

# WASHINGTON LEGAL UPDATES

## LEGISLATION, REGULATIONS & NOTABLE CASES

### WASHINGTON LEGISLATION

#### HB 1155: Noncompetition Agreements

Beginning June 30, 2027, noncompetition agreements of Washington employers will be considered void and unenforceable, **regardless of when the parties entered into the covenant**. This ban applies to both employment and independent contractor agreements in Washington. The ban includes the use of any provision that “threatens, demands, requires or otherwise effectuates that an individual return, repay or forfeit any right, benefit or compensation, as a consequence of the individual engaging in a lawful profession, trade, or business of any kind.”

Washington employers with existing noncompetition agreements as of June 2027 **must notify current and former employees or contractors** subject to the noncompete that the covenant is void and unenforceable. This notice must be provided **no later than October 1, 2027**.

Some exceptions to the ban apply, so long as the provision meets other statutory limitations:

1. Nonsolicitation agreements are permitted if within the bounds of other Washington restrictions, including expiration within 18 months after an employee’s termination. If the language of the nonsolicitation agreement is a general restriction on “accepting” business (without solicitation), it will be treated as a prohibited noncompete.
2. Confidentiality and nondisclosure agreements are exempted.
3. Educational expense repayment agreements are exempted if they expire within 18 months of the employee’s start date, repayment is limited to the pro rata portion of the time within the 18 months, and the employee does not need to repay if the separation is based on “good cause” as defined in RCW 50.20.050 (including serious personal illness, death of immediate family member, spouse relocation, reduction in hours or pay of 25 percent or more).
4. Noncompetes associated with a franchise sale are exempt if in compliance with RCW 19.100.020(1).
5. Covenants in the sale of a business interest are exempt if part of the sale of the goodwill of the business or an ownership interest representing more than 1 percent of the business.



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## KEY TAKEAWAYS

- Employers should audit all employment and independent contractor agreements containing noncompete provisions, determine which agreements will still be active on June 30, 2027, and prepare to issue the required notices by the deadline.
- Employers should cease using noncompete agreements by June 30, 2027.
- Employers should consider replacing existing noncompete agreements with compliant nonsolicitation and confidentiality agreements to protect business interests going forward. These agreements can include trade secret protections.
- Employers with operations in multiple states should ensure Washington employees are carved out or excluded from any company-wide noncompete agreements.

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## HB 2105: Federal I-9 Audits

Effective October 1, 2026, the Immigrant Worker Protection Act (RCW 49.004) requires employers to notify their workers promptly upon receiving notice of a federal I-9 audit, including notifying workers of the results of the audit and any deficiencies identified in a worker's immigration status documentation. The Washington State Attorney General's Office (AGO) created a model notice for employers to use in case of an I-9 audit. The notice must be both posted on the employer's premises in a conspicuous place and transmitted directly to workers using the primary method of communication. Notices regarding the audit results must be sent to affected workers and their authorized representative, including a description of the deficiencies related to the worker, the timeframe to correct deficiencies, include a scheduled meeting in the correction period with the affected worker and the employer, and provide notice of the worker's right to representation. Information about other affected workers must be redacted from the notice (i.e. no mass notice, they must be individualized).

Any voluntary employer self-audits of I-9 documents must comply with federal and state laws and bargaining agreements.

Employers are prohibited from imposing work authorization verification requirements beyond federal requirements. Employers are also prohibited from retaliating against employees by using documentation audits based on an employee's exercise of their rights as workers (i.e. I-9 audits cannot be used in a retaliatory manner).

## KEY TAKEAWAYS

- This law may be challenged for violation of, or preemption by, federal law, at least in part. Stay tuned!
- Washington employers who receive a federal I-9 inspection notice must promptly notify affected workers of the audit and audit results and must identify deficiencies to each affected individual employee. Employers should develop internal I-9 audit notification protocols and train HR personnel on the notification obligations to ensure that any I-9 compliance practices do not exceed federal verification requirements.
- Unionized workplaces should be prepared for union involvement in any I-9 audit processes.

