

217.FM

Councilmember Brandon T. Todd

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To update the public sector workers' compensation system to mirror the private sector workers' compensation system, creating streamlined and improved workers' compensation laws to govern work injuries suffered by District of Columbia employees.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Sector Injured Workers' Equality Amendment Act of 2020".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, Public Sector Workers' Compensation Act (D.C. Official Code §1-623.01 *et seq*) is amended as follows:

(a) Section 2301 (D.C. Official Code §1-623.01) is amended to read as follows:

"Section 2301. Definitions.

"For the purposes in this chapter, the term:

"(1) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

"(2) "Brother" or "sister" includes stepbrothers and stepsisters, half-brothers and half-sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee.

35 “(3) “Carrier” means any person or fund authorized under § 1-623.34 to insure  
36 under this chapter and includes self-insurers.

37 “(4) “Child” includes a posthumous child, a child legally adopted prior to the  
38 injury of the employee, a child in relation to whom the deceased employee stood in loco parentis  
39 for at least 1 year prior to the time of injury, and a stepchild or acknowledged child born out of  
40 wedlock dependent upon the deceased, but does not include married children unless wholly  
41 dependent on the employee.

42 “(5) “Child,” “grandchild,” “brother,” or “sister” includes only persons who are:

43 (A) Under 18 years of age, and also persons who, though 18 years of age  
44 or over, are substantially dependent upon the deceased employee and incapable of self-support  
45 by reason of mental or physical disability; or

46 “(B) Are students as defined herein.

47 “(6) “Compensation” means the money allowance payable to an employee or to  
48 their dependents as provided for in this chapter, and includes funeral benefits provided herein.

49 “(7) “Death” as a basis for a right to compensation means only death resulting  
50 from an injury.

51 “(8) “Disability” means physical or mental incapacity because of injury which  
52 results in the loss of wages.

53 “(8A) “Domestic partner” shall have the same meaning as provided in § 32-  
54 701(3).

55 “(8B) “Domestic partnership” shall have the same meaning as provided in § 32-  
56 701(4).

57 “(9) The term “employee” means:

58                   “(A) A civil officer or employee in any branch of the District of Columbia  
59 government, including an officer or employee of an instrumentality wholly owned by the District  
60 of Columbia government;

61                   “(B) An individual rendering personal service to the District of Columbia  
62 government similar to the service of a civil officer or employee of the District of Columbia,  
63 without pay or for nominal pay, when a statute authorizes the acceptance or use of the service or  
64 authorizes payment of travel or other expenses of the individual, but does not include a member  
65 of the Metropolitan Police Department or the Fire Department of the District of Columbia who is  
66 pensioned or pensionable under §§ 5-701 through 5-724; and

67                   “(C) An individual selected pursuant to Chapter 121 of Title 28 of the  
68 United States Code and serving as a petit or grand juror and who is otherwise an employee for  
69 the purposes of this subchapter as defined by subparagraphs (A) and (B) of this paragraph.

70                   “(10) “Agency” means the agency or entity in the District of Columbia  
71 government that employed the claimant at the time of accidental injury or occupational disease;

72                   “(11) “Grandchild” means a child as above defined of a child as above defined.

73                   “(12) “Injury” means accidental injury or death arising out of and in the course of  
74 employment, and such occupational disease or infection as arises naturally out of such  
75 employment or as naturally or unavoidably results from such accidental injury, and includes an  
76 injury caused by the willful act of third persons directed against an employee because of their  
77 employment.

78                   “(13) “Insurance consultation services” means any survey, consultation,  
79 inspection, advisory or related services performed by a carrier, its agents, employees or service

contractors incident to an applicable policy of insurance for the purpose of reducing the likelihood of injury, death or loss, or to collect or verify information for purpose of underwriting.

“(14) “Mayor” means the agent designated by the Mayor of the District of Columbia to administer the present chapter. Any agent designated by the Mayor shall be wholly independent of any District of Columbia entity or agency responsible for payment for any compensation benefit, medical benefit, penalty, or any other sum owed to an employee under this chapter.

“(14A) “Nonscheduled benefits” means any partial disability not enumerated in § 1-623.08.

“(15) “Parent” includes stepparents and parents by adoption, parents-in-law, and any person who for more than 3 years prior to the death of the deceased employee stood in the place of a parent to them, if dependent on the injured employee.

“(16) “Person” means an individual, partnership, corporation, association, firm, trust, or legal representative thereof.

“(17) “Physical impairment” means any physical or mental condition which is or is likely to be a hindrance or obstacle to obtaining employment.

“(17A) “Physician” means a physician, dentist, or chiropractor licensed in:

“(A) Accordance with Chapter 12 of Title 3; or

“(B) Any state or jurisdiction of the United States, in accordance with the laws of that state or jurisdiction.

“(17B) “Professional athlete” means a skilled athlete under a contract of hire or collective bargaining agreement.



“(17C) “Professional athlete’s work life expectancy” means the work life expectancy of a professional athlete that is determined separately for each professional sports franchise in the District by the Office of Workers’ Compensation through its rulemaking authority.

“(17D) “Safe workplace program” means a program that the District government implements voluntarily to promote safety in the workplace. A certified program shall include a formal written safety policy developed by a safety committee made up of equal numbers of management representatives and employee representatives who are elected by their peers and who serve on the clock, and whose functions include a workplace inspection at least annually, regular meetings with written records, and making recommendations to the District government of ways to eliminate workplace hazards and unsafe work practices, appropriate training in hazard assessment and control, effective accident and incident identification and the role of the federal and local Occupational Safety and Health Administration. Where there is a duty to bargain collectively, the District government shall collectively bargain the use and implementation of the safe workplace program.

“(18) “Student” means a person regularly pursuing a full-time course of study or training at an institution which is:

“(A) A school or college or university operated or directly supported by the United States, or by any state or local government or political subdivision thereof;

“(B) A school or college or university which has been accredited by a state or the District of Columbia, or a state or District of Columbia recognized, or nationally recognized accrediting agency or body;

124 “(C) A school or college or university not so accredited but whose credits  
125 are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the  
126 same basis as if transferred from an institution so accredited; or

127 “(D) An additional type of educational or training institution as defined by  
128 the Mayor, but not after they reaches the age of 23 or has completed 4 years of education beyond  
129 the high school level, except that, where their 23rd birthday occurs during a semester or other  
130 enrollment period, they shall continue to be considered a student until the end of such semester  
131 or other enrollment period. A child shall not be deemed to have ceased to be a student during any  
132 interim between school years if the interim does not exceed 5 months and if they shows to the  
133 satisfaction of the Mayor that they has a bona fide intention of continuing to pursue a full-time  
134 course of education or training during the semester or other enrollment period immediately  
135 following the interim or during a period of reasonable duration during which, in the judgment of  
136 the Mayor, they is prevented by factors beyond their control from pursuing their education. A  
137 child shall not be deemed a student under this section during a period of service in the Armed  
138 Forces of the United States.

139 “(18A) “Utilization review” means the evaluation of the necessity, character, and  
140 sufficiency of both the level and quality of medically related services provided an injured  
141 employee based upon medically related standards.

142 “(19) “Wages” means the money rate at which the service rendered is  
143 recompensed under the contract of hiring in force at the time of the injury, including the  
144 reasonable value of board, rent, housing, lodging, or similar advantage received from the District  
145 government, and gratuities received in the course of employment from other than the District  
146 government.

“(20) “Surviving spouse or domestic partner” includes the decedent’s spouse or domestic partner living with or dependent for support upon the decedent at the time of their or her death, or living apart for justifiable cause or by reason of their or her desertion at such time.

“(21) When used in this chapter, the singular includes the plural.

“(22) “District government” means the entity responsible for representing the District of Columbia government in its capacity as employer for purposes of this chapter and shall be treated as analogous to an “Employer” as the term is used in D.C. Code §§ 32-1501 through 1545. The District government shall be wholly separate from and independent of any entity or agency assigned by the Mayor to have any adjudicative or administrative authority under this chapter.”.

(b) Section 2302a (D.C. Official Code § 1-623.02a) is amended to read as follows:

“Section 2302a. Administration and annual report to Council.

“(a) The Mayor shall administer the provisions of this chapter, and shall make such rules and regulations, appoint, and fix the compensation of such personnel, and make such expenditures as may be necessary. All expenditures of the Mayor in the administration of this chapter shall be allowed and paid as provided in § 1-623.41 upon the presentation of itemized vouchers therefor approved by the Mayor.

“(b) The Mayor shall report annually to the Council by February 1st of each year on the status, from the previous fiscal year, of the workers’ compensation program. The report shall include the following:

“(1) The total number of cases, the total number of lost time cases, the number of medical only cases, the number of cases where no compensation was paid, the number of cases that are more than 500 weeks, the number of permanent partial disability scheduled cases, the

number of permanent partial disability nonscheduled cases, the number of permanent total disability cases, the number of temporary total disability cases, the total number of lost time cases, the number of medical only cases, the number of cases in which claimant was represented by an attorney, cumulative total attorney fees paid, the number of cases controverted, the number of controverted cases decided in favor of District government and decided in favor of claimant, the growth in the assigned risk plan, the number of cases in and the future liability of the special fund; and

“(2) The percentage of the total number of cases each year that are: more than 500 weeks; permanent partial disability; permanent partial disability nonscheduled; permanent total disability; and temporary total disability.”.

(c) Section 2302b is repealed.

(d) Section 2303 (D.C. Official Code §1-623.03) is amended to read as follows:

“Section 2303. Coverage.

“(a) The District government shall be liable for compensation subject to this chapter for injury or death without regard to fault as a cause of the injury or death.

“(b) Liability for compensation shall not apply where injury to the employee was occasioned solely by their intoxication or by their willful intention to injure or kill themselves or another.”.

(e) Section 2304 (D.C. Official Code §1-623.04) is amended to read as follows:

“Section 2304. Exclusiveness of liability and remedy.

“(a) The liability of the District government prescribed in § 1-623.03 shall be exclusive and in place of all liability of the District government to the employee, their legal representative,

spouse or domestic partner, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from the District government at law on account of such injury or death.

“(b) The compensation to which an employee is entitled under this chapter shall constitute the employee’s exclusive remedy against the District government, or any collective-bargaining agent of the District government’s employees and any employee, officer, director, or agent of the District government, insurer, or collective-bargaining agent (while acting within the scope of their employment) for any illness, injury, or death arising out of and in the course of their employment.”.

(f) Section 2305 (D.C. Official Code §1-623.05 is amended to read as follows:

“Section 2305. Commencement of compensation; maximum compensation.

“(a) No compensation shall be allowed for the first 3 days of the disability, except the benefits provided for in § 1-623.07; provided, that in case the injury results in disability of more than 14 days the compensation shall be allowed from the date of the disability.

“(b) Compensation for disability or death shall not exceed the average weekly wages of insured employees in the District of Columbia or \$396.78, whichever is greater. For any one injury causing temporary or permanent partial disability, the payment for disability benefits shall not continue for more than a total of 500 weeks. Within 60 days of the expiration of the duration of the compensation provided for in this subsection, an employee may petition the Mayor for an extension of up to 167 weeks. The extension shall be granted only upon a finding by an independent medical examiner appointed by the Mayor of continued whole body impairment exceeding 20% under the American Medical Association’s Guides to the Evaluation of Permanent Impairment. An injured employee shall have up to 3 years after termination of nonscheduled benefits to re-open their or her case due to changes in condition.



237           “(a) When the average weekly wage has changed as provided for in § 1-623.05, any  
238 person who has a total and permanent disability or any surviving spouse or domestic partner who  
239 is receiving payments for income benefits under this chapter in amounts per week less than the  
240 new maximum for total disability or death shall receive weekly from the carrier, without  
241 application, an additional supplemental allowance calculated by the Mayor in accordance with  
242 the provisions of subsections (b) and (c) of this section; provided, that such allowance shall not  
243 commence to accrue and be payable until the average weekly wage exceeds \$396.78. The Mayor  
244 shall notify the carrier of the amount of such additional supplemental allowance.

245           “(b) In any case where a person with a total disability, or surviving spouse or domestic  
246 partner is receiving the maximum weekly income benefit applicable at the time such award was  
247 made under this chapter, the supplemental allowance shall be an amount which, when added to  
248 such award, will equal the new maximum weekly benefit.

249           “(c) In any case where a person with a total disability, or a surviving spouse or domestic  
250 partner is receiving less than the maximum weekly income benefit rate applicable at the time  
251 such award was made under this chapter, the supplemental allowance shall be an amount equal to  
252 the difference between the amount the claimant is presently receiving and a percentage of the  
253 new maximum determined by multiplying it by a fraction, the numerator of which is their present  
254 award and the denominator of which is the maximum weekly rate applicable at the time such  
255 award was made.

256           “(d) No supplemental allowance referred to in subsections (b) and (c) of this section shall  
257 exceed 5% of the maximum weekly benefit received the preceding benefit year.”.

258           (h) Section 2306a and 2306b are repealed.

259           (i) Section 2307 (D.C. Official Code §1-623.07 is amended to read as follows:



260 “Section 2307. Medical services, supplies, and insurance.

261 “(a) The District government shall furnish such medical, surgical, vocational  
262 rehabilitation services, including necessary travel expenses and other attendance or treatment,  
263 nurse and hospital service, medicine, crutches, false teeth or the repair thereof, eye glasses or the  
264 repair thereof, artificial or any prosthetic appliance for such period as the nature of the injury or  
265 the process of recovery may require. The District government shall furnish such additional  
266 payment as the Mayor may determine is necessary for the maintenance of an employee  
267 undergoing vocational rehabilitation, not to exceed \$50 a week.

268 “(a-1)(1) Any employing agency who provides health insurance coverage for an  
269 employee shall provide health insurance coverage equivalent to the existing health insurance  
270 coverage of the employee while the employee receives or is eligible to receive workers’  
271 compensation benefits under this chapter.

272 “(2) For purposes of this subsection, the phrase “eligible to receive” means:

273 “(A) An employee is away from work due to a job-related injury for which  
274 the employee has filed a claim for workers’ compensation benefits under this chapter; or

275 “(B) The District government has knowledge of a job-related injury of an  
276 employee who is away from work due to the job-related injury pursuant to which workers’  
277 compensation benefits may become due under § 1-623.15.

278 “(3) The provision of health insurance coverage shall not exceed 52 weeks and  
279 shall be at the same benefit level that the employee had at the time the employee received or was  
280 eligible to receive workers’ compensation benefits.

281 “(4) Except as provided in paragraph (3) of this subsection, the District  
282 government shall pay the total cost for the provision of health insurance coverage during the time

that the employee receives or is eligible to receive workers' compensation benefits under this chapter, including any contribution that the employee would have made if the employee had not received or been eligible to receive workers' compensation benefits.

“(5) Each provider of medical care or services pursuant to this chapter shall use a standard coding system for reports and bills generated pursuant to this chapter. Medical care and services shall be billed at the rate established in the medical fee schedule adopted by the Mayor. This fee schedule shall be based on 113% of Medicare's reimbursement amounts.

“(b)(1) The employee shall have the right to choose an attending physician to provide medical care under this chapter. If, due to the nature of the injury, the employee is unable to select a physician and the nature of the injury requires immediate treatment and care, the District government shall select a physician for them. Where medically necessary or advisable, or at the request of the employee, the attending physician shall consult with the employee's personal physician.

“(2) The Mayor shall supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have the authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may order a change of physician or hospital when in their judgment such change is necessary or desirable.

“(3) Each person who provides medical care or service under this chapter shall utilize a standard coding system for reports and bills pursuant to rules issued by the Mayor. Medical care and service shall be billed at a usual and customary rate.

“(4) Any medical care or service furnished or scheduled to be furnished under this chapter shall be subject to utilization review. Utilization review may be accomplished prospectively, concurrently, or retrospectively.

“(A) In order to determine the necessity, character, or sufficiency of any medical care or service furnished or scheduled to be furnished under this chapter and to allow for the performance of competent utilization review, a utilization review organization or individual used pursuant to this chapter shall be certified by the Utilization Review Accreditation Commission.

“(B) When it appears that the necessity, character, or sufficiency of medical care or service to an employee is improper or that medical care or service scheduled to be furnished must be clarified, the Mayor, employee, or District government may initiate review by a utilization review organization or individual.

“(C) If the medical care provider disagrees with the opinion of the utilization review organization or individual, the medical care provider shall have the right to request reconsideration of the opinion by the utilization review organization or individual 60 calendar days from receipt of the utilization review report. The request for reconsideration shall be written and contain reasonable medical justification for the reconsideration.

“(D) Disputes between a medical care provider, employee, or District government on the issue of necessity, character, or sufficiency of the medical care or service furnished, or scheduled to be furnished, or the fees charged by the medical care provider shall be resolved by the Mayor upon application for a hearing on the dispute by the medical care provider, employee, or District government. A party who is adversely affected or aggrieved by

326 the decision of the Mayor may petition for review of the decision by the District of Columbia  
327 Court of Appeals.

328                   “(E) The District government shall pay the cost of a utilization review if  
329 the employee seeks the review and is the prevailing party.

330                   “(5) Medical care providers shall not hold employees liable for service rendered  
331 in connection with a compensable injury under this chapter.

332                   “(c) Vocational rehabilitation shall be designed, within reason, to return the employee to  
333 employment at a wage as close as possible to the wage that the employee earned at the time of  
334 injury. The Mayor shall monitor the provision of vocational rehabilitation of employees with  
335 disabilities and determine the adequacy and sufficiency of such rehabilitation. Where, in the  
336 judgment of the Mayor, the District government fails or refuses to provide adequate and  
337 sufficient rehabilitation services as required in subsection (a) of this section, the Mayor may  
338 order that the supplier of such services be changed.

339                   “(d) If the District government fails to provide the medical or other treatment, services,  
340 supplies, or insurance coverage required to be furnished by subsections (a) and (a-1) of this  
341 section, after request by the injured employee, such injured employee may procure the medical  
342 or other treatment, services, supplies, or insurance coverage and select a physician to render  
343 treatment and services at the expense of the District government. The employee shall not be  
344 entitled to recover any amount expended for the treatment, service, or insurance coverage unless  
345 the employee requested the District government to furnish the treatment or service or to furnish  
346 the health insurance coverage and the District government refused or neglected to do so, or  
347 unless the nature of the injury required the treatment or service and the District government or  
348 their superintendent or foreman having knowledge of the injury neglected to provide the

treatment or service; nor shall any claim for medical or surgical treatment be valid or enforceable, as against the District government, unless within 20 days following the 1st treatment the physician giving the treatment furnishes to the District government and the Mayor a report of the injury or treatment, on a form prescribed by the Mayor. The Mayor may, however, excuse the failure to furnish such report within 20 days when they finds it to be in the interest of justice to do so, and they may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time during such period the employee unreasonably refuses to submit to medical or surgical treatment or to an examination by a physician selected by the District government, or to accept vocational rehabilitation the Mayor shall, by order, suspend the payment of further compensation, medical payments, and health insurance coverage during such period, unless the circumstances justified the refusal.

“(e) Whenever, in the opinion of the Mayor, the injured employee, or the District government, a physician has improperly estimated the degree of permanent disability or the extent of temporary disability occasioned by the injury or where in the opinion of such parties a physician recommends a treatment for an injury not generally recognized by the medical community the Mayor shall cause such employee to be examined by another physician selected by the Mayor and to obtain from such physician a report containing their estimate of such disabilities and a recommendation for treatment. If the report of such physician shows that the estimate of the former physician is improper or that the treatment recommended is not one that is generally recognized in the medical community, the Mayor shall have the power in their discretion to charge the cost of such examination to the District government.

371           “(f) All fees and other charges for such treatment or service shall be limited to such  
372 charges as prevail in the same community for similar treatment of injured persons and shall be  
373 subject to regulation by the Mayor.

374           “(g) The liability of the District government for medical treatment as provided in this  
375 section shall not be affected by the fact that their employee was injured through the fault or  
376 negligence of a third party not in the same employ, or suit has been brought against such 3rd  
377 party. The District government shall, however, have a cause of action against such 3rd party to  
378 recover any amounts paid by them for such medical treatment in like manner as provided in § 1-  
379 623.35(b).

380           “(h) When the District government and an employee so agree in writing, nothing in this  
381 chapter shall be construed to prevent an employee, whose injury or disability has been  
382 established in accordance with the provisions of this chapter, from relying in good faith, on  
383 treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a  
384 recognized church or religious denomination, by a duly accredited practitioner thereof, and  
385 having nursing services appropriate therewith, without suffering loss or diminution of the  
386 compensation benefits under this chapter; provided, the employee shall submit to all physical  
387 examinations required by this chapter.

388           “(i) The employee and District government are entitled upon request to all medical  
389 reports made pursuant to claims arising under this chapter.”.

390           “(j) Section 2308 (D.C. Official Code §1-623.08) is amended to read as follows:

391           “Section 2308. Compensation for disability.

392           “Compensation for disability shall be paid to the employee as follows:

393                   “(1) In case of total disability adjudged to be permanent, 66 2/3% of the  
394 employee’s average weekly wages shall be paid to the employee during the continuance thereof.  
395 Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any 2 thereof  
396 shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In  
397 all other cases permanent total disability shall be determined only if, as a result of the injury, the  
398 employee is unable to earn any wages in the same or other employment;

399                   “(2) In case of disability total in character but temporary in quality, 66 2/3% of  
400 the employee’s average weekly wages shall be paid to the employee during the continuance  
401 thereof;

402                   “(3) In case of disability partial in character but permanent in quality, the  
403 compensation shall be 66 2/3% of the employee’s average weekly wages which shall be in  
404 addition to compensation for temporary total disability or temporary partial disability paid in  
405 accordance with paragraph (2) or (4) of this subsection respectively, and shall be paid to the  
406 employee, as follows:

- 407                   “(A) Arm lost, 312 weeks’ compensation;
- 408                   “(B) Leg lost, 288 weeks’ compensation;
- 409                   “(C) Hand lost, 244 weeks’ compensation;
- 410                   “(D) Foot lost, 205 weeks’ compensation;
- 411                   “(E) Eye lost, 160 weeks’ compensation;
- 412                   “(F) Thumb lost, 75 weeks’ compensation;
- 413                   “(G) First finger lost, 46 weeks’ compensation;
- 414                   “(H) Great toe lost, 38 weeks’ compensation;
- 415                   “(I) Second finger lost, 30 weeks’ compensation;



416                   “(J) Third finger lost, 25 weeks’ compensation;  
417                   “(K) Toe other than great toe lost, 16 weeks’ compensation;  
418                   “(L) Fourth finger lost, 15 weeks’ compensation;  
419                   “(M) Compensation for loss of hearing of 1 ear, 52 weeks. Compensation  
420 for loss of hearing of both ears, 200 weeks, provided that the Mayor may establish a waiting  
421 period, not to exceed 6 months, during which an employee may not file a claim for loss of  
422 hearing resulting from nontraumatic causes in their occupational environment until the employee  
423 has been away from such environment for such period, and provided further, that nothing in this  
424 subparagraph shall limit an employee’s right to file a claim for temporary partial disability  
425 pursuant to paragraph (5) of this section;  
426                   “(N) Compensation for loss of more than 1 phalange of a digit shall be the  
427 same as for loss of the entire digit. Compensation for loss of the 1st phalange shall be one half of  
428 the compensation for loss of the entire digit;  
429                   “(O) Compensation for an arm or a leg, if amputated at or above the elbow  
430 or the knee, shall be the same as for a loss of the arm or leg; but if amputated between the elbow  
431 and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot;  
432                   “(P) Compensation for loss of binocular vision or for 80% or more of the  
433 vision of an eye shall be the same as for loss of the eye;  
434                   “(Q) Compensation for loss of 2 or more digits, or 1 or more phalanges of  
435 2 or more digits, of a hand or foot, may be proportioned to the loss of use of the hand or foot  
436 occasioned thereby, but shall not exceed the compensation for loss of a hand or foot;  
437                   “(R) Compensation for permanent total loss of use of a member shall be  
438 the same as for loss of the member;

“(S) Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. Benefits for partial loss of vision in 1 or both eyes, or partial loss of hearing in 1 or both ears shall be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss;

“(T) The Mayor shall award proper and equitable compensation for serious disfigurement of the face, head, neck or other normally exposed bodily areas not to exceed \$7,500;

“(U) In any case in which there shall be a loss of, or loss of use of, more than 1 member or parts of more than 1 member set forth in subparagraphs (A) to (S) of this paragraph, not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively, except that where 1 injury affects only 2 or more digits of the same hand or foot, subparagraph (Q) of this paragraph shall apply; and

“(U-i) In determining disability pursuant to subparagraphs (A) through (S) of this subsection, the most recent edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment may be utilized, along with the following 5 factors:

## Guides to the Evaluation of Permanent Impairment

“(i) Pain;

“(ii) Weakness;

“(iii) Atrophy;

“(iv) Loss of endurance; and

462 “(v) Loss of function.

463 “(V)(i) In other cases the employee shall elect:

464 “(I) To have their or her compensation calculated in  
465 accordance with the formula set forth in either sub-subparagraph (ii)(I) or (II) of this  
466 subparagraph; and

467 “(II) To receive the compensation at the time the employee  
468 returns to work or achieves maximum medical improvement.

469 “(ii) The compensation shall be 662/3% of the greater of:

470 “(I) The difference between the employee’s actual wage at  
471 the time of injury and the average weekly wage, at the time of injury, of the job that the  
472 employee holds after the employee has a disability; or

473 “(II) The difference between the average weekly wage, at  
474 the time the employee returns to work, of the job that the employee held before the employee had  
475 the disability and the actual wage of the job that the employee holds when the employee returns  
476 to work.

477 “(iii) If the employee voluntarily limits their or her income or fails  
478 to accept employment commensurate with the employee’s abilities, the employee’s wages after  
479 the employee becomes disabled shall be deemed to be the amount the employee would earn if the  
480 employee did not voluntarily limit their or her income or did accept employment commensurate  
481 with the employee’s abilities. Notwithstanding the provisions of this section, in the case of injury  
482 occurring on or after April 16, 1999, the periods of compensation set forth in subparagraphs (A)  
483 through (S) of this paragraph shall each be reduced by a proportion of 25% of the stated period  
484 of weeks, rounded upward to the nearest whole week.

485                   “(W) The compensation and remuneration payable to a professional  
486 athlete claimant pursuant to subparagraph (V)(ii) of this paragraph shall be determined by  
487 referring to the date of the claimant’s disability and a date that is not later than the date on which  
488 the claimant’s employment as a professional athlete would have ended, as determined pursuant  
489 to § 1-623.01(17C), if the disability for which they or she seeks compensation and remuneration  
490 pursuant to subparagraph (V)(ii) of this paragraph had not occurred.

491  
492                   “(4) Any compensation to which any claimant would be entitled under paragraph  
493 (3) of this section, excepting paragraph (3)(V) of this section, shall, provided the death arises  
494 from causes other than the injury, be payable in full to and for the benefit of the persons  
495 following:

496                   “(A) If there be a surviving spouse or domestic partner and no child of the  
497 deceased to such spouse or domestic partner;

498                   “(B) If there be a surviving spouse or domestic partner and surviving child  
499 or children of the deceased, one half shall be payable to the spouse or domestic partner and the  
500 other one half to the surviving child or children;

501                   “(C) The Mayor may in their discretion require the appointment of a  
502 guardian for the purpose of receiving the compensation of the minor child. In the absence of such  
503 a requirement, the appointment for such a purpose shall not be necessary;

504                   “(D) If there be a surviving child or children of the deceased but no  
505 surviving spouse or domestic partner, then to such child or children;

506                   “(E) If there be no surviving spouse or domestic partner and no surviving  
507 children, such unpaid amount of the award shall be paid to the survivors specified in § 1-623.09

(other than a spouse, domestic partner, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in § 1-623.09(4), but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each.

“(5) In case of temporary partial disability, the compensation shall be 66 2/3% of the injured employee’s wage loss to be paid during the continuance of such disability, but shall not be paid for a period exceeding 5 years. Wage loss shall be the difference between the employee’s average weekly wage before the employee had the disability and the employee’s actual wages after the employee had the disability. If the employee voluntarily limits their income or fails to accept employment commensurate with their abilities, then their wages after the employee had the disability shall be deemed to be the amount they would earn if they did not voluntarily limit their income or did accept employment commensurate with their abilities.

“(6)(A) If an employee receives an injury, which combined with a previous occupational or nonoccupational disability or physical impairment causes substantially greater disability or death, the liability of the District government shall be as if the subsequent injury alone caused the subsequent amount of disability and shall be the payment of:

“(i) All medical expenses;

“(ii) All monetary benefits for temporary total or partial injuries; and

“(iii) Monetary benefits for permanent total or partial injuries up to 104 weeks.

“(6)(B) The requirements of this paragraph shall apply to injuries occurring prior to April 16, 1999.

531 “(7) In each case, payment of benefits shall be 66 2/3 % of the employee’s  
532 average weekly wage.

533 “(8) The Mayor may approve lump-sum settlements agreed to in writing by the  
534 interested parties, discharging the liability of the District government for compensation,  
535 notwithstanding §§ 1-623.6 and 1-623.17, in any case where the Mayor determines that it is in  
536 the best interest of an injured employee entitled to compensation or individuals entitled to  
537 benefits pursuant to § 1-623.09. The Mayor shall approve the settlement, where both parties are  
538 represented by legal counsel who are eligible to receive attorney fees pursuant to § 1-623.30.  
539 These settlements shall be the complete and final dispositions of a case and shall be a final  
540 binding compensation order.

541 “(9) An award for disability may be made after the death of an injured employee  
542 from causes other than work-related injury. If the award made is for permanent partial disability,  
543 pursuant to paragraph (3)(A) through (U) of this section, the award shall be payable in full  
544 pursuant to paragraph (4) of this section. If the award made is for any other category of  
545 disability, the amount of the award shall be computed from the date of the injury to the date of  
546 death, and shall be payable in full in the same manner as an award payable pursuant to paragraph  
547 (4) of this section.”.

548 (k) Section 2309 (D.C. Official Code §1-623.09) is amended to read as follows:

549 “Section 2309. Compensation for death.

550 “If the injury causes death, the compensation shall be known as a death benefit and shall  
551 be payable in the amount and to or for the benefit of the persons following:

552 “(1) Reasonable funeral expenses not exceeding \$5,000.

553           “(2) If there be a surviving spouse or domestic partner and no child of the  
554   deceased, to such surviving spouse or domestic partner 50% of the average wages of the  
555   deceased, for as long as the surviving spouse or domestic partner does not remarry or enter into a  
556   domestic partnership, with 2 years’ compensation in 1 sum upon remarriage or entry into a  
557   domestic partnership; and if there be a surviving child or children of the deceased, the additional  
558   amount of 16 2/3% of such wages for each such child; in case of the death, remarriage, or entry  
559   into a domestic partnership of such surviving spouse or domestic partner, if there be 1 surviving  
560   child of the deceased employee, such child shall have their compensation increased to 50% of  
561   such wages, and if there be more than 1 surviving child of the deceased employee to such  
562   children, in equal parts, 50% of such wages increased by 16 2/3% of such wages for each child in  
563   excess of 1; provided, that the total amount payable shall in no case exceed 66 2/3% of such  
564   wages. The Mayor may, in their discretion, require the appointment of a guardian for the purpose  
565   of receiving the compensation of a minor child. In the absence of such a requirement, the  
566   appointment of a guardian for such purposes shall not be necessary.

567           “(3) If there be 1 surviving child of the deceased, but no surviving spouse or  
568   domestic partner then for the support of such child 50% of the wages of the deceased; and if  
569   there be more than 1 surviving child of the deceased, but no surviving spouse or domestic partner  
570   then for the support of such children, in equal parts 50% of such wages increased by 16 2/3% of  
571   such wages for each child in excess of 1; provided, that the total amount payable shall in no case  
572   exceed 66 2/3% of such wages.

573           “(4) If there be no surviving spouse or domestic partner or child or if the amount  
574   payable to a surviving spouse or domestic partner and to children shall be less in the aggregate  
575   than 66 2/3% of the average wages of the deceased, then for the support of grandchildren or



brothers and sisters if dependent upon the deceased at the time of the injury, 20% of such wages for the support of each such person and for the support of each parent, or grandparent, of the deceased if dependent upon them at the time of the injury 25% of such wages during such dependency. But in no case shall the aggregate amount payable under this paragraph exceed the difference between 66 2/3% of such wages and the amount payable as herein before provided to surviving spouse or domestic partner and for the support of surviving child or children.

“(5) Weekly death benefits paid under this section shall not exceed the average weekly wages of insured employees in the District of Columbia, or \$396.78, whichever is greater.

“(6) All questions of dependency shall be determined as of the time of the injury or knowledge by the employee of an occupational disease.”.

(l) Section 2310 (D.C. Official Code §1-623.10) is amended to read as follows:

“Section 2310. Occupational disease.

“In case of pneumoconiosis, such as silicosis and asbestosis, radiation diseases, and any other generally recognized occupational disease, liability for compensation rests with the employer of the last known exposure, which includes the District government on the same terms as any private employer.”.

(m) Section 2311 (D.C. Official Code §1-623.11) is amended to read as follows:

“Section 2311. Determination of average weekly wage.

“(a) Except as otherwise provided in this chapter, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

599                   “(1) If at the time of the injury the wages are fixed by the week, the amount so  
600 fixed shall be the average weekly wage;

601                   “(2) If at the time of the injury the wages are fixed by the month, the average  
602 weekly wage shall be the monthly wage so fixed multiplied by 12 and divided by 52;

603                   “(3) If at the time of the injury the wages are fixed by the year, the average  
604 weekly wage shall be the yearly wage so fixed divided by 52;

605                   “(4) If at the time of injury wages are fixed by the day, hour, or by the output of  
606 the employee, the average weekly wage shall be computed by dividing by 26 the total wages the  
607 employee earned in the employ of the District government in the 26 consecutive calendar weeks  
608 immediately preceding the injury. If the employee has been in the employ of the District  
609 government less than 26 weeks, the total wages referred to in paragraph (3) of this subsection  
610 shall be the amount the employee would have earned had the employee been employed by the  
611 District government for the full 26 calendar weeks immediately preceding the injury and had  
612 worked, when work was available to other employees, in a similar occupation; or

613                   “(5) If it be established that the employee, when injured, was a minor or a student  
614 as defined in § 1-623.01(18) and that under normal conditions their wages should be expected to  
615 increase during the period of disability, whether such disability be temporary, partial, or  
616 permanent in character, the fact shall be considered in arriving at their average weekly wage.

617                   “(6) If the injured employee has not worked in this employment during  
618 substantially the whole of the period, the employee’s average weekly wage shall consist of 130  
619 times the average daily wage or salary, divided by 26 weeks, which an employee of the same  
620 class working substantially the whole of the immediately preceding period in the same or similar

employment, in the same or a similar neighboring place, shall have earned in the employment during the days when so employed.

“(b) The terms “average weekly wage” and “total wages” as used in this section shall include reasonable value for board and lodging received from the District government plus gratuities declared for tax purposes by the employee.”.

(n) Section 2312 (D.C. Official Code §1-623.12) is amended to read as follows:

“Section 2312. Guardian for minor or incompetent.

“The Mayor may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this chapter and to exercise the powers granted to or to perform the duties required of such person under this chapter.”.

(o) Section 2313 (D.C. Official Code §1-623.13) is amended to read as follows:

“Section 2313. Notice of injury or death.

“(a) Notice of any injury or death in respect of which compensation is payable under this chapter shall be given within 30 days after the date of such injury or death, or 30 days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment.

“(b) Such notice shall be in writing, shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by some person on their behalf, or, in case of death, by any person claiming to be entitled to compensation for such death or by a person on their behalf.

643 “(c) Notice shall be given to the Mayor by delivering it or sending it by mail to the entity  
644 at the Department of Employment Services designated by the Mayor for such purpose.

645 “(d) Failure to give such notice shall not bar any claim under this chapter:

646 “(1) If the District government (or their agent in charge of the business in the  
647 place where the injury occurred) or the carrier had knowledge of the injury or death and its  
648 relationship to the employment and the Mayor determines that the District government or its  
649 carrier has not been prejudiced by failure to give such notice; or

650 “(2) If the Mayor excuses such failure on the ground that for some satisfactory  
651 reason such notice could not be given; or unless objection to such failure is raised before the  
652 Mayor at the 1st hearing of a claim for compensation in respect of such injury or death.”.

653 (p) