



D.C. POLICY

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PUBLIC HEARING ON

**BILL 24-0712, “Domestic Worker Employment Rights
Amendment Act of 2022”**

Before the Committee on Labor & Workforce Development
Chairperson Elissa Silverman

Thursday June 16, 2022, 11 AM – 6 PM
Virtual Hearing via Zoom

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My name is Emilia Calma and I am the Director of Research and Policy for the D.C. Policy Center, an independent, nonpartisan think tank committed to advancing policies for a strong and vibrant economy in the District of Columbia.

Bill 24-0712, the Domestic Worker Employment Rights Amendment Act of 2022, is intended to provide resources and protections for domestic workers in the District of Columbia. The bill does, importantly, add domestic workers to the District of Columbia Human Rights Act and the Occupational Health and Safety Act, providing public resources and a course for legal action if domestic workers are taken advantage of. It also requires employers to provide a written contract to domestic workers, which outlines the terms of their employment. But, as drafted, in contrast to its stated intent, the bill does not guarantee fair wages or benefits, and its requirements are easy to evade because the bill lacks the necessary enforcement mechanisms that would provide workers with legal recourse.

It is difficult to estimate the number of domestic workers in the District, as many domestic workers, including home caregivers, nannies, and house cleaners, are working under informal, unreported arrangements in individual households. The only data currently available to estimate the number of workers is survey data—in this case, the Current Population Survey—which has a very small D.C. sample and therefore is likely to be highly imprecise. One such estimate identified just over 4,000 domestic workers in the District in 2019. This estimate shows that domestic workers are predominantly women (93 percent), and people of color (53 percent Black, 22 percent Hispanic, and 10.5 percent Asian or Pacific Islander). Over half of the domestic workers in D.C. are foreign-born, and 58 percent of workers have a high school degree or less (21 percent of workers have not graduated high school).ⁱ

This bill is intended to address issues such as:

- Employers taking advantage of recently arrived immigrants (in particular, people who are undocumented),ⁱⁱ
- Verbal agreements that change or are not honored,
- Wage theft, and
- Added (unpaid) responsibilities.

As written, the bill identifies what should be in a contract but does not address unintended consequences of formalizing all employment agreements.

By making all employment agreements formal, the bill as written will likely increase costs for domestic workers and decrease employment opportunities available to undocumented immigrants. Formal employment requires employers to verify employee eligibility to work in the United States, withhold and pay Social Security and Medicare

taxes, pay federal unemployment taxes (FUTA), and submit appropriate paperwork to the IRS.ⁱⁱⁱ

Studies of the current tax code show that taxes levied on employers, like payroll and corporate taxes, could fall on employees.^{iv} By increasing the costs of hiring a domestic worker, this bill could put a downward pressure on the wages paid to domestic workers if employers try to keep their costs the same. In addition to added taxes, the federal requirement of employment eligibility could either reduce the opportunities available to undocumented immigrants—as employers will not want to take the risk of being out of compliance with the law—or will push agreements with undocumented immigrants even further under the table.

Additionally, unlike domestic worker protections from other states and localities, this bill does not guarantee any wages or benefits. Many other jurisdictions wishing to improve working conditions for domestic workers have included provisions like guaranteed minimum wage, overtime pay, guaranteed days off per week, paid leave, and protections against sexual harassment (see Appendix).^v B24-0721, as it currently stands, does not guarantee wages or benefits of any kind to domestic workers.

The bill lacks investments into enforcement, making the legislation ineffective.

B24-0721 does not include any investments, resources, or mechanisms to enforce of the law, likely making it ineffective. Even in states and localities where there is existing law, under-enforcement has been an issue for decades. The legislation’s design does not add capacity to existing enforcement agencies and overestimates worker power in the employment relationship. The assumption under this approach is that all employers are complying with the law unless a domestic worker files a claim saying otherwise. However, domestic workers are often afraid or disincentivized to file complaints, especially those that are undocumented. Undocumented immigrants face multiple barriers including lack of knowledge about the U.S. legal system, fear that they will be reported to United States Citizenship and Immigration services (USCIS), fear of deportation, social and cultural isolation, and more.

