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RULEMAKING STAKEHOLDER MEETING

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June 6, 2022

Via Zoom Videoconference

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1 APPEARANCES (Via Zoom):

2 FOR WASHINGTON  
3 EMPLOYMENT SECURITY  
4 DEPARTMENT:

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1 BE IT REMEMBERED that on Monday, June 6, 2022, at  
2 9:01 a.m., via Zoom videoconference, before REBECCA S.  
3 LINDAUER, Certified Court Reporter, in and for the State of  
4 Washington, the following proceedings were had, to wit:

5  
6 MR. BARRETT: Becky, are you ready?

7 THE COURT REPORTER: Yes, I am.

8 MR. BARRETT: Good morning and welcome everyone.  
9 My name is Jason Barrett, and I am the lead policy analyst  
10 for the Leave and Care Division at the Employment Security  
11 Department. There are a few other members from the Leave  
12 and Care Policy and Rules team on the call that I'll ask to  
13 introduce themselves at this time.

14 MS. BENHAM: Good morning. I'm Janette Benham. I  
15 am the rules coordinator for the Leave and Care Division.

16 MR. CAIN: Good morning. I'm Brett Cain. I'm a  
17 policy annalist for the Leave and Care Division. I'm  
18 working in the Rules and Policy team.

19 MR. BARRETT: Thank you, Janette and Brett.

20 We are here this morning to review and discuss drafts  
21 of rule amendments that the department is considering  
22 regarding the Paid Family and Medical Leave Program. The  
23 rule changes are associated with the passage of SB 5649 in  
24 this year's legislative session. The bill made several  
25 changes to the program, but not all of these changes require

1 rulemaking. The department has determined that only two  
2 amendments to the Washington Administrative Code are  
3 necessary for implementation. The rest of the changes are  
4 codified in statute.

5 For more information about what changes the bill made  
6 that might not require rulemaking, we encourage you to visit  
7 the legislature's website at [leg.wa.gov](http://leg.wa.gov). That's [leg.wa.gov](http://leg.wa.gov).

8 The two proposed rulemaking changes are  
9 WAC 192-520-010, parties to collective bargaining  
10 agreements, and WAC 192-610-025, documenting the birth or  
11 placement of a child.

12 The drafts that we will be reviewing and discussing can  
13 be found at [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking). Again, that's  
14 [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking).

15 If you look at current rulemaking, the second subtitle  
16 called "Implementation of Second Substitute Senate  
17 Bill 5649," you can expand that list and click on "Draft  
18 Rules" to see the text of the proposed changes.

19 If you called in for this meeting, we ask that you  
20 please keep your mute on by using the mute function on your  
21 phone or by pressing star 6. Please keep in mind that the  
22 subject of this call is the draft rules document that I just  
23 referenced. We are not discussing other rules, and if you  
24 have a question about your claim or application, please hang  
25 up and call our customer care team at 833-717-2273.

1 I also want to ask that if you do provide comments on  
2 the proposed rules to please state and spell your name and  
3 indicate if you are here on behalf of an organization. And,  
4 again, I want to remind everyone that this meeting is being  
5 recorded.

6 Before we open the floor for comments, I want to give  
7 folks an opportunity to ask any questions about anything I  
8 just discussed, why we're here, where to find the draft  
9 rules, or any other housekeeping items before we begin.

10 I actually see Bryan Mauss has his hand raised. Bryan,  
11 you can unmute yourself and ask a question.

12 MR. MAUSS: No. I apologize. That was just an  
13 effort to close a window. Thank you.

14 MR. BARRETT: No worries, not at all.

15 So, again, if anybody has any questions about the  
16 purpose of this meeting, why we're all here this morning,  
17 where to find the rules, please feel free to unmute yourself  
18 and ask now.

19 With that, we will move on to our first rule, which is  
20 WAC 192-520-010. Statute currently exempts any party to a  
21 collective bargaining agreement from all rights and  
22 responsibilities related to the Paid Family and Medical  
23 Leave Program as long as that agreement was in effect on  
24 October 19, 2017, has not yet expired, and has not been  
25 renegotiated or reopened. The passage of SB 5649 has

1 implemented a sunset date for this exemption. This  
2 exemption will now end on December 20- -- sorry,  
3 December 31, 2023. The proposed change to WAC 192-520-010  
4 implements this sunset date with regard to the rest of the  
5 rule.

6 Are there any questions or comments on this rule? Did  
7 somebody wish to provide comment on this draft rule? If  
8 not, then we will move on to our next rule.

9 Before we move on to WAC 192-610-025 documenting the  
10 birth or placement of a child, I would like to give a fair  
11 warning that this rule features the topic of child death,  
12 which is obviously a very distressing and emotional thing to  
13 discuss. Before we continue, I want to give anyone on the  
14 call who may feel overwhelmed by this subject an opportunity  
15 to step off the call at this time.

16 SB 5649 also introduced a new concept called the  
17 postnatal period. This refers to the six-week period after  
18 an employee gives birth. Leave taken in the postnatal  
19 period by the birthing employee will default to medical  
20 leave unless otherwise specified by the employee. Medical  
21 leave taken in the postnatal period will not require a  
22 medical certification, although other forms of documentation  
23 may be required as described in the draft rule.

24 The bill also creates a new qualifying event when the  
25 death of a child occurs when the birth of that child would

1 have qualified the employee for family or medical leave.

2 Are there any questions or comments on this draft rule?

3 MS. CARDI: Hi, this is Marti for Matrix.

4 MR. BARRETT: Hi, Marti.

5 MS. CARDI: Hi, there. I would just like to point  
6 out that there's a lot of ambiguity in this new leave  
7 reason, and employers need really detailed guidance about  
8 when it applies and when it doesn't. And, again, to mention  
9 some sensitive topics, does it include miscarriage,  
10 stillbirth, abortion, in addition to the death of a child  
11 that has been born? Employers are just going to need a lot  
12 of detail on that in the rules.

13 MR. BARRETT: Thank you for that comment, Marti,  
14 and we appreciate the fact that employers are looking for  
15 guidance on this. We are in the process of finalizing our  
16 website language as well as FAQs around this new qualifying  
17 event; so hopefully that will address all of the questions.  
18 It does specifically address the issues of miscarriage and  
19 abortion that you referred to. So once that language gets  
20 posted, we hope employers will be able to look there for any  
21 pending questions that they may have about this new  
22 qualifying event.

23 THE COURT REPORTER: Can you spell your name,  
24 please.

25 MS. CARDI: Sure. It's Marti, M-a-r-t-i, Cardi,



1 C-a-r-d-i, with Matrix Absence Management.

2 THE COURT REPORTER: Thank you.

3 MR. BARRETT: Thank you, Marti.

4 MS. CARDI: Thank you.

5 MS. SCHAAFSMA: This is Ali Schaafsma, spelling  
6 A-l-i, last name, S-c-h-a-a-f-s-m-a, with Pacific Resources.  
7 And concerning this statute, there also needs to be  
8 additional information provided as to the coordination of  
9 the bereavement component alongside the employer's current  
10 bereavement offerings. So whether or not an employer would  
11 be allowed to run the time concurrently with their  
12 bereavement if employees can access an employer's  
13 bereavement as well as Washington's in ensuring that more  
14 than 100 percent of average weekly wage is not earned, that  
15 information would be beneficial to spell out.

16 MR. BARRETT: So, Ali, you're just looking for  
17 more information from the department about how the benefit  
18 runs concurrently with employer-offered benefits?

19 MS. SCHAAFSMA: Correct. And we don't understand  
20 that if it's going to be similar to how the rest of the  
21 benefits operate today where an employer doesn't have to  
22 offer those additional benefits but should they be made  
23 available, it's an employee's choice. Just making sure that  
24 it's clear to employers how this -- if this is running  
25 similar to that or if there's a difference in how this

1 benefit will be able to coordinate with any employer  
2 benefit.

3 MR. BARRETT: Ali, I think what you just described  
4 is a great way to explain it. This is essentially a new  
5 qualifying event that runs identically to any other  
6 qualifying event in the program. Preexisting qualifying  
7 events include things like the employee's own serious health  
8 conditions for medical leave, a family member's serious  
9 health condition for family leave. This is simply a new  
10 qualifying event that allows employees to take leave. It is  
11 not a new entitlement to additional leave. It is still  
12 within the confines of the existing leave entitlement  
13 duration. It is simply a new reason that the employee is  
14 permitted to take leave and, generally speaking, is going to  
15 operate identically to any other qualifying event in the  
16 program with regard to how it needs to run concurrently with  
17 benefits offered by the employer.

