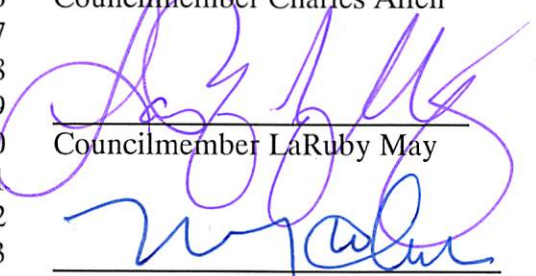




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2 Councilmember Elissa Silverman

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4 Councilmember Charles Allen

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6 Councilmember LaRuby May

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8 Councilmember Mary Cheh

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10 Councilmember David Grosso

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12 Councilmember Brianne Nadeau

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14 Councilmember Kenyan McDuffie

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24 A BILL  
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28 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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30

31 To establish a universal paid leave system for all District residents and for workers who are  
32 employed in the District of Columbia and to allow for 16 weeks of paid family and  
33 medical leave; to amend the D.C. Family and Medical Leave Act of 1990 to increase job  
34 protection status for some employees; and to amend the District of Columbia  
35 Government Comprehensive Merit Personnel Act of 1978 to allow government  
36 employees with serious health conditions or who qualify for family leave to take paid  
37 leave of up to 16 weeks.  
38

39 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
40 act may be cited as the "Universal Paid Leave Act of 2015".

41 **Title I. Establishment of Paid Family and Medical Leave**

42 Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Application period" means the 12-month period beginning on the first day of the calendar week in which an individual's benefit for family or medical leave begins.

(2) "Average weekly wages" means the total wages subject to contribution under section 106 of this title or owed by the District of Columbia during the 4 quarters out of the 5 quarters immediately preceding the qualifying event during which the individual's wages were highest divided by 52.

(3) "Covered employee" means any individual who has the status of an employee and was employed by a covered employer during some or all of the 52 calendar weeks immediately preceding the qualifying event, and either spends more than 50% of the individual's work time for a covered employer in the District of Columbia or whose employer is a registered business holder in the District of Columbia and who does not spend more than 50% of his or her working time for the covered employer in a state other than the District of Columbia.

(4) "Covered employer" means any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to a covered employee, but shall not include the United States or the District of Columbia.

(5) "D.C. FMLA" means the District of Columbia Family and Medical Leave Act of 1990, effective March 14, 1991 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*).

(6) "Eligible individual" means a person who is not a current employee of the District of Columbia, who meets the administrative requirements of this title and regulations issued pursuant to this title, and:

(A) Who was a covered employee during some or all the 52 calendar weeks immediately preceding the qualifying event;

(B) Who is a resident of the District of Columbia for some or all of the 52 calendar weeks immediately preceding the qualifying event who earned wages in a capacity other than as a covered employee; or

(C) A self-employed resident of the District of Columbia who, during some or all of the 52 calendar weeks immediately preceding the qualifying event, earned self-employment income and has not opted out of coverage under this title.

(7) “Family and medical leave benefits” means the benefits provided pursuant to this title.

(8) “Family member” shall have the same meaning as provided in section 1203c(g)(3) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-612.03c(g)(3)).

(9) “Health care provider” shall have the same meaning as provided in section 2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective March 14, 1991 (D.C. Law 8-181; D.C. Official Code § 32-501(5)).

(10) “Intermittent leave” means leave taken in separate periods of time due to a qualifying event, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

(11) “Qualifying event” shall have the same meaning as provided in section 1203c(g)(4) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective

March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.03c(g)(4)), except that it shall also include any qualifying exigency.

