

When Leave Laws Collide: Navigating the Impact of E2SHB 1213 on PFML and FMLA (and Other Leave Laws)

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Overview

- ❖ Required Leave Types
- ❖ PFML Refresher
- ❖ ESSHB 1213
- ❖ Leave Scenarios

Required Leave

Federal Family and
Medical Leave
(FMLA)

WA Paid Family and
Medical Leave
(PFML)

WA Paid Sick Leave (RCW 49.46.210)

Military/Military Caregiver Leave (RCW 38.40.060, 38 U.S.C. § 4301-4335, Ch. 49.77 RCW, and FMLA)

Required Leave Continued

Required Leave
Continued

WA Family Care Act (RCW
49.12.270)

Pregnancy Disability
Leave/Accommodations
(RCW 43.10.005 and WAC
132-30-020)

Domestic Violence/Hate Crime Leave
(Ch. 49.76 RCW)

Volunteer Emergency Services Leave
(RCW 49.12.460)

Required Leave Continued



Paid Family Medical Leave (PFML)

Title 50A RCW

PFML Refresher

Administered by Employment Security Department

Up to 12 weeks of paid leave for a qualifying event

Up to 16 weeks if more than one qualifying event in the same year

Up to 18 weeks for a condition in pregnancy or birth resulting in incapacity

Employers can (but are not required to) offer “supplemental benefits”

More PFML Refresher

Consecutive or intermittent

Used within one year of application date

Family bonding leave must be used within 12 months of birth or adoption date

No carryover

Minimum 820 hours worked during qualifying period



PFML Refresher – Job Restoration

Right to be restored to same or equivalent position
after PFML



PFML Updates – E2SHB 1213

PAID FAMILY LEAVE



E2SHB – Job Restoration

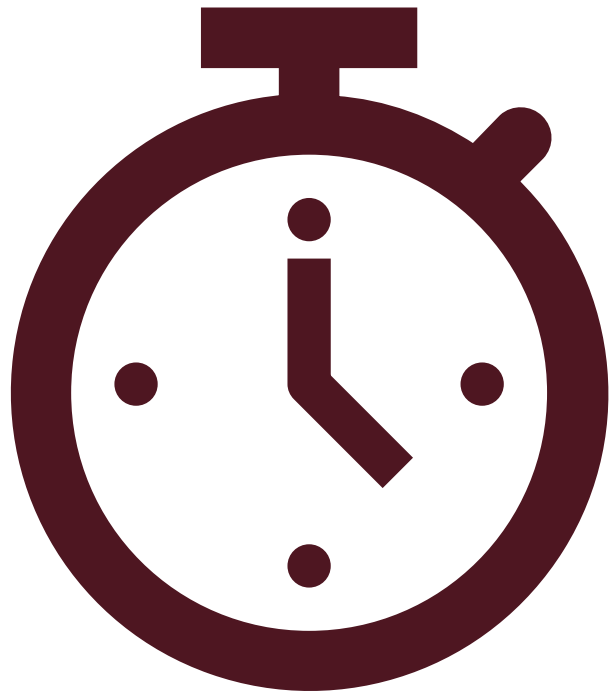
Job Restoration Requirements – Employer Size				
	2025	2026	Future Law	
			2027	2028
Size of Employer	50+ employees	25+ employees	15+ employees	8+ employees



E2SHB 1213

Eligible for PFML after 180 days worked. No more hours worked requirement





ESSH 1213

Minimum claim duration now **4** hours



ESSH 1213

Must provide health care benefits during any period of PFML where employee is also entitled to job protection



Employees forfeit their right to employment restoration unless they exercise it on the earlier of:

- 1) the first scheduled workday after leave ends; or
- 2) 16 weeks (or 18 weeks for incapacity due to pregnancy) of continuous or combined intermittent leave during 52 consecutive calendar weeks

HB 1213 – Employees Must Exercise Right to Reinstatement



Job Restoration Notice Required



To any employee taking more than 2 weeks of continuous leave or more than 14 days of intermittent leave



