

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
COMMITTEE REPORT

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

TO: All Councilmembers
FROM: Councilmember Elissa Silverman
Chairperson, Committee on Labor and Workforce Development
DATE: October 21 2022
SUBJECT: Report on Bill 24-712, the “Domestic Worker Employment Rights Amendment Act of 2022”

The Committee on Labor and Workforce Development, to which Bill 24-712, the “Domestic Worker Employment Rights Amendment Act of 2022” was referred, reports **favorably** thereon with amendments, and recommends its approval by the Council.

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EXECUTIVE SUMMARY

Councilmember Silverman introduced Bill 24-712, the “Domestic Worker Employment Rights Amendment Act of 2022” on March 15, 2022, along with eight co-introducers: Councilmembers Charles Allen (Ward 6), Anita Bonds (At-Large), Christina Henderson (At-Large), Kenyan McDuffie (Ward 5), Janeese Lewis-George (Ward 4), Brianne Nadeau (Ward 1), Brooke Pinto (Ward 2), and Robert White (At-Large). The bill helps put domestic workers, who have been historically excluded from worker protection laws, on equal footing with other workers in the District.

Bill 24-712 as introduced and in the Committee print has several key features that put working in a home on par with working outside a home. First, it requires someone hiring a domestic worker to execute a written contract with the worker detailing the hours, pay, duties, and other specifics of the job. Second, it eliminates unequal treatment of domestic workers under the District's Human Rights Act (HRA) and Occupational Safety and Health Act (OSHA). The HRA amendments will protect domestic workers from workplace discrimination equal to the protections other District workers already have. The District's OSHA local law protections for all workers, domestic and otherwise, currently are not in effect because District government lacks an OSHA State Plan. These protections would only go into place two years after the District executes a State Plan and assumes responsibility for enforcing occupational safety standards in the District from the federal government.¹ More immediately, the bill will require the creation of safety and health guidance to support these workplaces. It also details outreach and education to help parties covered by the law understand their rights and responsibilities, such as the issuance of grants to community-based organizations and the creation of contract templates. Finally, the bill establishes a voluntary mediation process that parties can use if a dispute arises in the domestic work context.

The Bill as Introduced

In the District, individuals working in private homes currently have no way to hold their employers accountable if they do not receive the wages they were promised—aside from filing a lawsuit.² While some employers use contracts they create or find online, many operate more informally with their in-home employees. Therefore, to improve working conditions for these workers, B24-712 would require the specifics of the job – working hours and pay, paycheck frequency, benefits, and the like -- to be spelled out in a written agreement, so both parties know what they have agreed to. Having a written agreement in place will help ensure that domestic workers – housecleaners, nannies, home health aides, and others – are on more equal ground when negotiating with the people they work for.

A domestic worker who is discriminated against by a potential or current employer on the basis of race, gender, age, pregnancy, or other protected characteristic lacks legal protections. The bill would remedy this by making sure domestic workers are covered by the same Human Rights law protections that other District workers have.

Additionally, domestic workers commonly encounter health and safety risks, yet the D.C. government currently has no role in helping to keep those workplaces safe. The bill would remove

¹ Note that the District's health and safety law on the books is not in effect and thus amending it will not have practical impact at this time. Rather, federal law is currently applied, and it is enforced by the federal government's Occupational Safety and Health Administration; the federal law excludes domestic workers. However, it is important that our laws reflect our policy values. Further, this bill will improve health and safety for domestic workers by requiring the Mayor to create guidance for the public about how to maintain safe and hazard-free workplaces and by funding a grant to a community organization to instruct domestic workers and their employers about safety practices. This bill does not require the execution of a State Plan.

² Unfortunately, the process of filing and participating in a lawsuit is out of reach for most low-wage workers, including domestic workers.

the exclusion of domestic workers from the health and safety law and provide hiring parties and workers with guidance about how to maintain safe workplaces.³

Finally, no centralized source for information about employers' legal obligations to their domestic employees exists. The bill would require that District government provide that information online all in one place, together with template contracts in English, Spanish, and other languages. The bill specifies that these laws should be enforced by the Mayor and the Office of the Attorney General.

As explained below, the Committee print of the bill has made limited changes from the introduced version in order to address considerations raised by hearing witnesses and Councilmembers.

Legislative Procedure

B24-712 was initially referred to the Committee on Labor and Workforce Development (CLWD), the Committee that oversees the DC Department of Employment Services (DOES), on April 5, 2022.⁴ The Committee on Government Operations and Facilities (CGOF), which has jurisdiction over the Office of Human Rights (OHR), initially received a referral giving it authority only to offer comments on the legislation, not to amend or vote on it directly. Based on this referral, CLWD held a hearing on the legislation on June 16, 2022. Owing to the inclusion of changes to the District's Human Rights Act, CLWD and CGOF collaborated to determine the timing of the hearing and to analyze witness testimony about the bill.

After the collaboration and as the committees prepared the bill for consideration and vote, Council Chairman Phil Mendelson made a surprising change in Committee referrals.⁵ Subsequently, the Council Chairman re-issued the Committee referral.⁶ The new referral directed consideration of the bill first by CGOF, then by CLWD, and finally by the Committee on Business and Economic Development. The Council Rules only require one hearing but B24-712 must receive multiple "mark-ups," that is, Committee meetings to approve the legislative text, before moving to the full Council.⁷

³ See footnote 1. The District's Department of Employment Services receives federal funding provide education and voluntary consultations to District employers about health and safety matters.

⁴ Memorandum to Members of the Council from Nyasha Smith, Secretary to the Council, "Referral of Proposed Legislation," June 27, 2022, available at:

https://lims.dccouncil.gov/downloads/LIMS/49077/Memo/B24-0712_Memorandum.pdf; however, the Council was initially notified of the referral by the eCirculation email account in an email received on Monday, March 21, 2022 at 4:25 PM.

⁵ Memorandum to Members of the Council from Nyasha Smith, Secretary to the Council, "Re-Referral of Proposed Legislation," June 27, 2022, available at:

https://lims.dccouncil.us/downloads/LIMS/49077/Other/B24-0712-Re-Referral_Memo_Bill_24-712.pdf.

⁶ Memorandum to Members of the Council from Nyasha Smith, Secretary to the Council, "Re-Referral of Proposed Legislation," June 27, 2022, available at:

https://lims.dccouncil.us/downloads/LIMS/49077/Other/B24-0712-Re-Referral_Memo_Bill_24-712.pdf.

⁷ Rule 501(a)(2): "A hearing shall not be required when a hearing on the same or a similar bill was held in the same or immediately preceding Council Period."

The analysis, recommendations, and policy decisions reflected in this report and the attached print reflect the consensus of CLWD and CGOF (the “Committees”). Specifically, CLWD members and staff, led by Councilmember Elissa Silverman, drove the review and refinement of the bulk of the legislation, while CGOF members and staff, led by Councilmember Robert White, focused primarily on those portions that involve OHR. As detailed below, all of the witnesses who testified in person and submitted written statements supported the bill’s goals; one witness criticized some aspects of the introduced bill. Those critiques and others were considered, as described further in this report.

I. BACKGROUND, NEED, PURPOSE AND EFFECT

A. Background

The National Domestic Workers' Alliance (NDWA) estimates that there are approximately 9,000 domestic workers in the District, most of whom are women of color and immigrants and roughly half of whom are District residents.⁸ They work as caregivers (41%, agency and non-agency), nannies (24%), housecleaners (19%); they work through agencies and independently.⁹ Nannies and au pairs work with children but may perform some cleaning tasks.¹⁰ Housecleaners or maids might have ongoing appointments to directly work for private households, be booked on an ad hoc basis for individuals, or work through a cleaning service agency. There were approximately 12,260 housekeepers and cleaners in the DC Metro area as of May 2021, though the majority of these were employed in hotel and hospitals.¹¹ Home health aides assist the elderly, people with disabilities, and others with tasks of daily life such as meals, dressing, and bathing. Au pairs are live-in nannies who are employed by an American family while they study in the United States.¹² The au pair J-1 visa program was created to facilitate cultural exchange between Americans and students from other countries.¹³ There were 324 au pairs in DC in 2021.¹⁴ Other common forms of domestic services are cooking, home organizing, driving, and gardening.

The work these domestic workers perform is similar or the same as that performed by employees in more “traditional” sectors, such as institutional housekeepers, building managers, medical assistants, and day care providers. But these workers are “domestic” owing to their unique

⁸ Estimate based on based on an EPI analysis of 5-year 2019 American Community Survey microdata; see “DC Domestic Workers Bill of Rights,” available at: <https://www.domesticworkers.org/programs-and-campaigns/developing-policy-solutions/bill-of-rights/current-campaigns/dc-domestic-workers-bill-of-rights/#:~:text=Of%20the%209%2C040%20domestic%20workers%20working%20in%20DC,of%20acces%20to%20basic%20workplace%20benefits%2C%20and%20more..> The Committee notes that District government collects limited data about how many people perform domestic work in the District. Factors such as lack of public awareness of the existing laws that cover domestic work may result in households under-reporting of this income to unemployment and tax authorities.

⁹ Id.

¹⁰ US Department of State BridgeUSA Programs, *Au pair*, available at:

<https://j1visa.state.gov/programs/au-pair>

¹¹ Bureau of Labor Statistics, *Occupational Employment and Wages, 37-2012 Maids and Housekeeping Cleaners*, May 2021, available at: <https://www.bls.gov/oes/current/oes372012.htm>

¹² The Committee contacted CulturalCare, an au pair sponsor company, to request input about the legislation. The company responded that they appreciated the opportunity but had nothing to contribute. Email from Kristen McDonough, Cultural Care, to the Committee, August 24, 2022, 4:35 PM. The Committee also contacted several individuals who had emailed the Committee in February 2020 when similar legislation was introduced. None of them responded.

¹³ Testimony of Anonymous Au Pair, Michelle Sternthal, Ileana del Rio, Lorena Lopez, Carolina Rojas, and Liz Garcia. “They Think We Are Slaves,” *Politico Magazine*, March 27, 2017, available at <https://www.politico.com/magazine/story/2017/03/au-pair-program-abuse-state-department-214956/>.

¹⁴ US Department of State Bridge USA Program, *Participant and Sponsor Totals*, available at: https://j1visa.state.gov/basics/facts-and-figures/participant-and-sponsor-totals-2021/?wdt_column_filter%5b0%5d=&wdt_column_filter%5b1%5d=District%20of%20Columbia

role working in private homes to assist with the work of running a household, raising children, and caring for family.

Even though domestic services are similar to these other occupations, when the United States enacted its first national labor protection laws in the 1930s, domestic workers were explicitly excluded.¹⁵ Their occupation was treated differently because they were mostly Black Americans and other workers of color.¹⁶

White southerners enforced the economic and social subordination of Blacks through exploitation, violence, and segregation. At the time, the majority of Blacks lived in the South and were disproportionately employed in agricultural and domestic labor. Of Black Americans in the labor force, 60% were either agricultural laborers or domestic servants. Ninety-five percent of domestic workers were Black women who lived in the South. Any initiative that sought to improve the economic welfare of Blacks was a threat to the southern political economy— a threat which southern Democrats in Congress were united in quashing.¹⁷

Reena Arora, Senior Policy Attorney with the National Domestic Workers' Alliance, explained, "These exclusions stem from the historic racist and sexist devaluation of caregiving and household work. Domestic workers have had to fight against a culture which has made their work invisible because of its isolated nature in private households and the failure of employers to recognize domestic workers as employees entitled to the labor rights equal to all other workers." Those federal laws were the model for many states and the District of Columbia, where domestic work is still disproportionately performed by women of color.¹⁸ Several witnesses at the hearing cited this history of devaluation of domestic work as a key reason why they believed the law should

¹⁵ "Domestic workers and farmworkers, who were predominately Black men and women laboring in the South, were excluded from the organizing and collective bargaining rights secured in the National Labor Relations Act of 1935 (NLRA); from the minimum wage and overtime protections in the Fair Labor Standards Act of 1938 (FLSA); and from retirement benefits and unemployment insurance in the Social Security Act of 1935." Testimony of Kathryn Youker, Washington Lawyers' Committee. Testimony received by the Committee is summarized in section V and attached to this report

¹⁶ Id.; Additionally, "[B]lack women remained in domestic service for generations due to the pervasiveness of racial discrimination, which limited all other occupational opportunities." Branch, Enobong Hannah, and Melissa E. Wooten. "Suited for Service: Racialized Rationalizations for the Ideal Domestic Servant from the Nineteenth to the Early Twentieth Century." *Social Science History* 36, no. 2 (2012): 169–89. <http://www.jstor.org/stable/23258091>.

¹⁷ Testimony of Sarah Sarah L. Bessell, Counsel, The Washington Lawyers' Committee for Civil Rights and Urban Affairs.

¹⁸ Wolfe, Julia, et al., *Domestic workers chartbook: A comprehensive look at the demographics, wages, benefits, and poverty rates of the professionals who care for our family members and clean our homes*, Economic Policy Institute, May 14, 2020; see also testimony of Laura Narefsky, Counsel, National Women's Law Center.

be changed.¹⁹ Forty-six representatives from faith communities signed the Faith Leader Pledge in Support of Domestic Workers, specifically calling out the need to affirm the dignity of domestic work and the people who do it via this legislation.

While more District laws on the books include domestic workers than in other states or under federal law, domestic workers have a hard time accessing these rights. The District's labor code *does* recognize domestic workers' rights to be paid the minimum wage and for some domestic workers to receive additional compensation for hours worked over 40 in a week ("overtime").²⁰ Domestic workers in the District can qualify for sick and safe leave, paid family leave, workers compensation protections, and unemployment insurance by working a specified amount of time or meeting certain wage thresholds.²¹ (See Table 1.) Even with these protections in the law, many people overlook domestic work as having legal protections because it is performed in someone's home. Sucl Merida, a domestic worker leader with the National Domestic Workers Alliance, testified that she had seen domestic workers work for less than minimum wage and that one worker who had asked to be paid for additional work was fired for making this request.

¹⁹ Testimony submitted by Reena Arora, Sarah Bessell, Alex Samuels, Cassandra Waters, Kathryn Youker. Historian Rebecca Sharpless details the way cooks (many of whom assumed other household tasks as part of their responsibilities) were subjected to unpredictable schedules, demeaning treatment, disregard for their religious observations and family duties, and other indignities at the hands of their employers, echoing concerns raised by some hearing witnesses. Sharpless, Rebecca. *Cooking In Other Women's Kitchens: Domestic Workers in the South, 1865-1960*, Chapel Hill: The University of North Carolina Press, 2010. Also, see generally, Enobong Hannah, and Melissa E. Wooten. "Suited for Service: Racialized Rationalizations for the Ideal Domestic Servant from the Nineteenth to the Early Twentieth Century." *Social Science History* 36, no. 2 (2012): 169–89. <http://www.jstor.org/stable/23258091>.

²⁰ District law excepts live-in workers and those employed "as a companion for the aged or infirm." 7 DCMR 902.5

²² Information is current as of the date this report was adopted by the Committee.

Table 1: Wage-Hour Laws

Law	Description*	Eligibility²²
Minimum wage and overtime DC Code §32-1001 et seq.	Requires that employees working in the District receive no less than \$16.10 per hour and, for hours worked over 40 in a week, 1.5 times their hourly rate of pay.	An employee is covered if they regularly spend more than 50% of their working time in DC; or their employment is based in DC and they regularly spend a substantial amount of their working time in DC and not more than 50% of their working time in any particular state.
Paid sick and safe leave DC Code §32-531.01 et seq.	Requires employers to provide paid time off for sick and safe leave purposes on an accrual basis; an employer with 24 or fewer employees must provide up to 3 days per calendar year.	Employee must have worked for the employer for 90 days to use accrued leave.
Unemployment insurance DC Code §51-101 et seq.	Employees that lose their job through no fault of their own can receive up to \$444 per week for a period of unemployment up to 26 weeks.	To be eligible, an employee must have earned at least \$1,300 in wages in one quarter of the base period; have wages in at least two quarters of the base period; must have earned at least \$1,950 in wages for the entire base period; and total amount earned during the base period must be at least 1.5 times the wages in the highest quarter or within \$70 of that amount.
Workers compensation DC Code §32-1501 et seq.	Provides monetary support to workers who have experienced a work-related injury or illness for up to 500 weeks.	Employers that had one or more domestic workers employed for at least 240 hours in a calendar quarter must participate.
Paid family leave DC Code §32-541.01	Paid leave for pregnancy (up to 2 weeks), bonding with a new child (8 weeks), caring for a family member with a serious health condition (up to 6 weeks), an employee's own serious health condition (6 weeks).	Employee has been employed for 52 weeks before the leave period.