(12) “Qualifying exigency” means leave for the family member of a service member for any of the following reasons:

(A) Leave needed because of notice given 7 or fewer days in advance of deployment;

(B) Leave to attend military events and related activities;

(C) Leave to attend child care and school activities only if the leave is required, indirectly or directly, due to the active duty call or active duty status of the family member;

(D) Leave to make financial and legal arrangements for the service member’s absence or because of the absence;

(E) Leave to attend counseling provided by someone other than a healthcare provider, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member;

(F) Leave to spend time with a service member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible individuals may take up to five days of leave for each instance of rest and recuperation;

(G) Leave to attend post deployment activities;

(H) Any leave related to issues that arise out of active duty or a call to active duty that a covered employer and covered employee agree should be covered;

(I) Any leave to care for a qualifying service member who is the eligible individual’s next of kin as defined under the Family and Medical Leave Act of 1993.

(13) "Retaliate" means to commit any form of intimidation, threat, reprisal, harassment, discrimination or adverse employment action, including discipline, discharge, suspension, transfer or assignment to a lesser position in terms of job classification, job security, or other condition of employment, reduction in pay or hours or denial of additional hours, informing another employer that the person has engaged in activities protected by this title, or reporting or threatening to report the actual or suspected citizenship or immigration status of an employee, former employee or family member of an employee to a federal, state or local agency, because the employee or former employee exercises a right under this title.

(14) "Self-employment income" means net income earned from carrying on a trade or business as a sole proprietor, a genuine independent contractor, or as a member of a partnership.

(15) "Serious health condition" means a physical or mental illness, injury, impairment, condition, pregnancy, or post-partum recovery period that involves:

(A) Inpatient care in a hospital, hospice, or residential health care facility; or

(B) Continuing treatment or supervision at home by a health care provider.

(16) "Wages" shall have the meaning given in section 1(3) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101(3)), except that self-employment income shall be treated as wages if the self-employed individual has not opted out of coverage under this title.

Sec. 102. Establishment of a family and medical leave program.

(a) The Mayor shall establish and administer a paid family and medical leave program and pay family and medical leave benefits as specified in this title.

(b) The Mayor shall establish procedures and forms for filing claims for benefits under this title. The Mayor shall notify the employer within 5 business days of a claim being filed pursuant to this title.

(c) The Mayor shall use information sharing and integration technology to facilitate the disclosure of relevant information or records so long as an individual consents to the disclosure as required under District law. The Mayor shall create a user-friendly, online portal for the submission and management of forms and documents. The portal shall be accessible to the public via the Internet, and shall be designed with a privacy protected, user-friendly, interactive, searchable interface that provides information relevant to claimants, employers, and the public. No individual information shall be posted on this portal. The components of the portal accessible to the general public shall include at a minimum, real-time, searchable parameters for the purpose of collection of reportable data, tracking program use, and to use data to reduce the cost of the program and to integrate the program with existing District benefit programs.

(d) Information contained in the files and records pertaining to an individual under this title are confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, an individual or an authorized representative of an individual may review his or her own records or receive specific information from his or her own records. All documents may be accepted and distributed electronically pursuant to D.C. Official Code § 28-4917.

(e) The Mayor shall issue rules as necessary to implement this title.

(f)(1) The Mayor shall prescribe and provide to covered employers a notice explaining:

151 (A) The employees' right to family and medical leave benefits under this  
152 title and the terms under which such leave may be used;

153 (B) That retaliation by the covered employer against the covered  
154 employee for requesting, applying for or using family and medical leave benefits is prohibited;  
155 and

156 (C) That the covered employee has a right to file a complaint and the  
157 procedures established by the Mayor for filing a complaint.

158 (2) The notice shall be published in all languages spoken by 3% or 500  
159 individuals in the District of Columbia population, whichever is less.

160 (g) Each covered employer shall, at the time of hiring and annually thereafter, and at the  
161 time the covered employer is aware that the leave is needed, provide this notice to each covered  
162 employee. Each covered employer shall also post and maintain the notice in a conspicuous place  
163 in English and in all languages in which the Mayor has published the notice.

