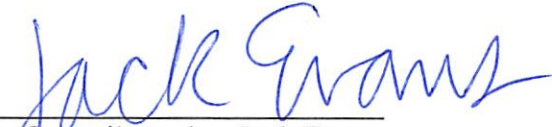

Councilmember Vincent C. Gray


Councilmember Jack Evans

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require a citywide minimum level of paid-leave compensation for all workers; to establish a Paid Leave Compensation Review Board; to require a special assessment to employers that self-insure; to require all employers to obtain and maintain paid-leave compensation insurance; to require a universal paid-leave compensation fund fee; to establish a small business paid-leave assistance program; to prohibit retaliatory actions by employers; to establish penalties for retaliation and non-compliance; to require an annual audit of the paid-leave compensation for workers program; to provide ratemaking authority to the D.C. Department of Insurance Securities and Banking; to amend the Accrued Sick and Safe Leave Act of 2008 to expand the definition of families, and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Universal Paid Leave Compensation for Workers Amendment Act of 2017”.

Title I. Establishment of a Universal Paid-Leave Compensation for Workers

Program

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) “Average weekly wage” means the weekly money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the qualifying event, including the reasonable value of board, rent, housing, lodging or similar advantage received

35 from the employer, and gratuities received in the course of employment from other than the
36 employer.

37 (2) "Bonding" means the formation of a close emotional and psychological
38 relationship between a parent or primary caregiver and an infant or child.

39 (3) "D.C. FMLA" means the District of Columbia Family and Medical Leave Act
40 of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*).

41 (4) "Employee" includes every person in the service of another under any contract
42 of hire or apprenticeship, written or implied, in the District of Columbia, except the definition
43 shall not include:

44 (A) An employee who spends less than 50% of his or her work time for
45 that employer working in the District of Columbia;

46 (B) An employee whose employment for the employer is not based in the
47 District of Columbia and who regularly spends a substantial amount of his or her work time for
48 that employer outside the District of Columbia and more than 50% of his or her work time for
49 that employer in another jurisdiction;

50 (C) Employees of the United States Government, the District of Columbia
51 Government, or an employer that the District of Columbia is not authorized to tax under federal
52 law or treaty;

53 (D) An employee engaged in employment that is casual and not in the
54 usual course of trade, business, occupation, or profession of the employer unless the employee is
55 employed in domestic service in and around a private home by an employer who, during any
56 calendar quarter in the same or the previous year, employed 1 or more household domestic
57 workers for 240 hours or more;

58 (E) Any person who is a licensed real estate salesperson, or a licensed real
59 estate broker associated with a real estate broker, if:

60 (i) Substantially all of the salesperson's or associated broker's
61 remuneration is derived from real estate commissions;

62 (ii) The services of the salesperson or associated broker are
63 performed under a written contract specifying that the salesperson or associated broker is an
64 independent contractor; and

65 (iii) Such contract includes a provision that the salesperson or
66 associated broker will not be treated as an employee for federal income tax purposes; and

67 (F) Self-employed individuals.

68 (5) "Employer" means any individual, partnership, general contractor,
69 subcontractor, association, corporation, business trust, or any group of persons who directly or
70 indirectly or through an agent or any other person, including through the services of a temporary
71 services or staffing agency or similar entity, employs or exercises control over the wages, hours,
72 or working conditions of an employee and is required to pay unemployment insurance on behalf
73 of its employees by section 3 of the District of Columbia Unemployment Compensation Act,
74 approved August 28, 1935 (49 Stat. 947; D.C. Official Code § 51-103); provided, that the term
75 "employer" shall not include the United States, the District of Columbia, or any employer that
76 the District of Columbia is not authorized to tax under federal law or treaty.

77 (6) "Family leave event" means the diagnosis or occurrence of a serious health
78 condition of a family member of the employee where the employee is primarily responsible for
79 providing care or comfort.