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## HB 2479 and SB 6058: Increased Enforcement and Costs for Recovery of Unpaid Wages

Under HB 2479, effective June 11, 2026, the Washington Department of Labor & Industries (L&I) has expanded enforcement powers under wage and hour laws. A new Wage Recovery Program within L&I allows the department to disburse funds to unpaid low-wage employees **before** citations and notices are sent to employers. The program is slated to be operational in July 2028. In its present design, the program only applies to employees who would suffer immediate harm from nonpayment of wages. L&I may collect interest from employers on reimbursement payments made under the program, in addition to all other fines, fees, penalties, and interest for unpaid wages.

HB 2479 also expands L&I's investigative authority to allow it to broaden investigations beyond the scope of the original complaint when it finds common questions of law or fact. L&I investigations can both expand the scope of a complaint if additional violations are discovered and be initiated by L&I on behalf of one or more employees when there is reason to believe there has been a violation. L&I can also consolidate investigations if there are common questions of fact for the same employer.

Additionally, under HB 2479, the cap on civil penalties that can be applied against employers for willful wage violations is eliminated, and the base civil penalty amount will increase every three years beginning in 2030 to match inflation. A matrix for penalty calculations with several criteria is to be created.

SB 6058, the companion law to HB 2479, gives L&I more investigative authority for willful wage violations, including discretion to investigate wage complaints under the Wage Payment Act. L&I will establish and publish a written process of assessment factors that the department will use to determine how wage complaints will be prioritized, with factors including severity of harm to the employee, number of employees potentially affected, and probability of retaliation.

### KEY TAKEAWAYS

- Employers should expect increased financial exposure for willful wage violations under this law due to the removal of the penalty cap and increased base penalties. Willful violations—such as systematic failure to pay overtime or unlawful wage deductions—may result in substantial penalties across an entire workforce.
- Employers should **regularly** audit payroll practices, exempt classifications, independent contractor designations, payroll deduction practices, minimum wage compliance, meal and break periods compliance, overtime practices, and other practices that could come under L&I scrutiny.

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## HB 2107: Construction Hazards Sponsors

This law, effective June 11, 2026, relates to Washington's construction workplace safety framework under the Washington Industrial Safety and Health Act (WISHA) updating the safety and health standards applicable to construction. The law also requires L&I to make a good faith effort to notify an employer or owner within 10 working days if an onsite inspection identifies a hazard at any building construction worksite.

## KEY TAKEAWAY

- Employers in the construction industry should prepare for more onsite inspections, unannounced inspections, and higher fines and penalties if violations are found.

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### HB 2264: Unemployment Insurance in Employer-Initiated Layoffs

Employees who volunteer to be included in a reduction in force on or after June 14, 2026, will be considered laid off, not voluntarily separated, and will qualify for unemployment benefits. The statutory language states that employees will be considered unemployed through no fault of their own—and qualify for unemployment benefits—if the following steps are met:

1. The employer announced in writing to employees that they plan to reduce the workforce through layoffs and employees can volunteer to be laid off in the reduction;
2. The employee volunteered to be included in the reduction; and
3. The employee was terminated because of the layoff.

Giving employees an opportunity to rescind their agreement to layoff does not disqualify the employee from unemployment benefits if all the other requirements are met. This statute does not apply to situations that do not meet all three elements, such as an employer encouraging early retirement through modifying or extending employee benefits.

## KEY TAKEAWAYS

- Employees who volunteer for layoff and are terminated as a result will likely qualify for unemployment benefits. This can affect an employer's unemployment insurance tax rates.
- Employers considering layoffs should carefully document every step of each separation, specifically noting if separations are employer-initiated or employee-initiated.

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### HB 2405: Workers' Compensation—PTSD Treatment & Research

This law expands Washington's workers' compensation system under WISHA (RCW 49.17) and the industrial insurance framework to address the treatment and research of post-traumatic stress disorder (PTSD) as a compensable occupational condition. A PTSD pilot program is being created with the aim of improving recovery outcomes and a sustainable return to work for employees with PTSD, particularly in high-stress work environments. Self-insurers can opt to participate in the pilot program.