Given at least 5 days before return-to-work date

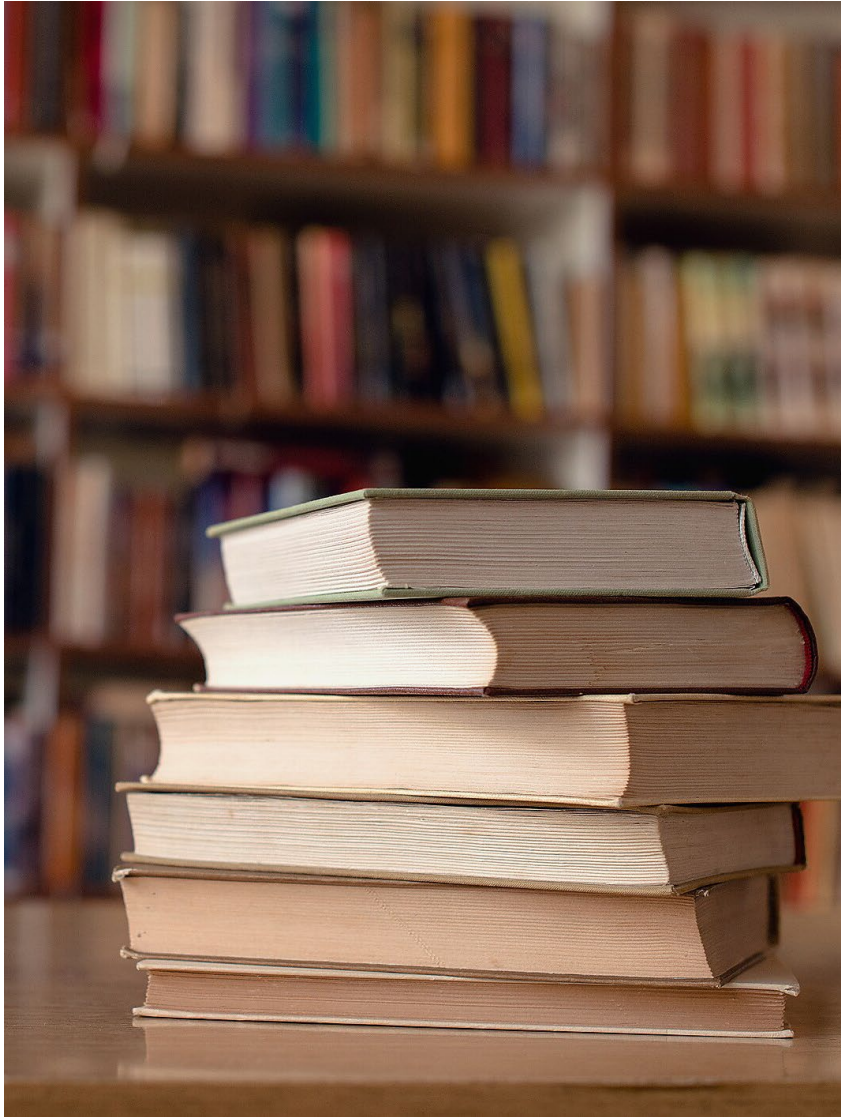


Include the estimated date that employer's job restoration is no longer guaranteed and date of employee's first scheduled workday after their leave

FMLA/PFML Stacking

State law (RCW 50A.15.110) requires that PFML run concurrently with FMLA leave, unless the employer otherwise agrees. But employees cannot be required to take PFML leave.

Result: Stacking, where an employee takes 12 weeks of leave under the federal FMLA without invoking their benefits under the PFML program and then later takes 12-18 weeks of PFML for the same or different qualifying reasons



Stacking Addressed

An employee can first take unpaid FMLA leave and next take paid leave under PFML—
but if an employee takes FMLA and then PFML, the PFML leave is not fully job protected

FMLA Stacking – Notice Requirements

Within five business days of request for leave **or** use of FMLA leave (whichever is earlier) and monthly thereafter

Must be in a language the employee understands and delivered in a method reasonably certain to be promptly received

Must notify employee that employer is “designating and counting” the unpaid leave as FMLA

Must state that the FMLA leave is counted against any permitted period of employment protection under the PFML program because the employee is eligible for the PFML program but has not applied for and received its benefits

FMLA Stacking – Add'l Notice Requirements

Amount of FMLA time used and remaining, which the employer can estimate from information it receives from the state and the employee

Employer's 12-month FMLA leave year

Start and end date of the FMLA leave

Total amount of FMLA leave counting toward the new job protection period under the WPFML

Employee's WPFML benefits are not impacted by the stacking of the job protection rights of the FMLA and WPFML



Scenario 1, Mike

Mike has worked for the City for five months when he's seriously injured in an off-the-job accident.

