Title  
5 50A RCW.

6 NEW SECTION. **Sec. 91.** RCW 50A.04.085, 50A.04.095, and  
7 50A.04.100 are each recodified as sections in a new chapter in Title  
8 50A RCW.

9 NEW SECTION. **Sec. 92.** RCW 50A.04.090, 50A.04.130, 50A.04.135,  
10 50A.04.140, 50A.04.145, 50A.04.150, 50A.04.155, 50A.04.160,  
11 50A.04.165, 50A.04.170, 50A.04.175, 50A.04.180, 50A.04.185, and  
12 50A.04.190 are each recodified as sections in a new chapter in Title  
13 50A RCW.

14 NEW SECTION. **Sec. 93.** RCW 50A.04.500, 50A.04.505, 50A.04.510,  
15 50A.04.515, 50A.04.520, 50A.04.525, 50A.04.530, 50A.04.535,  
16 50A.04.540, 50A.04.545, 50A.04.550, 50A.04.555, 50A.04.560,  
17 50A.04.565, 50A.04.570, 50A.04.575, 50A.04.580, 50A.04.585,  
18 50A.04.590, and 50A.04.595 are each recodified as sections in a new  
19 chapter in Title 50A RCW.

20 NEW SECTION. **Sec. 94.** RCW 50A.04.070, 50A.04.075, and  
21 50A.04.080 are each recodified as sections in a new chapter in Title  
22 50A RCW.

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