18 MS. SCHAAFSMA: Perfect.

19 MR. BARRETT: Thank you for that question, though,  
20 Ali. I appreciate it.

21 MS. SCHAAFSMA: Absolutely. One last component to  
22 that, will employers have access to information from  
23 employees? Will the employee letters call this as the leave  
24 reasons so employers know to limit that coordination if the  
25 employee asks for it to the seven days rather than a full

1 benefit year?

2 MR. BARRETT: Generally speaking, our letters do  
3 not contain the specific reason for leave. They only  
4 feature the type of leave being taken, whether it's family  
5 or medical. This will run the same as that, I believe, as  
6 far as current bills are concerned. So any information  
7 about the specific reason for leave would not come from the  
8 department. If the employee chooses to share that  
9 information with the employer, then that is perfectly within  
10 their rights to do so.

11 As we've said with other employer-offered benefits,  
12 employers can certainly make any additional benefits  
13 contingent upon the employee sharing certain information  
14 points that the employer cannot receive from the department.  
15 What an employee chooses to or not share with employers is  
16 between those two parties.

17 MS. SCHAAFSMA: Thank you.

18 MR. BARRETT: Are there any questions or comments  
19 on the two draft rules that we are discussing today?

20 MS. FREEMAN: Jason, this is Daris Freeman from  
21 Unum.

22 MR. BARRETT: Hi, Daris.

23 MS. FREEMAN: Hey, how are you doing?

24 MR. BARRETT: Doing well.

25 MS. FREEMAN: So the rule on birth or placement

1 documentation, just trying to make sure I understand because  
2 I was a little confused. The statute that this is  
3 implementing talks about -- you know, makes the comment that  
4 no documentation of a serious health condition is required  
5 for the postnatal period, and then, of course, the new rules  
6 talk about documentation sufficient to substantiate birth.  
7 So I'm assuming the way those are meant to interplay is that  
8 a medical certification from a healthcare provider may not  
9 be required, but there is still some form of documentation  
10 required in order to take postnatal leave, but I do -- that  
11 would be a point that I don't know if you want to think  
12 about it from a rulemaking perspective or maybe just clarity  
13 on your website, but I had to kind of step back and think  
14 about that for a little while because when I first saw the  
15 statutory amendment I wasn't sure any documentation was  
16 going to be required based on the wording. So...

17 MR. BARRETT: Yeah, that's a great comment.

18 THE COURT REPORTER: Spell your name, please. I  
19 just need you to spell your name.

20 MS. FREEMAN: Sure. First name is Daris,  
21 D-a-r-i-s, last name is Freeman, F-r-e-e-m-a-n.

22 MR. BARRETT: And thank you for that comment,  
23 Daris. We are obviously working very hard to finalize our  
24 website language to really make clear exactly what these new  
25 changes mean for employees and employers with regard to what

1 they need to provide to substantiate their claim. So we  
2 absolutely hear that feedback, and we are working very hard  
3 with our communications team to make sure that there is as  
4 little ambiguity as possible on that subject.

5 MS. CARDI: This is Marti Cardi again. Do you  
6 have any prediction or estimate of when those rules are  
7 going to be available because employers are going to be  
8 having to enforce this and honor it very soon.

9 MR. BARRETT: I think they are supposed to go  
10 online this week, but let me verify that, Marti. I've got  
11 your email address, and I'm happy to reach out to you and  
12 confirm that, the exact timing that the language will be  
13 updated on the website.

14 MS. CARDI: Thank you. That would be real  
15 helpful.

16 MS. MASIMBI: Hi. This is Jocelyn Masimbi with  
17 Liberty Mutual, spelling J-o-c-e-l-y-n. Last name M-, as in  
18 Mary, a-s-, as in Sam, i-m-, as in Mary, b-, as in boy, i.

19 And my question -- well, two-part question. If the  
20 website is scheduled to be updated this week, you said, but  
21 it goes into effect on Thursday, is the thought that it  
22 would be before the actual effective date of Thursday is my  
23 first question.

24 And then my second question is is there any  
25 notification requirement for employees?

1 MR. BARRETT: So I'm sorry. I don't have more  
2 information about exactly when the website is scheduled to  
3 be updated. I do believe it is supposed to be in advance of  
4 the effective date; so it should be early this week.

5 As far as your other question, are you referring to the  
6 notification requirement that employees are required to give  
7 to their employers?

8 MS. MASIMBI: No. I'm sorry. I was asking is  
9 there a requirement for the employers to notify the  
10 employees of these changes or just enforcing them as of the  
11 effective date?

12 MR. BARRETT: I see. There's no requirement that  
13 they -- I'm sorry. There's a statutory requirement that  
14 they notify them of the changes to the law. It would  
15 certainly be helpful if employers were willing to share  
16 information about the updates to the program. There is also  
17 the requirement that employers post the kind of L&I style  
18 poster that, I believe, is required to feature reasons that  
19 an employee can take leave as well as the notice that  
20 employers are required to send to employees when they take  
21 leave for a reason that the employer believes would qualify.  
22 Those are still in place and have been in place since the  
23 program's implementation.

24 So updates to that, to those materials, would certainly  
25 need to happen from an employer perspective to make sure

1 that they accurately reflect the reasons that employees can  
2 take leave, but there's no specific requirement that  
3 employers have to say, hey, there's this new reason. You  
4 just need to make sure that the materials that you are  
5 otherwise required to publish and post are up to date with  
6 the new reasons.

7 MS. MASIMBI: Thank you. And will there be an  
8 updated poster available on the website or -- and, if so,  
9 would it be before the effective date?

10 MR. BARRETT: There will be an updated poster. I  
11 need to check in with our communications team to see exactly  
12 when that would be available. If it's not available by the  
13 effective date, we certainly would not hold employers  
14 accountable for that if they are choosing to use our poster.  
15 So I can certainly say stay tuned for that, but there won't  
16 be any penalties for using an outdated poster that we  
17 provided, but I'll check in with my coms team to make sure  
18 that that information is updated as soon as possible on the  
19 poster that we provide.

20 MS. MASIMBI: Thank you so much.

21 MR. BARRETT: Thank you.

22 Erin Hensley has a hand raised.

23 MS. HENSLEY: Good morning. This is Erin Hensley,  
24 E-r-i-n H-e-n-s-l-e-y. And I have question about the  
25 bereavement leave. Specifically, I'm reading the bill 5649

1 and it says that employees will be entitled to use PFML for  
2 seven calendar days following the death of their qualifying  
3 member. Is that seven days from the death, or is it seven  
4 days within the first 12 months of when they ordinarily,  
5 perhaps, would have bonded with the child?

6 MR. BARRETT: It's seven days from the death of  
7 the child. The idea behind this particular change was that,  
8 among other reasons, an employee who was out on bonding  
9 leave with a new child, if that child were to pass away, the  
10 legislature recognized that by the letter of the law that  
11 employee would immediately lose their access to --

12 MS. HENSLEY: Right.

13 MR. BARRETT: -- leave because the family member  
14 for whom bonding leave was being taken has passed away.

15 MS. HENSLEY: Okay.

16 MR. BARRETT: So the kind of impetus was that we  
17 didn't want to -- the State did not want to create the  
18 burden on these employees who now suddenly, in addition to  
19 dealing with their horrible tragedy --

20 MS. HENSLEY: Yes.

21 MR. BARRETT: -- now have to be back to work the  
22 next day. So that's why this additional seven days  
23 following the death was implemented to allow at least some  
24 time to, you know, grieve the death of that family member --

25 MS. HENSLEY: Certainly.



1 MR. BARRETT: -- and not require them to return to  
2 work immediately the next day.

3 MS. HENSLEY: Understandable. I am following the  
4 nature and the intent. I just was unclear about when the  
5 calendar days started. You've been very specific on that,  
6 and I assume that the website and the other materials will  
7 be specific as well.

8 MR. BARRETT: You're absolutely right. Thank you,  
9 Erin. Are you here with an organization or just on behalf  
10 of yourself?