164 (h) A covered employer who violates subsection (g) of this section shall be assessed a  
165 civil penalty not to exceed \$100 for each covered employee to whom individual notice was not  
166 delivered and \$100 for each day that the covered employer fails to post the notice in a  
167 conspicuous place. No liability for failure to post notice will arise under this section if the Mayor  
168 has not prescribed the notice required by this section.

169 (i) The Mayor shall conduct a public education campaign to inform covered employees  
170 and employers and eligible individuals regarding the availability of paid family and medical  
171 leave. In the first 2 years after the program is established, the Mayor shall use .5% of the funds  
172 collected for the paid family and medical leave program in a given year to pay for the public

education program. In subsequent years, the Mayor shall use .25% of the funds collected for the paid family and medical leave program to pay for the public education program.

(1) The Mayor shall coordinate with the Office of Human Rights and other agencies the Mayor deems appropriate to create an awareness campaign for the program established by this title.

(2) The Mayor shall make a quarter of the funds allocated under this subsection available by grant to non-profit health advocacy and employment justice advocacy groups to create a public awareness campaign for the program created by this title.

(3) All outreach information shall comply with the Language Access Act of 2004, effective June 19, 2005 (D.C. Law 15-167; D.C. Official Code § 2-1931 *et seq.*).

Sec. 103. Eligibility for benefits and administrative process for determining benefits.

(a) An eligible individual may claim family and medical leave benefits for a qualifying event

(b) Family and medical leave benefits shall be paid to an individual who is not currently employed, but who is an eligible individual meeting one of the requirements listed in subsection (a) of this section.

Sec. 104. Amount and duration of benefits.

(a) An eligible individual shall be entitled to receive up to 16 weeks of paid family and medical leave benefits in each application period, which may be divided among more than one qualifying event. The cumulative nature of family and medical leave benefits shall be identical to the D.C. FMLA. Subject to the provisions of this title, any eligible individual who becomes



unable to perform the functions of their position because of a serious health condition shall be entitled to medical leave benefits for as long as the individual is unable to perform the functions, except that medical leave benefits shall not exceed 16 workweeks during any application period. Subject to the provisions of this title, any eligible individual who is caring for a family member with a serious health condition or experiencing a qualifying exigency shall be entitled to family leave benefits for as long as the individual's family member for whom the individual is providing care has a serious health condition or qualifying exigency, or in the case of a new child, at any time during the application period, except that family leave benefits under this title shall not exceed 16 workweeks during any application period.

(b) Subject to section 108(b), the amount of family and medical leave benefits shall equal 100% of the eligible individual's average weekly wages up to \$1,000 per week plus 50% of average weekly wages in excess of \$1,000 up to a maximum weekly benefit \$3,000. Benefits for partial weeks of leave shall be prorated.

(c) Family and medical leave benefits shall not be payable for the first 5 consecutive days on which an individual would otherwise be scheduled to work in an application period, unless the eligible individual uses 5 or more days of family and medical leave benefits in the application period, after which time the eligible individual will be paid for the 5 day waiting period. The waiting period shall only be served once for each qualifying event. Covered employees may use accrued leave, such as vacation or sick leave, during the waiting period, prior to applying for family and medical leave benefits, or after the benefits have been exhausted.

(d) The first payment of benefits shall be made to an eligible individual no later than 2 weeks after the claim is filed and subsequent payments shall be made biweekly thereafter.

(e) A covered employee shall be entitled, at the option of the covered employee, to take this leave on a reduced leave or intermittent leave schedule in which all of the leave authorized under this title is not taken sequentially.

(f) The covered employee shall make a reasonable effort to schedule leave under this section so as not to disrupt unduly the operations of the covered employer and to provide the covered employer with prior notice of the schedule on which the covered employee will be taking the leave.

(g) Covered employees with a chronic condition shall be exempt from section 104(c) of this title if the Mayor annually certifies that their condition requires the individual to take intermittent leave.

#### Sec. 105. Family and medical leave account fund establishment and investment.

(a) There is established as a special fund the Family and Medical Leave Fund ("Fund"), which shall be administered by the Office of the Chief Financial Officer in accordance with this title.

(b) Revenue from the following sources shall be deposited into the Fund:

(1) Covered employers in the District of Columbia;

(2) The District of Columbia government;

(3) Eligible individuals;

(4) Interest earned upon the money in the Fund; and

(5) All other money received for the Fund from any other source.

(c) Money in the Fund shall be used only for the purposes of the paid family and medical leave program, including paying for benefits, public education, and administrative costs required pursuant to this title.

(d) Whenever, in the judgment of the Mayor, there shall be in the Family and Medical Leave Fund account funds in excess of that amount deemed by the Office of Chief Financial Officer to be sufficient to meet the current expenditures properly payable there from, the Mayor shall have full power to invest, reinvest, manage, contract, sell, or exchange investments acquired with such excess funds in the manner prescribed by section 106 of this title. However, in no case shall the Mayor authorize use of any of the funds in the Fund for purposes other than those authorized under this title.

(e) Claims under section 104 of this act cannot be administered from the Fund until one year after the effective date or when the Chief Financial Officer certifies that the Fund can begin paying out claims for benefits under section 104 while remaining solvent.

(f) The Mayor shall provide an annual report to the Council about the financial management, claim management, operation, and use of the Fund and program established in this title.

#### Sec. 106. Contributions to the Fund.

(a) The Chief Financial Officer shall certify whether the balance of the Fund on the final day of the District's fiscal year is greater than one year of the Fund's projected expenses. If the balance is not certified to exceed one year of projected expenses, the percentage contribution rate shall be 1%. If the balance is certified to exceed one year of projected expenses, the contribution

rate shall be based on the following percentages or a scaled percentage to be determined by the Chief Financial Officer as follows:

Individual Annual Salary	Percent Paid into Fund
\$0.01 under \$10,000	0%
\$10,000 under \$20,000	.5%
\$20,000 under \$50,000	.6%
\$50,000 under \$150,000	.8%
\$150,000 and over	1%

(b) Each covered employer shall contribute to the Fund in a manner and form prescribed by the Mayor under this title an amount equal to the contribution rate multiplied by the wages paid by that covered employer to each covered employee. If a covered employee does not receive income evenly throughout the year, the estimated payment shall be calculated by annualized income installment method that annualizes the amount at the end of each period based on a reasonable estimate of income, deductions, and other items relating to events that occurred from the beginning of the tax year through the end of the period.

(c) Covered employers' contributions shall be made in the same manner and violations shall be subject to the same procedures, interest, penalties, and remedies as unemployment contributions pursuant to section 4 of the District of Columbia Unemployment Compensation Act, effective August 28, 1935 (49 Stat. 948, D.C. Official Code § 51-104), except that the Mayor may choose a different designee to prescribe regulations and otherwise implement this section.

(d) Each resident of the District of Columbia who earns wages in a capacity other than as a covered employee shall contribute to the Fund in a manner and form prescribed by the Mayor under this title an amount equal to the contribution rate multiplied by his or her wages earned and paid in a capacity other than as a covered employee, including, in the case of a self-employed individual who has not opted out of coverage under this title, self-employment income. (e) Contributions required by subsection (d) of this section shall be made in the same manner and violations shall be subject to the same procedures, interest, penalties, and remedies as individual income taxes pursuant to D.C. Official Code §§ 47–1801.01 *et seq.* This requirement shall be incorporated into subchapter II of chapter 15 of title 47, District of Columbia Code, for purposes of agreements with federal agencies entered into in accordance with 5 U.S.C. 5516.

(f) The District of Columbia shall contribute to the Fund an amount determined by the Chief Financial Officer to:

(1) Establish an agency or an office within an agency designated by the Mayor with a staff of the appropriate number of employees to fully implement and administer this title;

(2) Allow for the provisions of this title to go into effect one year following the effective date.