Is he entitled to any leave?



Scenario 1

Mike can take any paid sick leave he's accrued, but he is not entitled to FMLA or PFML benefits.



Scenario 2, Sarah

Sarah has been with City for just over a year and is expecting her first child. She has 12 weeks of FMLA on the books, but no paid sick leave. She takes PFML and experiences pregnancy complications.

Employer DOES run FMLA concurrently with PFML.



Scenario 2



Week

0 | 6 | 12 | 18 | 24 | 30 | 36 | 42 | 52 |

FMLA (unpaid)

PFML (paid)

Pregnancy
Disability

Scenario 3, Maria

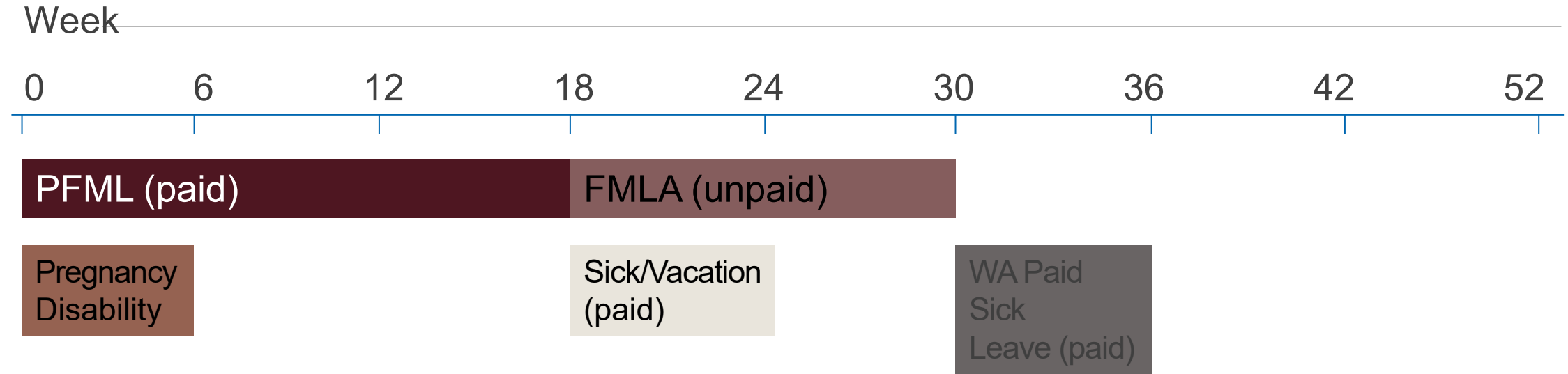
Maria, a 10-year employee, is expecting her first child. She has 12 weeks of FMLA, 6 weeks of paid sick leave, and 6 weeks of vacation. She takes PFML and experiences pregnancy complications and then FMLA to bond with her newborn.

Per policy, employer does not require an employee to use accrued leave while on FMLA, but employee still chooses to use their accrued vacation.

At the end of the bonding period, the employee experiences another medical issue and elects to take their paid sick leave.

Employer DOES NOT run FMLA concurrently with PFML.