80 (7) "Family member" means:

81 (A) A biological, adopted, or foster son or daughter, a stepson or
82 stepdaughter, a legal ward, a son or daughter of a domestic partner, or a person to whom the
83 employee stands in loco parentis;

84 (B) A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a
85 legal guardian, or other person who stood in loco parentis to the employee when the employee
86 was a child;

87 (C) A person to whom the employee is related by domestic partnership, as
88 defined by section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11,
89 1992 (D.C. Law 9-114; D.C. Official Code § 42-701(4)), or marriage;

90 (D) A grandparent of the employee; or

91 (E) A sibling of the employee.

92 (8) "Health care provider" shall have the same meaning as provided in section
93 2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3,
94 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(5)).

95 (9) "Intermittent leave" means paid leave taken in increments of no less than one
96 week, rather than for one continuous period of time.

97 (10) "Medical leave event" means the diagnosis or occurrence of a serious health
98 condition of the employee.

99 (11) "Paid-leave compensation" means the monetary allowance payable to the
100 employee as provided for in this chapter.

101 (12) "Parental leave event" means events, including bonding, associated with:

102 (A) The birth of a child of the employee;

103 (B) The placement of a child with the employee for adoption or foster
104 care; or

105 (C) The placement of a child with the employee for whom the employee
106 legally assumes and discharges parental responsibility.

107 (13) “Serious health condition” means a physical or mental illness, injury, or
108 impairment, certified by a licensed physician or licensed health care provider, that requires
109 inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or
110 supervision at home by a health care provider or other competent individual. For the purposes of
111 this definition:

112 (A)(i) The term “treatment” includes, but is not limited to, examinations to
113 determine if a serious health condition exists and evaluations of the condition.

114 (ii) Treatment does not include routine physical examinations, eye
115 examinations, or dental examinations.

116 (iii) A regimen of continuing treatment such as the taking of over-
117 the-counter medications, bed rest, or similar activities that can be initiated without a visit to a
118 health care provider is not, by itself, sufficient to constitute continuing treatment for the purposes
119 of this act.

120 (B) The term “inpatient care” is the care of a patient in a hospital, hospice,
121 or residential medical care facility for the duration of one overnight period or longer, or any
122 subsequent treatment in connection with such inpatient care.

123 (C) The term “incapacity” means inability to work, attend school or
124 perform other regular daily activities due to the serious health condition, treatment of the serious
125 health condition, or recovery from the serious health condition.

126 (D) Conditions for which cosmetic treatments are administered are not
127 serious health conditions; provided, that procedures related to an individual’s gender transition
128 shall not be considered cosmetic treatments for the purposes of this subparagraph.

129 (E) A serious health condition involving continuing treatment by a health
130 care provider means any one or more of the following:

131 (i) A period of incapacity of more than 3 consecutive full calendar
132 days, and any subsequent treatment or period of incapacity relating to the same condition that
133 also involves:

134 (I) Treatment of 2 or more times within 30 days of the first
135 day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse
136 under direct supervision of a health care provider, or by a provider of health care services under
137 orders of, or on referral by, a health care provider. For the purposes of this sub-paragraph,
138 “extenuating circumstances” means circumstances beyond an individual’s control that prevent
139 the follow-up visit from occurring as planned by the health care provider.

140 (II) The first, or only, in-person treatment visit within 10
141 days after the first day of incapacity if extenuating circumstances exist; or

142 (III) Treatment by a health care provider on at least one
143 occasion, which results in a regimen of continuing treatment under the supervision of the health
144 care provider;

145 (ii) Any period of incapacity or treatment for such incapacity due
146 to a chronic serious health condition. A chronic serious health condition is one which:

147 (I) Requires 2 or more periodic visits annually for treatment
148 by a health care provider or by a nurse under direct supervision of a health care provider;

149 (II) Continues over an extended period of time, which shall
150 include recurring episodes of a single underlying condition; and