## KEY TAKEAWAYS

- Although this is a pilot program, it is a strong signal that in the future, PTSD claims will be accepted more often, or denials appealed more often with at least some being overturned on appeal. While high-stress work environments would commonly include

emergency services, law enforcement, or ambulance services, it is likely that some employees will argue warehouse, fast food, agriculture, or similar volume-based employment is also “high-stress” and can cause or be a contributing factor for PTSD.

- Employers should be reminded that if an employee claims stress-related “injury” or has a PTSD diagnosis, the employee should be provided the workplace injury reporting forms immediately.
- Employers should take this opportunity to review and update their workers’ compensation claim protocols, employee assistance programs, and a list of mental health resources available to employees.

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### **SB 5292: Paid Family & Medical Leave—Premium Rate Setting**

This law amends the premium rate-setting mechanism for Washington’s Paid Family and Medical Leave (PFML) program and changes how the annual total premium rate is calculated. New rates will be determined on or around October 20th of each year. The total premium rate still cannot exceed 1.2 percent under the law. The premium rate is to be set at the lowest possible rate necessary to maintain solvency, reduce fluctuations, and build a four-month reserve.

### **KEY TAKEAWAYS**

- Employers should expect increased fluctuations in premium rates year-to-year, depending on program utilization and fund balance.
- Employers should carefully monitor the annual October rate announcements from the Employment Security Department to be sure payroll taxes are withheld and paid at the appropriate rate.

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### **HB 2492: Apprenticeship Behavioral Health Training**

As of July 1, 2027, state-registered apprenticeships in the building and construction trades must include at least two hours of behavioral health and wellness training. This training is expected to include the following topics:

- Destigmatizing behavioral health;
- Recognizing signs of distress;
- Suicide prevention;
- Substance abuse disorder awareness and prevention; and
- Providing peer support and connecting individuals to available resources.

### **KEY TAKEAWAY**

- Employers with state-registered apprenticeships should develop training that addresses the required topics.

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## HB 2303: Ban on Employee Microchipping

As of June 11, 2026, Washington joins a cadre of other states by making it unlawful for any employer to request, require, or coerce any employee to have a microchip implanted in the employee for any reason.

### KEY TAKEAWAY

- Employers should not suggest or require that employees have a microchip implanted in them for any reason.

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## SB 6014: Pregnancy Accommodation Privacy & Changes

This law amended RCW 49.92 to essentially codify existing guidance related to pregnancy accommodations and entitle employees to the following without a corresponding obligation to provide medical certification for:

- More frequent, longer, or flexible restroom breaks;
- Modifications to a no food or drink policy;
- Providing seating or allowing the employee to sit more frequently if the employee's job requires the employee to stand;
- Reasonable break times for lactation/breastfeeding; and
- Lifting requirements under 17 lbs.

### KEY TAKEAWAY

- Employers should review workplace environment and policies to ensure they can support pregnant workers in compliance with these standards.

## WASHINGTON CASES

### *Bolina v. AssureCare Adult Home LLC*, 592 P.3d 1 (Wash. 2026)

In *Bolina*, caregivers lived and worked at adult family homes operated by AssureCare. The caregivers' job responsibilities included helping residents with daily activities such as bathing, dressing, toileting, moving, as well as cooking, cleaning, and various other tasks. Caregivers often worked shifts running from early morning until late at night, sometimes seven days a week, with sleep and breaks frequently interrupted by residents' needs. They were paid a flat daily rate of \$110 to \$145 regardless of how many hours they worked. Critically, the homes kept no records of breaks or leave.

The Washington Minimum Wage Act (MWA), RCW Chapter 49.46, provides "live-in" workers an exemption from the protections of the MWA. See 49.46.010(4)(j). The caregivers challenged that exemption as unconstitutional. The Washington Supreme Court agreed and struck the exemption down as applied to live-in caregivers. The Court reasoned that live-in caregiving is dangerous work—pointing to high rates of musculoskeletal injury, 24-hour shifts, and sleep deprivation—which gives these workers a fundamental right to the health-and-safety protections the MWA provides. The Court did not find AssureCare's

argument that the justification for the exemption, an “accounting” or “bookkeeping” convenience for paying nontraditional workers, was a persuasive enough reason to deny basic worker protections in a dangerous occupation.

