Chapter 50A.05 RCW
GENERAL PROVISIONS

Sections

50A.05.005 Intent.
50A.05.010 Definitions.
50A.05.020 Program administration—Information disclosure—Outreach.
50A.05.025 Program administration—Powers.
50A.05.030 Advisory committee.
50A.05.040 Ombuds.
50A.05.050 Reports to legislature.
50A.05.060 Rules.
50A.05.070 Family and medical leave insurance account.
50A.05.080 Family and medical leave enforcement account.
50A.05.100 Discrimination laws not affected.
50A.05.110 No continuing entitlement or contractual right.
50A.05.120 Conflict with federal requirements.
50A.05.125 Continuity with prior law.
50A.05.130 Office of actuarial services.

RCW 50A.05.005 Intent. The legislature finds that the demands of the workplace and of families need to be balanced to promote family stability and economic security. The legislature also finds that families across the state own and operate businesses. Workplace leave policies are desirable to accommodate changes in the workforce such as rising numbers of dual-career couples, working single parents, and an aging population. In addition the impact of significant new requirements should be reasonably balanced to help small businesses thrive.

The legislature also finds that access to paid leave is associated with many important health benefits. Research confirms that paid leave results in decreased infant mortality and more well-baby visits and reductions in maternal postpartum depression and stress. The legislature further finds that paid leave increases the duration of breastfeeding, which supports bonding, stimulates positive neurological and psychological development, strengthens a child's immune system, and reduces the risks of serious or costly health problems such as asthma, acute ear infections, obesity, Type 2 diabetes, leukemia, and sudden infant death syndrome. The legislature also finds that when fathers have access to paid leave they are more directly engaged during the child's first few months, thereby increasing father infant bonding and reducing overall stress on the family.

The legislature declares it to be in the public interest to create a family and medical leave insurance program to provide reasonable paid family leave for the birth or placement of a child with the employee, for the care of a family member who has a serious health condition, and for a qualifying exigency under the federal family and medical leave act, and reasonable paid medical leave for an employee's own serious health condition and to reasonably assist businesses in implementing and maintaining a program to support their employees and family. [2017 3rd sp.s. c 5 s 1. Formerly RCW 50A.04.005.]

RCW 50A.05.010 Definitions. ***(Effective until June 30, 2027.)***

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1)(a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(3) "Commissioner" means the commissioner of the department or the commissioner's designee.

(4) "Department" means the employment security department.

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

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

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

(7)(a) "Employer" means:

(i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title;

(ii) The state, state institutions, and state agencies;

(iii) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(iv) Representatives for employers of dockworkers who normally work for several employers in the same industry interchangeably through a collectively bargained agreement. Other than for their own employees, employer representatives are not obligated to report dockworkers who are not covered by the collective bargaining agreement.

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

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

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

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

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

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

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

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

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

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

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

(B) As a separate alternative:

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

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

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

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

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

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

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

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

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

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

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

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

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

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

(9) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(10) "Family leave" means any leave taken by an employee from work:

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

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

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

(d) During the seven calendar days following the death of the family member for whom the employee:

(i) Would have qualified for medical leave under subsection (15) of this section for the birth of their child; or

(ii) Would have qualified for family leave under (b) of this subsection.

(11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee, and also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. "Family member" includes any individual who regularly resides in the employee's home, except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.

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

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

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

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

(16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

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

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

(19) "Postnatal" means the first six weeks after birth.

(20) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

(21) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

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

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

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

(d) Remuneration does not include:

(i) The payment of tips;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that

would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

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

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

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

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

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

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees,

that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

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

(24) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

(25) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

(26) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

(27) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the employee is receiving.

(28) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee within the qualifying period; and

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

(29) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule. [2025 c 178 s 1; 2023 c 25 s 2; 2022 c 233 s 1; 2021 c 232 s 2; 2020 c 125 s 1; 2019 c 13 s 1; 2018 c 141 s 1; 2017 3rd sp.s. c 5 s 2. Formerly RCW 50A.04.010.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Intent—2023 c 25: See note following RCW 50.04.100.

Intent—2021 c 232: "The legislature intends to prevent impacts, based on this act, to the family and medical leave insurance account or the application of a solvency surcharge." [2021 c 232 s 1.]

