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12 A BILL
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16 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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21 To extend the District of Columbia’s labor and employment protections to domestic workers
22 who perform work in and about private households in D.C., and provide community-
23 based education, outreach, and enforcement of domestic workers’ labor and employment
24 rights.

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26 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
27 act may be cited as the “Domestic Workers Protection Act of 2019”.

28 **Title I. Domestic Workers Rights and Protections**

29 Sec. 2. Definitions.

30 For the purposes of this act, the term:

31 (1) “Domestic services” means services of a household nature and performed by an
32 individual in or about a private home on a permanent or temporary basis, and includes services
33 performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids,
34 housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home
35 health aides, personal care aides, and chauffeurs of automobiles for family use.

36 (2) "Domestic worker" shall include:

37 A. Any individual who is paid by one or more hiring entities, and provides
38 domestic services to an individual or household in or about the private home, including a
39 domestic worker, who is compensated directly or indirectly for the performance of domestic
40 services.

41 B. Hourly and salaried employees, independent contractors, full-time and
42 part-time individuals and temporary individuals.

43 C. "Domestic worker" does not include:

44 i. A family member, friend, or neighbor of a child, or a parent of a
45 child, who provides child care in the child's home;

46 ii. Any individual who is an employee of a family child care provider or
47 is a family child care provider;

48 iii. Casual babysitter as defined under D.C. Code § 32-1002(2)(C); and

49 iv. Any individual working on a casual basis. Casual refers to work that
50 irregular, uncertain, or incidental in nature and duration, and it is not the domestic workers'
51 primary profession, and an occupation upon which workers sustain themselves economically.

52 (3) "Live-in domestic worker" means any employee who is employed in domestic service
53 in a household and resides in such household.

54 (4) "Domestic work hiring entity" means any individual, partnership, association,
55 corporation, business trust, or any entity, person or group of persons that provides compensation
56 directly or indirectly to a domestic worker for the performance of domestic services, and shall
57 include:

81 defined by this Act.

82 (2) Section 32-1301(1B) is amended by inserting “including domestic work hiring
83 entities” as defined by this Act.

84 (3) A new subsection is added, entitled “Cash Shortage and Breakage”, to read as
85 follows:

86 “No employer shall make any deduction from the wage or require any
87 reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it
88 can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the
89 gross negligence of the employee.”

90 Sec. 5. Minimum Wage Act Revision Act.

91 (a) D.C. Code 32-1001 *et seq.* is amended as follows:

92 (1) Section 32-1002(2) is amended by inserting “including domestic workers” as
93 defined by this Act.

94 (2) Section 32-1002(3) is amended by inserting “domestic work hiring entities” as
95 defined by this Act.

96 (3) Section 32-1003 is amended by adding a new subsection to read as follows:

97 “Hiring entities shall pay domestic workers as defined by the ACT at least the
98 equivalent of the ‘hourly minimum compensation’ and ‘hourly minimum wages’
99 established as set forth in Section § 32-1001.”

100 (b) This Act repeals D.C. Mun. Regs. tit. 7, § 902.5, striking the following regulation:

101 “The overtime provision shall not apply with respect to an individual: (a) Employed as a private
102 household worker who lives on the premises of the employer. (b) Employed as a companion for
103 the aged or infirm.” D.C. Mun. Regs. tit. 7, § 902.5.

104 Sec. 6. Accrued Sick and Safe Leave Act.

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106 (a) D.C. Code 32-131 *et seq.* is amended as follows:

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108 (1) Section 32-131(2) is amended by inserting “(h) domestic workers” as defined
109 by this Act.

110 (2) Section 32-131(3)(A) is amended by inserting “domestic work hiring entities”
111 as defined by this Act.

112 Sec. 7. Family and Medical Leave Act.

113 (a) D.C. Code 32-501 *et seq.* is amended as follows:

114 (1) Section 32-501(1) is amended by inserting “(h) domestic workers” as defined
115 by this Act.

116 (2) Section 32-501(2) is amended by inserting “domestic work hiring entities” as
117 defined by this Act.

118 (3) Section 32-516(2) is amended by inserting the phrase “and domestic work
119 hiring entities” as defined by this Act.

120 Sec. 8. Universal Paid Leave Act.

121 (a) D.C. Code 32-541.01 *et seq.* is amended as follows:

122 (1) Section 32-541.01 (3) is amended by inserting “domestic workers” as defined
123 by this Act.

124 (2) Section 32-541.01 (4)(A) is amended by inserting “domestic work hiring
125 entity” as defined by this Act.

126 Sec. 9. Fair Criminal Records Screening Act.

127 (a) D.C. Code 32-1341 *et seq.* is amended as follows:

128 (1) Section 32-1341.01 (6) is amended by inserting “and domestic workers hiring
129 entities [as defined by this Act], without regard to the number of employees” as defined by this
130 Act.

131 (2) Section 32-1341.01 (7) is amended by inserting “domestic workers” as defined
132 by this Act.

133 Sec. 10. Unemployment Compensation.

134 (a) D.C. Code 51-101 *et seq.* is amended as follows:

135 (1) Section 51-101 (1) is amended by inserting “and domestic workers hiring
136 entities” as defined by this Act.

137 (2) Section 51-101 (2)(A)(i) is amended by inserting “(IV) a domestic worker” as
138 defined by this Act.

139 (3) Section 51-101 (2)(A) is amended by inserting “or domestic worker hiring
140 entity” as defined by this Act.

141 Sec. 11. Workers’ Compensation.

142 (a) D.C. Code 32-1501 *et seq.* is amended as follows:

143 (1) Section 32-1501 (9)(E) is amended by inserting “or domestic worker” as
144 defined by this Act after the word “employee” and inserting “or domestic work hiring entity” as
145 defined by this Act after the word “employer”.

146 (2) Section 32-1501 (10) is amended by inserting “domestic work hiring entity” as
147 defined by this Act.

148 Sec. 12. Parental Leave Act.

149 (a) D.C. Code 32-521.01 *et seq.* is amended as follows:

150 (1) Section 32-521.01 (1) is amended by inserting “including domestic work hiring

151 entities” as defined by this Act.

152 (2) Section 32-521.01 (1A) is amended by inserting “including domestic workers”
153 as defined by this Act.

154 Sec. 13. Occupational Safety and Health Act.

155 (a) D.C. Code 32-1101 *et seq.* is amended as follows:

156 (1) Section 32-1101 (5) is amended by striking the phrase “but does not include
157 domestic servants” and inserting the phrase “including domestic workers” as defined by this Act.

158 (2) Section 32-1101 (6) is amended by inserting the phrase, “including domestic
159 worker hiring entities” as defined by this Act.

160 Sec. 14. Protecting Pregnant Workers Fairness Act.

161 (a) D.C. Code 32-1231.01 *et seq.* shall be construed to apply to “domestic workers”,
162 “domestic work hiring entities,” and “domestic service” as defined by this Act.

163

164 **Title III. Domestic Workers Bill of Rights**

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166 Sec. 14. Domestic Workers Bill of Rights.

167 (a) No person shall employ a domestic worker who works more than a casual
168 amount, whether as an employee or as an independent contractor, unless the employment is
169 governed by a written contract between the employer and the domestic worker. The written
170 contract shall governing the following: a specific list of job duties; hourly wage and overtime
171 wage; weekly schedule including number of hours per week; the manner and frequency of
172 payment; breaks for rest and meals; paid or unpaid leave including sick time; paid holidays; any
173 other benefits provided; modes of transportation required and whether provided; value of

174 housing if provided; sleeping period and personal time for live-in workers; the term of the
175 contract; and any other terms and conditions as agreed upon by the domestic worker and the
176 hiring entity or as mandated pursuant to this Chapter.

177 1. The agreement must be in English and, upon the request of a worker who
178 attests to not being proficient in English, in such language in which the worker is proficient.

179 2. The written agreement required under this section may not be construed to
180 waive the protections of domestic worker under Federal law and may not contain:

181 (i) a mandatory pre-dispute arbitration agreement for claims made
182 by a covered domestic worker against a domestic work hiring entity regarding the legal rights of
183 the worker; and

184 (ii) a non-disclosure agreement, non-compete agreement, or non-
185 disparagement agreement, limiting the ability of the covered domestic worker to seek
186 compensation for performing domestic services after the worker ceases to receive compensation
187 from the domestic work hiring entity for the performance of domestic services.

188 (b) A domestic worker is entitled to a paid rest-period of not less than ten minutes for
189 each four consecutive hours worked. A worker is entitled a 30-minute meal break after more than
190 five consecutive hours worked. Unless the domestic worker is relieved of all work duties during
191 such 30-minute period, the meal period shall be considered an "on-duty" meal period and
192 counted as paid time. An "on-duty" meal period shall be permitted only when the nature of the
193 work prevents a domestic worker from being relieved of all duties and when by written
194 agreement between the parties an "on-duty" meal period is agreed to. Such agreement be
195 revoked by the worker, in writing, at any time.

196 1. If the domestic worker's work responsibilities make it impossible or
197 infeasible to take a meal period or rest break, the hiring entity shall provide additional
198 compensation for the missed meal period or rest break.

199 (c) No live-in domestic worker shall be required to work more than six consecutive
200 days for the same hiring entity without an unpaid, 24-hour period of consecutive rest.

201 1. If a domestic work hiring entity terminates the employment of a live-in
202 domestic worker, the domestic work hiring entity shall provide written notice of the termination
203 twenty-one (21) days before his or her final day of employment. A domestic work hiring entity
204 who who fails to give notice as required by is liable to each employee entitled to notice who lost
205 his or her employment for:

206 (i) Back pay at the average regular rate of compensation received by
207 the employee during the last three years of his or her employment, or the employee's final rate of
208 compensation, whichever is higher;

209 (ii) The value of the cost of any benefits to which the employee
210 would have been entitled.

211 (d) Domestic work hiring entity shall not keep any domestic worker's original
212 documents or other personal effects.

213 (e) A domestic work hiring entity shall not monitor or record a domestic worker
214 while such domestic worker is using the restroom or bathing facilities, in the private living
215 quarters of the worker, or engaging in any activities associated with the dressing, undressing, or
216 changing of clothes of the worker.

217 (f) A domestic work hiring entity shall not restrict or interfere with, or monitor, the
218 private communications of such domestic worker unless the domestic work hiring entity has a

219 reasonable belief that such communications significantly interfere with the domestic worker's
220 performance of expected duties.

221 1. The domestic work hiring entity may establish reasonable restrictions on
222 the private communications of a domestic worker while such worker is performing work for the
223 hiring entity.

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225 Sec. 15. Notice of Rights.

226 (a) The Office of Human Rights (OHR) and the Department of Employment Services
227 (DOES) shall create a notice of domestic workers rights ("notice) that describes the rights and
228 protections provided by the Bill of Rights and any other protections and rights afforded under the
229 District of Columbia to domestic workers.

230 (b) The notice shall be a written document made available online, and made available in
231 both English and Spanish, and other languages understood by domestic workers, which shall be
232 determined by DOES.

233 (c) DOES shall develop course of instruction and conduct ongoing public education effort
234 as necessary to inform employers, employees, employment agencies, and job applicants about
235 their rights and responsibilities under this Act.

236 **Title IV. Grants, Prohibitions, Standards Board and Rules.**

237 Sec. 16. Domestic Workers Rights Grant Program.

238 There is established a Domestic Workers Rights Grant Program to be administered by the
239 Department of Employment Services (DOES) for the purpose of enforcing rights for domestic
240 workers under this Act, educating domestic workers of their rights under this Act, educating
241 domestic worker entities of their responsibilities under this Act, and assisting domestic workers

242 in pursuing their workplace rights under this Act.

243 Sec. 17. Prohibited practices.

244 (a) No hiring entity or any other person shall interfere with, restrain, deny, or attempt to
245 deny the exercise of any right protected under this Chapter.

246 (b) No hiring entity or any other person shall take an adverse action against any person
247 because the person has exercised in good faith the rights protected under this Chapter. Such
248 rights include but are not limited to:

249 (1) The right to make inquiries about the rights protected under this Chapter;

250 (2) The right to inform others about their right under this Chapter;

251 (3) The right to inform the person's hiring entity, union, or similar
252 organization, and/or the person's legal counsel or any other person about an alleged violation of
253 this Chapter;

254 (4) The right to file an oral and written complaint with the Agency in its
255 investigation of this Chapter;

256 (5) The right to testify in a proceeding under or related to this Chapter;

257 (6) The right to refuse to participate in an activity that would result in a
258 violation of city, state or federal law; and

259 (7) The right to oppose any policy, practice or act that is unlawful under this
260 Chapter.

261 (c) No hiring entity or any other person shall communicate to a person exercising rights
262 protected under this Section, directly or indirectly, to report, or threaten to report, the citizenship
263 or immigration status of a domestic worker, or the suspected citizenship or immigration status of
264 a family member of such an individual, to a Federal or District of Columbia agency.

265 (d) No hiring entity or any other person shall file, or threaten to file a false police report
266 relating to the immigration status of a domestic worker, or a family member of a domestic
267 worker.

268 (e) No hiring entity or any other person shall contact, or threaten to contact, immigration
269 authorities relating to the immigration status of a domestic worker, or a family member of a
270 domestic worker

271 (f) For the purposes of subsections of this Chapter, proof that a person discharged an
272 individual, or discriminated against an individual with respect to compensation, terms,
273 conditions, or privileges of employment, within 90 days of the individual involved asserting any
274 claim or right under this subtitle, or assisting any other individual in asserting such a claim or
275 right, shall raise a presumption that the discharge or discrimination was in retaliation as
276 prohibited under subsection (a) or (b), as the case may be.

277 (g) The presumption under paragraph (1) may be rebutted by clear and convincing
278 evidence that such discharge or discrimination was taken for another permissible reason.

279 Sec. 18. Establishment of Domestic Workers Standards Board.

280 (a) There is established a Domestic Workers Standards Board ("Board") to provide a
281 forum for hiring entities, domestic workers, worker organizations, and the public to consider,
282 analyze, and make recommendations for the District on the legal protections, benefits, and
283 working conditions for domestic workers.

284 (b) The Board shall consist of 9 voting members to be appointed as follows:

285 (1) Three members nominated by the Mayor and subject to the consent of the
286 Council in accordance with section 2(f) of the Confirmation Act of 1978, effective March 3,
287 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f).

288 (2) Six members of the Commission shall be appointed by the Committee with
289 oversight over the Department of Employment Services, one of whom shall be designated as
290 Chairperson. Three of seven members shall be members of the general public with a background
291 and/or expertise in domestic work.

292 (3) One non-voting member appointed by the Mayor to represent each of the
293 following District agencies:

- 294 (i) The Department of Employment Services; and
- 295 (ii) The Office of Human Rights.

296 (c) Members of the Board shall be residents of the District.

297 (d) Whenever a vacancy occurs on the Board, the Mayor shall, within 90 working days of
298 the vacancy, appoint a successor to fill the unexpired portion of the term.

299 (e) All members of the Board shall serve without compensation except that expenses
300 incurred by the Board as a whole, or by a group of its members, shall become an obligation
301 against appropriated District funds designated for that purpose.

302 (f) The Mayor may remove, after notice and hearing, any member of the Board for
303 neglect of duty, incompetence, misconduct or malfeasance in office.

304 (g) A majority of the sitting voting members shall constitute a quorum.

305 (h) All voting members shall have equal voting power.

306 Sec. 19. Establishment of a Division of Paid Care.

307 (a) There is established a Division of Paid Care (Division) within the Department of
308 Employment Services (DOES) to focus on the needs of paid care workers, such as domestic
309 workers, who are often women of color and immigrants, and develop education and other
310 resources.

311 (b) The Division will responsible for:
312 (1) Developing policies and programs to enforce this Act for domestic workers;
313 (2) Conducting public outreach and information campaigns for domestic workers,
314 hiring entities, employers, and care recipients;
315 (3) Conducting and promoting research on the paid care industry; and
316 (4) Coordinating with appropriate stakeholders to provide development programming
317 and training, among other duties, not limited to this list.

318 Sec. 20. Rulemaking

319 The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act,
320 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules
321 to implement the provisions of this act.

322 Sec. 21. Fiscal impact statement.

323 The council adopts the fiscal impact statement in the committee report as the fiscal
324 impact a statement required by section 4a of the General Legislative Procedures Act of 1975,
325 approved October 16, 2006 (120 Stat. 2038; D.C. official Code Section 1-201.47.)

326 Sec. 22. Effective date.

327 This act shall take effect following approval by the Mayor (or in the event of veto by the
328 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
329 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
330 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
331 Columbia Register.