11 MS. HENSLEY: A little bit of both. I'm at Moss  
12 Adams, M-o-s-s A-d-a-m-s, just an employer in Puget Sound.

13 MR. BARRETT: Great. Thank you very much.

14 Are there any other questions or comments on these two  
15 draft rules today?

16 MS. BAIRD: Hi. This is Laurie Baird, L-a-u-r-i-e  
17 B-a-i-r-d. I just wanted to clarify as the leave is  
18 available for up to seven calendar days from the date of the  
19 child's death or delivery of a deceased child, is that  
20 extended if there's a stillbirth and someone qualifies for  
21 the medical leave for this --

22 MR. BARRETT: They --

23 MS. BAIRD: -- the leave they would get for the  
24 postnatal?

25 MR. BARRETT: The seven calendar days related to

1 the passing of the child is limited to the seven-day period  
2 following the death of the child. Once that seven days is  
3 past, then that particular qualifying event is no longer  
4 available to the employee. Obviously, if the employee is  
5 eligible for leave for another reason such as medical leave,  
6 they are certainly entitled to that leave, but if they do  
7 intend to take this leave associated with this new  
8 qualifying event within seven days, it does need to be  
9 within seven calendar days of the death of the child.

10 MS. BAIRD: So would they be eligible to take the  
11 seven days of bereavement leave and then take postnatal  
12 leave following those seven days?

13 MR. BARRETT: So they would be eligible for leave  
14 within that seven-day period, and then once that seven-day  
15 period is over, they are certainly still eligible for any  
16 other type of leave to which they may be entitled. If they  
17 are still experiencing a medical need related to the birth  
18 or death of the child, then as long as they have the  
19 appropriate substantiating evidence of the need for leave,  
20 then they would certainly be granted that leave.

21 The use of this new qualifying event doesn't impact  
22 eligibility for any other type of leave that they may be  
23 entitled to. It does still draw from their bank of hours of  
24 12 weeks of family leave or 12 weeks of medical leave, but  
25 as long as they still have leave available to them and they

1 do have a different qualifying event, they would still be  
2 granted that leave following the seven-day period.

3 MS. BAIRD: Great. Thank you.

4 MR. BARRETT: Maggie Humphreys from our advisory  
5 committee has her hand raised.

6 MS. HUMPHREYS: Hi, there. Thank you. Maggie  
7 Humphreys, M-a-g-g-i-e, Humphreys, H-u-m-p-h-r-e-y-s,  
8 representing MomsRising with the Paid Family Medical Leave  
9 Advisory Committee. On the last part, just following up on  
10 the conversation that you all were just having, so this  
11 might be in the coming web updates, but I was wondering,  
12 Jason, if a family is on family leave and experiences the  
13 death of a child, will they be required to submit another  
14 application in order to access these seven days, or will  
15 they be able to notify ESD and have the days added to their  
16 current leave while their other family leave is -- I don't  
17 know -- adjusted?

18 So can you -- will that, the kind of the process for  
19 which families would navigate this, be part of the updates  
20 coming, and if you have any information to share here, that  
21 would be really helpful.

22 MR. BARRETT: Sure. So, generally speaking, if an  
23 employee is already on family leave and they apply for this  
24 bereavement leave for the death of the child, that would  
25 also fall under family leave, and so as long as it's the

1 same type of leave, we generally do not request an  
2 additional application. If it switches between family and  
3 medical we may, depending on the circumstances, but, I  
4 believe, our current bill is to simply extend the family  
5 leave. So they would generally not be required to submit a  
6 brand new application.

7 MS. HUMPHREYS: Okay. Thank you for that  
8 clarification.

9 MR. BARRETT: Victoria Farnum has her hand raised.

10 MS. FARNUM: Hi, yes. My name is Victoria. The  
11 first name is V-i-c-t-o-r-i-a, last name Farnum,  
12 F-a-r-n-u-m. I just wanted to kind of see if we were going  
13 to get clarification. You know, the bonding leave is used  
14 whenever -- not only when an employee has a new child, gives  
15 birth to a new child, but when they have new child placed  
16 with them, whether there's adoption, foster care, or they're  
17 acting in loco parentis. If in the case there was the death  
18 of a child that wasn't born but was placed and they are  
19 taking a bonding leave because they adopted a new child,  
20 would they also be covered under these seven days?

21 MR. BARRETT: So I just want to make sure I  
22 understand your question. You're asking if the child in  
23 question was placed with the family rather than directly  
24 born to the family, would this type of leave still be  
25 available to them?

1 MS. FARNUM: Yes.

2 MR. BARRETT: That's a good question. Let me just  
3 take a moment to -- I think I know the answer to that  
4 question, but I want to make sure I have the right answer  
5 so --

6 MS. FARNUM: Okay, yes.

7 MR. BARRETT: -- let me ask my colleagues about  
8 that question, and I will get you an answer very shortly.

9 MS. FARNUM: Okay. Thank you.

10 MR. BARRETT: Erin Hensley, I see your hand is  
11 still raised. Is that just from before, or do you have a  
12 new comment or question?

13 MS. HENSLEY: Apologies. That's from before.

14 MR. BARRETT: No problem. Just wanted to make  
15 sure.

16 Are there any other questions or comments at this time?

17 MS. BAIRD: Can you answer the question prior? I  
18 apologize. This Laurie Baird again, L-a-u-r-i-e B-a-i-r-d.  
19 When you answer the question that was just asked, will we  
20 all get access to the answer?

21 MR. BARRETT: I have the question out to a few of  
22 my colleagues in my chat window right now; so I'll have an  
23 answer before this call is over.

24 MS. BAIRD: Excellent. Thank you.

25 MR. BARRETT: Lori Welty, I see your hand is

1 raised.

2 MS. WELTY: Yeah. This is Lori Welty. I'm here  
3 on behalf of FINEOS. My last name is W-e-l-t-y and Lori is  
4 spelled L-o-r-i.

5 This is just -- you mentioned just a moment ago that we  
6 were going to find out the answer to this on this call; so I  
7 raised my hand before I heard that, but I guess I was just  
8 going to make the point -- excuse me -- that by the  
9 statutory language, it seems to indicate that bereavement  
10 leave is available to anybody who would have qualified for  
11 family leave under Section B of the statute, and Section B  
12 of the statute appears to cover the first 12 months after  
13 placement of a child under 18 with the employee whether  
14 that's a foster or an adoption placement. So if, for some  
15 reason, the answer comes back that it is not covered, I feel  
16 like we're going to need more information about that  
17 because --

18 MR. BARRETT: Sure. And, Lori, that was my  
19 initial read as well. I was 99 percent sure --

20 MS. WELTY: Okay.

21 MR. BARRETT: -- but I didn't want to give a  
22 99 percent answer.

23 MS. WELTY: Okay. Sounds good.

24 MR. BARRETT: That's why I punted it to my  
25 incredibly intelligent colleagues to make sure that they

1 agree with me because I like it when smart people agree with  
2 me before I give an answer.

3 MS. WELTY: No worries at all --

4 MR. BARRETT: Thank you.

5 MS. WELTY: -- if you were going to find out on  
6 this call, I wanted to say.

7 MR. BARRETT: Sure, sure. Those very intelligent  
8 colleagues are agreeing with your interpretation, Lori, as  
9 well as mine. So I think I can comfortably say at this  
10 point that if the child was placed rather than born, then  
11 the employee would still be eligible for leave under the  
12 5649 bereavement expansion.

13 MS. WELTY: Thank you for that.

14 MS. FREEMAN: Jason, this is Daris Freeman with  
15 Unum again. D-a-r-i-s. Freeman, F-r-e-e-m-a-n.

16 MR. BARRETT: Yes.

17 MS. FREEMAN: Hey. So the proposed reg,  
18 WAC 192-610-025, birth or placement of a child and required  
19 documentation, just a comment that if I were looking for  
20 a -- if I were looking for guidance on how to take  
21 bereavement leave, that is not where I would look, and yet  
22 that is where the reg has been placed around eligibility for  
23 seven calendar days of leave. The proposed reg, that  
24 Subsection 6 about bereavement, does not even talk about  
25 what documentation would be required. I think you've

1 answered that question, but when I think about the  
2 regulatory structure to place the entitlement to bereavement  
3 leave within a regulation that's about documentation of  
4 birth or placement, I just don't know that people would  
5 naturally go there, number one.

6 Number two, if they do, they're looking for required  
7 documentation, which is not what it would address. So you  
8 may want to think about, you know, whether it makes sense to  
9 have a regulation specific to bereavement.