151 (III) May cause episodic rather than a continuing period of
152 incapacity;

153 (iii) A period of incapacity that is permanent or long-term due to a
154 condition for which treatment may not be effective. The family member of an employee must be
155 under continuing supervision of, but need not be receiving active treatment by, a health care
156 provider; or

157 (iv) Any period of absence to receive multiple treatment (including
158 any period of recovery from the treatments) by a health care provider or by a provider of health
159 care services under orders of, or on referral by, a health care provider, for:

160 (I) Restorative surgery after an accident or other injury; or

161 (II) A condition that would likely result in a period of
162 incapacity of more than 3 consecutive, full calendar days in the absence of medical intervention
163 or treatment.

164 (14) "Small business" means an employer in the District with fewer than 50
165 employees, provided that self employed individuals are not included.

166 (15) "Universal Paid Leave Implementation Fund" means the Universal Paid Leave
167 Implementation Fund established by section 1152 of the Universal Paid Leave Implementation
168 Fund Act of 2016, effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775).

169 (16) "Wages" shall have the same meaning as provided in section 1(3) of the
170 District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat.
171 946; D.C. Official Code § 51-101(3)).

172 Sec. 102. Paid-leave compensation.

173 (a) Employees shall be eligible once every 52 weeks for paid-leave compensation upon
174 the occurrence of a qualifying:

175 (1) Family leave event;

176 (2) Medical leave event; or

177 (3) Parental leave event.

178 (b) Every employer subject to this Act shall be liable for paid-leave compensation to their
179 employees pursuant to the requirements of this Act.

180 Sec. 103. Minimum paid-leave compensation duration and amount.

181 (a) Employers shall meet, and may exceed, the following minimum number of weeks of
182 paid-leave compensation for all qualified employees:

183 (1) 6 weeks in the case of a family leave event;

184 (2) 2 weeks in the case of a medical leave event; and

185 (3) 8 weeks in the case of a parental leave event.

186 (b) Employers shall meet, and may exceed, the following minimum paid-leave
187 compensation levels for qualifying events; which shall be calculated as follows:

188 (1) An employee who earns an average weekly wage that is equal to or less than
189 150% of the District's minimum wage multiplied by 40 shall be entitled to weekly paid-leave
190 compensation that shall equal 90% of that employee's average weekly wage.

191 (2) An employee who earns an average weekly wage that is greater than 150% of
192 the District's minimum wage multiplied by 40 shall be entitled to payment of weekly paid-leave
193 compensation that shall equal:

194 (A) 90% of 150% of the District's minimum wage multiplied by 40; plus

195 (B) 50% of the amount by which the employee's average weekly wage
196 exceeds 150% of the District's minimum wage multiplied by 40; provided, that no employee
197 shall be entitled to payment of paid-leave compensation at a rate in excess of the maximum
198 weekly compensation amount of \$1,000.

199 (c) Paid-leave compensation shall be paid as follows:

200 (1) Prorated for intermittent leave; and

201 (2) On the employer's regularly scheduled payroll frequency; provided that the
202 frequency shall not be less than monthly.

203 Sec. 104. Notice of paid-leave compensation claim.

204 (a) Any employee claiming paid-leave compensation shall file their claim by notifying
205 their employer a minimum of 10 days in advance of the first date of any paid-leave
206 compensation.

207 (b) Failure to give such notice shall not bar any claim under this chapter if:

208 (1) The qualifying event was unforeseeable;

209 (2) The employee provides emergency notice to their employer as soon as
210 reasonably possible after the qualifying event; and

211 (3) The employee files their claim and notifies their employer within 3 days of
212 taking the leave.

213 (c) The claim and notice shall be on an electronic or written form and include the:

214 (1) Employee's name and address;

215 (2) Type of qualifying event;

216 (3) Description of the qualifying event;

217 (4) Supporting documents required by the Mayor;

218 (5) Specific leave dates requested; and

219 (6) Name and address of the employer.