Expenses for individuals utilizing leave in excess of 500 prior to July 1, 2023, to be paid by the general fund—2021 c 232: "If the number of individuals utilizing leave under Title 50A RCW as a result of the amended definition of family member in this act exceeds 500 individuals in any calendar year before July 1, 2023, the expenses of the additional leave must be paid by the general fund into the family and medical leave insurance account created in RCW 50A.05.070." [2021 c 232 s 4.]

Effective date—2020 c 125 s 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2020]." [2020 c 125 s 19.]

RCW 50A.05.010 Definitions. ***(Effective June 30, 2027.)*** Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1)(a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(3) "Commissioner" means the commissioner of the department or the commissioner's designee.

(4) "Department" means the employment security department.

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

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

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

(7)(a) "Employer" means:

(i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in

employment or, having become an employer, has not ceased to be an employer as provided in this title;

(ii) The state, state institutions, and state agencies;

(iii) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(iv) Representatives for employers of dockworkers who normally work for several employers in the same industry interchangeably through a collectively bargained agreement. Other than for their own employees, employer representatives are not obligated to report dockworkers who are not covered by the collective bargaining agreement.

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

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

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

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

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

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

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

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

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

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

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

(B) As a separate alternative:

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

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

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

has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

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

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

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

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

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

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

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

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

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

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

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

(9) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(10) "Family leave" means any leave taken by an employee from work:

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

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

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

(d) During the seven calendar days following the death of the family member for whom the employee:

(i) Would have qualified for medical leave under subsection (15) of this section for the birth of their child; or

(ii) Would have qualified for family leave under (b) of this subsection.

(11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee, and also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. "Family member" includes any individual who regularly resides in the employee's home, except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.

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

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

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

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

(16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

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

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

(19) "Postnatal" means the first six weeks after birth.

(20) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

(21) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

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

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

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

(d) Remuneration does not include:

(i) The payment of tips;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the

common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

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

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

(24) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

(25) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

(26) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

(27) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the employee is receiving.

(28) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee within the qualifying period; and

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

(29) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule. [2025 c 178 s 1; 2025 c 58 s 5111; 2023 c 25 s 2; 2022 c 233 s 1; 2021 c 232 s 2; 2020 c 125 s 1; 2019 c 13 s 1; 2018 c 141 s 1; 2017 3rd sp.s. c 5 s 2. Formerly RCW 50A.04.010.]

Reviser's note: This section was amended by 2025 c 58 s 5111 and by 2025 c 178 s 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2025 c 58 ss 5058-5170: See note following RCW 7.68.030.

Explanatory note—2025 c 58: See note following RCW 1.16.050.

Intent—2023 c 25: See note following RCW 50.04.100.

Intent—2021 c 232: "The legislature intends to prevent impacts, based on this act, to the family and medical leave insurance account or the application of a solvency surcharge." [2021 c 232 s 1.]

Expenses for individuals utilizing leave in excess of 500 prior to July 1, 2023, to be paid by the general fund—2021 c 232: "If the number of individuals utilizing leave under Title 50A RCW as a result of the amended definition of family member in this act exceeds 500 individuals in any calendar year before July 1, 2023, the expenses of the additional leave must be paid by the general fund into the family and medical leave insurance account created in RCW 50A.05.070." [2021 c 232 s 4.]

Effective date—2020 c 125 s 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2020]." [2020 c 125 s 19.]

RCW 50A.05.020 Program administration—Information disclosure—Outreach. (1) The department shall establish and administer the family and medical leave program and pay family and medical leave benefits as specified in this title. The department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies shall include, to the extent feasible, combined

reporting and payment, with a single return, of premiums under this title and contributions under chapter 50.24 RCW.

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

(3) The department shall use information sharing and integration technology to facilitate the disclosure of relevant information or records by the department, so long as an employee consents to the disclosure as required under RCW 50A.15.040.

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

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

(6)(a) The department shall conduct regular outreach to employers regarding employer responsibilities under this title, which must include but is not limited to providing information on premium collection under chapter 50A.10 RCW, notice requirements under chapter 50A.20 RCW, employment protection under chapter 50A.35 RCW, and the availability of grants to certain employers under RCW 50A.24.010 and 50A.24.030.

(b) The department is authorized to inspect and audit employer files and records relating to the family and medical leave program, including employer voluntary plans. The department may conduct periodic audits of employer files and records for the purposes of assisting with and otherwise enforcing compliance with this title. [2025 c 304 s 1; 2019 c 13 s 30; 2017 3rd sp.s. c 5 s 29. Formerly RCW 50A.04.195.]