10 MR. BARRETT: That's a great comment. Thank you,  
11 Daris. We'll discuss that for sure. Thank you.

12 Maggie, I see your hand raised.

13 MS. HUMPHREYS: Yeah. I just wanted to generally  
14 share a comment of appreciation to you and your people for  
15 this work and for MomsRising's behalf. We're really happy  
16 to see the documentation expansion availability to ensure  
17 that a variety of documentation that testifies to a birth  
18 and postnatal period entitlement will be accepted by the  
19 department. We know that families navigating this  
20 application process are doing so in a time of -- where their  
21 time is limited and so appreciate the expansion there and  
22 flexibility.

23 And also just appreciate the work around streamlining  
24 the postnatal period leave for birth parents and trying to  
25 maximize -- ensure that workers are able to take their



1 maximum entitlement of leave of both medical and family  
2 leave and in the work around inclusion of compassionate  
3 leave as well for families who have experienced a loss. So  
4 we are very much in support of these draft rules and  
5 appreciate the work that's been put into them. Thank you.

6 MR. BARRETT: Thank you, Maggie. We appreciate  
7 that comment.

8 Erin, back to you.

9 MS. HENSLEY: Thank you, Jason. Erin Hensley,  
10 E-r-i-n H-e-n-s-l-e-y. I just wondered on -- since the  
11 seven days of bereavement leave doesn't extend the benefit,  
12 can you confirm that means if the employee has used all  
13 12 weeks of PFML for bonding, then the qualifying child  
14 sadly passes away, that there's not an additional seven days  
15 of PFML?

16 MR. BARRETT: That is correct. It is not a leave  
17 extension. It is simply a new qualifying event, and the  
18 employee would still need to have the requisite number of  
19 hours in their bank to take the leave. And if they've  
20 already used their leave, then this particular type of leave  
21 would not be available to them.

22 MS. HENSLEY: Thank you. Very clear.

23 MR. BARRETT: Are there any other questions or  
24 comments on the two draft rules we are discussing today?

25 MS. FREEMAN: Jason, this is Daris Freeman with

1 Unum again.

2 MR. BARRETT: Hey, Daris.

3 MS. FREEMAN: I can't consolidate my comments very  
4 well. The other is -- because I'm going back and forth  
5 between existing regs and the proposed regs. The only other  
6 thing I would say is because you're no longer requiring  
7 actual documentation of a serious health condition for the  
8 postnatal period, although it is medical leave, you may want  
9 to think about in WAC 192-610-020 what is required on the  
10 certification for medical leave -- right? -- or in the --  
11 you know, that there's an exception because what it says is  
12 when leave is taken because of an employee's own serious  
13 health condition, which postnatal is -- right? --  
14 certification from a healthcare provider will be required  
15 and must include the following. So you've just got a  
16 conflict since that's not actually going to be required for  
17 postnatal leave, which is a serious health condition.

18 MR. BARRETT: Right. Thank you for that, Daris.

19 Any other questions or comments on today's rules? Last  
20 call for questions or comments on the rules today before we  
21 close out. All right. With that, we will go ahead and  
22 close this meeting.

23 Thank you all so much for the comments and discussion  
24 this morning. I recognize that this is a difficult topic in  
25 many ways. I can say that for the conversations that we've

had here at the department, they have oftentimes resulted in some very emotional conversations; so thank you all for joining us for what I'm sure for many is an extremely difficult and sensitive topic.

Regarding next steps, we will gather all the comments that we've received on these amendments to determine which to be incorporated, then draft paperwork to formally propose rule language. Once the proposed rules and paperwork are filed, individuals will have an opportunity to participate in the public hearing and provide written comments up to and through the day of the hearing.

Following the hearing, if no substantive changes to the amended rules are necessary, we will file paperwork providing a response to each comment received during the comment period and hearing and then adopt the rules.

For a timeline of these events, please visit [paidleave.wa.gov/rulemaking](https://paidleave.wa.gov/rulemaking). We will provide timelines as soon as they become available.

If you have any additional comments or questions,  
please feel free to send us an email at [rules@esd.wa.gov](mailto:rules@esd.wa.gov).  
That's [rules@esd.wa.gov](mailto:rules@esd.wa.gov).

Thank you all so much for joining us this morning, and we hope you enjoy the rest of your day.

(Concluded at 9:42 a.m.)

C E R T I F I C A T E

I, REBECCA S. LINDAUER, a Certified Court Reporter in and for the State of Washington, residing at Lacey, do hereby certify:

That the foregoing Zoom public hearing was taken before me and completed on the 6th day of June 2022, and thereafter transcribed by me by means of computer-aided transcription; that the public hearing is a full, true, and complete transcript of the proceedings;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith emailing the public hearing to MR. JASON BARRETT.

IN WITNESS HEREOF, I have hereunto set my hand this 15th day of June 2022.

A large, stylized handwritten signature in black ink, appearing to be 'R. Lindauer', is written over a horizontal line.

Rebecca S. Lindauer, CSR#2402  
Certified Court Reporter, in and for the  
State of Washington, residing at Lacey.

<b>1</b>	<b>A</b>	<b>allowed</b> 8:11	23:10 24:6,16,23 25:2, 18
<b>100</b> 8:14	<b>A-D-A-M-S</b> 16:12	<b>alongside</b> 8:9	<b>based</b> 11:16
<b>12</b> 15:4 17:24 21:12 24:13	<b>A-L-I</b> 8:6	<b>ambiguity</b> 7:6 12:4	<b>Becky</b> 3:6
<b>18</b> 21:13	<b>a-s-</b> 12:18	<b>amended</b> 26:13	<b>begin</b> 5:9
<b>19</b> 5:24	<b>a.m.</b> 3:2 26:24	<b>amendment</b> 11:15	<b>behalf</b> 5:3 16:9 21:3 23:15
<b>192-520-010</b> 4:9 5:20 6:3	<b>abortion</b> 7:10,19	<b>amendments</b> 3:21 4:2 26:6	<b>believes</b> 13:21
<b>192-610-020</b> 25:9	<b>Absence</b> 8:1	<b>analyst</b> 3:9	<b>beneficial</b> 8:15
<b>192-610-025</b> 4:10 6:9 22:18	<b>absolutely</b> 9:21 12:2 16:8	<b>annalist</b> 3:17	<b>benefit</b> 8:17 9:1,2 10:1 24:11
<b>2</b>	<b>accepted</b> 23:18	<b>Apologies</b> 20:13	<b>benefits</b> 8:18,21,22 9:17 10:11,12
<b>20-</b> 6:2	<b>access</b> 8:12 9:22 15:11 18:14 20:20	<b>apologize</b> 5:12 20:18	<b>Benham</b> 3:14
<b>2017</b> 5:24	<b>accountable</b> 14:14	<b>appears</b> 21:12	<b>bereavement</b> 8:9,10, 12,13 14:25 17:11 18:24 21:9 22:12,21, 24 23:2,9 24:11
<b>2022</b> 3:1	<b>accurately</b> 14:1	<b>application</b> 4:24 18:14 19:2,6 23:20	<b>bill</b> 3:24 4:5,17 6:24 14:25 19:4
<b>2023</b> 6:3	<b>acting</b> 19:17	<b>applies</b> 7:8	<b>bills</b> 10:6
<b>3</b>	<b>actual</b> 12:22 25:7	<b>apply</b> 18:23	<b>birth</b> 4:10 6:10,18,25 10:25 11:6 17:17 19:15 22:18 23:4,17, 24
<b>31</b> 6:3	<b>Adams</b> 16:12	<b>appreciation</b> 23:14	<b>birthing</b> 6:19
<b>5</b>	<b>added</b> 18:15	<b>asks</b> 9:25	<b>bit</b> 16:11
<b>5649</b> 3:23 4:17 5:25 6:16 14:25 22:12	<b>addition</b> 7:10 15:18	<b>assume</b> 16:6	<b>bonded</b> 15:5
<b>6</b>	<b>additional</b> 8:8,22 9:11 10:12 15:22 19:2 24:14 26:19	<b>assuming</b> 11:7	<b>bonding</b> 15:8,14 19:13,19 24:13
<b>6</b> 3:1 4:21 22:24	<b>address</b> 7:17,18 12:11 23:7	<b>availability</b> 23:16	<b>born</b> 7:11 19:18,24 22:10
<b>8</b>	<b>adjusted</b> 18:17	<b>average</b> 8:14	<b>boy</b> 12:18
<b>833-717-2273</b> 4:25	<b>Administrative</b> 4:2	<b>B</b>	<b>brand</b> 19:6
<b>9</b>	<b>adopt</b> 26:15	<b>b-</b> 12:18	<b>Brett</b> 3:16,19
<b>99</b> 21:19,22	<b>adopted</b> 19:19	<b>B-A-I-R-D</b> 16:17 20:18	<b>Bryan</b> 5:10
<b>9:01</b> 3:2	<b>adoption</b> 19:16 21:14	<b>back</b> 11:13 15:21 21:15 24:8 25:4	<b>burden</b> 15:18
<b>9:42</b> 26:24	<b>advance</b> 13:3	<b>Baird</b> 16:16,23 17:10 18:3 20:17,18,24	<b>C</b>
	<b>advisory</b> 18:4,9	<b>bank</b> 17:23 24:19	<b>C-A-R-D-I</b> 8:1
	<b>agree</b> 22:1	<b>bargaining</b> 4:9 5:21	<b>Cain</b> 3:16
	<b>agreeing</b> 22:8	<b>Barrett</b> 3:6,8,9,19 5:14 7:4,13 8:3,16 9:3, 19 10:2,18,22,24 11:17,22 12:9 13:1,12 14:10,21 15:6,13,16, 21 16:1,8,13,22,25 17:13 18:4,22 19:9,21 20:2,7,10,14,21,25 21:18,21,24 22:4,7,16	
	<b>agreement</b> 5:21,23		
	<b>agreements</b> 4:10		
	<b>ahead</b> 25:21		
	<b>Ali</b> 8:5,16 9:3,20		

