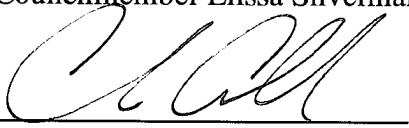
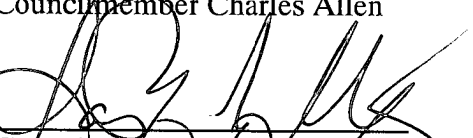


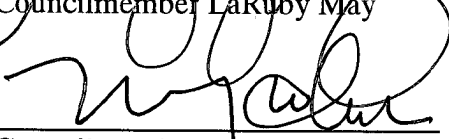
Councilmember Elissa Silverman



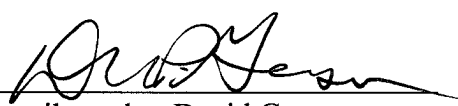
Councilmember Charles Allen



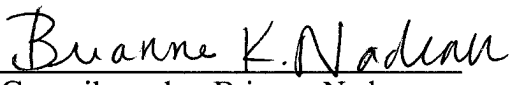
Councilmember LaRuby May



Councilmember Mary Cheh



Councilmember David Grosso



Councilmember Brianne Nadeau



Councilmember Kenyan McDuffie

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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

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

Title I. Establishment of Paid Family and Medical Leave

Sec. 101. Definitions.

43 For the purposes of this title, the term:

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

46 (2) "Average weekly wages" means the total wages subject to contribution under section
47 106 of this title or owed by the District of Columbia during the 4 quarters out of the 5 quarters
48 immediately preceding the qualifying event during which the individual's wages were highest
49 divided by 52.

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

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

60 (5) "D.C. FMLA" means the District of Columbia Family and Medical Leave Act of
61 1990, effective March 14, 1991 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

104 (G) Leave to attend post deployment activities;

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

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

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

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

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

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

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

123 (16) “Wages” shall have the meaning given in section 1(3) of the District of Columbia
124 Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code
125 § 51-101(3)), except that self-employment income shall be treated as wages if the self-employed
126 individual has not opted out of coverage under this title.

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

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

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

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

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

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

150 (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

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

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

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

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

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

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

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

189 Sec. 104. Amount and duration of benefits.

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

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

203 (b) Subject to section 108(b), the amount of family and medical leave benefits shall equal
204 100% of the eligible individual's average weekly wages up to \$1,000 per week plus 50% of
205 average weekly wages in excess of \$1,000 up to a maximum weekly benefit \$3,000. Benefits for
206 partial weeks of leave shall be prorated.

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

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

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

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

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

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

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

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

231 (1) Covered employers in the District of Columbia;

232 (2) The District of Columbia government;

233 (3) Eligible individuals;

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

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

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

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

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

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

252 Sec. 106. Contributions to the Fund.

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

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

259	Individual Annual Salary	Percent Paid into Fund
260	\$0.01 under \$10,000	0%
261	\$10,000 under \$20,000	.5%
262	\$20,000 under \$50,000	.6%
263	\$50,000 under \$150,000	.8%
264	\$150,000 and over	1%

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

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

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

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

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

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

295 Sec. 107. Self-employed individuals.

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

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

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

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

314 Sec. 108. Coordination of benefits.

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

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

321 (c) This title shall not:

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

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

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

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

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

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

345 the week with respect to which payments will commence, the maximum duration thereof, and the
346 weekly benefit amount. If this determination is appealed, the agent shall promptly transmit such
347 claim to an appeal tribunal which shall make a decision thereon after such investigation as it
348 deems necessary, and after affording the claimant opportunity for fair hearing in accordance with
349 subsection (e) of this section, and the claimant shall be given notice thereof and permitted to
350 appeal therefrom to the Office of Administrative Hearings and the courts. An initial
351 determination may, for good cause, be reconsidered. The claimant shall be promptly notified of
352 the initial determination or any amended determination and the reasons therefor. Benefits shall
353 be denied or, if the claimant is otherwise eligible, paid promptly in accordance with such initial
354 determination except as hereinafter otherwise provided. The Office of Administrative Hearings
355 shall promptly notify the claimant of its determination, and such determination shall be final
356 within 15 calendar days after the mailing of notice thereof to the claimant's last-known address
357 or in the absence of such mailing, within 15 calendar days of actual delivery of such notice. The
358 15-day appeal period may be extended if the claimant shows excusable neglect or good cause. If
359 an appeal tribunal affirms an initial determination allowing benefits, such benefits shall be paid
360 regardless of any appeal which may thereafter be taken. If, subsequent to such initial
361 determination, benefits with respect to any week for which a claim has been filed are denied for
362 reasons other than matters included in the initial determination, the claimant shall be promptly
363 notified of the denial and the reasons therefor, and may appeal therefrom in accordance with the
364 procedure herein described for appeals from initial determinations.

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

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

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

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

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

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

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

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

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

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

406 (k) Notwithstanding any other provision of this title:

407 (1) All correspondence, notices, determinations, or decisions required for the
408 administration of this title may be transmitted to claimants, employers, or necessary parties by
409 electronic mail or other means of communication as the claimant, employer, or necessary party
410 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;

- 431 (2) Pursuant or related to this chapter:
- 432 (A) Files or attempts to file a charge;
- 433 (B) Institutes or attempts to institute a proceeding; or
- 434 (C) Facilitates the institution of a proceeding; or
- 435 (3) Gives any information or testimony in connection with an inquiry or proceeding
- 436 related to this chapter.

437 Sec. 112. Investigative authority.

438 (a) An employer shall develop, maintain, and make available to the Mayor records

439 regarding the employer's activities related to this chapter that the Mayor may prescribe by rule.

440 (b) To ensure compliance with the provisions of this chapter, the Mayor, consistent with

441 constitutional guidelines, may:

442 (1) Investigate and gather data regarding any wage, hour, condition, or practice of

443 employment related to this chapter; and

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

445 (c) For the purpose of any investigation provided for in this section, the Mayor may

446 exercise the subpoena authority provided in D.C. Law 3-109, § 3, 27 DCR 3785.

447 Sec. 113 Administrative enforcement procedure; relief.

448 (a) The Mayor shall provide an administrative procedure pursuant to which a person

449 claimed to be aggrieved under this chapter may file a complaint against an employer alleged to

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

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

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

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

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

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

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

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

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

469 (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.

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

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

498 Sec. 114 Enforcement by civil action.

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

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

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

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

509 Sec. 201. Section 2 of the D.C. Family and Medical Leave Act of 1990, effective March
510 14, 1991 (D.C. Law 8-181; D.C. Official Code § 32-501) is amended as follows:

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

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

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

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

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

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

521 “(D) A foster child.”.

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

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

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

526 Sec. 301. Section 1203c of the District of Columbia Government Comprehensive Merit
527 Personnel Act of 1978, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-
528 612.03c), is amended as follows:

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

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

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

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

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

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

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

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

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

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

544

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

546 Sec 401. Applicability.

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

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

552 (c)(1) The Budget Director shall cause the notice of the certification to be
553 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.