## KEY TAKEAWAYS

- Employers of live-in caregivers at adult family homes can no longer rely on the MWA’s “live-in” exemption to avoid minimum wage, overtime, meal/rest break, and sick leave obligations for those workers.
- Review pay practices for any live-in staff, including flat-rate arrangements, and make sure hours worked (including interrupted sleep and night rounds) are tracked and compensated.
- Ensure meal and rest periods and sick leave are documented.

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### ***Azorit-Wortham v. Dep’t of Lab. & Indus.*, 5 Wn.3d 529, 578 P.3d 779 (2025)**

An Alaska Airlines flight attendant tested positive for COVID-19 in early April 2020 and filed a workers’ compensation claim, arguing her illness was an “occupational disease” under Washington’s Industrial Insurance Act. During her exposure window, she worked eight flights, four of them transcontinental, at a time when passengers and crew were not masking. She alleged that when she was not working, she avoided people and had close contact with fewer than ten people.

Alaska Airlines argued that the flight attendant’s contraction of COVID-19 was not an “occupational disease” because she did not develop COVID-19 naturally and proximately from the distinctive conditions of employment, a requirement under the travelling employee doctrine. The Washington Supreme Court held that the “traveling employee doctrine,” which extends coverage to workers injured while traveling for work, also applies when an employee contracts an occupational disease while traveling for work. The Court explained that this doctrine only sets the time period during which coverage applies; the worker must still prove the illness “arises naturally and proximately” out of the employment to qualify as an occupational disease.

## KEY TAKEAWAYS

- An illness contracted while an employee is traveling for work can be a compensable occupational disease; travel status extends the coverage window but does not by itself make every illness compensable.
- The worker still must prove the disease arose out of the employment; not every illness caught on a business trip automatically covered.

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### ***Simonton v. Wash. State Health Care Auth.*, 37 Wn. App. 2d 57, 588 P.3d 426 (2026)**

Two Washington state employees enrolled in the Health Care Authority’s Uniform Medical Plan were each diagnosed with obesity and prescribed medication to treat it. The plan categorically excludes prescription drugs for obesity or weight loss “even if the services are medically necessary,” and both employees’ coverage requests were denied based solely on that exclusion.

They sued on behalf of a proposed class, arguing that excluding coverage simply because a drug treats obesity—a recognized disability under Washington law—is an unlawful “benefit design” discrimination under RCW 48.43.0128(1)(a) and the Washington Law Against Discrimination (WLAD).

The trial court granted the Health Care Authority’s motion to dismiss because WAC 284-43-5642 specifically authorized the exclusion. The Court of Appeals reversed the dismissal, however, because the regulation only establishes minimum benefits that plans must offer, and does not address whether the plan benefit design is discriminatory. Instead, the Court of Appeals held that the exclusion must separately satisfy the WLAD’s requirement that the exclusion not be discriminatory. Thus, the Court of Appeals sent the case back to the trial court for the case to continue.

## KEY TAKEAWAYS

- The Court of Appeals did not hold that employers could never exclude medication to treat obesity.
- Health plan exclusions must not single out treatment for a recognized disability if exclusion rests on no legitimate clinical or cost-benefit reason.

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### **A.S. v. PROVAIL, 36 Wn. App. 2d 34, 581 P.3d 193 (2025)**

A.S., an adult with spastic quadriplegic cerebral palsy, received 24-hour supported living services from PROVAIL, a nonprofit, in a room she leased. In 2021, a PROVAIL direct-support employee sexually assaulted her. PROVAIL argued that it was not a place of public accommodation subject to the WLAD because it provided A.S. services in the privacy of her own room, and, even if it was, PROVAIL argued summary judgment should not be granted because there was a genuine issue of material fact as to whether A.S. consented to sexual activity.

The Court of Appeals held that PROVAIL was a place of public accommodation because it rendered services to the public and could only decline services for those who qualify for its services and are referred when there is a legitimate or rational basis it cannot provide those services.

The Court of Appeals additionally held that WLAD liability for employers exists when an employee engages in sexual abuse against a vulnerable adult receiving services from a program authorized under RCW Chapter 71A.12.

## KEY TAKEAWAYS

- Under the WLAD, an employer can be held strictly liable when an employee sexually harasses or assaults someone the business serves; the employer need not have known or been at fault.
- For programs serving vulnerable adults, employee sexual contact with a service recipient is “sexual abuse” regardless of any claimed consent.

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***Danielson v. Seattle Children's Hosp.*, 37 Wn. App. 2d 416, 594 P.3d 1136, (2026)**

Dr. Benjamin Danielson, who is African American, served for 21 years as medical director of Seattle Children's Hospital's Odessa Brown Children's Clinic. He testified that colleagues doubted his competence and that he was never made to feel welcome; a research-institute president used a racial slur about him that the hospital never addressed; and after he raised concerns about funding equity, an internal investigation was expanded and he was effectively demoted, leading to his 2020 resignation. He sued under the WLAD, and a jury awarded him \$21 million.

The hospital appealed and argued that evidence of the racial slur should not have been admitted, or a limiting instruction should have applied, because it was outside the statute of limitations. The Court of Appeals held that the evidence was properly admitted because, even though the slur occurred outside the three-year limitations period, it was part of the same continuing hostile work environment lasting until his resignation, so the entire period counted.

**KEY TAKEAWAYS**

- Time-barred incidents (such as an old slur) can anchor liability if they are part of a hostile work environment that continued into the filing period. Do not assume older conduct is off-limits.
- A single unaddressed racial slur, combined with other evidence, can support a hostile-work-environment verdict. Prompt, documented responses to reported slurs matter.

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***Bauer v. Boeing Co.*, 590 P.3d 720 (Wash. Ct. App. 2026)**

A Boeing electrical installer was allegedly exposed to hazardous materials that damaged his reproductive system. His son, conceived during that employment and born in 2017, was born with multiple serious birth defects allegedly caused by that exposure. The family alleged Boeing knew by 1984 that paternal chemical exposures could cause birth defects. Boeing moved to dismiss, arguing it owed no duty to a child not yet conceived when the exposure occurred, and that the workers' compensation system was the exclusive remedy.

The Court of Appeals held that an employer can owe a duty of reasonable care to an employee's not-yet-conceived child, limited by foreseeability. The court reasoned that a duty may extend to persons not yet conceived.

**KEY TAKEAWAYS**

- Washington employers can face negligence liability to an employee's child for reproductive harm caused by workplace exposures, even where the exposure preceded conception.
- Employers need not interrogate employees about their reproductive plans; the obligation is to fully inform employees of known risks and not act negligently.

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**Corbin v. Life Care Centers of Am., Inc., 36 Wn. App. 2d 752, 587 P.3d 464 (2026)**

Two employees were absent members of an earlier class action that settled claims for unpaid COVID-19 testing and screening time under the Washington MWA. Just five days after that settlement received final approval, they filed a new putative class action against Life Care for unpaid meal break violations, alleging that understaffing prevented employees from taking meal breaks. Life Care argued that the employees' claims were barred by the earlier settlement.

The Court of Appeals held a class settlement can bar a future claim only if it shares the "identical factual predicate" as the settled claims, and courts look to the complaint, the class notice, and the approval papers to determine scope. The Court of Appeals determined that, while the named representatives released broad claims referencing meal and rest periods, the absent class members released only claims for unpaid COVID-19 testing and screening because the settlement never mentioned meal breaks.

**KEY TAKEAWAY**

- Settling one category of a wage claim does not automatically wipe out unrelated wage claims. A settlement's reach is limited to the claims its release language, class notice, and approval papers actually describe.

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*Disclaimer: This summary is not legal advice and is based upon current statutes, regulations, and related guidance that is subject to change, with or without notice. It is provided solely for informational and educational purposes and does not fully address the complexity of the issues or steps employers must take under applicable laws. For legal advice on these or related issues, please consult qualified legal counsel directly.*