



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 18, 2024

TIME: 3:41 PM

WSR 24-07-082

Agency: Employment Security Department

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-20-110 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject)

Amending:

WAC 192-500-195 Placement.

WAC 192-800-155 When are proceedings open to the public, and what information from a proceeding before the appeal tribunal or commission is publicly disclosable?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 24, 2024	9:00 a.m.	Microsoft TEAMS Join online: link available at paidleave.wa.gov/rulemaking Join by phone: 564-999-2000 PIN: 239 339 620#	Hearing will be held remotely

Date of intended adoption: On or after May 1, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Janette Benham
 Address: Employment Security Department, PO Box 9046
 Olympia, WA 98507-9046
 Email: rules@esd.wa.gov
 Fax:
 Other:
 By (date) April 24, 2024

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer
 Phone: 360-480-5708
 Fax:
 TTY:
 Email: teckstein@esd.wa.gov
 Other:
 By (date) April 17, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Paid Family and Medical Leave (PFML) program is proposing amendments to the definition of “placement” to clarify under which circumstances family leave can be taken to bond with a child placed in the home. Clarification was also added that an employee is only entitled to a maximum of 12 weeks of family leave for the placement of a child.

In addition, the PFML program is proposing amendments to outline that a decision appealed to the Commissioner’s Review Office may be made available to the public and that all personal identifying information will be redacted. If a Commissioner’s decision is appealed to Superior Court, the department is required to file the record unsealed and court rules will apply if an interested party moves to seal the record.

Reasons supporting proposal: The proposed amendments to WAC 192-500-195 allow qualifying leave to be taken *either* within 12 months of the date a child is physically placed in the employee’s home or within 12 months of the date a child’s adoption is legally finalized. The change will provide clarity regarding family leave that can be taken to bond with a child placed in the home.

The proposed amendments to WAC 192-800-155 allow for publication of decisions appealed to the Commissioner's Review Office. Publishing decisions that set precedent for the PFML program will allow for added transparency and consistency in interpreting the law, from program adjudication through the appeal process.

Statutory authority for adoption: RCW 50A.05.060

Statute being implemented: RCW 50A.05.010; RCW 50A.15.020; chapter 50A.50 RCW

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Employment Security Department, Leave and Care Division

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	April Amundson	Olympia, WA	360-485-2816
Implementation:	April Amundson	Olympia, WA	360-485-2816
Enforcement:	April Amundson	Olympia, WA	360-485-2816

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: WAC 192-500-195 Placement. This rule is exempt under RCW 34.05.328(5)(c)(ii) because it is an interpretive rule that sets forth the agency's interpretation of statutory provisions. Interpretive rules are not significant legislative rules under RCW 34.05.328(5)(c)(iii).

WAC 192-800-155 When are proceedings open to the public, and what information from a proceeding before the appeal tribunal or commissioner is publicly disclosable? This rule is exempt under RCW 34.05.328(5)(c)(i)(A) because it is a procedural rule related to agency hearings. Procedural rules are not significant legislative rules under RCW 34.05.328(5)(c)(iii).

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

	Proposed WAC Sections and Title	This proposed rule section is exempt. Provide RCW to support this exemption.
1.	WAC 192-500-195 Placement.	RCW 19.85.025(4) – The rule does not affect businesses and pertains only to individuals applying for paid family leave benefits.
2.	WAC 192-800-155 When are proceedings open to the public, and what information from a proceeding before the appeal tribunal or commissioner is publicly disclosable?	RCW 34.05.310(4)(g) – The rule outlines a procedure, practice, or requirement relating to agency hearings.

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: March 18, 2024

Name: April Amundson

Title: Policy and Rules Manager, Leave and Care Programs

Signature:

A handwritten signature in black ink, appearing to read 'April Amundson', written in a cursive style.