²² Information is current as of the date this report was adopted by the Committee.

* The information in this chart briefly summarizes the relevant portions of the law but is not intended to be a thorough presentation of these laws and how they impact workers and their employers in the District.

By nature, domestic work is hidden behind closed doors. As a result, it is harder for these workers to confront unfair or harmful working conditions, or to bring problems to light. Jaime Contreras from 32BJ SEIU (Service Employees International Union) testified in support of the bill, saying that “these workers are particularly vulnerable because they work in isolation in the private homes of their employers and are thus without colleagues to witness or report discrimination, harassment, or unsafe condition.”²³ Altagracia Kubinyi, a domestic worker, testified about an employer that claimed to have forgotten that they agreed to pay for her vacation time, saying that she felt “invisible.” Amy Campbell, a Ward 3 resident who said she’s employed domestic workers in the past, said, “Domestic work as an occupation has always lived in the shadows, functioning as a sphere of oppression for white women to easily exploit the labor of Black and brown women. The work has relied on extreme power differentials and has been outside of normal worker and workplace protections and government regulation.” She alluded to a veil of secrecy, saying this was why the bill is so crucial. Claire Fallender, a domestic employer, testified that when employers of domestic workers fall short of fulfilling their legal obligations, it’s not malice but “families who have never employed someone in their homes and see work in their homes as somehow less important will tend to treat their employees as such.”

According to Erica Sklar, an organizer with Hand in Hand, a domestic employers’ network, individuals using domestic services come from an array of backgrounds and perspectives.²⁴ “Our experience at Hand in Hand is that employers are a huge and diverse constituency, from older adults on fixed incomes to people with disabilities to wealthy folks who employ many people and middle-class people who hire in-home care for their children. It definitely crosses class, race, and age.” Additionally, there’s an array of domestic services available that each hiring entity will consider differently. Families consider factors such as cost, location, socialization, local laws, or their own religious practices when deciding to employ a domestic worker.²⁵ Nannies may be preferred by a family that wants more direct control over how care work is performed or seeks particular skills or knowledge to be imparted to their child, or where facilities are not accessible (such as due to distance or not accepting new children). Others prioritize the opportunity for cultural exchange that they can get from employing an au pair.

The recent COVID-19 pandemic shined a light on the way households are supported by the labor of domestic workers. The pandemic created “major disruptions and increases in uncertainty associated with childcare.”²⁶ Americans recognized just how crucial domestic work was to enabling people working outside the home, especially women, to have children and to better

²³ Testimony received by the Committee is summarized in section V and attached to this report.

²⁴ Email to the Committee, August 25, 2022, 1:50 PM.

²⁵ [Lambeth Hochwald, “Nanny Vs Day Care: The Right Choice For You,” April 10, 2018, available at: https://www.thebump.com/a/nanny-vs-daycare.](https://www.thebump.com/a/nanny-vs-daycare)

²⁶ Lim, Katherine and Mike Zabek, *Women's Labor Force Exits during COVID-19: Differences by Motherhood, Race, and Ethnicity*, October 2021, available at: <https://www.federalreserve.gov/econres/feds/womens-labor-force-exits-during-covid-19-differences-by-motherhood-race-and-ethnicity.htm>

provide for themselves and their families.²⁷ Ileana Delrio and other witnesses summed it up by saying: “Domestic work makes all other work possible.”²⁸

Domestic workers may be employed as traditional “employees” or work as independent contractors. NDWA pushed for this bill to cover both categories in order to ensure the broadest coverage and to overcome the problem of worker misclassification.²⁹ Domestic employees may be erroneously classified as “independent contractors” rather than “employees,” making it more difficult for them to take advantage of existing worker protection laws.³⁰ This is called “misclassification.” Generally speaking, independent contractors lack even the most basic labor law protections that employees have.³¹ When an employee is treated as an independent contractor but they are actually an “employee,” they lose these protections. Their employers may also fail to pay into the public coffers as other employers do, shortchanging unemployment insurance and workers compensation funds, as well as local and federal tax authorities.³² While a domestic worker misclassified by their employer is still entitled to labor law protections, they may be unaware of this or be ill-equipped to prove to a court that they are an employee before they can address an underlying wage theft violation.

In reality, the legal distinction between an employee and an independent contractor does not simply rely on whether the parties to the relationship agree to what label applies, even when they put it in writing.³³ Instead, the law requires an analysis of several characteristics of the work and whether they indicate that more control lies with the person receiving the services (employee-employer) or the one performing them (independent contractor-client). Misclassification costs domestic workers money because it means they are less likely to collect pay for sick leave, unemployment, workplace illnesses or injuries covered by workers’ compensation laws, and social security. These individuals also assume sole responsibility for income taxes, health care costs, and other costs incidental to working that are typically borne by the employer.

²⁷ Testimony of Reena Arora, Erica Sklar; see also Davidson, Paul, USA Today, “COVID’s wrath is receding: Women from 25 to 54 are returning to the job market,” September 9, 2022, available at <https://www.msn.com/en-us/money/markets/covids-wrath-is-receding-women-from-25-to-54-are-returning-to-the-job-market/ar-AA11BKwH> (“A lack of child care, especially for women, has been identified as one of the biggest reasons for the labor shortage.”)

²⁸ Testimony of Amy Campbell, Anonymous Au Pair, Ileana Delrio, Claire Fallender, Katharine Landfield

²⁹ National Conference of State Legislatures, *Worker Misclassification*, available at: <https://www.ncsl.org/research/labor-and-employment/employee-misclassification-resources.aspx>.

³⁰ Caitlin Connolly, National Employment Law Project, *Independent Contractor Classification In Home Care*, December 31, 2015, available at: <https://www.nelp.org/publication/independent-contractor-classification-in-home-care/> (“Home care workers are particular susceptible to misclassification.”)

³¹ In DC, the Workplace Fraud Amendment Act (DC Code § 32–1331.01 et seq.) protects against misclassification but is limited to the construction services industry.

³² DC Office of the Attorney General, *Issue Brief and Economic Report: Illegal Worker Misclassification: Payroll Fraud in the District’s Construction Industry*, September 2019, <https://oag.dc.gov/sites/default/files/2019-09/OAG-Illegal-Worker-Misclassification-Report.pdf>

³³ See, generally: US Department of Labor Wage and Hour Division, *Myths about Misclassification*, <https://www.dol.gov/agencies/whd/flsa/misclassification/myths>.

In light of these concerns, B24-712 applies to domestic workers and “hiring entities,” defined as those who either *engage* these workers as *independent contractors* or *employ* them as *employees*. Covering both situations will address a shortcoming that domestic workers viewed as harmful by making the terms of the work relationship clear to for all domestic workers: those who are treated as employees, misclassified as independent contractors, or properly classified as independent contractors. This will eliminate the requirement for the worker to provide sufficient evidence of their employee status to the Department of Employment Services or Office of the Attorney General before filing a complaint or requesting an investigation.

B. Committee Print

The Committee Print’s four titles detail the contracting, human rights, safety and health, and outreach components of the legislation. Title I creates mandatory written contracts to engage or employ domestic workers, a procedural framework for complaints at the DC Department of Employment Services, authority for the Mayor and the Attorney General to carry out these functions, supported by robust outreach and education requirements. Title II eliminates the exclusion of domestic workers from the District’s human rights law so these individuals cannot be subjected to discrimination on the basis of a protected characteristic. Title III erases the exclusion of domestic workers from the local Occupational Safety and Health law. Title IV contains fiscal impact, legal applicability, and effective date provisions.

1. Title I: Services Contract

Domestic workers and employers who testified at the hearing stated that they would all benefit from the bill’s contracting requirement. Witnesses who had previously employed domestic workers explained that they felt ill-equipped and unsure about what questions to ask a new hire when preparing for the person to start working for them. They pointed to the lack of resources for employers who are looking to engage a domestic worker for the first time, such as when a family wants to hire a nanny to care for a new child. Claire Fallender, a Ward 5 resident who has employed a nanny and a housecleaner, testified that “...there were so many questions, pitfalls, and concerns that I didn’t think of when I was hiring for the first time.”³⁴ Workers such as Christine Robinson, who has worked as a caretaker for elderly patients and a licensed Certified Nursing Assistant, said that working without a written agreement put them at risk of exploitation because they had no assurance that the working conditions and terms they discussed with a prospective employer would be fulfilled.

Requiring a services contract to be executed before work begins will ensure that the parties discuss all of the most important parameters of the domestic worker’s job and have reached an agreement. The documentation is something the parties can reference later when they are unsure of the terms, disagree about the scope of work or payment owed, or have other details they need to keep track of. Ileana del Río testified that a contract requirement would have helped her during

³⁴ Testimony of Laura Brown, Ileana Delrio, Cassandra Waters.

her employment as an au pair where the duties and other terms can remain ill-defined for the duration of a worker's stay.³⁵

The bill requires a services agreement to specify:

- Start date (and end date, if known)
- Address where work is to be performed³⁶
- Contact information for hiring entity
- Rate of pay (and overtime rate, if applicable)
- Paycheck timing, form (direct deposit, check, etc), and frequency
- Date of first paycheck
- Weekly schedule
- Rest and meal break policy (if breaks are provided)
- Any other compensation, such as leave or transportation allowance.
- For live-in workers, the value of the lodging provided, sleeping period, and personal time allotment.³⁷

Caroline Davis testified: "We knew we wanted a contract - to clarify responsibilities and expectations on both sides - but we had never drawn up our own work contracts so we didn't really know what to include or what the best practices might be in this context. The result was that our children's nannies had makeshift contracts." Ileana del Río testified that a contract requirement would have helped her during her employment as an au pair where job duties and other terms can remain ill-defined for the duration of a worker's stay.³⁸

This bill requires the Mayor to create template agreements that will be posted online to be used by domestic workers and hiring entities. The agreements must be provided in English, Spanish, and five other commonly-spoken languages in the District. Hearing witnesses from Philadelphia and Massachusetts, two jurisdictions that have enacted a contracting requirement, pointed out that the templates created under their laws have been valuable tools.³⁹

If the terms of a services contract permanently change while the worker is employed, regardless of who initiates the change, the parties must modify the existing contract or execute a new one.⁴⁰ If a hiring entity must change their nanny's schedule, they have to go to the nanny with

³⁵ J-1 (au pair) visas are initially issued for 12 months and can be renewed for up to 12 additional months.

³⁶ An address is required because, in the event a dispute between the domestic worker and hiring entity, the District must notify the hiring entity of the complaint so they can respond. For domestic workers (such as housecleaners) who are regularly dispatched to different sites over the course of a workweek, the hiring entity can use the address registered with the Department of Licensing and Consumer Protection. Failure to provide either, in full, should result in a violation being charged against the hiring entity.

³⁷ Section 3(m) of the Fair Labor Standards Act allows an employer to, under certain circumstances, count as wages "the reasonable cost ... to the employer of furnishing such employee with board, lodging, or other facilities." 29 U.S.C. § 203(m); see <https://www.dol.gov/agencies/whd/direct-care/credit-wages>

³⁹ Testimony of Tatiane Oliveira, Matahari Women Workers' Center, and Elana Baurer, Advisory Board Member, Hand in Hand.

³⁹ Testimony of Tatiane Oliveira, Matahari Women Workers' Center, and Elana Baurer, Advisory Board Member, Hand in Hand.

⁴⁰ This bill directs the Mayor to promulgate rules detailing when such a change is "permanent."

the proposed schedule and discuss whether she agrees. In some cases, additional work hours, dates, or duties will prompt the domestic worker to seek additional pay or other compensation. This requirement will ensure that the agreement in place always reflects the understand between the people who sign it. The contract does not have to be modified or replaced for a single or even occasional instance of variation from its terms, provided the parties agree. But if the parties recognizes that the work is routinely deviating from what's in the contract, they should modify the agreement. The contract does not change an employment relationship from being "at will," though parties can agree to different terms if they choose to do so.⁴¹

By law, most employers in DC, including those employing domestic workers, must already provide their employees with a Notice of Hire form detailing the same information as this services contract will include, from working hours and pay days to whether the employee receives paid leave.⁴² Therefore, the bill provides that employers covered by that law can satisfy this obligation using the service contract required by this bill. Whenever two hiring entities hire a domestic worker, such as in a "nanny share" that supports two families, a both hiring entities must ensure that the services contract includes all of the relevant terms and both should sign the agreement with the worker. Similarly, if two domestic workers provide services to a single hiring entity, only one agreement needs to be executed provided it meets the other requirements of the bill.

Witness Emilia Calma, Director of Research and Policy for the D.C. Policy Center, testified that that the bill could prompt domestic services recipients to pay domestic workers less, because employers using a contract would also have to comply with federal tax withholding, District unemployment taxes, and similar employment costs. The current bill will not alter any of these obligations: it will shine a light on them. Labor Committee staff contacted local representatives from the National Domestic Workers Alliance about this concern, who said:

Largely due to the legacy of slavery, domestic work that takes place in a private home has been held as beyond the scope of legal regulation and part of informal economy. By ensuring domestic work is part of the formal economy and protected by laws and regulations, we protect domestic work from being performed in the shadows, where exploitation and abuse can run rampant. The Domestic Worker Employment Rights Amendment Act is a critical tool domestic workers are advocating for to improve their working conditions, and it is a dangerous precedent to argue that avoiding regulation in an area of workers' rights is necessary to preserve jobs. "⁴³

Even based on the limited District government data available, it's clear that thousands of household employers already comply with the District's labor laws. For example, the Department of Employment Services (DOES) reported that in 2020 it had 7,748 active employers registered in the unemployment insurance system. In 2021 alone, household employers contributed approximately \$1,036,000 in unemployment taxes. The number of households paying quarterly District unemployment insurance taxes during the pandemic was at least 2,799 based on agency

⁴¹ In the District of Columbia, an employment relationship is presumed to be terminable at will by either party. *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 321 U.S. App. D.C. 385, 1996 U.S. App. LEXIS 30826 (D.C. Cir. 1996).

⁴² DC Code § 32-1008(c).

⁴³ Email from Reena Arora, NDWA, to Committee, September 5, 2022, 1:42 pm.

data for the first reporting period of 2021.⁴⁴ And, under the District’s Universal Paid Leave Law, employers reported wages for approximately 3,028 household employees in 2019.⁴⁵ This legislation will help to ensure that domestic workers can take advantage of the safety net protections they may be losing out on because their employer – or they – does not know the law applies to them, too.

a. Domestic Workers

The Committee print provides a broad definition of “domestic worker” that encompasses all of the services these individuals have traditionally performed. In-home workers who provide childcare, cooking, cleaning, organization, or assistance with activities of daily living are “domestic workers.” Domestic workers who do any of these are covered even if they also perform services like gardening, driving, and shopping. If someone performs the specified types of “domestic services” for at least 5 hours in any calendar month, they must comply with the services contract requirement of the law. Local organizers with the National Domestic Workers Alliance (NDWA) stated that the 5-hour threshold would ensure that all domestic workers in the District will have the bill’s protections. The bill also eliminates an exclusion of workers under the age of 18 that was included in the introduced bill because, as at least one hearing witness pointed out, minors are as susceptible to exploitation as their older counterparts.⁴⁶

The bill also clarifies which individuals are not domestic workers: a family member, someone who works for a child development facility (i.e., a day care center), a person who primarily does household repairs, or those primarily caring for pets, like dog walkers. An “individual employed on a casual or intermittent basis and whose primary occupation is not domestic services” is not considered a “domestic worker” even if they perform domestic services tasks like caring for children. Thus, a bank teller who pitches in to watch her neighbor’s children a couple times a month is not covered by the bill, nor is a housekeeper who picks up a lone cleaning job that lasts a few hours.

b. Hiring Parties & Others

Domestic workers may work for an individual or family, for multiple households, or through a business such as a cleaning company. The legislation states that all of these scenarios

⁴⁴ Unemployment insurance taxes were assessed on approximately 2,799 household employees in 2020 and approximately 821 in 2021, years in which labor statistics were significantly impacted by the COVID-19 pandemic isolation orders and restrictions. See FY2021-FY2022 Performance Oversight Questions, Question 53, available at: <https://dccouncil.gov/wp-content/uploads/2022/02/DOES-FY22-POH-Perfrmance-Questions-Responses-only.pdf>

⁴⁵ DC Department of Employment Services, “Responses to FY2019-FY2020 Performance Oversight Questions,” February 8, 2020, Question 42; available at: https://dccouncil.gov/wp-content/uploads/2020/02/DOES-PO-Questions-2020_Final-Response.pdf

⁴⁶ Testimony of Richard Renner, Labor & Employment Committee, DC Chapter of the National Lawyers Guild.

require the use of a services contract.⁴⁷ However, depending on how the parties structure that relationship, the bill applies differently. For example, a domestic worker hired by an individual to care for their parent or another person will use a services contract. Similarly, an individual housecleaner or nanny will sign a contract with the household they work for. If two families agree to hire a nanny who will care for the families' children while those families are at work (i.e., a "nanny share"), both families employ the nanny and must sign the agreement.⁴⁸ The bill describes this as "shared services." Similarly, if two domestic workers team up to provide services to a hiring party in their home, the three individuals can all sign one agreement that meets the requirements of this bill. In contrast, if a domestic worker is employed by a domestic services agency that contracts with customers to send their workers to clean the home periodically, that agency is responsible for executing a contract with the worker. This is because a worker's overall schedule may involve a dozen or more work sites in a single week according to their employer's needs.

A "referral agency" is a business that connects employers and employees but does not have an ongoing relationship with them. When this business works with domestic workers and hiring entities, it will be required to notify them of the law and employers' obligations. These groups are not required to post contract templates or other materials on their websites, but may choose to do so, especially if they do not currently provide contract templates in the languages commonly spoken in DC.

c. Specific Contract Terms

Required Terms

The services contract must specify the terms of the employment or engagement, with flexibility for situations where a certain term might not apply. For example, the minimum wage law requires that *employees* earn at least \$16.10 per hour.⁴⁹ An independent contractor is not protected by this law because they are not an "employee."⁵⁰ Someone working as a true independent contractor might negotiate a flat rate for their services, rather than an hourly rate, and determine their own schedule rather than be directed when to come to work by their client. In that case, the services contract would indicate that there is no regular schedule of work. Similarly, employers that plan to take a lodging credit for live-in employees must disclose this on the services contract. The bill requires that a hiring entity completing the services contract must indicate that

⁴⁷ Companies such as Home Pay, Poppins Payroll, and ADP that solely issue payments on behalf of hiring entities are not hiring entities themselves. See generally Ticona J, Mateescu A., *Trusted strangers: Carework platforms' cultural entrepreneurship in the on-demand economy*, New Media & Society.

⁴⁸ If two spouses hire a domestic worker, the law already recognizes that they are both liable on the contract. DC Code § 46-601(b)(2) provides that both spouses or domestic partners "shall be liable on any debt, contract, or engagement entered into by either of them during their marriage or the term of the domestic partnership for necessities for either of them or for their dependent children."

⁴⁹ Department of Employment Services, *Wage and Hour Public Notice*, <https://does.dc.gov/page/wage-and-hour-public-notice>

⁵⁰ See *Independent Contractor Rule, Independent Contractor Status Under the Fair Labor Standards Act*, 86 FR 1168 (Jan. 7, 2021), effective as of March 8, 2021.

omissions on the form are intentional so the parties agree that it was a feature of the parties' agreement and not an oversight.

Non-Disclosure Agreements (NDAs)

The committee print of the bill allows an employer to use a non-disclosure or confidentiality agreement with their domestic worker.⁵¹ Some employers may seek these terms order to ensure that their household employee does not share information about the household with others in a way that could violate their privacy. Government and military workers based in DC, in particular, may need to discuss sensitive or confidential matters in their home and seek a non-disclosure provision to protect against these matters being disclosed by the worker.

Nevertheless, the bill protects an individual's ability to fully exercise their right to file a complaint, discuss their working conditions, and otherwise exercise their rights related to work. An employee cannot waive their right to be paid the minimum wage or to file a complaint with the government.⁵² In implementing the bill, DOES should ensure that outreach to domestic workers and hiring entities provides guidance about what is and is not permitted. Employers who are trying to protect themselves and their families' privacy could run afoul of the law if they do not differentiate between protecting against the disclosure of sensitive workplace information and the employee's unwaivable ability to exercise their employment rights. Even if a domestic worker signs an agreement that is not enforceable by their employer, she may still comply with its requirements because she fears negative repercussions from her boss.

Non-Compete Agreements

In July 2022, after this bill was introduced, the Council approved legislation regarding the use of non-compete agreements. That law, the Non-Compete Clarification Amendment Act of 2022, retained the Wage Payment Law's exclusion of "an individual employed as a casual babysitter in or about the residence of the employer." This committee print restricts a hiring entity from using a non-compete provision that is barred under that law with a domestic worker.

f. Education and outreach

A common complaint of hiring parties and domestic workers submitting testimony was the lack of a "one-stop shop" where they could find guidance about the bill's requirements and best practices. This legislation requires the Mayor to create outreach materials that will help anyone providing or procuring domestic services meet the bill's requirements. Amy Campbell, who has previously employed a nanny in her home, testified that "the establishment of educational outreach

⁵¹ The introduced version of the bill did not allow an employer to use a non-disclosure agreement or confidentiality provision with their employee.

⁵² See, for example, US Equal Employment Opportunity Commission, *EEOC Notice Number 915.002*, April 10, 1997, available at: <https://www.eeoc.gov/laws/guidance/enforcement-guidance-non-waivable-employee-rights-under-eeoc-enforced-statutes>; *Brooklyn Savings Bank v. O'Neill*, 324 U.S. 697 (1945) (Employee cannot waive minimum wage or overtime rights except when approved by a court or the US Department of Labor).

to workers and employers is critical to unlocking the benefits of the contract for both domestic workers and domestic employers.”

Before the bill takes effect, the Mayor will be charged with creating template contracts that domestic workers and hiring entities can use to comply with the bill. These contracts must be created by the third month after the law’s applicability date and provided online in the most commonly-spoken languages in the District. While hiring parties will not be required to use the template, templates are a common and useful resources in jurisdictions that have similar laws.⁵³ The bill also requires the creation of a website that compiles information about laws that apply to domestic workers so workers and employers understand all of their legal obligations. Presently, the DC Department of Employment Services (DOES) provide information about the laws it enforces on its website. Even so, many witnesses pointed out in testimony that they didn’t know which existing DC worker protections applied to domestic workers. Therefore, the dedicated website will compile this information in one convenient location.

The Office of the Attorney General (OAG) will issue one or more grants to groups that will be charged with conducting outreach to the public and creating safety guidance for hiring entities and domestic workers. These outreach efforts will ensure that workers know about the bill and are connected with the online resources available to them. OAG already issues grants related to worker rights education through the Workplace Rights Grants Program established in 2021, and this new grant program will dovetail with this work.

g. Enforcement

Mayor & Attorney General

The procedures for implementation and enforcement of these provisions will be the same as the District’s other worker protection laws, but with a few special features to address the uniqueness of the domestic worker-hiring entity relationship. The bill ensures that the Mayor and Attorney General have the same power to enforce and implement this bill as they have for other worker protection laws.⁵⁴ DOES will determine whether its requirements have been complied with or not, but will not assess the validity of a contract. If a party who agreed to a contract believes the other party has breached it, that breach of contract case can be filed in Superior Court.

Dispute Resolution

This bill lays out two new paths to resolving these complaints quickly while helping to keep the hiring party-domestic worker employment relationship intact. In most wage-hour cases, DOES is required by law to maintain the confidentiality of complainants who ask for an investigation of their wage payment or leave law issues. This confidentiality prevents the employer

⁵³ For example, the city of Philadelphia provides a template contract on its website: <https://www.phila.gov/documents/domestic-workers-bill-of-rights-resources/>.

⁵⁴ As hearing witness David Renner noted, the bill as introduced did not adopt sections of existing law that restate a narrowed version of the burden-shifting standard established in *Anderson v. Mt. Clemons Pottery Co.*, 328 U.S. 680 (1946); rather, the precedent set by that case will apply to cases involving domestic workers (rather than the narrow approach in the statute).

from singling out the worker who filed the complaint and helps them remain in their job without being retaliated against. However, domestic workers are often the only individual in the hiring party's workplace who would know about issues involving their employment relationship.

According to members of the National Domestic Workers Alliance and Hand in Hand, domestic workers and their employers want help resolving disputes that might arise in the employment relationship while maintaining their job. They emphasize the importance of making sure employers have resources before they need to engage a domestic worker and helping to address issues when they arise so that the worker can keep their job.

Domestic workers who believe their rights under this bill have been violated can ask the DOES Office of Wage Hour to launch a traditional complaint investigation. But, there will also be two alternatives. . First, the bill specifies that the agency may mediate a complaint at any time before the agency finds a violation. Second, it gives the agency the power to give an employer that has not complied with the contracting requirement a 15-day "opportunity to cure defects in the form or terms of the contract," meaning means a window of time when the employer can revise or re-execute a services contract that did not follow all of the bill's requirements. For example, if a domestic worker has a services contract that omits the regular pay date and time, the agency can notify the employer of the allegation and the employer and domestic worker can modify the contract. Once the agency is satisfied that an alleged violation is resolved, the complaint can be closed. This approach will help preserve the relationship between the domestic worker and hiring entity. However, if a hiring entity does not cure a violation to the agency's satisfaction, the complaint can proceed through the usual administrative process.

Witness Emilia Calma of the DC Policy Center testified that more resources were necessary to ensure effective enforcement and that the "legislation's design does not add capacity to existing enforcement agencies and overestimates worker power in the employment relationship." The Committee believes that the Department of Employment Services is adequately resourced but agrees DOES could approach wage-hour investigations more efficiently.⁵⁵ Committee endorses DOES's proposal to enlist a coalition of employers, advocates, workers, and District agencies to ensure there is greater public awareness about this bill's requirements and the rights of these workers more generally.⁵⁶ In recognition of domestic workers' vulnerability in their workplaces (relative to more traditional workplaces), the bill does not only create new substantive and procedural legal rights for workers but these will be supported by online guidance, template contracts, and community-based outreach efforts.

Immigration status protections

The protections of this bill will apply to domestic workers irrespective of their immigration status. As Ms. Calma pointed out in her testimony, undocumented workers are particularly vulnerable in their workplaces due to their immigration status. Therefore, the bill specifies that the

⁵⁵ For example, see Committee on Labor and Workforce Development, "Report and Recommendations on the FY 2022 Budget," Section II(D)(1a) entitled "DOES can effectively investigate while keeping complainants confidential..."

⁵⁶ Testimony of Dr. Unique Morris-Hughes, Director, DC Department of Employment Services.

Mayor or Attorney General cannot require disclosure of a domestic worker's immigration status for enforcement of the title.

2. Title II: Employment Discrimination and the Human Rights Act

The Human Rights Act (HRA) prohibits various forms of discrimination, including in employment, based on specific protected characteristics.⁵⁷ A person aggrieved by a violation of the HRA may seek redress through a civil action in court⁵⁸ or through an administrative procedure that involves investigation, mediation, and adjudication by OHR and the Commission on Human Rights.⁵⁹ However, the law's definition of "employer" excludes a person who employs "the employer's parent spouse, children or domestic servants, engaged in work in and about the employer's household[.]"⁶⁰ Title II of B24-712 would strike this exemption and extend workplace discrimination protections to domestic workers.

As detailed further in CGOF's report, the Committees strongly support this proposed change, as do numerous public witnesses and OHR. The committee print reflects technical updates to title II, made in response to OHR's feedback. As detailed in CGOF's report, the print encodes one narrow "bona fide occupational qualification" exception at this time. CLWD defers to CGOF's legislative analysis, which is the result of extensive engagement with the Office of Human Rights, domestic worker advocates, and discrimination law experts.

As noted earlier, determining whether someone is an employee or an independent contractor depends on many factors, such as the degree to which the individual performing services is directed or controlled by another person.⁶¹ Thus, the Committees note that there may not be perfect overlap between workers who qualify for the protections in title I of B24-712 and the workers who will benefit from the expansion of the HRA's protection in title II. The Council, led by CGOF, recently unanimously passed and funded the Human Rights Enhancement Amendment Act of 2022, which will go into effect October 1, 2022. Among other things, this bill clarifies that independent contractors are entitled to employment discrimination protections under the HRA; however, it defines independent contractors to exclude "a service vendor who provides a discrete service to an individual customer."⁶² As noted in the committee report on that measure:

[CGOF] certainly does not condone discriminatory practices such as characteristic-based selection of service vendors or harassment of vendors, but is concerned that allowing vendors of personal services to bring an HRA claim against individual customers or prospective customers would be unduly intrusive. The HRA's public accommodations provision already constitutes an extremely broad prohibition of discrimination by

⁵⁷ See D.C. Official Code §§ 2-1401.01, 2-1402.11.

⁵⁸ D.C. Official Code § 2-1403.16.

⁵⁹ See D.C. Official Code §§ 2-1403.04 – 2.1403.15.

⁶⁰ Section 102(j) of Law 2-38; D.C. Official Code § 2-1401.02(10).

⁶¹ US Department of Labor, *eLaws: Fair Labor Standards Act Advisor, Independent Contractors*, available at:

https://webapps.dol.gov/elaws/whd/flsa/docs/contractors.asp?_ga=2.101641414.694264943.1660851727-1704350125.1644006051

⁶² A24-491. the "Human Rights Enhancement Amendment Act of 2022,"(creating new D.C. Official Code § 2-1401.02(9)(B).

businesses against customers, but prohibiting discrimination by customers against businesses does not seem workable.⁶³

For purposes of applying the new contracting and safety provisions in title I, employers, workers, and tribunals should continue to apply general labor law standards that distinguish independent contractors from employees.⁶⁴ For purposes of applying the HRA, they should regard independent contractors as protected unless they are service vendors who provide a discrete service to an individual customer.

3. Title III: Health and Safety

Title III of this bill will put domestic workers on the same footing as their counterparts in other lines of work.⁶⁵ As currently enacted, the Occupational Safety and Health defines an employee as “an individual working for an employer for a salary, wage, or other compensation or pursuant to any other contractual obligation, but does not include *domestic servants*. [emphasis added].” Domestic workers face unique health and safety hazards and are potentially at higher risk of physical harm due to the isolated nature of their workplaces. “[T]asks such as cleaning, cooking, childcare and care of the elderly” pose occupational risks to domestic workers.⁶⁶ In a 2012 study of domestic workers in major metropolitan areas, including Washington, DC, nearly 40 percent of workers reported that their job required them to perform “heavy, strenuous” work.⁶⁷ Respondents to a California survey said that their work typically involved repetitive motions (81%), lifting heavy objects (76%) lifting children or care recipients (70%), and exposure to cleaning chemicals (62%) and biological hazards (79%).⁶⁸ By publishing this guidance online, DOES will support domestic workers and the parties that hire them proactively identify and mitigate risks in the home. Domestic workers employed in DC for 240 hours in a calendar quarter qualify for private sector workers compensation when they experience a work-related injury or illness.¹ But there is no

⁶³ Committee on Government Operations and Facilities, “Report on B24-0229, the “Human Rights Enhancement Amendment Act of 2022,” May 19, 2022, available at: https://lms.dccouncil.us/downloads/LIMS/47097/Committee_Report/B24-0229-Committee_Report1.pdf.

⁶⁴ On October 1, 2022, changes to the HRA’s employment protections became applicable as a result of B24-229, the Human Rights Enhancement Amendment Act of 2022. Act 24-491, B24-229 clarified the HRA’s applicability to certain independent contractors. See CGOF Committee Report on B24-229, https://lms.dccouncil.us/downloads/LIMS/47097/Committee_Report/B24-0229-Committee_Report1.pdf.

⁶⁵ Presently, the federal government is responsible for enforcing workplace safety and health standards. Federal OSHA provides funding for the District’s Department of Employment Services to conduct limited outreach to employers that want guidance on safety and health practices.

⁶⁶ Walter, Laura, “Domestic Service Workers Vulnerable to Occupational Hazards,” EHSToday, March 22, 2011, available at: <https://www.ehstoday.com/standards/osha/article/21906424/domestic-service-workers-vulnerable-to-occupational-hazards>.

⁶⁷ Burnham, Linda and Nik Theodore, *Home Economics: The Invisible and Unregulated World of Domestic Work* (2012) p. 32, available at: https://idwfed.org/en/resources/home-economics-the-invisible-and-unregulated-world-of-domestic-work/@@display-file/attachment_1

⁶⁸ UCLA Labor Occupational Safety & Health Program et al., Hidden Work, Hidden Pain: Injury Experiences of Domestic Workers in California, July 2020, available at: <https://losh.ucla.edu/wp-content/uploads/sites/37/2020/06/Hidden-Work-Hidden-Pain.-Domestic-Workers-Report.-UCLA-LOSH-June-2020-1.pdf>; see also Walter, Laura, Domestic Service Workers Vulnerable to Occupational Hazards.

formal authority in the District where hiring entities or domestic workers can obtain safety guidance

The District's OSHA law has not been triggered and thus amending it will not have practical impact at this time.⁶⁹ Thus, to address domestic workers safety and health more immediately, this legislation requires the Office of the Attorney General to issue grants for community groups to prepare educational materials about how to make sure a domestic worker's workplace is hazard-free. The materials created will ultimately reside on the one-stop website where the templates and domestic worker guidance will be shared.

And in order to make sure that workers know about their workers' compensation eligibility, the legislation has been updated to require the safety and health guidance to be provided online.

4. Applicability

The bill will be implemented in phases so that impacted entities can be provided with support in complying with the law. Much of the testimony the Committee received was about how domestic worker employers (were uncertain of their existing legal obligations and, even once they learned about those obligations, unsure about how to meet them. Therefore, to the portions of the bill that members of the public such as hiring entities, domestic services agencies, and referral entities must follow will not apply until 120 calendar days after the bill is applicable. During this time, the implementing agency will prepare template contracts in English, Spanish, and five other languages, as well as gather and publish information relevant to domestic workers and hiring entities on a website. Approximately 180 calendar days after the bill applies, the Office of the Attorney General will issue grants to community-based organization that will carry out outreach and development safety and health guidance materials.⁷⁰

II. LEGISLATIVE CHRONOLOGY

March 15, 2022	Bill 24-712 was introduced by Councilmembers Silverman, Nadeau, Allen, Bonds, Lewis George, Henderson, McDuffie, Pinto, and Robert White.
March 25, 2022	A Notice of Intent to Act on Bill 24-712 was published in the D.C. Register.
April 5, 2022	Bill 24-712 was referred to the Committee on Labor and Workforce Development with comments from the Committee on Government Operations and Facilities.

⁶⁹ For the District to assume responsibility for occupational safety and health enforcement from the federal government, the District must first adopt a State Plan by the Secretary of the US Department of Labor. According to that law, two years after its adoption, the District will assume enforcement authority. This bill does not require the creation of a State Plan.

⁷⁰ Grantmaking is a longer process because it involves developing a Request for Applications describing the grant requirements, opening it for applications, assessing applications, and awarding those grants.

April 8, 2022	A Notice of Public Hearing on Bill 24-712 was published in the D.C. Register.
June 16, 2022	The Committee on Labor and Workforce Development held a public hearing on Bill 24-712.
June 28, 2022	Chairman Mendelson re-referred Bill 24-712 sequentially to the Committee on Government Operations and Facilities, then the Committee on Labor and Workforce Development, and then the Committee on Business and Economic Development.
October 21, 2022	Bill 24-712 was marked up by the Committee on Government Operations and Facilities.
October 21, 2022	Bill 24-712 was marked up by the Committee on Labor and Workforce Development.

In accordance with the referral sequence, Bill 24-712 will proceed to the Committee on Business and Economic Development.

III. POSITION OF THE EXECUTIVE

The directors of two executive agencies submitted written testimony in support of Bill 24-712 (but did not appear at the hearing). Both directors raised specific issues for careful consideration.

Department of Employment Services

Dr. Unique Morris-Hughes, Director of the Department of Employment Services, wrote that DOES supports B24-712 because it “increases inclusion of a previously marginalized group and provides structured expectations to what are frequently ambiguous employer/employee relationships.” Her statement also identified two significant challenges with respect to implementation.

First, DOES urged the Council to think strategically about enforcement of the requirement of written contracts. Rather than saddling domestic workers alone with the additional burden of reporting violations and fighting for redress, DOES will ensure that their strategy includes the participation of a coalition of employers, advocates, workers, and District agencies.

Second, DOES notes that its existing occupational health and safety program operates in a strictly consultative capacity and is not authorized or equipped to enforce safety standards. For the purposes of the federal Occupational Health and Safety Act, the District is a “federal OSHA state,” meaning that DOES must refer enforcement requests to the Occupation Health and Safety Administration of the U.S. Department of Labor. (Current federal OSHA regulations do not cover domestic workers.⁷¹) In order for DOES to enforce workplace safety standards covering domestic

⁷¹ 29 C.F.R. § 1975.6.

workers, the District would need to propose a State Plan for OSHA's approval and then assume responsibilities for occupational health and safety enforcement, as well as training and registration of employers. DOES estimates that the total costs of developing and implementing a State Plan would be approximately \$14.8 million over 5 years.

For the Committee's analysis of these issues, see Sections I and VII of this report.

Office of Human Rights

Hnin Khaing, Interim Director of the Office of Human Rights, provided written testimony on Title II of the B24-712, which expands the nondiscrimination protections of the Human Rights Act of 1977 to include domestic workers. "This expansion is long overdue," she wrote.

Yet OHR raised the possibility of unintended consequences. The Human Rights Act's protections from workplace discrimination were designed for an organizational employer with the resources necessary to comply, for example, by preparing a position description that establishes bona fide occupational qualifications. But domestic work is routinely performed for individual employers who lack such resources. Further, the Human Rights Act's broadly applicable prohibitions on discrimination may in some cases intrude on rights that are typically reserved for individuals in their own homes (though not necessarily for employers in workplaces). OHR suggested, and offered to help write, additional legislative text that would affirm the human dignity of domestic workers without imposing on their employers an excessive set of burdens.

These potential consequences are considered in the separate report of the Committee on Government Operations and Facilities on Bill 24-712. The legislative analysis of those issues is accepted by the Committee on Labor and Workforce Development.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee has not received a formal resolution on B24-712 from any Advisory Neighborhood Commissions; however, Commissioner Salim Adofo's testimony (below) states that ANC 8C unanimously adopted a resolution in support of B24-712 on June 15, 2022.

V. HEARING RECORD AND SUMMARY OF TESTIMONY

The Committee held a public hearing on B24-712 on June 16, 2022. The hearing took place on the Zoom video platform, and several public witnesses participated via live translation provided in the John A. Wilson Building. In addition, several witnesses submitted written testimony outside the public hearing. All testimony on the bill is summarized below.

Antonia Peña, Lead Organizer, National Domestic Workers Alliance, DC Chapter

Through an interpreter, Ms. Peña testified that she began working as a domestic worker in Colombia, beginning on a part-time basis at age 12 and a full-time basis at age 15. She initially came to the United States to continue working for the family of a diplomat who had treated her

well in Colombia. Once in the United States, the family's behavior worsened, her pay declined, and yet she felt trapped in the job because her visa depended on it.

Ms. Peña proudly remains a domestic worker and an organizer who can help others when they are being mistreated. Over her 22 years in the United States, she has helped rescue more than 50 domestic workers from abusive situations.

The campaign for this legislation grew out of the case of a domestic worker who was fired for becoming pregnant, only to find that she had no legal recourse due to the exclusion of domestic workers from the Human Rights Act. In closing, Ms. Peña congratulated domestic workers testifying on the bill for speaking up, making their problems known, and telling stories of change.

Reena Arora, Senior Policy Attorney, National Domestic Workers Alliance

Ms. Arora testified that the National Domestic Workers Alliance (NDWA) has worked to successfully pass legislation to recognize the rights of domestic workers in 10 states and 2 cities since 2010. NDWA is greatly in favor of B24-712 and believes it will uplift and dignify the critical and essential contributions of domestic workers in the District.

Ms. Arora addressed the bill's provisions in detail. Current law excludes domestic workers from the protections of the Human Rights Act and the District's Occupational Safety and Health Act. These exclusions, which are rooted in the racist history of slavery and Jim Crow laws, harm domestic workers today by denying them basic labor protections. By mandating the use of written contracts for domestic work, the bill will facilitate clear and healthy communication between domestic workers and their employers. Finally, education and outreach are critical for employers and employees alike because work in the domestic services industry is disaggregated, and existing community organizations have developed the trust and relationships needed to deliver information effectively.

Anne Kearney, Nanny and Domestic Worker Leader, National Domestic Workers Alliance, DC Chapter

Ms. Kearney is a Ward 7 resident and has worked as a nanny for over 15 years, beginning when she worked 3 jobs to put herself through college. Despite years of work as a nanny, she only learned that nannies had rights through her participation in an online group of nannies. "I learned what was standard in the industry, but I also learned that this industry doesn't have very many standards." Being a nanny is very hard work under even the best conditions and with kind families, which many domestic workers do not have. Ms. Kearney recognized her own privileges as a U.S.-born English speaker, but many others have endured discrimination based on their race or immigration status or they cannot speak up about working conditions out of fear for their immigration status.

Fatima Cortessi, National Domestic Workers Alliance

Through a translator, Ms. Cortessi testified that she speaks out for herself and other domestic workers because of a very bad experience in her first job cleaning a home in an apartment building. Another apartment resident expressed interest in hiring her, but when she arrived for an

interview he started flirting with her. She stated she was interested in house cleaning work and nothing else, but then he became aggressive, ignored her statements, and poured her a drink. She was able to leave the apartment but he followed her to her car.

Ms. Cortessi testified that stories like this one are very common because domestic workers are vulnerable to harassment and abuse in isolated workplaces. It is very important that domestic workers have the protections of the Human Rights Act and recourse for workplace abuse. She also wants domestic workers to enjoy a written contract and for workers and society to be educated about their rights.

Ms. Cortessi has lived in the United States for 11 years and works in the District as a caregiver for the elderly, a babysitter, and a house cleaner.

Dulce Hernandez Ceballos, Member, National Domestic Workers Alliance

Through a translator, Ms. Ceballos testified that she has been a domestic worker for more than 20 years, cleaning houses and caring for the elderly and children. In her cleaning work, she once fell down the stairs and broke her arm in 3 places, and she was fired. She then lived without work or pay for 3 months, and to this day her arm does not work like it used to. Sadly, occupational health and safety laws exclude domestic workers because they assume domestic work is safe or that it is not considered real work. Ms. Ceballos is proof to the contrary. Further, the lack of written contracts exacerbates the insecurity that domestic workers currently face.

Gladys Sandoval, Member, National Domestic Workers Alliance

Through a translator, Ms. Sandoval testified in strong support of B24-712. As a domestic worker, she ends up doing a wide variety of tasks all at the same time, such as childcare, house cleaning, transportation, and shopping. Because she works without an employment contract, she feels vulnerable and at risk of being fired at any moment. In a previous job, she was paid irregularly and her hours were not respected because she lacked a written contract. Ms. Sandoval reminded everyone that domestic workers continue to be unprotected at work while this bill is pending, so she has great faith and hope that it will be approved soon.

Reina Moreno, Member, National Domestic Workers Alliance

Ms. Moreno is a Ward 4 resident, a domestic worker who cleans houses and cares for the elderly, and a mother with two sons (9 years and 7 months). Through a translator, she asked the Council to pass legislation this year to include domestic workers in the Human Rights Act.

Ms. Moreno likes her job and cares for seniors with love because they deserve it. But she does not like that domestic work is not valued, and workers are exploited in various ways and discriminated against. She has personally experienced discrimination because she is originally from Honduras, for not speaking English, and for her physical condition. Sexual harassment is very common in this type of work. She once had to trick a client in order to escape a cleaning job due to unwanted sexual advances. Domestic work is honest work, and domestic workers need legislative changes to receive treatment as the worthy people that they are.

Antonia Surco, Member, National Domestic Workers Alliance

Ms. Surco testified that she came to the United States 18 years ago from Peru and works as a caregiver for children and the elderly.

When caring for people who suffer from debilitating health conditions such as Parkinson's or Alzheimer's, domestic workers provide peace of mind and security to family members who must work outside the home. It is a divine task but not valued. Ms. Surco was surprised to learn that domestic workers are excluded from the Human Rights Act—an inhuman legacy left from the era of slavery.

The pandemic made domestic workers' lack of rights even more evident. Ms. Surco lost almost all her jobs without financial support, was not eligible for help from the government. Further, and was made to feel that she was a danger of contagion. A written contract specifying rights is very important.

Ingrid Vaca, Member, National Domestic Workers Alliance

Ms. Vaca has been working in the District for 22 years as a housecleaner and caretaker. She mostly has worked under oral contracts that employers have not complied with because the terms were not written. Additionally, she has many times been harmed by cleaning chemicals or fallen on floors that are dangerous or slippery. The bill would help employers learn how to make their homes safe for workers. Discrimination and mistreatment due to immigration status also is very common, and it is made even more unbearable when domestic workers have nowhere to turn.

Laura Brown and Sophia Mitchell, First Shift Justice Project

First Shift provides legal services to workers who are fighting pregnancy discrimination, and the organization enthusiastically supports B24-712. Domestic workers generally have no protection from workplace discrimination because Title VII of the federal Civil Rights Act of 1964 applies only to employers with 15 or more employees and the District's Human Rights Act excludes domestic workers. Since 2017, First Shift has called on the Council to strike this exclusion from the Human Rights Act. The pandemic showed again how domestic workers are too often an afterthought, excluded from measures such as mask mandates. Finally, the requirement of written contracts will bring clarity that is equally valuable to domestic workers and their employers. Together with grant funding for employer education and outreach, the bill will increase public awareness of domestic workers' rights and potentially improve working conditions for domestic workers all over the city.

Dixcy Bosley-Smith, Geriatric Nurse Care Manager, Iona Senior Services

As a family nurse practitioner, Ms. Smith assesses and plans interventions for District seniors who want to age in place safely, despite their medical conditions and limited local family support. Ms. Smith's work depends on the services of domestic workers such as geriatric nursing assistants who assist with personal care, house cleaning, yard work, and transportation. But these workers are exploited with requests for additional uncompensated tasks such as laundry, running errands, and caring for pets or other family members. And the workers also are commonly subject to demands from non-local adult children who contest or fail to timely pay invoices for services

rendered. Requiring written contracts for domestic services would benefit workers and consumers alike by promoting clear communication about expectations and reducing the risk of exploitation.

Cassandra Waters, Member, Hand in Hand

Ms. Waters is a Ward 3 resident who personally employs housecleaners, providing her with essential support as she works outside the home and raises two young children. Without clear rules in place, employers must make a great effort to provide safe and dignified working conditions. Increasing protections for domestic workers is a matter of gender equity, both by valuing the overwhelmingly female workforce and relieving the domestic and caretaking burdens that largely fall to women. And through her professional work in the field of gender-based violence and workplace harassment, Ms. Waters knows that domestic workers face disproportionately high rates of sexual harassment, racial harassment, and workplace violence. Thus it is particularly unacceptable to exclude domestic workers from the Human Rights Act.

Claire Fallender, Member, Hand in Hand

Ms. Fallender is a Ward 5 resident who employs a housecleaner and previously employed a nanny. Their invaluable care merits respect and the same protections afforded to other workers. At the time of the job interview with the nanny, Ms. Fallender was a new mother who didn't know what questions to ask, but the nanny arrived with a contract template that guided the healthy development of their relationship. Over the years, both the nanny and the housecleaner have shared stories of discrimination, safety hazards, and indignity.

Dr. Julia Ticona, Member, Hand in Hand

Dr. Ticona is a sociologist and assistant professor at the University of Pennsylvania who has studied and published about domestic work. At her home in Philadelphia, she also has employed a housekeeper and a nanny. As a scholar and an employer, Dr. Ticona testified to the positive influence of Philadelphia's domestic worker bill of rights law.

Despite her own scholarly research on domestic work, Dr. Ticona felt overwhelmed and alone in navigating how to act as an employer and provide a safe and happy workplace. Contract templates provided by Hand in Hand provided helpful guidance in setting expectations, providing for rest breaks, and communicating about the work. Far from being a burden, contract templates and an understanding of domestic worker rights gave much-needed guidance at a confusing time. Further, this type of legislation are historically important milestones in reversing centuries of racism and gender discrimination in employment.

Michelle Sternthal, Public Witness

Ms. Sternthal is a Ward 4 resident who currently employs a house cleaner, multiple caregivers for her children, and another domestic worker who helps prepare meals and clean laundry while Ms. Sternthal receives cancer treatment. She testified because domestic workers are helping she and her husband stay afloat during an extraordinarily difficult time while juggling work, household obligations, and three children.

As a former au pair employer, Ms. Sternthal testified that au pairs specifically need the protections of the bill. After paying upfront expenses including an agency fee, an au pair receives a JS-1 “cultural exchange” visa that requires continuous employment providing up to 45 hours of childcare to a host family for roughly \$200 per week. From her own experience, and from stories of grievous harms suffered by other au pairs, Ms. Sternthal understands how easily an unscrupulous host family could exploit the vast power differential in the au pair relationship. Further, because au pair agencies depend on host families for the bulk of their revenue, the agencies have a conflict of interest when au pairs speak out against mistreatment. The bill addresses this by ensuring that vulnerable au pairs can get support from independent community organizations.

Finally, the bill will ease the burden that employers currently face to research murky information from the internet in order to assemble appropriate terms in a contract for domestic services. Instead, the bill will provide a template including basic health and safety requirements and provide employers with access to resources.

Elana Baurer, Advisory Board Member, Hand in Hand

Ms. Baurer is a Philadelphia resident who employs a caregiver for her child and also serves on the Philadelphia City Domestic Workers Bill of Rights Taskforce. She testified that she has spoken about Philadelphia’s law with employers who are writing contracts with their housecleaners, nannies, and home health aides. “Without exception, every single employer I’ve spoken to is grateful for the guidance of a contract and for the ability to have hard conversations about expectations and how to end, extend, or negotiate a working relationship.” The requirement of written contracts and application of basic legal protections benefits everyone involved.

Ruth Friedman, Member

Ms. Friedman, a Ward 4 resident, employs an au pair and strongly supports the bill. She believes the au pair program is currently inadequate to protect these domestic workers, who borrow or invest significant sums of money in qualifying to become an au pair. As a result, the workers fear reporting problems in the workplace because they may lose their jobs. Further, au pairs receive low pay and are inadequately protected by the agencies who place them. Ms. Friedman said that the relationship between an au pair and their employer needs more protections.

Rebecca Ennan, Public Witness

Ms. Ennan is a Ward 4 resident and parent of two young children. As a person who has worked continuously since the age of 16 and now has a well-paid professional job, she testified that care work in the home is the bedrock of personal and social survival. This kind of work should be more respected and less precarious for the people who do it. Ms. Ennan also urged mechanisms and money for enforcing better standards, including outreach and community-based enforcement.

Katharine Landfield, Public Witness

Ms. Landfield is a Ward 3 resident, a social worker, and an economic and racial justice advocate who volunteers with Jews United for Justice. Although she likes to think that she puts her personal values and beliefs into ethical practice, when it comes to being a domestic employer

she has not known how to act. Domestic work takes place in private and involves a power differential. Further, white women like Ms. Landfield have felt embarrassed to talk with other employers about the ways in which they rely on other women, especially women of color, to perform gendered labor roles within their own homes. This secretiveness deprives employers of proper guidance and also deprives workers of dignity, safety, transparency, and justice. The requirement of a written contract for domestic workers, together with education and outreach for employers and workers, is critical to addressing these issues. Domestic workers also deserve the benefit of civil rights and worker protection laws. This bill should pass as soon as possible.

Jordan Grossman, Member, Hand in Hand

Mr. Grossman lives with his family in Logan Circle and testified in strong support of the bill. His family and a neighbor have a nanny-share agreement with a skilled childcare professional who works in Mr. Grossman's home. Their nanny has a loving relationship with the children and has come to feel like a part of their family—a sentiment that is common in nanny-share arrangements. Although this sentiment is sometimes mentioned in opposition to basic labor rights and workplace protections for domestic workers, Mr. Grossman sees it differently: a person treated as family deserves a safe and healthy workplace, protection from discrimination and harassment, and the dignity of an explicit, written contract describing the obligations and benefits of their employment. The denial of such benefits for domestic workers is rooted in structural racism that has persisted for decades. Basic respect should be given to all workers, not just those who are loved as family.

Rev. Julie Pennington-Russell, Senior Minister, First Baptist Church of the City of Washington DC

Rev. Pennington-Russell is a District resident and Christian pastor speaking as a faith leader on behalf of 9,000 domestic workers who are uniquely excluded from the Human Rights Act. This exclusion is contrary to the teaching of many world religions that proclaim the shared value of love for our neighbors, welcoming strangers and immigrants, and demonstrating compassion and care for people who are most vulnerable. Among the most vulnerable are domestic workers: a group of mostly women, people of color, immigrants, and older workers. Religions in the Judeo-Christian-Islamic tradition share a common belief that one should treat others with the love one has for oneself. From this belief it follows that domestic workers must be recognized as human beings with aspirations and dreams and inherent worth. Passing this bill will uphold the basic dignity of domestic workers.

Faith Leader Pledge in Support of Domestic Workers

A group of faith leaders co-signed a statement of solidarity with domestic workers and in support of legislation that: 1) extends the same human rights protections and occupational safety and health protections for domestic workers as for all other workers, 2) requires written agreements between domestic workers and their employers, and 3) establishes a domestic work outreach and education program within DOES to collaborate with community-based organizations that support domestic workers and that provide education and training on labor standards.

The statement was signed by the following individuals, whose organizational affiliations are listed for informational purposes only: Mark Andersen (Sacred Heart Catholic Church); Father John Benson (Cathedral of St. Matthew the Apostle); Rev. Karen Brau (Luther Place Memorial Church); Father Martin J. Burnham, PSS (Society of St. Sulpice); Rev. Amy Butler (National City Christian Church); Norma Cindy Canedo-Estrada (St. Matthew's Cathedral); Rev. Andrew Cheung (Washington Community Fellowship); Dora Currea (Sanctuary Ministry Washington National Cathedral); Ken Cooper (Blessed Sacrament School); Stephen Cox (All Souls Unitarian Church); Merwyn DeMello (Holy Redeemer Catholic Church); Michele Dunne (Franciscan Action Network); Brandon Enoch (ELCOR); Rev. Patricia H. Fears (Fellowship Baptist Church); Rabbi Charles Feinberg (Interfaith Action for Human Rights); Rev. Barbara Gerlach (First Congregational United Church of Christ); Rev. Russ Gordon (Lutheran Church of the Reformation); Rev. Andre Gray (Agape Family Ministries); Rev. Graylan Scott Hagler (Plymouth Congregational United Church of Christ); Rev. Brian Hamilton (Westminster Presbyterian Church); Rev. Ruth Hamilton (Westminster Presbyterian Church); Rev. Amanda Hendler-Voss (First Congregational United Church of Christ); Rabbi Lauren Holtzblatt (Adas Israel); Rev. Ellen Jennings (Cleveland Park Congregational Church UCC); Rev. Paul Johnson (Hughes Memorial United Methodist Church); Rev. Rob Keithan (All Souls Unitarian Church); Ashley Klick (Holy Trinity Catholic Church); Rev. James P. Marsh, Jr. (Bread of Life Church); Rev. Kaeley McEvoy (Westmoreland United Church of Christ); Bill Mefford (The Festival Center); Rev. Darryl L.C. Moch (Washington Area Covenant Union); Ryane Nickens (The TraRon Center); Rev. Dexter Nutall (New Bethel Baptist Church); Rev. Dale H. Ostrander (First Congregational United Church of Christ); Rev. Julie Pennington-Russell (First Baptist Church); Rev. Ben Roberts (Foundry United Methodist Church); Alfonso Sasieta (8th Day Faith Community); Clayton Sinyai (Catholic Labor Network); Janice Smart (All Souls Unitarian Church); Rev. Donna Claycomb Sokol (Mount Vernon Place United Methodist Church); Rabbi Hannah Spiro (Hill Havurah); Rev. Dr. Sharon Stanley-Rea (National City Christian Church); Rev. Mahogany S. Thomas (Peoples Congregational Church, United Church of Christ); Susan Walker (St. Stephen and the Incarnation Episcopal Church); and Rev. Rose Wayland (Sixth Presbyterian Church).

Bill Mefford, The Festival Center

Mr. Mefford testified in strong support of the bill and delivered the faith leader pledge described above. He reflected on his own experiences as a child with the domestic worker who was employed by his family. But more recently, he was angered to learn that domestic workers are still excluded from the District's human rights and labor protections laws, a political legacy from a time in the 1930s when the votes of Southern Democrats were needed to pass New Deal legislation. Bill 24-712 would right a long injustice, and Mr. Mefford urged the Council to pass it as soon as possible.

Rev. Ben Roberts, Executive Director of Programs and Justice, Foundry United Methodist Church

Rev. Roberts urged passage of the bill. He quoted a warning from the texts of Jeremiah, which describes the situations faced by many domestic workers: "Do no wrong to the stranger . . . and . . . Woe to [those] who build [their] palace by unrighteousness, [their] upper rooms by injustice, making [their] own people work for nothing, not paying them for their labor." Providing

legal recourse to domestic workers can correct some of the abuses that often occur in a system that depends on silence and acceptance of unacceptable conditions, such as wage theft, unsafe working conditions, violence, abruptly losing work, retaliatory immigration enforcement, and threats of all the above. Finally, Rev. Roberts encouraged the Council to give special attention to outreach efforts that will need to bridge the gaps of distrust and fear; to domestic workers laboring within embassies and the homes of diplomatic staff; and to avoidance of paperwork burdens on domestic workers who already lack discretionary time.

Michele Dunne, Ph.D., Executive Director, Franciscan Action Network

Dr. Dunne, a Ward 3 resident who works in ward 5 and is a member of the Secular Order of Franciscans, testified in support of the bill. Dr. Dunne signed the faith leader pledge. She noted that faith leaders are called to respect the common good, dignity of work, and the rights of workers. Dr. Dunne stated that these are all core principles of Catholic social teachings. She stands in solidarity with the more than 9,000 domestic workers in the District who have been excluded from the normal protections that extend to other workers. Within her community, she knows domestic workers who cared for people with COVID, caught COVID, and then felt they had no recourse. Dr. Dunne is excited about the bill for three main reasons: (1) it will ensure the workers have written contracts, (2) a place to go to know what their rights are, and (3) recourse when their rights are violated. She was shocked to learn that domestic workers have been excluded from Human Rights Act protections, and was glad to see that this bill will change that.

Finally, Dr. Dunne urged Council to extend to domestic workers the full rights, protections, and dignity enjoyed by other workers in the District.

Dr. Dora Currea, Co-Chair, Washington National Cathedral Sanctuary Ministry

Dr. Currea, a Ward 3 resident, testified that the bill is urgently needed. The golden rule accepted by many religious traditions is to treat others as we would wish to be treated. No one would want to be excluded from basic protections, and so Dr. Currea asked the Council to end the exclusion of domestic workers. Her support for the bill stands on her own personal experiences as a family member of domestic workers and as an employer of domestic workers. Dr. Currea found helpful guidance in a contract template provided by the Domestic Employers Network, which functions as a checklist to guide discussion and explicitly state the parties' rights and obligations. In closing she hoped the bill will move quickly out of committee and to a vote of the full Council.

Hannah Garelick, Community Organizer, Jews United for Justice

Ms. Garelick testified in support of the bill. Every working person deserves to be treated with respect, whether working in an office, restaurant, construction site, or home. Jewish religious texts impose an obligation on employers to pay workers fairly and on time, and to treat workers with dignity and respect. With Council passage of the bill, including provisions requiring written contracts, expanding anti-discrimination laws, promoting occupational health and safety, and providing outreach and education to employers, domestic workers will gain basic workplace protections that are long overdue.

Rabbi Shira Stutman, Founding Rabbi of Sixth & I Historic Synagogue; Co-Host, Chutzpod; Founder, Mixed Multitudes

Rabbi Stutman dedicated her testimony to ten women whom she has personally known as workers performing domestic services in her home, both while growing up in the District and at her current residence in Ward 3. Jewish text is full of passages that affirm the dignity of work and the importance of respecting workers, including by paying them in full and on time. But we know this too often does not happen, and the bill would give domestic workers the tools to protect their right to wages. Further, when counseling engaged couples before their marriage, Rabbi Stutman always suggests hiring a housecleaner. But while she tries to share information about how to be a fair and ethical employer in one's own home, the information is not easy to find and certainly not provided by our government. Both as a rabbi and as an employer, she would welcome guidance for employers. She encouraged the Council to pass the bill as soon as possible.

Rev. Amanda Hendler-Voss, Senior Minister, First Congregational United Church of Christ

Rev. Hendler-Voss was surprised to learn that domestic workers are the only group of laborers excluded from the Human Rights Act. Domestic workers have no legal recourse when they experience sexual harassment, wage theft, or discrimination based on race, nationality, or sexuality. Although domestic workers can come from a variety of backgrounds, they are mostly people of color and overwhelmingly women. Excluding them sends a message that they do not deserve legal protection, despite the fact that women of color encounter a variety of workplace abuses including discrimination and harassment. The Council is charged with excavating laws that are rooted in the history of enslavement, and this time is an opportunity to honor the inherent dignity in every worker.

Rev. Dr. Sharon Stanley-Rea, Disciples Refugee and Immigration Ministries

Rev. Dr. Stanley-Rea is a Ward 5 resident and testified in support of worker rights with appreciation for how domestic workers have touched her life, as well as her 90-year-old neighbor who depends on caregivers and her own mother who maintains ongoing quality of life despite failing health. Domestic workers who give quality of life should also receive quality of life, including in working conditions. The exclusion of domestic workers from workplace protection laws is contrary to the principle of the dignity of all people that is found in Exodus and Luke, as well as the Universal Declaration of Human Rights. The bill would make right the racist exclusion of domestic workers from legal protections, the vulnerabilities they often face as undocumented workers, and the need for outreach and training. Please pass the bill!

Rev. Robert Keithan, Minister for Social Justice, All Souls Church Unitarian

Rev. Keithan is a Ward 5 resident. He read a part of a statement adopted by the Unitarian Universalist denomination on escalating economic inequality, which recognizes the harm caused by a system that concentrates wealth and power in a few "while many others, including those who carry out the work of the world, struggle to survive." Domestic workers indeed carry out the work of the world, and it is a shameful irony that the law deprives them of the dignity that they confer on others through caregiving and other labor. This exploitation has to stop.

Clayton Sinyai, Executive Director, Catholic Labor Network

Mr. Sinyai testified that the bill would begin to address the challenges that domestic workers face in the workplace. Because Matthew tells us that we will be judged according to how we have treated the least privileged among us, the Catholic Labor Network urges the Council to adopt the bill.

Sarah L. Bessell, Counsel, Washington Lawyers' Committee for Civil Rights and Urban Affairs

Ms. Bessell testified in strong support of the bill, which will rectify a racist legacy that intentionally excluded Black workers from labor protections. She presented a detailed account of the political and legal history of these exclusions in federal law, dating to a time when the majority of Black workers were employed in either agriculture or domestic services. She also shared labor statistics showing that today's domestic workers, both nationally and locally, are mostly women of color earning far less than the median wage. She urged the Council to address the root causes of racial inequality and protect all District workers by passing the bill.

Lillian Agbeyegbe, Community Engagement Manager, Polaris

Ms. Agbeyegbe testified in strong support of the bill. As a leader in the movement to reduce and prevent sex and labor trafficking, Polaris has observed that domestic workers are among the most common victims of labor trafficking in the U.S. Despite the contributions of domestic workers to the American economy, they labor under a system that provides little or no support or protection against abuse, exploitation, and trafficking.

Michelle Englemann, Jews United for Justice, Community Member

Ms. Englemann is a Ward 2 resident and employs a domestic worker. She testified that passage of the bill is crucial for a more just city. In accordance with Jewish texts that say employers must provide fair and timely compensation and treat employees with true dignity and respect, Ms. Englemann would benefit from sample written contracts setting forth her responsibilities as an employer. The bill will inform employees and make workplaces fairer.

Sucel Merida, Member, DC Chapter of the National Domestic Workers Alliance

Through an interpreter, Ms. Merida testified as a mother of two children, a leader of the NDWA, and a general advocate of women's rights. As a mother she knows the fear of leaving one's children with another person, and that is why she strives to give love and protection to the children that she has cared for. Domestic workers allow families to go to work knowing that their children are in good hands, and that is why Ms. Merida does not understand why domestic workers remain exempt from legal protections. On behalf of her fellow domestic workers, she asked that the bill pass and in this way help workers provide a better future for their own children. Domestic workers deserve it because they care for others' children, parents, and relatives with special needs, keeping homes clean and helping families with their needs.

Carol Rosenblatt, Labor Coordinator, Claudia Jones School for Political Education

Ms. Rosenblatt is a Ward 3 resident representing the Claudia Jones School for Political Education, and she is also affiliated with the Metropolitan DC Area chapter of the Coalition of Labor Union Women and Jews United for Justice, all of which support the bill. DC domestic workers deserve dignity and respect, which depend on the right legal protections and working conditions. According to the Economic Policy Institute, 91.5% of domestic workers are women—with even greater percentages among the subsets of house cleaners (95.5% women) and childcare providers (roughly 97%). Domestic workers often face mistreatment at work based on their intersecting identities, and they also face disproportionately high rates of sexual harassment including being raped and sexually assaulted inside private homes. But they currently have no workplace protections under DC law. The bill advances the fundamental right of domestic workers to respectful and safe workplaces, free from discrimination, violence, and harassment. Finally, in her personal experience, Ms. Rosenblatt has employed domestic workers in her own home, and she would have benefitted from guidance in providing fair pay and vacation time.

Dr. Dante J. O'Hara, Lead Organizer, Claudia Jones School for Political Education

Dr. O'Hara, a Ward 1 resident, testified that the bill is urgently needed to make domestic work, which is primarily done by Black and Latina immigrant women, safe, respected and dignified. Dr. O'Hara noted the bill's importance to him personally, as the descendant of Jim Crow-era domestic workers, and professionally, as an organizer seeking justice for triply-oppressed Black working-class women following the example of Claudia Jones. Enacting the bill would eliminate the historic exclusions of domestic workers from the District's labor protections, and each day that the bill does not pass is a day domestic workers remain unprotected on the job.

Jack H. Wiant, Claudia Jones School for Political Education

Mr. Wiant is a Ward 3 resident who supports the bill. Despite their immense contributions to society, domestic workers endure neglect, disrespect, alienation, and exploitation to a degree seldom experienced by workers in other industries. In his own employment in the foodservice, facility maintenance, and entertainment industries, Mr. Wiant has experienced the baseline exploitation and challenges that every worker faces, but he has at least had the benefit of defined terms of employment and basic labor protections. Domestic workers need these same basic protections, and more, because they regularly face special forms of exploitation. He hopes to see the bill pass through the Committee and the full Council in 2022.

Ileana del Rio, Public Witness

Ms. del Rio worked for 2 years as an au pair in the DMV. She worked under a brief contract that specified only a few details: she would provide live-in childcare for up to 45 hours per week in exchange for \$195.75 in weekly pay, and she wouldn't have to pay the costs of her rent, food, and utilities; however, the contract left the scope of her work up to the interpretation of the agency and host family. Au pairs are left vulnerable given the agency's conflict of interest (due to its dependence on host families for revenue) and the host family's position of power. In Ms. del Rio's experience, she had no recourse when she was made to work extra hours without pay or when she rapidly lost weight because the host family did not provide enough food and shamed her for eating. Domestic work in a private home can be a complex and lonely experience, and most au pairs do

not speak out for fear of jeopardizing their migration status. If the bill is passed, it would give Ms. del Rio the solace of knowing that the District's au pairs will have the protections that were denied to her, so that they could enjoy their time in America.

Ann Marie Ramdial, Member, National Domestic Workers Alliance

Ms. Ramdial is a domestic worker in Baltimore, where she cleans houses and cares for newborns during both the day and night. Although she is very good at it, the work is extremely hard and has caused her body to break down. Workers are vulnerable because they work in private homes. She personally has been underfed as a live-in worker and fired after not reciprocating a sexual advance from her employer. Ms. Ramdial now teaches financial literacy skills to other domestic workers because financial insecurity is so commonplace.

Lorena López, Member, National Domestic Workers Alliance

Through a translator, Ms. López testified from Bogotá, Colombia, about her experiences as an au pair for three different families (two in the District) between January 2019 and January 2021. In her view the au pair program is not a cultural exchange program but a labor program for very low-cost care work. She described a bad experience as an au pair in Capitol Hill, where her duties exceeded the scope of childcare to include cleaning and the family distrusted her. She rematched with a family in Baltimore County but felt isolated there without money for transportation outside the home. Finally a third family in the District valued her work, made her feel respected, and gave her personal time for genuine cultural exchange. The bill would be a step toward helping more au pairs have a positive experience like she had with the third family.

Elana Dean, Volunteer, Hand in Hand

Ms. Dean testified as an employer at different times of both nannies and house cleaners (all of whom were immigrant women of color) and as a strong advocate for a domestic workers bill of rights that benefits employers and employees alike. She described entering into a nanny-share agreement and searching online for a contract template to establish important terms of the job and employment, such as sick leave. She also mentioned helping daycare workers find employment as nannies during the pandemic shutdowns: while some arrangements have worked well, other nannies found the work to be unstable and lacking in workplace protections. Finally, house cleaners (including those hired through cleaning agencies) do a physically demanding job for a low fee, and they deserve the protections and benefits most workers have. It seems absolutely essential and basic to include domestic workers in laws protecting workers from discrimination, harassment, and unsafe working environments.

Tatiane Oliveira, Matahari Women Workers' Center

Ms. Oliveira lives in Cambridge, Massachusetts, and testified to her experience as a domestic worker and member of the coalition that successfully advocated for a domestic workers' bill of rights in Massachusetts. Domestic workers perform real work and deserve the same protections enjoyed by workers in other industries. But because they work in private homes, they are vulnerable to abuse and lack the recourse of a larger employer's human resources department.

In her experience, a written contract is a powerful and essential tool for workers and employers to set boundaries and communicate expectations. When she had a dispute with an employer who had refused to provide paid time off, the dispute was resolved without the filing of a claim because the contract clearly supported her claim. A written agreement is a foundation for a healthy relationship between employer and worker.

Cassandra Gomez, Staff Attorney, A Better Balance

Ms. Gomez testified that caregiving has long been marginalized due to sexism and racism, but valuing this work makes communities healthier and stronger. A Better Balance partnered in the effort to pass a domestic workers' bill of rights in New York State, which is now among 10 states and 2 major cities with similar laws. In the District, B24-712 would improve the working conditions of domestic workers by requiring written contracts that specify the contractual terms of employment. Written agreements can also make employers and workers aware of statutory obligations affecting their relationship, such as an employee's right to paid time off. Ms. Gomez urged the District, in developing and publishing a template contract, to specifically mention paid sick leave and paid family and medical leave rights. Thus the written contracts will promote the awareness of other workplace protections that the District has previously enacted. Finally, Ms. Gomez spoke in support of eliminating the exclusions of domestic workers from the Human Rights Act and the District's Occupational Safety and Health Act.

Stephanie Solis, DC Organizer, DC Chapter of the National Domestic Workers Alliance

Ms. Solis is a Ward 3 resident whose mother is a domestic worker in the U.S., having fled Honduras to escape domestic violence. Ms. Solis remembers her mother coming home coughing and gasping for air because of chemical exposures at work, and she never had the protection of a contract that would defend her rights. Even today, as a 65-year-old mother, grandmother, and great-grandmother, she continues to clean as a living. And as an organizer, Ms. Solis has met countless other beautiful and magical women who have shared stories of homelessness, wage theft, discrimination, and safety hazards on the job—all of which are state-sanctioned violence. This bill is a step in ending this violence, by requiring written contracts and ending the exclusion of domestic workers from the Human Rights Act and local Occupational Safety and Health Act. Ms. Solis sees the need for this bill every time she walks along Connecticut Avenue and sees nannies, housecleaners, and home-care workers.

Jen Jenkins, Policy Advocate, Legal Aid Society of the District of Columbia

The Legal Aid Society strongly supports the domestic workers who need the rights and protections that B24-712 would provide and who comprise a significant portion of Legal Aid's clients. Advocate Jenkins stated that without the bill, the District's domestic workers will continue to be subject to wage theft, workplace discrimination, unstable schedules, and lack of access to basic workplace benefits. Legal Aid has represented domestic workers whose applications for unemployment benefits were wrongly denied by DOES. Because domestic workers work inside private homes, isolated and out of sight, they are particularly vulnerable to exploitation without protection from the law. B24-712 is comparable to domestic worker's rights laws that exist in a

growing number of states, and the Council should pass the bill to protect its residents in a similar way. The District should not delay this positive change any longer.

Carolina Rojas, Public witness

Through a translator, Ms. Rojas testified that she first came to the U.S. from Costa Rica 6 years ago as an au pair and has been caring for children in the District for the past 4 years. She is currently studying to be a preschool teacher.

As an au pair, Ms. Rojas took care of 5 children. It was too much work and responsibility for an au pair's salary, and she didn't have enough food or decent housing. In addition to her childcare duties, she was tasked with caring for a pet, doing the laundry, and cleaning the house and kitchen. While she learned English, the children ridiculed her pronunciation or incomplete vocabulary, and the parents allowed it. Alone and young, Ms. Rojas endured this treatment for a year until moving with another family. She has also learned of other au pairs who were abused, including one who was locked in the attic for 2 days and had her passport confiscated. Instead of protecting au pairs, agencies practically force them to leave the country when things go wrong. Ms. Rojas firmly believes that enacting B24-712 will make each and every domestic worker in the District feel safe and secure in the workplace, while sending a message affirming the value of their work and the respect they deserve.

Emily Gabos, Economic Justice Legal Intern, National Partnership for Women and Families

The National Partnership for Women and Families supports B24-712 because it would improve the lives of women and families and create more equitable workplaces for domestic workers. In doing so, the bill would address racial, gender, and economic barriers that the workers face. Citing the U.S. Census Bureau's American Community Survey, Ms. Gabos stated that 92% of domestic workers in the District are women and 90% are people of color. Without basic legal protections, domestic women are vulnerable to harassment and abuse. By eliminating exclusions from non-discrimination and workplace safety laws and requiring written contracts, the bill would allow domestic workers to speak up about unsafe working conditions without fear of losing their job or other retaliation. Without the bill, we will continue to hold back women of color and their families from the economic security that everyone needs, because women of color are more likely than white women to be a key source, or the sole source, of income for their families. While the rights of domestic workers are commonly violated, they often lack knowledge about their rights or are discouraged from asserting their rights for fear of retaliation.

Richard Renner, Chair of the Labor & Employment Committee, DC Chapter of the National Lawyers Guild

Mr. Renner joined with many other organizations testifying in support of the basic protections in B24-712 and also offered specific points about the introduced version of the bill. First, Title I as drafted would not protect domestic workers under age 18, even though some minors are exploited as domestic workers and would benefit from its protections. Second, while Mr. Renner appreciates that Title I would invalidate forced arbitration clauses in written contracts for domestic work, he suggests accomplishing the same purpose by prohibiting discrimination against

all workers (including domestic workers) from discrimination based on a refusal to accept a forced arbitration clause. Third, Title I mostly adopts existing rules of administrative procedure for wage payment disputes, but it excludes two provisions that require shifting the burden of proof from the employee to the employer if the employer has failed to maintain adequate records of hours worked. Despite this exclusion, Mr. Renner expects that courts would apply the burden-shifting in the same way. Fourth, Mr. Renner observed Title III (eliminating the exclusion of domestic workers from the District's Occupational Safety and Health Act) will have a limited effect, because the District has not actually established the Occupational Safety and Health Commission that is apparently required by District law. Finally, Mr. Renner suggested a 3-year statute of limitations for filing retaliation claims.

Linda Mamani, Babysitter and Cleaner, National Domestic Workers Alliance

Ms. Mamani is a domestic worker originally from La Paz, Bolivia, who now works in the District. Domestic workers often take on extra work for no additional pay or recognition. When Ms. Mamani first came to the U.S. to care for a 4-year-old boy, her salary was only \$250 per month and she suffered psychological abuse and discrimination because of her way of speaking and her skin color. When she became pregnant, her employers told her to have an abortion so as to not interrupt work. Instead she gave birth to her daughter and ended up working all day without rest breaks, vacation, or overtime for 10 years. All this abuse happens because domestic workers have no protection in their jobs. Domestic workers need changes to receive the dignity they deserve.

Laura Narefsky, Counsel, National Women's Law Center

The National Women's Law Center strongly supports B24-712. Women, and disproportionately Black women and Latinas, are the vast majority of the care workforce in roles such as home health aides, personal care aides, and nursing assistants. Too many care workers lack legal protection while working for poverty wages. A full and equitable recovery from the pandemic demands policies and institutions that center the women working in vital but undervalued jobs. For far too long, domestic workers unprotected have lacked protection from laws like the National Labor Relations Act and the Fair Labor Standards Act. B24-712 eliminates exclusions of domestic workers from District law, thus promoting the safety of and respect for the people who do this work.

NWLC administers the Time's Up Legal Defense Fund, which receives requests for help from thousands of women who have been sexually harassed in all kinds of workplaces. The majority are women in low-paying jobs who experience not only harassment but retaliation from employers after reporting their harassment. Many of these women, like domestic workers in the District, are currently excluded from the laws that provide redress for this discrimination. These workers deserve equal rights.

Further, the bill's requirement of written contracts for domestic services would provide a powerful tool for clear communication about the expectations and terms of employment, including on matters involving work schedules. Unstable and abusive work scheduling practices harm workers and their families by causing income variability, disrupting arrangements for childcare, and increasing working parents' stress in a way that undermines children's well-being. The written

contracts requirement can help mitigate the harmful impacts of volatile schedules and last-minute schedule changes.

David Schwartzman, Chair, Political Policy and Action Committee, DC Statehood Green Party

The DC Statehood Green Party endorses B24-712 without hesitation. The exclusion of domestic workers from labor laws is rooted in slavery and Jim Crow, and the extension of legal protections for domestic workers is long overdue. Passing this bill will help the District reduce its shockingly high racial and economic disparities, while more fully realizing the promise of the District's Human Rights Act.

Christine Robinson, Domestic Worker Leader, DC Chapter of the National Domestic Workers Alliance

Ms. Robinson has worked as a domestic worker for 44 years, since she was 14 years old, both through agencies and on a private-duty basis. She has primarily worked as a caretaker in the home for elderly patients, and she now is a licensed Certified Nursing Assistant. As a home attendant, she experienced discrimination where white colleagues received higher pay and more hours, despite Ms. Robinson possessing better skills and doing more of the work; however, the Equal Employment Opportunity Commission dismissed her complaint because the employer had fewer than 15 employees. Many times she has not received the full amount of pay she was promised. Ms. Robinson begged the Council to pass B24-712 because it will give her and other domestic workers protection in the workplace and a better future for a generation to come.

Melanie Cruz-Morales, Research Intern, National Domestic Workers Alliance

Ms. Cruz-Morales lives in Ward 2 where she attends Georgetown University, and she testified because domestic workers are her community. From the age of 8 she accompanied her mother to clean homes on weekends and her father to clean private schools during the night. As a child she often witnessed the wage theft, unstable work hours, lack of contracts, and hazardous working conditions that are common among domestic workers. Cleaning homes is hard work, and yet a housecleaner's pay often depends on how kind an employer is feeling that day. Domestic work is indispensable, yet it is also invisible, undervalued, overlooked, and exploited. The personal testimonies draw from painful and traumatic experiences that deserve to be respected. Every person who knows better must do better, and she strongly urged the Council to pass B24-712 by the end of the year.

Rev. Rose Wayland, Pastor, Sixth Presbyterian Church

Rev. Wayland proudly joined with the faith leaders who pledged their support for domestic workers. She believes, as do others of many faiths, that as we have been created in our Creator's image, each person deserves basic human rights, and we must stand with the least of these and show hospitality to all. Early in her life, a personal sense of justice and injustice grew from her awareness that some of her childhood friends' parents performed farm work all day long, seeking to survive as sharecroppers. She has been incensed for many years to know that some workers are exploited and deprived of the protections that B24-712 will provide. Specifically, she wants all

workers including domestic workers to have written agreements, meal and rest breaks, paid leave, and protections from workplace harassment. She strongly urged passage of the bill.

Juan Luis Belmán Guerrero, Director of Student and Community Relations, Kalmanovitz Initiative for Labor and the Working Poor at Georgetown University

Mr. Belmán Guerrero is a Ward 6 resident. He testified that B24-712 is urgently needed to uphold the safety, respect, and dignity of domestic work, which is primarily done by immigrant women of color. The District must act because the federal government has historically been slow to extend labor laws to domestic workers. The bill would help protect vulnerable workers and help them overcome the isolation of their workplaces to build a supportive community that can inform them of their rights. Every day when this bill doesn't pass is a day when domestic workers are unprotected on the job.

Emilia Calma, Director of Research and Policy, D.C. Policy Center

Ms. Calma testified that B24-712 is flawed because it does not guarantee fair wages or benefits for domestic workers, unintended consequences will result from formalizing domestic services contracts, and the bill's requirements are easy to evade given a lack of funding for enforcement.

According to Ms. Calma, B24-712 is unlike domestic worker protections from other states and localities because it does not guarantee any wages or benefits. Laws in other jurisdictions include provisions for a guaranteed minimum wage, overtime pay, guaranteed days off per week, and paid leave.

Ms. Calma further testified that the bill will likely increase costs because formalizing (i.e., putting into writing) a domestic services contract will impose new burdens on hiring households to pay payroll taxes and verify the worker's eligibility to work in the U.S. Because undocumented immigrants will be unable to demonstrate such eligibility, the bill will also decrease employment opportunities for undocumented immigrants. To the extent that parties are willing to take legal risk, the bill "will push agreements with undocumented immigrants even further under the table."

Finally, Ms. Calma testified that B24-712 will be ineffective because it does not add capacity to existing enforcement agencies. The bill assumes that an employer is complying with the law unless the worker files an adversarial claim asserting otherwise; however, domestic workers are often afraid or disincentivized to file claims, particularly in the case of undocumented domestic workers.

In closing, Ms. Calma mused that the bill's provisions do not go far enough to achieve its policy goal of helping domestic workers, but strengthening the bill's provisions would push undocumented workers off the books. "Unfortunately, we do not know how to solve this tricky and serious problem."

For the Committee's consideration of the concerns raised in D.C. Policy Center's testimony, see Section I of this report.

Altagracia Kubinyi, Nanny and Worker Leader, National Domestic Workers Alliance, DC Chapter

Ms. Kubinyi testified that she first worked as a domestic worker in the Dominican Republic, where it is not recognized as essential work and workers are mistreated. But when she first searched for nanny jobs in the U.S., she realized that it is not different from the way too many domestic workers are treated here. But through conversations with other domestic workers who understood what she was going through, Ms. Kubinyi discovered the minimal rights available to her and she found inspiration to seek justice for domestic workers. “Any no to our bill is a powerful yes to the exclusion and discrimination that many domestic workers like me are facing right now.” She called upon the Councilmembers to make history and protect the domestic workers who make your work possible.

Martha Herrera, Member, Mujeres Unidas y Activas

Ms. Herrera is a domestic worker in San Francisco and serves on an advisory committee established to develop workplace safety standards for domestic workers in California. Importantly, the California Department of Labor has supported an outreach and education program that has given domestic workers the information necessary to exercise their rights. This program has been effective because it relies on community and labor organizations and domestic workers themselves.

Liz García, Member, National Domestic Workers Alliance, DC Chapter

Through a translator, Ms. García testified in support of B24-712 as a domestic worker and former au pair. As an au pair, she was given a manual of instructions to follow but she had to accept an unpredictable schedule based on her host family’s work. The job expectations imposed on her prevented her from learning English and enjoying the supposed benefits of the au pair program. She suffered emotionally but also could not access health care because of limited health coverage and insufficient pay. She is convinced that enacting the bill will create standards and reduce the abuse of domestic workers.

Erica Sklar, Organizer, Hand in Hand

Ms. Sklar testified that employers across the District are supportive of B24-712. Many have struggled to figure out how to manage a domestic worker while navigating difficult situations. Employers will benefit from having guidelines for doing the right thing by the workers in their homes. Further, eliminating the exclusion of domestic workers from workplace protections is imperative because the exclusion is a racist legacy of slavery. Similar bills in other jurisdictions have helped employer and worker alike, by providing a framework for negotiation and a common understanding of the job duties, working hours, and pay expectations. The result is less wage theft, clearer expectations, and healthier working relationships. Finally, the bill will normalize a relationship that is currently characterized by a troubling imbalance of power.

Alana Eichner, Lead Organizer, DC Chapter of the National Domestic Workers Alliance

Ms. Eichner is a Ward 1 resident. She testified that the hearing on B24-712 is an exciting occasion because it culminates many years of organizing work in support of the bill and decades and centuries of domestic worker organizing before that. B24-712 grew out of years of

engagement with domestic workers and particularly a community conversation at the end of 2020 about the most urgent issues facing domestic workers.

Ms. Eichner noted, however, that the need for this bill has been very easily understood by many people who are not domestic workers themselves. A large and diverse group supports the bill, having instantly recognized the injustice that currently exists and the inherent value of caregiving work and caregivers. The bill is both urgently needed and broadly supported.

Jaime Contreras, Executive Vice President and Southern Region Director, Service Employees International Union Local 32BJ

Mr. Contreras testified that the exclusion of domestic workers from labor laws reveals how the work and workers have been undervalued for too long. B24-712 will finally fix these historical anachronisms, which were rooted in racism and are unjustifiable today. Domestic workers are particularly vulnerable because they work in isolation in private homes. The written contract requirement, together with outreach by DOES, will strengthen domestic workers' knowledge of their rights and facilitate enforcement against abusive employers. He hopes to see the bill considered by the full Council before the end of the year.

Alex Hogan

Hogan writes in support of the legislation saying this bill is not just the right thing to do from a policy perspective but is the right thing to do for people who are so often overlooked in our society. Hogan's family, like many others in the District, relies on domestic workers' labor for balance the needs of family and professional life.

Alex Samuels

Mr. Samuels is in favor of the bill, saying it corrects the imbalance of power between domestic workers and their employers by providing much needed protections. Samuels added that the contracts required by the legislation ensure rights and expectations are explicit and permit legal action when necessary.

Amy Campbell

Ms. Campbell supports the legislation and spoke from the perspective of a former employer of a domestic worker. Ms. Campbell spoke passionately about the need to correct the racial and economic inequities domestic workers have suffered for decades but added that employers will also benefit from the bill in that it makes rights and responsibilities for both parties. She believes the requirements in this bill will help balance the scale between domestic workers and their employers and create a clear framework for those relationships.

Anonymous Au Pair

This testimony was provided by an anonymous au pair who said she came to the DMV after being told working as an au pair would involve serving as a big sister to the children in a family, experiencing America, and building a new life. Instead, she says she was physically and mentally abused, mistreated, and harassed to the point that she had a mental breakdown and

considered taking her own life. This woman stated that au pairs are forced to rely on the goodwill of their employers and face intense hardship if the employers act in bad faith.

Caroline Davis, Member, Hand in Hand

Ms. Davis submits testimony as both an employer of domestic workers and a member of Hand in Hand; The Domestic Employers' Network. She testified in favor of the legislation, saying she would have benefited from the requirements set out in the bill. Specifically, as someone new to employing domestic workers, she lacked knowledge about contracts, rights and responsibilities, and benefits. Ms. Davis added that she had friends who faced the same challenges and who would also have benefitted from the clarity provided in this legislation.

Chelsea Bland, President, Metropolitan D.C. Area Chapter of the Coalition of Labor Union Women

Ms. Bland, a member of the Metropolitan DC Area Chapter of the Coalition of Labor Union Women, submitted testimony in favor of the bill. She explained that domestic work has been undervalued and unrecognized for too long and it is time the primarily immigrant women of color receive the protections they deserve. Ms. Bland stated these marginalized workers have few protections despite the fact that they are vulnerable to abuse, wage theft, discrimination and, because their work is largely done in homes, sexual harassment and assault. She urged the Council to pass the bill.

Clarissa Li

Ms. Li urged the Council to pass this legislation saying domestic workers have been excluded from basic job protections, including from those provided in DC's Human Rights Act, for far too long. She stated these workers were on the frontlines during the pandemic and deserve the protections all other workers receive.

Dan Mauer

Mr. Mauer is in favor of the legislation. He stated that in order to ensure fair treatment on the job, there is no substitute for legal protection and that domestic workers are currently being denied that protection and fair treatment. He urged the Council to pass the legislation.

Dolores Badillo

Dolores Badillo is a domestic worker and member of the DC Chapter of the National Domestic Workers Alliance. Ms. Badillo said her job is to "clean house, and take care of babies, and whatever comes up at the moment." She said she is proud of her work, that no corner is left uncleaned, and when she takes care of the children, she does it with love, she does it carefully, and with great care, dedication, and with a lot of love. Ms. Badillo also says she needs the same job protections as someone working any other type of job.

Ms. Badillo added that she has many friends doing this same kind of work who have been mistreated, harassed, and abused, but they don't say anything because they're afraid of losing their jobs. She said she has confidence the Council will pass this legislation.

Francisca Alvarez

Francisca Alvarez is a native of the Dominican Republic, have been living in the DMV for 29 years and is a domestic worker. While she has worked cleaning houses, her favorite job is being a nanny. She loves taking care of children. While Ms. Alvarez has had some good employers who would offer her a contract, many did not, and they took advantage of her. One denied her a contract because of her immigration status. Others would add extra work to her responsibilities and not pay her for it. They would also demand that she be on time every day but would return home late in the evening, causing her to incur extra daycare costs for her own child.

Ms. Alvarez says domestic workers deserve a Bill of Rights and asks the Council to give them that by passing this bill.

Jennifer Pauk, LICSW

Jennifer Pauk's testimony was written from the perspective of an employer of domestic workers and as a licensed mental healthcare worker. Ms. Pauk says in her role as a mental healthcare provider, she has provided services to many domestic workers and sees the toll the stress of their jobs can take on their physical and mental health. That stress is compounded by the insecurity they feel due to the type of work they do. Ms. Pauk urges the Council to pass this legislation so that domestic workers can have the security and protections they deserve.

Jessica Kaufman, Director of Social Services, Mary's Center

Jessica Kaufman is the Director of Social Services at Mary's Center and submitted testimony on behalf of that organization. Her testimony states that this bill is urgently needed to make domestic work, primarily done by immigrant women of color safe, respected, and dignified work. She added that these workers have the right to a safe and healthy workplace, especially in light of the Covid pandemic.

Ms. Kaufman urges the Council to pass this legislation and encourages the administration to execute an extensive education and outreach campaign to both domestic worker organizations and their employers so that the necessary procedures in place to protect both workers and their employers.

Julette Bucknor, Member, DC Chapter of the National Domestic Workers Alliance

Julette Bucknor is a Jamaican immigrant who has been working as a nanny in the DC area for 20 years. She says the job of a nanny is often seen as unimportant, even though they are very important to the children they take care of. Ms. Bucknor says she knows now that she should require her employer to enter into a contract with her before she takes a new position, but she did not know that when she first came to the United States. She said, in one instance, she was terminated for a position with no notice while she was actually living with the family. She simultaneously found herself homeless, carless, and without a job.

Ms. Bucknor urged the Council to pass this legislation, saying "Just like the members of the Council, nannies need to be able to count on stable income and have days off of their choosing."

Kathryn Youker, Economic Justice Project Director, Washington Lawyers' Committee for Civil Rights under Law

Kathryn Youker is the Economic Justice Project Director for the Washington Lawyers' Committee for Civil Rights Under Law and submitted testimony in support of the legislation. In addition to providing testimony about the importance of the legislation, Ms. Youker also provided background on the racist history of the exclusion of domestic workers from basic job protections. In part, she writes "The exclusion of domestic workers from labor standards continues a legacy of racism that traces its roots to slavery. As has been well-documented, the major employment rights laws, passed during the New Deal era, specifically excluded domestic workers in order to win support from Southern Democrats who sought to preserve the plantation economy by denying Black workers equal rights. Domestic workers and farmworkers, who were predominately Black men and women laboring in the South, were excluded from the organizing and collective bargaining rights secured in the National Labor Relations Act of 1935 (NLRA); from the minimum wage and overtime protections in the Fair Labor Standards Act of 1938 (FLSA); and from retirement benefits and unemployment insurance in the Social Security Act of 1935. Today, people of color, women, and immigrants are still overrepresented in these jobs. The denial to domestic workers of the same rights granted to other workers thus continues to produce the intended effects of racial oppression and economic exploitation."

Kayla Mock, Political Organizer, UFCW 400

Kayla Mock submitted testimony supporting the legislation in her role as Political Representative for the United Food and Commercial Workers Union, Local 400. Ms. Mock stated domestic workers are an essential part of the workforce and kept the city cared for during the Covid 19 pandemic. She said they deserve to be treated respectfully and equally and that this legislation is a step in the right direction.

Marjorie Majorenos, Member, National Domestic Workers Alliance

Marjorie Majorenos is a long-time nanny in the District and has worked in the capacity in other countries as well and testified in favor of the bill. She says working as a nanny is dignified work, but that the workers need contracts to be protected from the abuse and exploitation that can come from domestic work. Ms. Majorenos added that she especially likes the education and outreach components of the bill, saying they will benefit both domestic workers and their employers.

Employer Testimony from an anonymous Ward 6 resident

This person testified in favor of the bill, saying domestic workers are entitled to the same dignity and protections people working all other industries have. This resident is a physician and has employed the same person to clean their house for 10 years.

In their capacity as a physical, this resident said they see the struggle domestic workers face when they need to care for their own families, get children to medical appointments or school, take time off when they're sick, or have other needs. This resident urged the Council to pass the bill.

Rachel Anderson, Member, Jews United for Justice

Rachel Anderson providing written testimony asking the Council to pass this legislation, saying it is critical for effectively dealing with historic wrongs and creating a DC where everyone can thrive. Ms. Anderson stressed the importance of including domestic workers in DC's Human Rights Act, providing them with protection from sexual harassment and discrimination.

Rachel Alston Timmons, Public Witness

Rachel Alston Timmons provided testimony in favor of the bill. She spoke as a current employer of domestic workers as well as someone who has had domestic workers in her home since childhood. Ms. Alston Timmons spoke about the important role domestic workers played in her early years while also realizing the historic injustices that have forced these workers to be denied the basic protections they deserve. She stated that she and other employers of domestic workers need the clarity and guidance provided in this legislation and urged Council to pass it.

Ruth Friedman

Ruth Friedman provided written testimony in favor of the bill. She stated she and her husband have hired multiple au pair workers to care for their children and have seen firsthand the struggle these domestic workers face. Ms. Friedman stated that these young workers are essentially sold a picture of an idyllic life where they will be "part of an American family" rather than entering into a working relationship where they will be paid a fair wage and be protected from workplace abuse and harassment. She wrote that the protections provided in this bill will benefit the workers who need a clear understanding of the work they'll be doing and will also ensure unscrupulous employers don't take advantage of people who do not have the ability to advocate for themselves.

Ms. Friedman added that it's important that domestic workers not be excluded from these protections based on their immigration status. She closed by saying carving domestic workers out of workplace protections policies is a failure to appreciate the violations they face and their vulnerable place in private homes.

Shaun Grogan-Brown

Shaun Grogan-Brown provided written testimony in support of the legislation. Grogan-Brown provided detailed information about the impact the Covid 19 pandemic had on their understanding of domestic work and re-enforced their belief that a domestic workers bill of rights is critical. Grogan-Brown's family and another family hired a domestic worker to oversee their childrens' remote-learning when in-person schools were closed. This benefitted both the families and the domestic worker because she was allowed to bring her child to work every day as well.

The parties all entered into a contract which made the process clear and protected all of them. It also provided a guide for any questions that came up during her employment. Grogan-Brown said it would have been helpful to have this legislation in place because they needed more guidance than is now available to them through traditional resources.

Cristina (Felicita) Uribe

Ms. Uribe wrote that she is a proud home cleaner and single mother of a 4-year-old. It was difficult for her to continue working through the pandemic, knowing she put herself and her family at risk and keeping others' homes clean. Domestic workers like her lack health insurance, retirement benefits, vacations, bonuses, and even a contract, and depend on the nobility of their employers. And domestic workers experience discrimination based on their appearance, their language, their age, and their nationality. This must stop. Ms. Uribe hopes the bill will pass as soon as possible.

Nitza Seguí Albino, President, Latinas en Poder

Ms. Albino testified that domestic workers around the world experience violence, exclusions, sexual abuse, and even death at the hands of their employers—not just in authoritarian countries, but even in progressive U.S. cities. Laws in Costa Rica and Taiwan provide more protection to domestic workers than U.S. law. Latinas en Poder calls for the Council to adopt legislation recognizing the rights of domestic workers, with funding included. The legislation should eliminate exclusions of domestic workers from human rights and workplace safety laws; require written contracts between domestic workers and their employers; increase the wages of domestic workers; impose the maximum sentences on employers who sexually abuse, attack, or traffic women of color; and provide for outreach and education to domestic workers and their employers.

Suzanne Abogo, Member, National Domestic Workers Alliance

Ms. Abogo is an immigrant from Cameroon and cares for elderly people in their homes. She works 8 hours during the day and started an evening job to earn more money to meet expenses, which include training and certifications for her job, her son's community college tuition, and care for her other children back home. The biggest challenge in her job is the lack of respect from agencies and clients. She is often made to do additional tasks, such as caring for a patient's family members and housecleaning, and she is not free to speak up. Her work is physically hard and, despite rules against lifting patients, she often lifts patients to help from out of a wheelchair and into bed. She recently injured her back and lost 8 days of work, but she has no protections.

VI. IMPACT ON EXISTING LAW

Title I sets forth new freestanding provisions. A new provisions specifies that meeting the requirements of section 102 can satisfy existing obligations under DC Code § 32-1008(c).

Title II amends the definition of “employer” in section 102 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02), by striking an exclusion for persons who employ “domestic servants.” Additional conforming amendments are explained in the Section by Section Analysis.

Title III amends the definition of “employee” in section 2 of the D.C. Occupational Safety and Health Act of 1988, effective March 16, 1989 (D.C. Law 7-186; D.C. Official Code § 32-1101), by striking an exclusion for “domestic servants.”

Title IV concerns the applicability, fiscal impact, and effective date of Bill 24-712.

VII. FISCAL IMPACT STATEMENT

A fiscal impact statement has been prepared by the Office of Revenue Analysis and is attached to this report.

The Committee urges DOES to request, and the Mayor to propose, funding to implement this bill in the proposed budget for FY 2024. Among other things, funding will be necessary to develop and distribute outreach and education resources to hiring entities and domestic workers to assist them in complying with the law.

But the Committee respectfully disagrees with DOES's interpretation of Title III, which substantially affects the bill's fiscal impact. Title III of the bill (as introduced and as recommended by the Committee) amends the District's Occupational Safety and Health Act by deleting six words that exclude "domestic servants" from the definition of "employee." In its written testimony, DOES asserted that Title III would have a fiscal impact of approximately \$14.8 million over 5 years. These funds would be used to develop and enforce a new State Plan of occupational health and safety standards for all workers in the District including domestic workers. In the Committee's view, this is not what the bill requires.

When it was adopted in 1989, the District's occupational safety law directed DOES to develop a State Plan and submit it to the Secretary of Labor for approval within 1 year of that law's effective date.⁷² Otherwise, its provisions do not apply until 2 years after the Secretary's approval of the State Plan.⁷³ The Committee is not certain whether DOES failed to submit a State Plan or whether the Secretary declined to approve it; regardless, the District has never had a State Plan, and the District remains a "federal OSHA state" with occupational safety and health laws enforced by the federal Occupational Safety and Health Administration.

But nothing in B24-712 directs DOES to develop a State Plan. Eliminating DOSHA's exclusion of domestic workers is a matter of human dignity and thus an important part of the bill's purpose.

VIII. RACIAL EQUITY IMPACT ASSESSMENT

Committee staff requested the Council Office of Racial Equality to prepare a racial equity impact assessment on the bill prior to the Committee markup.⁷⁴ But based on the Secretary's determination that a racial equity impact assessment is not required before the final markup of a sequentially referred bill, CORE intends to provide a racial equity impact assessment later.⁷⁵

⁷² See § 5 of D.C. Law 7-186, effective Mar. 16, 1989 (codified at D.C. Official Code § 32-1104).

⁷³ § 26 of D.C. Law 7-186, effective Mar. 16, 1989 (codified at D.C. Official Code § 32-1124).

⁷⁴ CLWD began corresponding with the Council Office of Racial Equity (CORE) in July 2022, well before the stated 10-day deadline. Email from Committee to Namita Mody, July 27, 2022, 2:14 PM. CLWD was then informed that CORE would not have the capacity to perform its analysis before the September 16, 2022 mark-up. Email from Namita Mody to Committee, August 29, 2022 at 8:38 PM.

⁷⁵ Email from Secretary Nyasha Smith to Committee, September 1, 2022, 3:36 PM.

The Committee observes that Council Rule 311(a) states: “except as provided in subsection (b) of this Rule, a Racial Equity Impact Assessment is required at the time of consideration of a resolution or bill being marked up by a committee.” Rule 311(b) sets forth exceptions, none of which relate to a sequential referral. The language of Rule 311 is practically the same as that of Rule 310, pertaining to legal sufficiency determinations.

Although a racial equity impact assessment would have been welcomed at the time of this markup, the overwhelming weight of testimony and the health note (discussed in the following section) strongly suggest that B24-712 will promote racial equity by extending labor protections to a segment of the workforce that is mostly comprised of women of color.

IX. HEALTH NOTE

The Health Impact Project at The Pew Charitable Trusts prepared a health note on the introduced version of B24-712 and provided it to the Committee before the public hearing. It is also attached to this report.

The health note is intended to provide objective, nonpartisan information to help legislators understand the connections between public health and other sectors such as employment. The health note is based on an expedited literature review using a systematic approach to minimize bias and answer specific research questions.

The health note found strong evidence for the following three findings: First, due to a lack of protections and access to benefits, domestic workers must often make tradeoffs between protecting their health and safety and their financial well-being. These tradeoffs can result in domestic workers reporting for work while sick or injured, tolerating unsafe working conditions, taking unpaid leave and paying for medical costs out of pocket in order to care for a work-related injury or illness. Second, a lack of regulations or formalized complaint channels compound physical and mental health risks of domestic work, such as injury from heavy lifting or repetitive motion, exposure to chemicals, exposure to infectious agents, and verbal and physical harassment or assault. Third, domestic workers and other precariously employed workers are disproportionately women, single mothers, people of color, and immigrants, raising important equity considerations given these groups’ historical exclusion from protections and benefits enjoyed by other workers.

X. SECTION-BY-SECTION ANALYSIS

Sec. 101. Definitions.

The term “casual basis” is derived from both the DC regulations implementing the DC Wage Law (Chapter 9 Title 7) and US Department of Labor regulations (29 CFR 552.5). Someone who belongs to this category may perform domestic services for pay but performing this work is not their primary occupation. However, a domestic worker who obtains new but irregular employment

can still rely on the bill's protections. The definition of a "domestic worker" includes the types of work that domestic workers usually perform as nannies, housekeepers, home aides, cooks, gardeners, and personal assistants. A hiring entity is not required to use a services contract with their family member.

A "domestic services agency" is a type of hiring entity that employs two or more employees and dispatches them to households to perform work. A typical example of this is a cleaning company that a District resident might book to perform weekly housekeeping tasks. The agency may send the same employee or employees every time work is due to be performed at that home, or they may send different workers to each appointment. This exception in the bill makes clear that the obligations to provide the contract to the worker are with the agency, which is a type of "hiring entity," not with the individual household. The provisions in this bill that describe "hiring entity obligations also apply to domestic services agencies, since they are a type of hiring entity. The customer of a domestic services agency is not a hiring entity because the obligation to provide the services contract lies with that agency, as described above.

The Committee print eliminates the exception from the definition of "domestic worker" for individuals under 18 years old that was in the introduced version of the bill in order to ensure pay equity across age groups.

A "hiring entity" is anyone who a domestic worker performs at least 5 hours of work for in a calendar month period. It includes individuals "employed," meaning the domestic worker is a traditional employee whose actions are directed and controlled by the hiring entity, as well as those "engaged" as independent contractors.

A "referral agency" is one that does not control hiring parties or domestic workers but work with one or both groups either via a traditional ("in person") business model or via a web application. For example, Care.com is a marketplace where domestic workers and those who want to hire them can match to discuss short or long-term work.

Section 102. Services contracts and other requirements for hiring entities and referral agencies.

This section specifies that a services contract must be executed any time a domestic worker performs 5 hours or more of work for a hiring entity. It lays out what must and must not be in the contract. It also details when copies, translations, new agreements, and modifications may or must be made. An outdated or inaccurate service contract would not serve the purposes of this bill. These requirements will ensure that domestic workers and hiring entities always have service contracts that reflect the work currently being performed so that, in the event of a dispute, there is clear evidence of both parties' intent.

(a) This subsection specifies that a hiring entity must execute a services contract with a domestic worker no later than the first day of work. Anyone in the District that is a hiring party already employing or engaging a domestic worker will have to do this within 90 days of the applicability date of this title.

(b) This subsection lists what must be contained in the services contract. Many of these terms are the same as what must be detailed in the District's existing Notice of Hire form, such as the work

duties, pay, pay dates, working day and location, types of leave and other benefits that will be provided during the employment.

Paragraph (C) will list the address where work takes place. For work that is performed in a private home, this will be the home address. For work performed by employees of a domestic services agency, this address should be the same as that registered with the Department of Licensing, which is the agency that will assume business registration operations from the Department of Consumer and Regulatory Affairs.⁷⁶ An address is important for the worker to have so that if a claim arises against that entity, DOES or OAG can investigate the employer.

The items listed in section 102(b) will not apply to all domestic workers. For example, the services contract must list the duties to be performed. Virtually all service contracts will include this information. In contrast, paragraph N is an estimated value for lodging provided to live-in workers so it will not apply to those workers who the hiring entity does not provide part- or full-time lodging.

In all cases, the services contract must specify which terms do not apply so that the domestic worker and DOES know that the hiring entity did not simply fail to include the specified information. This will ensure that employers and hiring parties agree on all the key terms of the arrangement before work begins.

(c) This subsection imposes limitations on what may be included in a services contract and provides that, if they are included, they are void as a matter of law. A domestic worker cannot be prevented or deterred from filing a complaint or cooperating with a government investigation. Non-compete provisions are only permitted in conformity with the District's forthcoming law banning non-competes, but due to the traditionally low wages earned by most domestic workers, the Committee anticipates that non-competes with domestic workers will be rare if non-existent.

(d) This subsection lists the hiring entity's obligation to provide a translated services contract when the domestic worker needs it, how DOES can determine whether the hiring entity has met this obligation, and for how long the hiring entity must keep records.

Subsection (e) bars hiring entities from retaliating against domestic workers for attempting to exercise their rights.

The remainder of the section specifies how referral agencies and shared service users will use the services contract, allow contracts to be issued in copies and to contain other terms, holds joint employers liable where appropriate, clarifies that the requirements of this Act do not change otherwise at-will employment, and let an employer use the services contract to fulfill its obligation to provide a Notice of Hire form to employees.

Section 103. Outreach and public guidance. The bill's requirements for online support and community-based outreach are intended to address domestic workers' and hiring entities' concern that there is currently no resource in the District to guide this relationship. The Department of

⁷⁶ The new agencies assumed their responsibilities under L23-269, "The Department of Buildings Establishment Act of 2020," on October 1, 2022; see <https://dcratransition.dc.gov/>.

Employment Services will be required to create contract templates that can be used to comply with the services contract requirements, and these must be provided in English, Spanish, and at least five other languages commonly spoken in the District. DOES must also create a website that lists District and federal information about employing domestic workers (specifying which laws and/or resources) and what taxes must be paid by the household employer. At the same time, the Office of the Attorney General will be responsible for issuing grants to community-based organizations so that these groups can reach out to domestic workers and employers about their rights.

Section 104. Enforcement. This section ensures that the Mayor and Attorney General have the power to enforce and implement this bill. Domestic workers will be able to file a complaint with the Department of Employment Services, which will investigate a complaint utilizing the complaint process already in place for other worker protection laws.

However, this section creates two alternative paths for DOES to respond to administrative complaints alleging a violation of section 102. First, under subsection (d), the Mayor is authorized to provide an employer with an opportunity to cure defects in a contract if that is the key issue in the complaint. Second, where the parties seek to resolve the issue in mediation, DOES may pursue that path to a resolution.

In addition to the types of relief that the Mayor and Attorney General can obtain under existing laws, such as liquidated damages and back wages, this bill states that hiring entities will be liable for violations of the law to both the District and the worker.⁷⁷ The minimum penalty for violating the requirements of the bill is \$250 but should be increased based on the specific factors of the case, including the severity and breadth of the harm caused. In addition, a domestic worker who experienced a violation is able to collect at least \$250 in “relief,” that is, damages payable to the worker as redress for the harm they experienced. In recognition of the fact that retaliation is a greater harm to a domestic worker than an employer’s omission or other deficiency in completing the required contract, retaliation against a domestic worker is subject to a penalty of \$500 or more and a worker subjected to retaliation is due \$500 or more per instance of retaliatory conduct. This is consistent with other District worker protection laws and necessary to prevent future retaliation by employers.⁷⁸ A referral agency that does not notify domestic workers and hiring entities about this law can also be subject to penalties payable to the District; however, there is no relief payable to workers or hiring entities if this occurs.

Section 105. Rules. The Department of Employment Services is required to initiate rulemaking to lay out those aspects of the law that must be further explained to the public, such as: when contract must be revised or modified, recordkeeping requirements, and safekeeping of records related to immigration status.

Section 106. Collective Bargaining Agreements. This section explains that the law will not supersede a collective bargaining agreement. The rationale for this is that domestic workers who

⁷⁷ If a domestic worker brings a claim under this title alongside a failure to pay wages or other violation, they can recover those unpaid wages and any other types of relief is available under that other law. The Committee urges DOES to consider those claims simultaneously rather than separately.

⁷⁸ See DC Code § 32-1311.

collectively bargain are better situated to consider and address modifications of their rights in a contract than other workers.

Title II. This title removes the exclusion of domestic workers from the District's Human Rights Act. The title adds a new exemption to the general prohibition against employers disclosing information about their employees' status as a victim of certain offenses, in recognition that domestic employers may need to make such disclosures to protect members of the household, and permits the assertion of sex as a limited *bona fide* occupational qualification for domestic employment in certain circumstances. Finally, the title directs OHR to create guidance materials specific to the domestic work context and permits employers to provide mandatory workplace notices directly rather than posting these in the workplace. The rationale for these are further elaborated on in the report of the Committee on Government Operations and Facilities on B24-712.

Title III. This title removes the exclusion of domestic workers from the District's Occupational Safety and Health Law so that, if the District creates a State Plan for implementing local safety and health enforcement, domestic workers will be included in that plan. Eliminating this exclusion rights the historical wrong that is codified in District law, while the outreach, education, and grantmaking provisions of this bill will more immediately address domestic workers' safety and health in their workplaces.

Title IV.

Section 401 details when particular provisions of this bill will apply. Upon the inclusion of the fiscal effect of Titles I, II, and III in an approved budget and financial plan, Sections 101, 103, and 105, and Title II and III will apply. These resources should be available to domestic workers and hiring entities before the law applies to them. Sections 102, 104, and 106 will take effect 120 days after applicability (i.e., after sections 101, 103, and 105, and titles II and III apply).

Section 402. Fiscal impact statement.

Section 403. Effective date.

XI. COMMITTEE ACTION

The Committee on Labor and Workforce Development convened on Friday, October 21, 2022, at _____ via the Zoom platform to consider and vote on the committee print of B24-712. Chairperson Silverman recognized the presence of a quorum, consisting of herself and Councilmembers ____ and _____. The committee meeting adjourned at _____.

XII. ATTACHMENTS⁷⁹

1. Bill 24-712 as introduced, with the Secretary's memoranda of referral and re-referral
2. Notice of intent to act on Bill 24-712
3. Notice of public hearing on Bill 24-712
4. Agenda, witness list, written testimony, and other relevant documents
5. Fiscal impact statement
6. Health note
7. Legal sufficiency determination
8. Comparative print
9. Committee print

⁷⁹ As discussed in Section VIII, a racial equity impact statement is not included at the Secretary's direction.