<p><b>calendar</b> 15:2 16:5, 18,25 17:9 22:23</p> <p><b>call</b> 3:12 4:22,25 6:14, 15 9:23 20:23 21:6 22:6 25:20</p> <p><b>called</b> 4:16,19 6:16</p> <p><b>Cardi</b> 7:3,5,25 8:4 12:5,14</p> <p><b>care</b> 3:10,12,15,17 4:25 19:16</p> <p><b>case</b> 19:17</p> <p><b>certification</b> 6:22 11:8 25:10,14</p> <p><b>Certified</b> 3:3</p> <p><b>change</b> 6:3 15:7</p> <p><b>chat</b> 20:22</p> <p><b>check</b> 14:11,17</p> <p><b>child</b> 4:11 6:10,11,25 7:10 15:5,7,9 16:19 17:1,2,9,18 18:13,24 19:14,15,18,19,22 21:13 22:10,18 24:13</p> <p><b>child's</b> 16:19</p> <p><b>choice</b> 8:23</p> <p><b>chooses</b> 10:8,15</p> <p><b>choosing</b> 14:14</p> <p><b>circumstances</b> 19:3</p> <p><b>claim</b> 4:24 12:1</p> <p><b>clarification</b> 19:8,13</p> <p><b>clarify</b> 16:17</p> <p><b>clarity</b> 11:12</p> <p><b>clear</b> 8:24 11:24 24:22</p> <p><b>click</b> 4:17</p> <p><b>close</b> 5:13 25:21,22</p> <p><b>Code</b> 4:2</p> <p><b>codified</b> 4:4</p> <p><b>colleagues</b> 20:7,22 21:25 22:8</p> <p><b>collective</b> 4:9 5:21</p> <p><b>comfortably</b> 22:9</p>	<p><b>comment</b> 6:7 7:13 11:3,17,22 20:12 22:19 23:10,14 24:7 26:14,15</p> <p><b>comments</b> 5:1,6 6:6 7:2 10:18 16:14 20:16 24:24 25:3,19,20,23 26:5,10,19</p> <p><b>committee</b> 18:5,9</p> <p><b>communications</b> 12:3 14:11</p> <p><b>compassionate</b> 24:2</p> <p><b>component</b> 8:9 9:21</p> <p><b>coms</b> 14:17</p> <p><b>concept</b> 6:16</p> <p><b>concerned</b> 10:6</p> <p><b>concluded</b> 26:24</p> <p><b>concurrently</b> 8:11,18 9:16</p> <p><b>condition</b> 9:9 11:4 25:7,13,17</p> <p><b>conditions</b> 9:8</p> <p><b>confines</b> 9:12</p> <p><b>confirm</b> 12:12 24:12</p> <p><b>conflict</b> 25:16</p> <p><b>confused</b> 11:2</p> <p><b>consolidate</b> 25:3</p> <p><b>contingent</b> 10:13</p> <p><b>continue</b> 6:13</p> <p><b>conversation</b> 18:10</p> <p><b>conversations</b> 25:25 26:2</p> <p><b>coordinate</b> 9:1</p> <p><b>coordination</b> 8:8 9:24</p> <p><b>coordinator</b> 3:15</p> <p><b>correct</b> 8:19 24:16</p> <p><b>Court</b> 3:3,7 7:23 8:2 11:18</p> <p><b>cover</b> 21:12</p> <p><b>covered</b> 19:20 21:15</p>	<p><b>create</b> 15:17</p> <p><b>creates</b> 6:24</p> <p><b>current</b> 4:15 8:9 10:6 18:16 19:4</p> <p><b>customer</b> 4:25</p> <hr/> <p><b>D</b></p> <hr/> <p><b>D-A-R-I-S</b> 11:21 22:15</p> <p><b>Daris</b> 10:20,22 11:20, 23 22:14 23:11 24:25 25:2,18</p> <p><b>date</b> 6:1,4 12:22 13:4, 11 14:5,9,13 16:18</p> <p><b>day</b> 15:22 16:2 26:11, 23</p> <p><b>days</b> 9:25 15:2,3,4,6, 22 16:5,18,25 17:2,8, 9,11,12 18:14,15 19:20 22:23 24:11,14</p> <p><b>dealing</b> 15:19</p> <p><b>death</b> 6:11,25 7:10 15:2,3,6,23,24 16:19 17:2,9,18 18:13,24 19:17</p> <p><b>deceased</b> 16:19</p> <p><b>December</b> 6:2,3</p> <p><b>default</b> 6:19</p> <p><b>delivery</b> 16:19</p> <p><b>department</b> 3:11,21 4:1 8:17 10:8,14 23:19 26:1</p> <p><b>depending</b> 19:3</p> <p><b>detail</b> 7:12</p> <p><b>detailed</b> 7:7</p> <p><b>determine</b> 26:6</p> <p><b>determined</b> 4:1</p> <p><b>difference</b> 8:25</p> <p><b>difficult</b> 25:24 26:4</p> <p><b>directly</b> 19:23</p> <p><b>discuss</b> 3:20 6:13 23:11</p>	<p><b>discussed</b> 5:8</p> <p><b>discussing</b> 4:12,23 10:19 24:24</p> <p><b>discussion</b> 25:23</p> <p><b>distressing</b> 6:12</p> <p><b>Division</b> 3:10,15,17</p> <p><b>document</b> 4:22</p> <p><b>documentation</b> 6:22 11:1,4,6,9,15 22:19,25 23:3,7,16,17 25:7</p> <p><b>documenting</b> 4:10 6:9</p> <p><b>draft</b> 4:17,22 5:8 6:7, 23 7:2 10:19 16:15 24:4,24 26:7</p> <p><b>drafts</b> 3:20 4:12</p> <p><b>draw</b> 17:23</p> <p><b>duration</b> 9:13</p> <hr/> <p><b>E</b></p> <hr/> <p><b>E-R-I-N</b> 14:24 24:10</p> <p><b>early</b> 13:4</p> <p><b>earned</b> 8:14</p> <p><b>effect</b> 5:23 12:21</p> <p><b>effective</b> 12:22 13:4, 11 14:9,13</p> <p><b>effort</b> 5:13</p> <p><b>eligibility</b> 17:22 22:22</p> <p><b>eligible</b> 17:5,10,13,15 22:11</p> <p><b>email</b> 12:11 26:20</p> <p><b>emotional</b> 6:12 26:2</p> <p><b>employee</b> 6:18,19,20 7:1 9:13,23,25 10:8, 13,15 13:19 15:8,11 17:4 18:23 19:14 21:13 22:11 24:12,18</p> <p><b>employee's</b> 8:23 9:7 25:12</p> <p><b>employees</b> 8:12 9:10, 23 11:25 12:25 13:6, 10,20 14:1 15:1,18</p>
--	--	--	---