Adding to this, workers may be discouraged from seeking reimbursement if they have not paid the appropriate taxes or have adequate documentation. Social security tax requires that domestic workers pay be included, yet previous surveys have shown that only 25% of households complied with these requirements.^{vi} Without solving some of these systemic issues and providing a way for workers to file complaints without retaliation, this bill could push undocumented workers and other marginalized people further under the radar, subjecting them to further exploitative working conditions.

To improve working conditions for domestic workers, we recommend that further protections be pursued to guarantee pay for workers, protections for undocumented immigrants, and a functional enforcement mechanism. The greater the protections

offered in the bill, the more it has potential to push undocumented workers off the books. Unfortunately, we do not know how to solve this tricky and serious problem. Thank you for the opportunity to testify. I am happy to answer any questions.

Appendix

Table 1: U.S. city and state domestic worker protections

Location	Written agreement	Minimum wage	Overtime	Day of rest	Discrimination or harassment protection	Paid leave
D.C.	Yes	No	No	No	Yes	No
California	No	No	Yes	No	No	No
Chicago	Yes	No	No	No	No	No
Connecticut	Yes	Yes	Yes	Yes	Yes	Yes
Hawaii	No	Yes	Yes	No	Yes	No
Illinois	No	Yes	Yes	Yes	Yes	No
Massachusetts	Yes	No	Yes	Yes	Yes	Yes
Nevada	Yes	Yes	Yes	Yes	No	No
New Mexico	No	Yes	Yes	No	No	No
New York	Yes	Yes	Yes	Yes	No	Yes
Oregon	No	No	Yes	Yes	Yes	Yes
Philadelphia	Yes	No	No	No	Yes	Yes
Seattle	No	Yes	No	Yes	Yes	No

Source: *Domestic worker rights and protections for household employees*. GTM Household. (2022, February 28). Retrieved June 9, 2022, from <https://gtm.com/household/resource-center/domestic-workers-rights/>

ⁱ Economic Policy Institute (EPI) analysis of Current Population Survey basic monthly microdata, EPI Current Population Survey Extracts, Version 1.0.2 (2020), <https://microdata.epi.org>

ⁱⁱ The EPI estimate of the domestic worker population shows that in D.C., foreign-born noncitizens account for 38 percent of all domestic workers and make significantly less on average per hour (\$12.22/hour) than U.S.-born domestic workers (\$14.29/hour). Foreign-born noncitizen is defined in the data as people who are either lawful permanent residents, immigrants with temporary visas, or people lacking immigration status including undocumented immigrants, Deferred Action for Childhood Arrivals recipients, and asylum applicants.

Economic Policy Institute (EPI) analysis of Current Population Survey Outgoing Rotation Group monthly microdata, EPI Current Population Survey Extracts, Version 1.0.2 (2020), <https://microdata.epi.org>

ⁱⁱⁱ *Publication 926 (2022), household employer's Tax Guide*. Internal Revenue Service. (n.d.). Retrieved June 10, 2022, from https://www.irs.gov/publications/p926#en_US_2022_publink100046623

^{iv} Watson, G. (2020, July 31). *The U.S. tax burden on Labor*. Tax Foundation. Retrieved June 10, 2022, from <https://taxfoundation.org/us-tax-burden-on-labor-2020/>

^v *Domestic worker rights and protections for household employees*. GTM Household. (2022, February 28). Retrieved June 9, 2022, from <https://gtm.com/household/resource-center/domestic-workers-rights/>

^{vi} Hiller, Adam J. and Saxtein, Leah E. (2009) "Falling Through the Cracks: The Plight of Domestic Workers and Their Continued Search for Legislative Protection," *Hofstra Labor and Employment Law Journal*: Vol. 27: Iss. 1, Article 8. Available at: <http://scholarlycommons.law.hofstra.edu/hlej/vol27/iss1/8>