220 Sec. 105. Claims procedure.

221 No later than 10 business days after an employee claim is properly filed pursuant to
222 Section 104 of this Act, the employer, or a third-party designee, shall make and notify the
223 employee of their determination:

224 (a) Whether the employee may receive compensation pursuant to this act;

225 (b) The weekly amount of compensation payable to the eligible individual;

226 (c) The date on which payment to the eligible individual shall commence;

227 (d) The number of days or weeks approved; and

228 (e) A specific schedule of the approved leave that includes dates and times.

229 Sec. 106. Hearings.

230 (a) No later than 60 days after an employer has made a determination, or 60 days after the
231 10-day period when a properly filed claim should have been determined, the employee may
232 appeal the compensation determination to the Mayor, including with respect to his or her
233 eligibility for benefits, the weekly amount of benefits to be provided, or the duration of the time
234 period during which benefits are to be paid.

235 (b) In connection with an appeal made pursuant to subsection (a) of this section, the
236 Mayor shall consider as evidence documentation including but not limited to: paystubs, personal
237 checks, cash receipts, or bank deposits; work schedules; communications between employer and
238 employee; and any circumstantial evidence regarding the employer's eligibility.

239 (d) A complaint, other than a claim determination; shall be filed within one year of the
240 occurrence or discovery of the alleged violation of this act, whichever is later.

241 (e) For complaints, other than a claim determination, that arise under this act, the
242 administrative enforcement procedure and relief shall be the same as that in D.C. FMLA.

243 (f) Notwithstanding any other provision of this act:

244 (1) All correspondence, notices, determinations, or decisions required for the
245 administration of this act may be transmitted to claimants, employers, or necessary parties by
246 electronic mail or other means of communication as the claimant, employer, or necessary party
247 may select from the alternative methods of communication approved by the Mayor. The Mayor
248 shall issue a list of such approved methods of communication within 180 days after the effective
249 date of this act.

250 (2) All correspondence, notices, determinations, or decisions issued by the Mayor
251 may be signed by an electronic signature that complies with the requirements of D.C. Official
252 Code § 28-4917 and Mayor’s Order 2009-118, issued June 25, 2009 (56 DCR 6867).

253 Sec. 107. Establishment of paid-leave compensation review board

254 (a) There is hereby established a Paid-Leave Compensation Review Board (“Board”) that
255 shall consist of 5 members as follows:

256 (1) The Chief Judge of the Office of Hearings and Adjudications (“OHA”) within
257 the Department of Employment Services who shall serve as Chairperson; and

258 (2) Four Administrative Law Judges from the OHA, who shall:

259 (A) Be appointed by the Chairperson;

260 (B) Have received an overall rating of satisfactory or above in his or her
261 most recent performance review; and

262 (C) Be a member in good standing of the OHA.

263 (b) The Chairperson shall have the authority to create, from among the members of the
264 Board, one or more Compensation Order Review Panel(s) (“Panel”) which shall:

265 (1) Consist of 3 members and may include the Chairperson;

266 (2) Decide matters before it by majority vote; and

267 (3) Be prohibited from discussing the compensation order with the Administrative
268 Law Judge who issued the compensation order while the matter is undergoing review.

269 (c) The Chairperson shall, within 7 days of an application for review being filed, create
270 and assign a panel to review the application for review; provided, that no member of the panel is
271 the Administrative Law Judge who issued the compensation order that is under review.

