

**Testimony of Jen Jenkins
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**Before the Committee on Labor and Workforce Development with comments from the
Committee on Government Operations and Facilities
Council of the District of Columbia**

Public Hearing Regarding:

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

June 16, 2022

The Legal Aid Society of the District of Columbia¹ submits this testimony in strong support of domestic workers in the District of Columbia who need the rights and protections the Domestic Worker Employment Rights Amendment Act of 2022 (B24-0712) would provide. Without the protections proposed by this measure, domestic workers in the District will continue to be subject to wage theft, workplace discrimination, unstable schedules, lack of access to basic workplace benefits, and more.²

The Domestic Worker Employment Rights Amendment Act of 2022 would require anyone hiring a domestic worker in D.C. for more than five hours a week to provide the worker with a written contract that establishes their hours, pay, duties, and other specifics about the work being performed. Having a written agreement in place will help ensure that domestic workers like

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 90 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, <http://www.legalaiddc.org/>, and our blog, <http://www.makingjusticereal.org/>.

² See e.g. Eva Lopez & Leila Rafei, American Civil Liberties Union, *Behind Closed Doors: The Traumas of Domestic Work in the U.S.*, available at <https://www.aclu.org/news/immigrants-rights/behind-closed-doors-the-traumas-of-domestic-work-in-the-u-s>.

housecleaners, nannies, home health aides, and others have fair and safe workplaces. The bill also eliminates the carve-out of domestic workers from two important D.C. laws: the D.C. Human Rights Act, which offers protection against workplace discrimination, and the Occupational Safety and Health Act, which would ensure workplace safety provisions apply to homes in which domestic work is performed. Ultimately, this bill would provide long-overdue human rights protections for the District’s domestic workers, who are comprised of historically marginalized communities such as women of color and undocumented immigrants.

A significant portion of Legal Aid’s clients are domestic workers and therefore, Legal Aid believes strongly in the necessity of this legislation to protect our clients and other domestic workers in the District. As a result, Legal Aid, along with more than 45 other organizations, signed the National Domestic Workers Alliance Organizational letter in support of District domestic workers and demanded that all domestic workers be granted the protections guaranteed by the Domestic Worker Employment Rights Amendment Act of 2022.³

The District’s Domestic Workers Need Workplace Protections

Unfortunately, domestic workers in the District are excluded from workplace protections under both federal and local law. Title VII of the Civil Rights Act, which bars employment discrimination based on race, color, religion, sex, or national origin by employers of 15 or more, often omits domestic workers from these protections because many are hired as independent contractors.⁴ Similarly, the District’s Human Rights Act, which protects workers from discrimination and harassment based on race, gender or sexual orientation, excludes “domestic servants” engaged in work in and about the employer’s household.⁵ Additionally, the District’s Occupational Health and Safety (OSHA) law, which sets and enforces protective workplace safety and health standards, also explicitly excludes domestic workers.⁶ Both exclusions date back to the 1935 Social Security Act, when farmworkers, who were predominantly Black, and domestic workers, most of whom were Black women, were left out of basic workplace rights.⁷ Today, these statutory exclusions leave domestic workers entirely defenseless and unprotected against the discrimination and unsafe work conditions they will inevitably face.

³ Signed letter on file with the Legal Aid Society of the District of Columbia.

⁴ Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended, as it appears in volume 42 of the United States Code, beginning at section 2000e.

⁵ See D.C. Code § 2–1401.02(10).

⁶ See D.C. Code § 32–1101(5).

⁷ See Doni Crawford & Kamolika Das, Black Workers Matter, How the District’s History of Exploitation & Discrimination continues to Harm Black Workers, *available at* <https://www.dcfpi.org/all/black-workers-matter/>.

Legal Aid's Domestic Worker Clients Experience Significant Challenges

Domestic workers are among our clients who were devastated economically by the COVID-19 pandemic and who continue to face barriers to recovery. Early in the pandemic, many were unable to work, faced unnecessary denials when attempting to access public benefits, and still did not have the same workplace protections as other workers in the District when they were re-employed.

For example, domestic workers are often not immediately recognized by the Department of Employment Services (DOES) as workers eligible for traditional unemployment benefits and consequently face heightened financial insecurity, often made worse by the pandemic. For instance, our client M.G., who provided home health services, had to engage in a lengthy process, including two appeals, in order for DOES to recognize her as an employee eligible for UI benefits. Many of our other clients had their home health agencies argue that they should not receive benefits, including clients who were advised by their doctors that they should quarantine due to being at high risk of contracting COVID-19. Our client G.R. applied for benefits soon after the pandemic started because her doctor advised her to stay home. Her employer contested her benefits. Legal Aid represented her at a hearing, where the judge found that she was eligible for benefits.

Because domestic workers work in private homes, out of sight, and isolated from other workers, they are particularly vulnerable to exploitation without protection from the law. Workers like G.R. deserve to have the same safety protections as other workers, to help ensure they are not put at greater risk of exposure to COVID or other workplace safety issues. Our clients, and domestic workers like them, will remain vulnerable to systemic harm without legal assistance and the additional statutory protections proposed by this measure.

The District Should Follow Other Jurisdictions That Have Passed Legislation Protecting Domestic Workers

This bill is comparable to domestic worker's rights laws that exist across the U.S. and if this measure becomes law, both employers and domestic workers will benefit from the protections that are already in place in many states. States such as California, Connecticut, Hawai'i, Illinois, Massachusetts, Nevada, New Mexico, New York, Oregon, and Virginia already provide domestic workers with these protections.⁸ The District should implement the Domestic Worker Employment Rights Amendment Act of 2022 to protect its residents in a similar way. Until District domestic workers enjoy the rights and protections proposed by this measure, they will continue to face economic uncertainty, heightened risk of discrimination, and a lack of safety in their workplaces.

⁸ See National Domestic Worker's Alliance, Passed Legislation, States and Cities with a Domestic Workers Bill of Rights, available at <https://www.domesticworkers.org/programs-and-campaigns/developing-policy-solutions/bill-of-rights/passed-legislation/>

Conclusion

Legal Aid strongly urges the Council to abandon the statutory exclusion of domestic workers from workplace protections. Many states have invested in recognizing domestic workers' rights and safety, so the District should not delay this positive change any longer, particularly during this period of economic crisis.