#### Sec. 107. Self-employed individuals.

(a) An individual who earns self-employment income shall be continuously enrolled in the Paid Family and Medical Leave Program unless that individual has elected not to receive coverage during an open enrollment period or within 60 days of the commencement of their business.

(b) Open enrollment periods shall extend for 60 days after the effective date of this title and for the months of November and December during each subsequent calendar year. Coverage shall automatically continue each year unless an individual opts out and contributions shall be paid in monthly installments.

(c) If an individual who earns self-employment income who has previously opted out wishes to reenroll in the Family and Medical Leave Program, the individual shall do so for an initial period of not less than 3 years by providing written application of such reenrollment to the Mayor. After 3 years, the individual may withdraw from coverage during any open enrollment period. Any individual who previously opted out of coverage shall not be eligible for benefits for the first year after reenrolling in the Program.

(d) If an eligible individual who earns self-employment income does not make a timely payment then the District shall notify them of the payments due and after notice has been given and payment is still not received then the eligible individual's policy shall be cancelled and they may re-enroll only pursuant to section 107(c) of this title.

#### Sec. 108. Coordination of benefits.

(a) If paid leave taken under this title also qualifies for protected leave under the Family and Medical Leave Act, 29 U.S.C. 2601, or the D.C. FMLA, paid leave provided pursuant to this title shall run concurrently with leave taken under those acts.

(b) If an eligible individual is eligible for short-term disability insurance offered by a covered employer, this does not exempt the covered employer or eligible individual from this title.

(c) This title shall not:

(1) Supersede any provision of law, collective bargaining agreement, or other contract that provides paid leave rights in addition to the rights established under this title; or

(2) Prevent a covered employer from adopting or retaining a paid leave policy that provides greater benefits than are required by this title.

(d) An individual's right to benefits under this title may not be diminished by a collective bargaining agreement, other contract, or an employer policy. Any agreement by an individual to waive his or her rights under this title is void as against public policy.

Sec. 109. Determination of claims; hearing; appeal; witness fees.

(a) Claims for benefits shall be made in accordance with such regulations as the Mayor may prescribe in accordance with this title. The Mayor shall not require any individual to provide a social security number in order to apply for or obtain benefits under this act. In any case where an employer has failed to keep or provide an employee with employment records as required under D.C. law or has failed to make contributions on wages paid to an employee as required under this Act, the Office of Administrative Hearings shall presume the employee eligible and shall consider broadly evidence of the employee's eligibility for the benefit. The Office of Administrative Hearings shall consider as evidence of eligibility documentation including but not limited to: paystubs; documentation of wages in the form of personal checks, cash receipts, or bank deposits; work schedules; communications between employer and employee; and any circumstantial evidence of the employee's eligibility.

(b) Within 10 days after an individual has filed a claim for benefits, an agent of the Mayor designated for such purpose shall make an initial determination with respect to whether or not the individual is eligible for benefits, whether such benefit may be payable, and if payable,

the week with respect to which payments will commence, the maximum duration thereof, and the weekly benefit amount. If this determination is appealed, the agent shall promptly transmit such claim to an appeal tribunal which shall make a decision thereon after such investigation as it deems necessary, and after affording the claimant opportunity for fair hearing in accordance with subsection (e) of this section, and the claimant shall be given notice thereof and permitted to appeal therefrom to the Office of Administrative Hearings and the courts. An initial determination may, for good cause, be reconsidered. The claimant shall be promptly notified of the initial determination or any amended determination and the reasons therefor. Benefits shall be denied or, if the claimant is otherwise eligible, paid promptly in accordance with such initial determination except as hereinafter otherwise provided. The Office of Administrative Hearings shall promptly notify the claimant of its determination, and such determination shall be final within 15 calendar days after the mailing of notice thereof to the claimant's last-known address or in the absence of such mailing, within 15 calendar days of actual delivery of such notice. The 15-day appeal period may be extended if the claimant shows excusable neglect or good cause. If an appeal tribunal affirms an initial determination allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken. If, subsequent to such initial determination, benefits with respect to any week for which a claim has been filed are denied for reasons other than matters included in the initial determination, the claimant shall be promptly notified of the denial and the reasons therefor, and may appeal therefrom in accordance with the procedure herein described for appeals from initial determinations.