272 (d) The panel shall:

273 (1) Review the compensation order for legal sufficiency;

274 (2) Dispose of the matter under review by issuing an order affirming the
275 compensation order; reversing the compensation order, in whole or in part, and amending the
276 order based on the panel’s findings, or by remanding the order to the issuing Administrative Law
277 Judge for further review; except that:

278 (A) The panel shall affirm a compensation order that is based upon
279 substantial evidence and is in accordance with this chapter and other applicable laws and
280 regulations and shall not disturb factual findings contained in the compensation order that are
281 supported by substantial evidence; and

282 (B) Any reversal, in whole or in part, shall be supported by a written
283 order, which shall contain the legal and factual basis for the reversal, and may amend the
284 compensation order, in whole or in part, or remand the matter to the issuing Administrative Law

285 Judge for additional findings of fact or conclusions of law and the issuance of a compensation
286 order on remand; and

287 (3) Make its disposition within 20 days of being assigned the application for
288 review.

289 (e) A party aggrieved by the compensation order on remand may appeal it in the same
290 manner as a compensation order.

291 Sec. 108. Review of compensation orders.

292 (a) An employee may file an application for review with the Board within 10 days of the
293 employer's determination pursuant to Section 105(b) of this Act. A party adverse to the review
294 may file an opposition answer within 5 days of the filing of an application for review.

295 (1) A Memorandum of Points and Authorities, which sets for the the legal and
296 factual basis for the review or the opposition thereto, shall be filed with an application for review
297 and an opposition answer; no further submissions shall be permitted, unless requested by the
298 reviewing panel.

299 (b) Pursuant to the District of Columbia Administrative Procedure Act (§ 2-501 *et seq.*),
300 the claimant, employer, or insurance carrier, who is adversely affected or aggrieved by a final
301 decision rendered after review of a compensation order as provided in Section 106 of this Act,
302 may petition for review of such decision or order by the District of Columbia Court of Appeals.
303 If any party shall apply to the Court for leave to adduce additional evidence and shall show to the
304 satisfaction of the Court that such additional evidence is material and that there were reasonable
305 grounds for failure to adduce such evidence in the hearing for the Mayor, the Court may order
306 such additional evidence to be taken before the Mayor, and to be made part of the record. The
307 Court may remand the case for appropriate action.

308 (c) If any employer or his officers or agents fail to comply with the requirements of this
309 Act, the D.C. Office of the Attorney General may apply for enforcement to the Superior Court of
310 the District of Columbia and upon showing that such employer or his officers or agents have
311 failed to comply therewith, the Court shall enforce the order by writ of injunction, or by other
312 process, to enjoin upon such person and his officers and agents compliance with the order.

313 Sec. 109. Powers of mayor.

314 (a) The Mayor shall have the power to preserve and enforce an order during any such
315 proceedings, to issue subpoenas for, to administer oaths to, and to compel the attendance and
316 testimony of witnesses, or the production of books, papers, documents, and other evidence, or
317 the taking of depositions before any designated individual competent to administer oaths; to
318 examine witnesses; and to do all things in conformity with law which may be necessary to enable
319 him to effectively discharge the duties of his office.

320 (b) If any person in proceedings before the Mayor disobeys or resists any lawful order or
321 process, obstructs a hearing, neglects to produce ordered documents, the Mayor shall certify the
322 facts to the Superior Court of the District of Columbia which shall thereupon in a summary
323 manner hear the evidence as to the acts complained of, and, shall have the authority to enforce
324 through the Court's contempt process.

325 Sec. 110. Insurance requirement for employers

326 (a) Every employer shall secure the payment of paid-leave compensation under this
327 chapter:

328 (1) by insuring and keeping insured the payment of such compensation with any
329 stock company or mutual company or association, or with any person or fund, while such person
330 or fund is authorized:

331 (A) under the laws of the United States, the District of Columbia, or of any
332 state; and

333 (B) by the Mayor to insure payment of compensation under this chapter;
334 or

335 (2) by self-insuring and furnishing satisfactory proof to the Mayor of their
336 financial ability to pay such compensation.

337 (b) Small businesses may be eligible to self-insure pursuant to subsection (a)(2) of this
338 section; provided that if they are approved to self-insure then they shall not be eligible for the
339 Small Business Paid-Leave Assistance Program pursuant to Section 115 of this Act, and shall be
340 subject to the annual fee pursuant to Section 111 of this Act.