<p><b>employer</b> 8:10,21 9:1, 17 10:9,14 13:21,25 16:12</p> <p><b>employer's</b> 8:9,12</p> <p><b>employer-offered</b> 8:18 10:11</p> <p><b>employers</b> 7:7,11,14, 20 8:24 9:22,24 10:12, 15 11:25 12:7 13:7,9, 15,17,20 14:3,13</p> <p><b>Employment</b> 3:10</p> <p><b>encourage</b> 4:6</p> <p><b>end</b> 6:2</p> <p><b>enforce</b> 12:8</p> <p><b>enforcing</b> 13:10</p> <p><b>enjoy</b> 26:23</p> <p><b>ensure</b> 23:16,25</p> <p><b>ensuring</b> 8:13</p> <p><b>entitled</b> 15:1 17:6,16, 23</p> <p><b>entitlement</b> 9:11,12 23:2,18 24:1</p> <p><b>Erin</b> 14:22,23 16:9 20:10 24:8,9</p> <p><b>ESD</b> 18:15</p> <p><b>essentially</b> 9:4</p> <p><b>estimate</b> 12:6</p> <p><b>event</b> 6:24 7:17,22 9:5,6,10,15 17:3,8,21 18:1 24:17</p> <p><b>events</b> 9:7 26:16</p> <p><b>evidence</b> 17:19</p> <p><b>exact</b> 12:12</p> <p><b>Excellent</b> 20:24</p> <p><b>exception</b> 25:11</p> <p><b>excuse</b> 21:8</p> <p><b>exemption</b> 6:1,2</p> <p><b>exempts</b> 5:20</p> <p><b>existing</b> 9:12 25:5</p> <p><b>expand</b> 4:17</p>	<p><b>expansion</b> 22:12 23:16,21</p> <p><b>experienced</b> 24:3</p> <p><b>experiences</b> 18:12</p> <p><b>experiencing</b> 17:17</p> <p><b>expired</b> 5:24</p> <p><b>explain</b> 9:4</p> <p><b>extend</b> 19:4 24:11</p> <p><b>extended</b> 16:20</p> <p><b>extension</b> 24:17</p> <p><b>extremely</b> 26:3</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>F-A-R-N-U-M</b> 19:12</p> <p><b>F-R-E-E-M-A-N</b> 11:21 22:15</p> <p><b>fact</b> 7:14</p> <p><b>fair</b> 6:10</p> <p><b>fall</b> 18:25</p> <p><b>families</b> 18:19 23:19 24:3</p> <p><b>family</b> 3:22 5:22 7:1 9:8,9 10:4 15:13,24 17:24 18:8,12,16,23, 25 19:2,4,23,24 21:11 24:1</p> <p><b>FAQS</b> 7:16</p> <p><b>Farnum</b> 19:9,10,11 20:1,6,9</p> <p><b>feature</b> 10:4 13:18</p> <p><b>features</b> 6:11</p> <p><b>feedback</b> 12:2</p> <p><b>feel</b> 5:17 6:14 21:15 26:20</p> <p><b>file</b> 26:13</p> <p><b>filed</b> 26:9</p> <p><b>finalize</b> 11:23</p> <p><b>finalizing</b> 7:15</p> <p><b>find</b> 5:8,17 21:6 22:5</p> <p><b>FINEOS</b> 21:3</p>	<p><b>flexibility</b> 23:22</p> <p><b>floor</b> 5:6</p> <p><b>folks</b> 5:7</p> <p><b>form</b> 11:9</p> <p><b>formally</b> 26:7</p> <p><b>forms</b> 6:22</p> <p><b>foster</b> 19:16 21:14</p> <p><b>found</b> 4:13</p> <p><b>free</b> 5:17 26:20</p> <p><b>Freeman</b> 10:20,23,25 11:20,21 22:14,15,17 24:25 25:3</p> <p><b>full</b> 9:25</p> <p><b>function</b> 4:20</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>gather</b> 26:5</p> <p><b>generally</b> 9:14 10:2 18:22 19:1,5 23:13</p> <p><b>give</b> 5:6 6:10,13 13:6 21:21 22:2</p> <p><b>good</b> 3:8,14,16 14:23 20:2 21:23</p> <p><b>granted</b> 17:20 18:2</p> <p><b>great</b> 9:4 11:17 16:13 18:3 23:10</p> <p><b>grieve</b> 15:24</p> <p><b>guess</b> 21:7</p> <p><b>guidance</b> 7:7,15 22:20</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>H-E-N-S-L-E-Y</b> 14:24 24:10</p> <p><b>H-U-M-P-H-R-E-Y-S</b> 18:7</p> <p><b>hand</b> 5:10 14:22 18:5 19:9 20:10,25 21:7 23:12</p> <p><b>hang</b> 4:24</p>	<p><b>happen</b> 13:25</p> <p><b>happy</b> 12:11 23:15</p> <p><b>hard</b> 11:23 12:2</p> <p><b>health</b> 9:7,9 11:4 25:7, 13,17</p> <p><b>healthcare</b> 11:8 25:14</p> <p><b>hear</b> 12:2</p> <p><b>heard</b> 21:7</p> <p><b>hearing</b> 26:10,11,12, 15</p> <p><b>helpful</b> 12:15 13:15 18:21</p> <p><b>Hensley</b> 14:22,23 15:12,15,20,25 16:3, 11 20:10,13 24:9,22</p> <p><b>hey</b> 10:23 14:3 22:17 25:2</p> <p><b>hold</b> 14:13</p> <p><b>honor</b> 12:8</p> <p><b>hope</b> 7:20 26:23</p> <p><b>horrible</b> 15:19</p> <p><b>hours</b> 17:23 24:19</p> <p><b>housekeeping</b> 5:9</p> <p><b>Humphreys</b> 18:4,6,7 19:7 23:13</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>i-m-</b> 12:18</p> <p><b>idea</b> 15:7</p> <p><b>identically</b> 9:5,15</p> <p><b>immediately</b> 15:11 16:2</p> <p><b>impact</b> 17:21</p> <p><b>impetus</b> 15:16</p> <p><b>implementation</b> 4:3, 16 13:23</p> <p><b>implemented</b> 6:1 15:23</p> <p><b>implementing</b> 11:3</p> <p><b>implements</b> 6:4</p>
--	---	---	---

<p><b>include</b> 7:9 9:7 25:15</p> <p><b>inclusion</b> 24:2</p> <p><b>incorporated</b> 26:7</p> <p><b>incredibly</b> 21:25</p> <p><b>individuals</b> 26:9</p> <p><b>information</b> 4:5 8:8, 15,17 9:22 10:6,9,13 13:2,16 14:18 18:20 21:16</p> <p><b>initial</b> 21:19</p> <p><b>intelligent</b> 21:25 22:7</p> <p><b>intend</b> 17:7</p> <p><b>intent</b> 16:4</p> <p><b>interplay</b> 11:7</p> <p><b>interpretation</b> 22:8</p> <p><b>introduce</b> 3:13</p> <p><b>introduced</b> 6:16</p> <p><b>issues</b> 7:18</p> <p><b>items</b> 5:9</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>J-O-C-E-L-Y-N</b> 12:17</p> <p><b>Janette</b> 3:14,19</p> <p><b>Jason</b> 3:9 10:20 18:12 22:14 24:9,25</p> <p><b>Jocelyn</b> 12:16</p> <p><b>joining</b> 26:3,22</p> <p><b>June</b> 3:1</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>kind</b> 11:13 13:17 15:16 18:18 19:12</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>L&amp;i</b> 13:17</p> <p><b>L-A-U-R-I-E</b> 16:16 20:18</p> <p><b>L-O-R-I</b> 21:4</p>	<p><b>language</b> 7:16,19 11:24 12:12 21:9 26:8</p> <p><b>Laurie</b> 16:16 20:18</p> <p><b>law</b> 13:14 15:10</p> <p><b>lead</b> 3:9</p> <p><b>leave</b> 3:10,11,15,17,22 5:23 6:18,20,21 7:1,6 9:8,9,10,11,12,14,23 10:3,4,7 11:10 13:19, 21 14:2,25 15:9,13,14 16:17,21,23 17:5,6,7, 11,12,13,16,19,20,22, 24,25 18:2,8,12,16,23, 24,25 19:1,5,13,19,24 21:10,11 22:11,21,23 23:3,24 24:1,2,3,11, 16,19,20 25:8,10,12, 17</p> <p><b>leg.wa.gov.</b> 4:7</p> <p><b>legislative</b> 3:24</p> <p><b>legislature</b> 15:10</p> <p><b>legislature's</b> 4:7</p> <p><b>letter</b> 15:10</p> <p><b>letters</b> 9:23 10:2</p> <p><b>Liberty</b> 12:17</p> <p><b>limit</b> 9:24</p> <p><b>limited</b> 17:1 23:21</p> <p><b>LINDAUER</b> 3:3</p> <p><b>list</b> 4:17</p> <p><b>loco</b> 19:17</p> <p><b>long</b> 5:23 17:18,25 18:25</p> <p><b>longer</b> 17:3 25:6</p> <p><b>Lori</b> 20:25 21:2,3,18 22:8</p> <p><b>lose</b> 15:11</p> <p><b>loss</b> 24:3</p> <p><b>lot</b> 7:6,11</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>M-</b> 12:17</p> <p><b>M-A-G-G-I-E</b> 18:7</p>	<p><b>M-A-R-T-I</b> 7:25</p> <p><b>M-O-S-S</b> 16:12</p> <p><b>made</b> 3:24 4:5 8:22</p> <p><b>Maggie</b> 18:4,6 23:12 24:6</p> <p><b>make</b> 10:12 11:1,24 12:3 13:25 14:4,17 19:21 20:4,14 21:8,25</p> <p><b>makes</b> 11:3 23:8</p> <p><b>making</b> 8:23</p> <p><b>Management</b> 8:1</p> <p><b>Marti</b> 7:3,4,13,25 8:3 12:5,10</p> <p><b>Mary</b> 12:18</p> <p><b>Masimbi</b> 12:16 13:8 14:7,20</p> <p><b>materials</b> 13:24 14:4 16:6</p> <p><b>Matrix</b> 7:3 8:1</p> <p><b>Mauss</b> 5:10,12</p> <p><b>maximize</b> 23:25</p> <p><b>maximum</b> 24:1</p> <p><b>means</b> 24:12</p> <p><b>meant</b> 11:7</p> <p><b>medical</b> 3:22 5:22 6:19,20,22 7:1 9:8 10:5 11:8 16:21 17:5, 17,24 18:8 19:3 24:1 25:8,10</p> <p><b>meeting</b> 4:19 5:4,16 25:22</p> <p><b>member</b> 15:3,13,24</p> <p><b>member's</b> 9:8</p> <p><b>members</b> 3:11</p> <p><b>mention</b> 7:8</p> <p><b>mentioned</b> 21:5</p> <p><b>mind</b> 4:21</p> <p><b>mine</b> 22:9</p> <p><b>miscarriage</b> 7:9,18</p> <p><b>moment</b> 20:3 21:5</p>	<p><b>Momsrising</b> 18:8</p> <p><b>Momsrising's</b> 23:15</p> <p><b>Monday</b> 3:1</p> <p><b>months</b> 15:4 21:12</p> <p><b>morning</b> 3:8,14,16,20 5:16 14:23 25:24 26:22</p> <p><b>Moss</b> 16:11</p> <p><b>move</b> 5:19 6:8,9</p> <p><b>mute</b> 4:20</p> <p><b>Mutual</b> 12:17</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>naturally</b> 23:5</p> <p><b>nature</b> 16:4</p> <p><b>navigate</b> 18:19</p> <p><b>navigating</b> 23:19</p> <p><b>notice</b> 13:19</p> <p><b>notification</b> 12:25 13:6</p> <p><b>notify</b> 13:9,14 18:15</p> <p><b>number</b> 23:5,6 24:18</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>occurs</b> 6:25</p> <p><b>October</b> 5:24</p> <p><b>offer</b> 8:22</p> <p><b>offered</b> 9:17</p> <p><b>offerings</b> 8:10</p> <p><b>oftentimes</b> 26:1</p> <p><b>online</b> 12:10</p> <p><b>open</b> 5:6</p> <p><b>operate</b> 8:21 9:15</p> <p><b>opportunity</b> 5:7 6:14 26:9</p> <p><b>order</b> 11:10 18:14</p> <p><b>ordinarily</b> 15:4</p> <p><b>organization</b> 5:3 16:9</p>
--	---	--	--



<b>outdated</b> 14:16	23:4	<b>qualifies</b> 16:20	<b>regard</b> 6:4 9:16 11:25
<b>overwhelmed</b> 6:14	<b>point</b> 7:5 11:11 21:8 22:10	<b>qualify</b> 13:21	<b>regs</b> 25:5
<hr/> <b>P</b> <hr/>	<b>points</b> 10:14	<b>qualifying</b> 6:24 7:16, 22 9:5,6,10,15 15:2 17:3,8,21 18:1 24:13, 17	<b>regulation</b> 23:3,9
<b>Pacific</b> 8:6	<b>policy</b> 3:9,12,17,18	<b>question</b> 4:24 5:11 9:19 12:19,23,24 13:5 14:24 19:22,23 20:2,4, 8,12,17,19,21 23:1	<b>regulatory</b> 23:2
<b>Paid</b> 3:22 5:22 18:8	<b>post</b> 13:17 14:5	<b>questions</b> 5:7,15 6:6 7:2,17,21 10:18 16:14 20:16 24:23 25:19,20 26:19	<b>related</b> 5:22 16:25 17:17
<b>paidleave.wa.gov/rulemaking.</b> 4:13,14 26:17	<b>poster</b> 13:18 14:8,10, 14,16,19	<hr/> <b>R</b> <hr/>	<b>REMEMBERED</b> 3:1
<b>paperwork</b> 26:7,8,13	<b>postnatal</b> 6:17,18,21 11:5,10 16:24 17:11 23:18,24 25:8,13,17	<b>raised</b> 5:10 14:22 18:5 19:9 20:11 21:1,7 23:12	<b>remind</b> 5:4
<b>parentis</b> 19:17	<b>prediction</b> 12:6	<b>reach</b> 12:11	<b>renegotiated</b> 5:25
<b>parents</b> 23:24	<b>Preexisting</b> 9:6	<b>read</b> 21:19	<b>reopened</b> 5:25
<b>part</b> 18:9,19	<b>pressing</b> 4:21	<b>reading</b> 14:25	<b>Reporter</b> 3:3,7 7:23 8:2 11:18
<b>participate</b> 26:9	<b>prior</b> 20:17	<b>ready</b> 3:6	<b>representing</b> 18:8
<b>parties</b> 4:9 10:16	<b>problem</b> 20:14	<b>real</b> 12:14	<b>request</b> 19:1
<b>party</b> 5:20	<b>proceedings</b> 3:4	<b>reason</b> 7:7 9:13 10:3, 7 13:21 14:3 17:5 21:15	<b>require</b> 3:25 4:6 6:21 16:1
<b>pass</b> 15:9	<b>process</b> 7:15 18:18 23:20	<b>reasons</b> 9:24 13:18 14:1,6 15:8	<b>required</b> 6:23 11:4,9, 10,16 13:6,18,20 14:5 18:13 19:5 22:18,25 23:6 25:9,14,16
<b>passage</b> 3:23 5:25	<b>program</b> 3:22,25 5:23 9:6,16 13:16	<b>REBECCA</b> 3:2	<b>requirement</b> 12:25 13:6,9,12,13,17 14:2
<b>passed</b> 15:14	<b>program's</b> 13:23	<b>receive</b> 10:14	<b>requiring</b> 25:6
<b>passes</b> 24:14	<b>propose</b> 26:7	<b>received</b> 26:6,14	<b>requisite</b> 24:18
<b>passing</b> 17:1	<b>proposed</b> 4:8,18 5:2 6:3 22:17,23 25:5 26:8	<b>recognize</b> 25:24	<b>Resources</b> 8:6
<b>past</b> 17:3	<b>provide</b> 5:1 6:7 12:1 14:19 26:10,17	<b>recognized</b> 15:10	<b>response</b> 26:14
<b>penalties</b> 14:16	<b>provided</b> 8:8 14:17	<b>recorded</b> 5:5	<b>responsibilities</b> 5:22
<b>pending</b> 7:21	<b>provider</b> 11:8 25:14	<b>referenced</b> 4:23	<b>rest</b> 4:3 6:4 8:20 26:23
<b>people</b> 22:1 23:4,14	<b>providing</b> 26:14	<b>referred</b> 7:19	<b>resulted</b> 26:1
<b>percent</b> 8:14 21:19,22	<b>public</b> 26:10	<b>referring</b> 13:5	<b>return</b> 16:1
<b>Perfect</b> 9:18	<b>publish</b> 14:5	<b>refers</b> 6:17	<b>review</b> 3:20
<b>perfectly</b> 10:9	<b>Puget</b> 16:12	<b>reflect</b> 14:1	<b>reviewing</b> 4:12
<b>period</b> 6:17,19,21 11:5 17:1,14,15 18:2 23:18,24 25:8 26:15	<b>punted</b> 21:24	<b>reg</b> 22:17,22,23	<b>rights</b> 5:21 10:10
<b>permitted</b> 9:14	<b>purpose</b> 5:16		<b>rule</b> 3:21,23 5:19 6:5, 6,7,8,11,23 7:2 10:25 26:8
<b>perspective</b> 11:12 13:25	<b>put</b> 24:5		<b>rulemaking</b> 4:1,6,8, 15 11:12
<b>PFML</b> 15:1 24:13,15	<hr/> <b>Q</b> <hr/>		<b>rules</b> 3:12,15,18 4:18, 22,23 5:2,9,17 7:12 10:19 11:5 12:6 16:15
<b>phone</b> 4:21	<b>qualified</b> 7:1 21:10		
<b>place</b> 13:22 23:2			
<b>placement</b> 4:11 6:10 10:25 21:13,14 22:18			

<p>24:4,24 25:19,20 26:8,13,15</p> <p><b>rules@esd.wa.gov.</b> 26:20,21</p> <p><b>run</b> 8:11 9:16 10:5</p> <p><b>running</b> 8:24</p> <p><b>runs</b> 8:18 9:5</p> <hr/> <p><b>S</b></p> <hr/> <p><b>S-C-H-A-A-F-S-M-A</b> 8:6</p> <p><b>sadly</b> 24:14</p> <p><b>Sam</b> 12:18</p> <p><b>SB</b> 3:23 5:25 6:16</p> <p><b>Schaafsma</b> 8:5,19 9:18,21 10:17</p> <p><b>scheduled</b> 12:20 13:2</p> <p><b>Section</b> 21:11</p> <p><b>Security</b> 3:10</p> <p><b>Senate</b> 4:16</p> <p><b>send</b> 13:20 26:20</p> <p><b>sense</b> 23:8</p> <p><b>sensitive</b> 7:9 26:4</p> <p><b>session</b> 3:24</p> <p><b>seven-day</b> 17:1,14 18:2</p> <p><b>share</b> 10:8,15 13:15 18:20 23:14</p> <p><b>sharing</b> 10:13</p> <p><b>shortly</b> 20:8</p> <p><b>similar</b> 8:20,25</p> <p><b>simply</b> 9:9,13 19:4 24:17</p> <p><b>six-week</b> 6:17</p> <p><b>smart</b> 22:1</p> <p><b>Sound</b> 16:12</p> <p><b>Sounds</b> 21:23</p> <p><b>speaking</b> 9:14 10:2 18:22</p>	<p><b>specific</b> 10:3,7 14:2 16:5,7 23:9</p> <p><b>specifically</b> 7:18 14:25</p> <p><b>spell</b> 5:2 7:23 8:15 11:18,19</p> <p><b>spelled</b> 21:4</p> <p><b>spelling</b> 8:5 12:17</p> <p><b>star</b> 4:21</p> <p><b>started</b> 16:5</p> <p><b>state</b> 3:3 5:2 15:17</p> <p><b>statute</b> 4:4 5:20 8:7 11:2 21:11,12</p> <p><b>statutory</b> 11:15 13:13 21:9</p> <p><b>stay</b> 14:15</p> <p><b>step</b> 6:15 11:13</p> <p><b>steps</b> 26:5</p> <p><b>stillbirth</b> 7:10 16:20</p> <p><b>streamlining</b> 23:23</p> <p><b>structure</b> 23:2</p> <p><b>style</b> 13:17</p> <p><b>subject</b> 4:22 6:14 12:4</p> <p><b>submit</b> 18:13 19:5</p> <p><b>Subsection</b> 22:24</p> <p><b>substantiate</b> 11:6 12:1</p> <p><b>substantiating</b> 17:19</p> <p><b>substantive</b> 26:12</p> <p><b>Substitute</b> 4:16</p> <p><b>subtitle</b> 4:15</p> <p><b>suddenly</b> 15:18</p> <p><b>sufficient</b> 11:6</p> <p><b>sunset</b> 6:1,4</p> <p><b>support</b> 24:4</p> <p><b>supposed</b> 12:9 13:3</p> <p><b>switches</b> 19:2</p>	<hr/> <p><b>T</b></p> <hr/> <p><b>taking</b> 19:19</p> <p><b>talk</b> 11:6 22:24</p> <p><b>talks</b> 11:3</p> <p><b>team</b> 3:12,18 4:25 12:3 14:11,17</p> <p><b>testifies</b> 23:17</p> <p><b>text</b> 4:18</p> <p><b>thing</b> 6:12 25:6</p> <p><b>things</b> 9:7</p> <p><b>thought</b> 12:21</p> <p><b>Thursday</b> 12:21,22</p> <p><b>time</b> 3:13 6:15 8:11 15:24 20:16 23:20,21</p> <p><b>timeline</b> 26:16</p> <p><b>timelines</b> 26:17</p> <p><b>timing</b> 12:12</p> <p><b>today</b> 8:21 10:19 16:15 24:24 25:20</p> <p><b>today's</b> 25:19</p> <p><b>topic</b> 6:11 25:24 26:4</p> <p><b>topics</b> 7:9</p> <p><b>tragedy</b> 15:19</p> <p><b>tuned</b> 14:15</p> <p><b>two-part</b> 12:19</p> <p><b>type</b> 10:4 17:16,22 19:1,24 24:20</p> <hr/> <p><b>U</b></p> <hr/> <p><b>unclear</b> 16:4</p> <p><b>understand</b> 8:19 11:1 19:22</p> <p><b>Understandable</b> 16:3</p> <p><b>unmute</b> 5:11,17</p> <p><b>Unum</b> 10:21 22:15 25:1</p> <p><b>updated</b> 12:13,20</p>	<p>13:3 14:8,10,18</p> <p><b>updates</b> 13:16,24 18:11,19</p> <hr/> <p><b>V</b></p> <hr/> <p><b>V-I-C-T-O-R-I-A</b> 19:11</p> <p><b>variety</b> 23:17</p> <p><b>verify</b> 12:10</p> <p><b>Victoria</b> 19:9,10</p> <p><b>videoconference</b> 3:2</p> <p><b>visit</b> 4:6 26:16</p> <hr/> <p><b>W</b></p> <hr/> <p><b>W-E-L-T-Y</b> 21:3</p> <p><b>WAC</b> 4:9,10 5:20 6:3,9 22:18 25:9</p> <p><b>wage</b> 8:14</p> <p><b>wanted</b> 16:17 19:12 20:14 22:6 23:13</p> <p><b>warning</b> 6:11</p> <p><b>Washington</b> 3:4 4:2</p> <p><b>Washington's</b> 8:13</p> <p><b>ways</b> 25:25</p> <p><b>web</b> 18:11</p> <p><b>website</b> 4:7 7:16 11:13,24 12:13,20 13:2 14:8 16:6</p> <p><b>week</b> 12:10,20 13:4</p> <p><b>weekly</b> 8:14</p> <p><b>weeks</b> 17:24 24:13</p> <p><b>Welty</b> 20:25 21:2,20, 23 22:3,5,13</p> <p><b>window</b> 5:13 20:22</p> <p><b>wit</b> 3:4</p> <p><b>wondered</b> 24:10</p> <p><b>wondering</b> 18:11</p> <p><b>wording</b> 11:16</p> <p><b>work</b> 15:21 16:2</p>
---	--	---	---

23:15,23 24:2,5

**workers** 23:25

**working** 3:18 11:23  
12:2

**worries** 5:14 22:3

**written** 26:10

---

**Y**

---

**year** 10:1

**year's** 3:24

---

**Z**

---

**Zoom** 3:2