(c) To hear and decide appealed claims, the Office of Administrative Hearings shall appoint one or more appeal tribunals to hold hearings in accordance with regulations prescribed by the Office of Administrative Hearings at which all parties shall be given opportunity to



present evidence and to be heard. In the conduct of such hearings, the parties shall not be bound by common law or statutory rules of evidence or other technical rules of procedure, but the appeal tribunal shall use due diligence to ascertain the true facts of the case.

(d) Each appeal tribunal shall consist of an examiner regularly employed by the Office of Administrative Hearings on a salaried basis. No person acting in any case on behalf of the Mayor shall have any interest, direct or indirect, in the case.

(e) An appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall, unless such appeal is withdrawn, affirm or modify the finding of facts and the initial determination. The parties shall be duly notified of the decision of such appeal tribunal, together with the reasons therefor. Any decision of an appeal tribunal is final for all purposes.

(f) A full and complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at every hearing on any such claim shall be taken down by a stenographer or recording device, but shall not be transcribed except upon order of the Office of Administrative Hearings or in the event of an appeal pursuant to this title. Upon any such appeal, a copy of all the testimony and of the findings of fact upon which the Office of Administrative Hearings's decision was based shall be filed with the court, and the facts so found shall, if supported by evidence, be binding on the court.

(g) Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Office of Administrative Hearings. Such fees shall be deemed part of the expense of administering this title.

(h) The Mayor shall establish and administer a Claimant Paid Family and Medical Leave Advocacy Fund, funded with monies collected as interest and penalty payments from employers

due to their late filing of wage reports and late payment of employer contributions. The Claimant Paid Family and Medical Leave Advocacy Fund shall be used exclusively to support the provision of assistance to and legal representation for claimants involved in administrative appeals of claim determinations made by the Office of Administrative Hearings. The Fund shall be split equally to support the provision of such assistance and representation for claimants at an organization capable of handling employment claims determined by the Mayor and for an Employer Advocacy Fund pursuant to D.C. Official Code § 51-111(h).

(i) Testimony in hearings arising under this title may be given and received by telephone or internet.

(j) Any finding of fact or law, determination, judgment, conclusion, or final order made by a claims examiner, hearing officer, appeals examiner, the Mayor, or any other person having the power to make findings of fact or law in connection with any action or proceeding under this title, shall not be conclusive or binding in any separate or subsequent action or proceeding between an individual and his present or prior employer brought before an arbitrator, court, or judge of the District of Columbia or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) Notwithstanding any other provision of this title:

(1) All correspondence, notices, determinations, or decisions required for the administration of this title may be transmitted to claimants, employers, or necessary parties by electronic mail or other means of communication as the claimant, employer, or necessary party may select from the alternative methods of communication approved by the Mayor. The Mayor

411 shall issue a list of such approved methods of communication within 45 days after the effective  
412 date of this title.

413 (2) All correspondence, notices, determinations, or decisions issued by the Mayor  
414 may be signed by an electronic signature that complies with the requirements of D.C. Official  
415 Code § 28-4917 and Mayor's Order 2009-118, issued June 25, 2009.

416 Sec. 110. Erroneous payments and disqualification for benefits.

417 (a) An individual is disqualified from family and medical leave benefits for one year if  
418 the individual willfully made a false statement or misrepresentation regarding a material fact, or  
419 willfully failed to report a material fact, to obtain benefits under this title.