341 Sec. 111. Universal paid-leave compensation fund fee.

342 (a) The Mayor shall assess an annual fee to any employer authorized to insure pursuant to
343 Section 115 of this Act; the cost of which shall be based upon the funds required to administer
344 the Small Business Paid-Leave Tax Credit, pro rated among the carriers and self-insurers, and
345 reduced by the revenue amount from any special assessment pursuant to Section 112 of this Act.

346 (b) The fee, pursuant to subsection (a) of this Section, shall not:

347 (i) Exceed 0.1% of the assessed employer's annual payroll, and

348 (ii) Shall not apply to small businesses.

349 (c) The Mayor's fee assessment to carriers and self-insurers shall be given by written
350 notice by certified or registered mail to each carrier or self-insurer of the assessment against it.

351 Sec. 112. Special assessment to self-insure.

352 The Mayor may, as a condition of authorization for an employer to self-insure pursuant to
353 Section 110(a)(2) of this Act, require an employer to contribute a special assessment to the

354 Universal Paid Leave Compensation Fund; provided that such assessment shall not exceed 0.1%
355 of the employer's annual payroll.

356 Sec. 113. Notice of compensation secured.

357 (a) The Mayor shall prescribe and provide to employers a notice explaining:

358 (1) the employees' right to paid-leave compensation under this act and the terms
359 under which such compensation may be obtained;

360 (2) that retaliation by the covered employer against the covered employee for
361 requesting, applying for, or using paid-leave compensation is prohibited;

362 (3) that an employee who works for a covered employer with under 20 employees
363 shall not be entitled to job protection if he or she decides to take paid leave pursuant to this act;
364 and

365 (4) that the employee has a right to file a complaint and the procedures established
366 by the Mayor for filing a complaint.

367 (b) The notice shall comply with the Language Access Act of 2004, effective June 19,
368 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931 *et seq.*).

369 (c) Each employer shall, at the time of an employee's hire and upon receiving notice of
370 an employee's paid-leave compensation claim, provide this notice to the employee.

371 (d) Each employer shall post and maintain the notice in a conspicuous place in English
372 and in all languages in which the Mayor has published the notice.

373 (e) A covered employer who violates this notice requirement shall be assessed a civil
374 penalty not to exceed \$100 for each employer to whom individual notice was not delivered, and
375 \$100 for each day that the covered employer fails to post the notice in a conspicuous place. No

376 liability for failure to post notice will arise under this section if the Mayor has not prescribed the
377 notice required by this section.

378 Sec. 114. Insurance policies.

379 (a) Every policy or contract of insurance issued under authority of this act shall contain:

380 (1) A provision to carry out the provisions of discharge of liability; and

381 (2) A provision that insolvency or bankruptcy of the employer and discharge

382 therein or both shall not relieve the carrier from payment of compensation for disability or death
383 sustained by an employee during the life of such policy or contract.

384 (b) No contract or policy of insurance issued by a carrier under this chapter shall be

385 cancelled prior to the date specified in such contract or policy for its expiration until at least 30

386 days have elapsed after a notice of cancellation has been sent to the employer.

387 Sec. 115. Small business paid-leave assistance tax credit.

388 (a) There is established in the Department of Small and Local Business Development, a

389 Small Business Paid-Leave Assistance Program (“Program”) to provide financial assistance to

390 small businesses.

391 (b) Any small business that applies for the Program shall demonstrate to the satisfaction

392 of the Mayor that:

393 (1) The total cost of their paid-leave compensation premium associated with this

394 act exceeds 0.62% of their annual payroll; and

395 (2) That the fee in excess of 0.62% of their annual payroll will have a substantial

396 negative financial effect on their business.