Effective date—2025 c 304: "This act takes effect January 1, 2026." [2025 c 304 s 13.]

RCW 50A.05.025 Program administration—Powers. (1) In the discharge of the duties imposed by this title, the appeal tribunal and any duly authorized representative of the commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with any dispute or the administration of this title. It shall be unlawful for any person, without just cause, to fail to

comply with subpoenas issued pursuant to the provisions of this section.

(2)(a) Any authorized representative of the commissioner may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(i) State that an order is sought pursuant to this subsection;

(ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the department to subpoena the records or testimony.

(c) Any authorized representative of the commissioner may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(3) Subsection (2) of this section is intended to comply with the holdings of *State v. Miles*, 160 Wn.2d 236 (2007) and *State v. Reeder*, 184 Wn.2d 805 (2015), and Article I, section 7 of the state Constitution. These provisions collectively require judicial review of investigative subpoenas under certain circumstances. The department is not required to receive court approval under subsection (2) of this section unless otherwise required by law. [2020 c 125 s 18.]

RCW 50A.05.030 Advisory committee. (1) The commissioner shall appoint an advisory committee to review issues and topics of interest related to this title.

(2) The committee is composed of ten members: (a) Four members representing employees' interests in paid family and medical leave, each of whom shall be appointed from a list of at least four names submitted by a recognized statewide organization of employees; (b) four members representing employers, each of whom shall be appointed from a list of at least four names submitted by a recognized statewide organization of employers; and (c) two ex officio members, without a vote, one of whom shall represent the department and the other shall be the ombuds for the family and medical leave program. The member representing the department shall be the chair.

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

(4) The members shall serve without compensation, but are entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may utilize such personnel and facilities of the department as it needs, without charge. All expenses of the committee must be paid by the family and medical leave insurance account. [2019 c 13 s 31; 2017 3rd sp.s. c 5 s 28. Formerly RCW 50A.04.200.]

RCW 50A.05.040 Ombuds. (1) The commissioner shall establish an ombuds office for family and medical leave within the department. The ombuds shall be appointed by the governor and report directly to the commissioner of the department. The ombuds is available to all employers and employees in the state.

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

(3) The ombuds shall:

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

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

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

(d) Refer complaints to the department when appropriate.

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

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

(6) All of the ombuds' records and files relating to any complaint or investigation made pursuant to carrying out the ombuds' duties and the identities of complainants, witnesses, workers, or employers shall remain confidential unless disclosure is authorized by the complainant worker or his or her guardian or legal representative or the employer or the employer's legal representative. No disclosures may be made outside the office of the ombuds without the consent of the named witnesses or complainants unless the disclosure is made without the identity of any of the individuals being disclosed. [2019 c 13 s 32; 2017 3rd sp.s. c 5 s 88. Formerly RCW 50A.04.205.]

RCW 50A.05.050 Reports to legislature. ***(Effective until January 1, 2028.)*** (1) Beginning December 1, 2020, and annually thereafter, the department shall report to the legislature on the entire program, including:

(a) Projected and actual program participation;

(b) Premium rates;

(c) Fund balances;

(d) Benefits paid;

(e) Demographic information on program participants, including income, gender, race, ethnicity, geographic distribution by county and legislative district, and employment sector;

(f) Costs of providing benefits;

(g) Elective coverage participation;

(h) Voluntary plan participation;

(i) Outreach efforts; and

(j) Small business assistance.

(2)(a) Beginning January 1, 2023, the office of actuarial services in RCW 50A.05.130 must annually report, by November 1st, to the advisory committee in RCW 50A.05.030 on the experience and financial condition of the family and medical leave insurance account, and the lowest future premium rates necessary to maintain solvency of

the family and medical leave insurance account in the next four years while limiting fluctuation in premium rates.

(b) For calendar years 2023 through 2028, the annual reports in (a) of this subsection must be submitted to the appropriate committees of the legislature in compliance with RCW 43.01.036.

(c) Beginning January 1, 2026, the office of actuarial services in RCW 50A.05.130 shall submit a report within 10 business days to the advisory committee in RCW 50A.05.030 and the appropriate committees of the legislature in compliance with RCW 43.01.036 if the office projects that a deficit in the family and medical leave insurance account will not be recovered through the next quarterly premium collections.