420 (b) If family and medical leave benefits are paid erroneously or as a result of willful  
421 misrepresentation, or if a claim for family and medical leave benefits is rejected after benefits are  
422 paid, the Mayor may seek repayment of benefits from the recipient. The Mayor shall exercise  
423 his or her discretion to waive, in whole or in part, the amount of any such payments where the  
424 recovery would be against equity and good conscience.

425 Sec. 111. Prohibited acts.

426 (a) It shall be unlawful for any person to interfere with, restrain, or deny the exercise of  
427 or the attempt to exercise any right provided by this chapter.

428 (b) It shall be unlawful for an employer to retaliate in any manner against any person  
429 because the person:

430 (1) Opposes any practice made unlawful by this title;

(2) Pursuant or related to this chapter:

(A) Files or attempts to file a charge;

(B) Institutes or attempts to institute a proceeding; or

(C) Facilitates the institution of a proceeding; or

(3) Gives any information or testimony in connection with an inquiry or proceeding related to this chapter.

Sec. 112. Investigative authority.

(a) An employer shall develop, maintain, and make available to the Mayor records regarding the employer's activities related to this chapter that the Mayor may prescribe by rule.

(b) To ensure compliance with the provisions of this chapter, the Mayor, consistent with constitutional guidelines, may:

(1) Investigate and gather data regarding any wage, hour, condition, or practice of employment related to this chapter; and

(2) Enter or inspect any place of employment or record required by this chapter.

(c) For the purpose of any investigation provided for in this section, the Mayor may exercise the subpoena authority provided in D.C. Law 3-109, § 3, 27 DCR 3785.

Sec. 113 Administrative enforcement procedure; relief.

(a) The Mayor shall provide an administrative procedure pursuant to which a person claimed to be aggrieved under this chapter may file a complaint against an employer alleged to

have violated this chapter. A complaint shall be filed within 3 years of the occurrence or discovery of the alleged violation of this chapter, whichever is later.

(b) The administrative procedure shall include, but not be limited to:

(1) An investigation of the complaint and an attempt to resolve the complaint by conference, conciliation, or persuasion;

(2) If the complaint is not resolved, a determination on the existence of probable cause to believe a violation of this chapter has occurred;

(3) If there is a determination that probable cause exists, the issuance and service of a written notice and a copy of the complaint to the employer alleged to have committed the violation that requires the employer to answer the charges of the complaint at a formal hearing;

(4) A hearing conducted in accordance with procedures that the Mayor shall promulgate pursuant to subchapter I of Chapter 5 of Title 2;

(5) A decision and order accompanied by findings of fact and conclusions of law;

(6) If there is a determination that covered employer committed a violation of this chapter, the issuance of an order that requires the covered employer to pay the covered employee damages in an amount equal to:

(A) Any wages, salary, employment benefits, or other compensation denied or lost to the covered employee due to the violation plus interest on the amount calculated at the rate prescribed in section 104 of this title; and

(B) An amount equal to the greater of:

470 (i) The amount determined under subparagraph (A) of this paragraph; or

471 (ii) Consequential damages not to exceed an amount equal to 3 times the amount  
472 determined under subparagraph (A) of this paragraph plus any medical expenses not covered by  
473 the health insurance of the covered employee; or

474 (C) A reduction in damages, within the discretion of the trier of fact, for an  
475 employer who violates this chapter and proves that the violation occurred in good faith and that  
476 the employer had reasonable grounds to believe that the employer's action or omission was not in  
477 violation of this chapter; and

478 (7) A provision that authorizes the award of costs and reasonable attorney's fees to the  
479 prevailing party in addition to other relief awarded under this chapter.

480 (c) Any person who is adversely affected or aggrieved by an order or decision issued  
481 pursuant to subsection (b) of this section is entitled to judicial review of the order or decision in  
482 accordance with § 2-510, upon filing a written petition for review in the District of Columbia  
483 Court of Appeals.

484 (d) (1) If the Mayor determines that the employer has not complied with an order after 20  
485 days following service of the order, the Mayor shall certify the matter to the Attorney General  
486 and to any other agency as may be appropriate for enforcement.

487 (2) The Attorney General shall institute, in the name of the District, a civil proceeding  
488 that may include seeking injunctive relief, as is necessary to obtain complete compliance with  
489 the order.

(3) An enforcement action shall not be instituted pending judicial review as provided in subsection (c) of this section.

(e) The entire administrative enforcement procedure outlined in subsections (a) and (b) of this section, including the formal hearing, shall take no longer than 150 days to complete from the date the complaint is filed. If the Mayor fails to make a reasonable effort to comply with the deadline requirements of the administrative enforcement provisions prescribed by this subsection and the rules promulgated by the Mayor, the person who initiated the administrative enforcement procedure against the employer may file a civil action against the employer pursuant to this title.

#### Sec. 114 Enforcement by civil action.

(a) Subject to the provisions in subsection (b) of this section, a covered employee, eligible individual, or the Mayor may bring a civil action against any employer to enforce the provisions of this chapter in any court of competent jurisdiction.

(b) No civil action may be commenced more than 3 years after the occurrence or discovery of the alleged violation of this chapter. This 3 year period shall be tolled during the course of any administrative proceedings or during any period when a covered employer has failed to comply with the notice provisions of this title.

(c) If a court determines that an employer violated any provision of this chapter, the damages provision prescribed in section 109 of this title shall apply.

### **Title II D.C. FMLA amendments**

Sec. 201. Section 2 of the D.C. Family and Medical Leave Act of 1990, effective March 14, 1991 (D.C. Law 8-181; D.C. Official Code § 32-501) is amended as follows:

(a) Paragraph (1) is amended to read as follows:

“(1) "Employee" means any individual who has been employed by the same employer for 6 months without a break in service except for regular holiday, sick, or personal leave granted by the employer and has worked at least 500 hours during the 12-month period immediately preceding the request for family or medical leave.”.

(b) Paragraph (4) is amended as follows:

(1) Subparagraph (B) is amended by striking the word “or”.

(2) Subparagraph (C) is amended by striking the period and inserting the phrase “; or ” in its place.

(3) A new subparagraph (D) is added to read as follows:

“(D) A foster child.”.

(c) The lead-in text to paragraph (9) is amended to read as follows:

“(9) “Serious health condition” means a physical or mental illness, injury, impairment, condition, pregnancy, or post-partum recovery period that involves:”.

### **Title III. Government Comprehensive Merit Personnel Act**

Sec. 301. Section 1203c of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-612.03c), is amended as follows:

(a) Subsection (a) is amended by striking the number 8 and inserting the number 16 in its place.

(b) Subsection (g)(4) is amended as follows:

(1) Subparagraph (C) is amended by striking the word “or”.



(2) Subparagraph (D) is amended by striking the period and inserting the phrase “; or” in its place.

(3) A new subparagraph (E) is added to read as follows:

“(E) The employee becoming unable to perform the functions of the employee’s position because of the employee’s own serious health condition paid and benefits owed under this section shall be covered by the government.”

(c) Subsection (g) is amended by adding a new paragraph (5) to read as follows:

“(5) “Serious health condition” means a physical or mental illness, injury, impairment, condition, pregnancy, or post-partum recovery period that involves:

“(A) Inpatient care in a hospital, hospice, or residential health care facility; or

(B) Continuing treatment or supervision at home by a health care provider.”

#### **Title IV Fiscal impact and effective date.**

##### **Sec 401. Applicability.**

(a) Title I and Title II of this act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

554 (2) The date of publication of the notice of the certification shall not affect  
555 the applicability of this act.

556 Sec. 402. Fiscal impact statement.

557 The Council adopts the fiscal impact statement in the committee report as the fiscal  
558 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
559 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

560 Sec. 403. Effective date.

561 This act shall take effect following approval of the Mayor (or in the event of veto by the  
562 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
563 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
564 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.22(c)(1)), and publication in the District of  
565 Columbia Register.