397 (c) Qualified small businesses shall be eligible for financial assistance equal to a tax

398 credit for the amount in excess of 0.62% of their annual payroll; provided that priority shall be

399 given to certified as a small business enterprise pursuant to D.C. Official Code § 2-218.32, a
400 disadvantaged business enterprise pursuant to D.C. Official Code § 2-218.33, or a resident-
401 owned business enterprise pursuant to D.C. Official Code § 2-218.35.

402 Sec. 116. Prohibitions and penalties.

403 (a) Any employer or his duly authorized agent who willfully discriminates against an
404 employee as to his employment because such employee has claimed or attempted to claim
405 compensation from such employer, or because he has testified or is about to testify in a
406 proceeding under this chapter shall be held liable for a fine of not less than \$100 or more than
407 \$1,000, as may be determined by the Mayor.

408 (b) Any employee found to be discriminated against pursuant to subsection (a) of this
409 section shall be restored to his employment and shall be compensated by his employer for any
410 loss of wages arising out of such discrimination; provided, that if such employee ceases to be
411 qualified to perform the duties of his employment, he shall not be entitled to such restoration and
412 compensation. The employer alone and not his carrier shall be liable for such penalties and
413 payments. Any provision in an insurance policy undertaking to relieve the employer from
414 liability for such penalties and payments shall be void.

415 (c) Any person who willfully makes any false or misleading statement or representation
416 for the purpose of obtaining any compensation, benefit, or payment under this chapter shall be
417 guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed
418 \$1,000 or by imprisonment of not to exceed 180 days, or by both such fine and imprisonment.

419 (d) Any employer required to secure the payment of compensation under this act who
420 fails to secure such compensation shall be assessed a civil fine of not less than \$1,000 and not
421 more than \$10,000; and in any case where such employer is a corporation, the president,

422 secretary, and treasurer thereof shall be also severally liable to such fine as herein provided for
423 the failure of such corporation to secure the payment of compensation; and such president,
424 secretary, and treasurer shall be severally and personally liable, jointly with such corporation, for
425 any compensation or other benefit which may accrue under the chapter in respect to any injury
426 which may occur to any employee or such corporation while it shall so fail to secure the payment
427 of compensation.

428 (e) All fines, excluding compensation for loss of wages, shall be paid to the Mayor for
429 deposit into the Universal Paid Leave Compensation Fund and if not paid may be recovered in a
430 civil action brought in the Superior Court of the District of Columbia.

431 Sec. 117. Auditing requirement.

432 (a) The Mayor, or a designee of the Mayor, shall conduct an audit of the paid-leave
433 compensation program within 18 months of the effective date of this Act, and on an annual basis
434 thereafter. The audit shall:

435 (1) Include an analysis of the availability, quality, and use of paid leave
436 compensation for covered employers; a review of the effectiveness of the tax credit's intent to
437 help small businesses; a study of any local or regional economic impact; information on
438 disparities in availability, quality, and use of paid-leave compensation, and any policy
439 recommendations.

440 (2) Be conducted in consultation with the D.C. Chief Financial Officer, D.C.
441 Auditor, D.C. Office of Human Rights, and the D.C. Department of Small and Local Business
442 Development;

443 (3) Analyze whether the District should adopt a preferred provider approach and
444 rationale, if such a policy is recommended;

445 (3) be published on an annual basis.

446 Sec. 118. Commissioner of the Department of Insurance Securities, and Banking; rate
447 filings.

448 The D.C. Department of Insurance Securities and Banking shall administer the provisions
449 of this act in accordance with D.C. Official Code § 31-2703

450

451 **Title II. Conforming Amendments**

452 Sec. 201. Section 2(A) of the Accrued Sick and Safe Leave Act of 2008, effective May
453 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-131.01), is amended as follows and the
454 subsequent subsections are renumbered accordingly:

455 (a) Subsection (iii) is amended to read as follows:

456 “(iii) Children (including foster children, stepchildren, and grandchildren);”.