Scenario 3



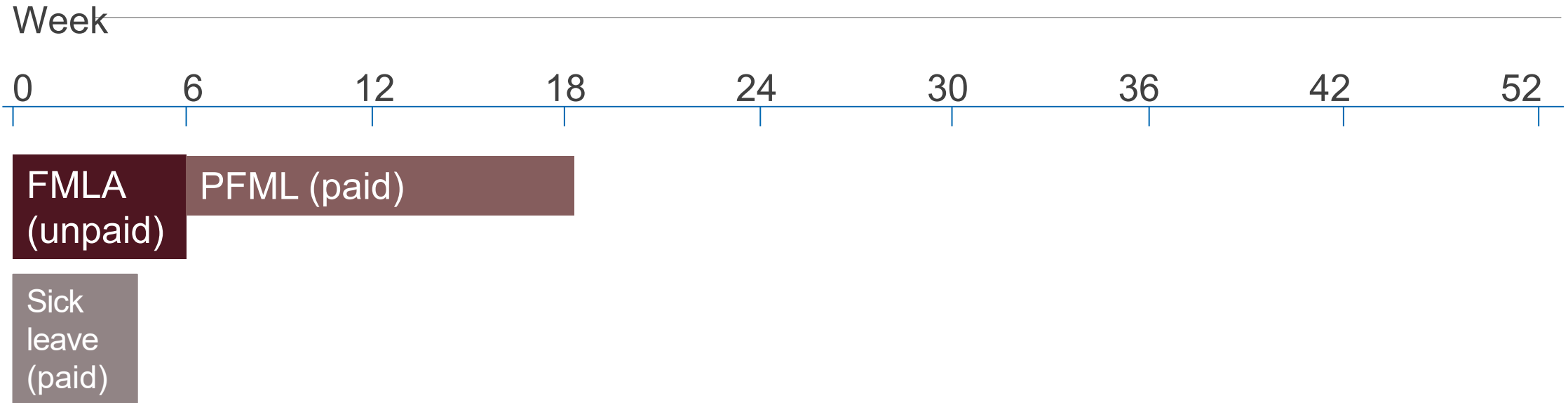


Scenario 4, John

John, a 30-year employee, needs major surgery. He has 6 weeks of FMLA and 4 weeks of paid sick leave. He elects to use his remaining FMLA and sick leave accrual but does NOT apply for PFML. At the end of 6 weeks, he applies for PFML.

The employer DOES provide notice that John's FMLA leave will be counted against his PFML job protection period.

Scenario 4



NO JOB PROTECTION AFTER WEEK 12



Scenario 5, Rita

Rita is a full-time employee who has worked for the City for 9 years. Rita's wife is seriously injured in the line of duty while on active duty. Rita is needed at home to care for her. Rita has 12 weeks of sick and vacation accruals that she chooses to use before applying for PFML. How much leave can she take?



Scenario 5



Week



FMLA (unpaid)

Sick/Vacation (paid)

PFML (paid)





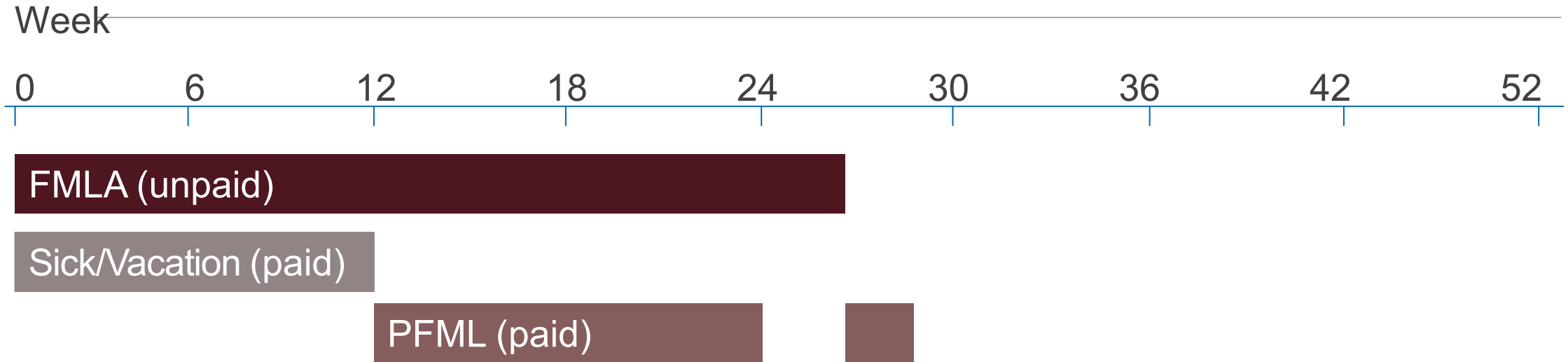
Scenario 6, Rita part 2

On the last day of Rita's 26 week leave, she is injured in a car accident. She applies for PMFL and requests an additional 4 weeks of leave.

How much leave is she entitled to? How long is her job protected?



Scenario 6



NO JOB PROTECTION AFTER 26 WEEKS



Questions?



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