(3) Beginning October 1, 2023, the department must report quarterly to the advisory committee in RCW 50A.05.030 on premium collections, benefit payments, the family and medical leave insurance account balance, and other program expenditures. [2025 c 304 s 2; 2022 c 233 s 7; 2017 3rd sp.s. c 5 s 86. Formerly RCW 50A.04.210.]

Effective date—2025 c 304: See note following RCW 50A.05.020.

RCW 50A.05.050 Reports to legislature. ***(Effective January 1, 2028.)*** (1) Beginning December 1, 2020, and annually thereafter, the department shall report to the legislature on the entire program, including:

(a) Projected and actual program participation;

(b) Premium rates;

(c) Fund balances;

(d) Benefits paid;

(e) Demographic information on program participants, including income, gender, race, ethnicity, geographic distribution by county and legislative district, and employment sector;

(f) Costs of providing benefits;

(g) Elective coverage participation;

(h) Voluntary plan participation;

(i) Outreach efforts; and

(j) Small business assistance.

(2)(a) Beginning January 1, 2023, the office of actuarial services in RCW 50A.05.130 must annually report to the advisory committee in RCW 50A.05.030 on the experience and financial condition of the family and medical leave insurance account, and the lowest future premium rates necessary to:

(i) Maintain solvency of the family and medical leave insurance account in the next four years while limiting fluctuation in premium rates; and

(ii) By the end of rate collection year 2030 and each year thereafter, close the rate collection year with a four-month reserve.

(b) For calendar years 2023 through 2028, the annual reports in (a) of this subsection must be submitted to the appropriate committees of the legislature in compliance with RCW 43.01.036.

(c) For the purposes of this subsection (2), "four-month reserve" means the average monthly expenses, including the total amount of benefits paid and the department's administrative costs, using actuarial projection for the following calendar year, multiplied by four.

(d) Beginning January 1, 2026, the office of actuarial services in RCW 50A.05.130 shall submit a report within 10 business days to the advisory committee in RCW 50A.05.030 and the appropriate committees of the legislature in compliance with RCW 43.01.036 if the office projects that a deficit in the family and medical leave insurance account will not be recovered through the next quarterly premium collections.

(3) Beginning October 1, 2023, the department must report quarterly to the advisory committee in RCW 50A.05.030 on premium collections, benefit payments, the family and medical leave insurance account balance, and other program expenditures. [2026 c 104 s 2; 2025 c 304 s 2; 2022 c 233 s 7; 2017 3rd sp.s. c 5 s 86. Formerly RCW 50A.04.210.]

Effective date—2026 c 104: See note following RCW 50A.10.030.

Effective date—2025 c 304: See note following RCW 50A.05.020.

RCW 50A.05.060 Rules. The commissioner shall adopt rules as necessary to implement this title. [2019 c 13 s 33; 2017 3rd sp.s. c 5 s 85. Formerly RCW 50A.04.215.]

RCW 50A.05.070 Family and medical leave insurance account. (1) The family and medical leave insurance account is created in the custody of the state treasurer. All receipts from premiums imposed under this title must be deposited in the account. Expenditures from the account may be used only for the purposes of the family and medical leave program. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments.

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

(3) Money shall be transferred from the family and medical leave insurance account and deposited in the unemployment trust fund solely for the repayment of benefits not charged to employers as defined in *RCW 50.29.021(3)(a)(vii). The commissioner shall direct the transfer, which must occur on or before the cut-off date as defined in RCW 50.29.010.

(4) Money transferred as provided in subsection (3) of this section for the repayment of benefits not charged to employers shall be deposited in the unemployment compensation fund and shall remain a part of the unemployment compensation fund until expended pursuant to RCW 50.16.030. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so

deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund. [2020 c 86 s 5; 2019 c 13 s 34; 2017 3rd sp.s. c 5 s 82. Formerly RCW 50A.04.220.]

***Reviser's note:** RCW 50.29.021 was amended by 2023 c 451 s 2, changing subsection (3)(a)(vii) to subsection (3)(a)(vi).

Conflict with federal requirements—2020 c 86: See note following RCW 50.12.200.

RCW 50A.05.080 Family and medical leave enforcement account. The family and medical leave enforcement account is created in the custody of the state treasurer. Any money in the family leave insurance account created in section 19, chapter 357, Laws of 2007 is transferred to the account created in this section. Any penalties and interest collected under RCW 50A.15.060, 50A.15.090, 50A.20.020, 50A.20.030, 50A.45.010, 50A.45.025, and 50A.30.070 shall be deposited into the account and shall be used only for the purposes of administering and enforcing this title. Only the commissioner may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2019 c 13 s 35; 2017 3rd sp.s. c 5 s 76. Formerly RCW 50A.04.225.]

RCW 50A.05.100 Discrimination laws not affected. Nothing in this title shall be construed to modify or affect any state or local law prohibiting discrimination on the basis of race, creed, religion, color, national origin, families with children, sex, marital status, sexual orientation including gender expression or identity, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. [2019 c 13 s 41; 2017 3rd sp.s. c 5 s 77. Formerly RCW 50A.04.255.]

RCW 50A.05.110 No continuing entitlement or contractual right. This title does not create a continuing entitlement or contractual right. The legislature reserves the right to amend or repeal all or part of this title at any time, and a benefit or other right granted under this title exists subject to the legislature's power to amend or repeal this title. There is no vested private right of any kind against such amendment or repeal. [2019 c 13 s 43; 2017 3rd sp.s. c 5 s 81. Formerly RCW 50A.04.265.]

RCW 50A.05.120 Conflict with federal requirements. If any part of this title is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this title is inoperative solely to the extent of the conflict, and the finding or

determination does not affect the operation of the remainder of this title. Rules adopted under this title must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [2019 c 13 s 64; 2017 3rd sp.s. c 5 s 101. Formerly RCW 50A.04.900.]

RCW 50A.05.125 Continuity with prior law. (1) The provisions of chapter 49.78 RCW as they existed prior to January 1, 2020, apply to employee and employer conduct, acts, or omissions occurring on or before December 31, 2019, including but not limited to the enforcement provisions set forth in RCW 49.78.330 as they existed prior to January 1, 2020. Accordingly, a cause of action for conduct, acts, or omissions occurring on or before December 31, 2019, under chapter 49.78 RCW remains available within its applicable statute of limitations. As an exercise of the state's police powers and for remedial purposes, this subsection applies retroactively to claims based on conduct, acts, or omissions that occurred on or before December 31, 2019.

(2) The provisions of this title apply to employee and employer conduct, acts, or omissions occurring on or after January 1, 2020, including but not limited to the enforcement provisions set forth in RCW 50A.40.040. [2021 c 59 s 2.]

Intent—2021 c 59: "(1) Since enacted in 1989, chapter 49.78 RCW afforded employees the right to unpaid family and medical leave, to return to their jobs afterwards, and to enforce those rights. In 2017, the legislature passed Substitute Senate Bill No. 5975, creating the paid family and medical leave act to replace and enhance the existing unpaid family and medical leave laws.

(2) The passage of the paid family and medical leave act repealed chapter 49.78 RCW and replaced its provisions as a new title in Title 50A RCW. However, the passage of the paid family and medical leave act did not, and was not intended to, undermine any right, liability, or obligation existing under chapter 49.78 RCW prior to its repeal, or under any rule or order adopted under those statutes. Likewise, the passage of the paid family and medical leave act was not intended to affect any proceeding that had been, or could be, brought under the existing chapter 49.78 RCW relating to conduct, acts, or omissions occurring on or before December 31, 2019. To the contrary, the legislature incorporated the employment protections provisions of chapter 49.78 RCW wholesale into the new Title 50A RCW. Moreover, the legislature specifically delayed the effective date of the repeal of chapter 49.78 RCW by over two years after the effective date of the rest of the act, in part, in order to ensure that there would be continuity in the protections provided and rights available under chapter 49.78 RCW and its successor provisions in Title 50A RCW.

(3) The legislature intends to clarify that the passage of the paid family and medical leave act did not sever, impair, extinguish, or in any way affect the rights, liabilities, or obligations under chapter 49.78 RCW as it existed prior to January 1, 2020. A cause of action for conduct, acts, or omissions occurring on or before December 31, 2019, under chapter 49.78 RCW remains available within its applicable statute of limitations." [2021 c 59 s 1.]

Effective date—2021 c 59: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 16, 2021]." [2021 c 59 s 3.]

RCW 50A.05.130 Office of actuarial services. (1) The office of actuarial services is established within the department.

(2) The head of the office must be qualified by education and experience in the field of actuarial science. [2022 c 233 s 5.]