457 (b) A new subsection (vi) is added to read as follows:

458 “(vi) grandparents;”.

459 Sec. 202. Section 2(4) of the D.C. Family and Medical Leave Act of 1990, effective
460 October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(4)), is amended as follows:

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

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

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

465 “(D) A foster child.”.

466 Sec. 203. Subchapter 47-1806 of the D.C. Official Code is amended by adding a new
467 Section 15 to read as follows:

468 “§ 47-1806.15 Tax on residents and nonresidents – Credits – Refundable Small Business
469 Paid-Leave Compensation Assistance Tax Credit.

470 “(a) For tax years beginning on or after January 1, 2018, a District employer may claim a
471 refundable credit, as determined by the Mayor, against taxes imposed by this subchapter for
472 minimum paid-leave compensation insurance premiums required by the Universal Paid Leave
473 Compensation for Workers Amendment Act of 2017.”

474 “(b) The Chief Financial Officer or his designee shall promulgate regulations as may be
475 necessary and appropriate to carry out provisions of this section, including requiring
476 documentation supporting the claim.”.

477 Sec. 204. Section 1152 of Universal Paid Leave Implementation Fund Act of 2016,
478 effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775), is amended to read as follows:

479 “Sec. 1152. Universal Paid-Leave Compensation Fund.

480 “(a) There is established as a special fund the Universal Paid-Leave Compensation Fund
481 (“Fund”), which shall be administered by the Chief Financial Office in accordance with
482 subsection (b), (c), (d), (e), (f), and (g) of this section.

483 “(b) Neither the District of Columbia nor the Mayor shall be liable in respect of payments
484 authorized under this act in any amount greater than the money or property deposited in or
485 belonging to such fund.

486 “(c) Money in the Fund shall be used to fund the implementation of this act, which shall
487 include administrative costs required pursuant to this act.

488 “(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the
489 unrestricted fund balance of the General Fund of the District of Columbia at the end of the fiscal
490 year, or at any other time.

491 “(2) Subject to authorization in an approved budget and financial plan, any funds
492 appropriated in the Fund shall be continually available without regard to fiscal year limitation.

493 “(e) There shall be deposited into the Fund \$20,039,000 of local funds in Fiscal Year
494 2016 that, subject to approval in a budget and financial plan, of which:

495 “(1) \$2,039,000 in one-time local funds shall be made available to the Mayor to
496 fund any program start-up costs.

497 “(2) Beginning October 1, 2017, the District shall appropriate a minimum of \$6
498 million annually in recurring local funds to fund any administrative costs. Funding shall be
499 allocated during the financial plan period (Fiscal Years 2018, 2019, and 2020).

500 “(f) Revenue from the following sources shall be deposited into the Fund:

501 “(1) Monies collected pursuant to Sections 111 and 114 of this Act;

502 “(2) Annual appropriations, including funding pursuant to Subsection (e) of this
503 section;

504 “(3) All amounts collected as fines and penalties under the provisions of this
505 chapter;

506 “(3) Interest earned upon the money in the Fund, if any; and

507 “(4) All other money received for the Fund from any other source.

508 “(g) Money in the fund may not be used other than for the purposes of the paid-leave
509 compensation program established pursuant to this act.”.

510

511

Title III. Applicability.

512 This act shall apply one year after the inclusion of its fiscal effect in an approved budget
513 and financial plan, as certified by the Chief Financial Officer to the Budget Director of the
514 Council in a certification published by the Council in the District of Columbia Register.

515

516 **Title IV. Fiscal Impact Statement.**

517 The Council adopts the fiscal impact statement in the committee report as the fiscal
518 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
519 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

520

521 **Title V. Effective Date.**

522 This act shall take effect following approval of the Mayor (or in the event of veto by the
523 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
524 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
525 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.22(c)(1)), and publication in the District of
526 Columbia Register.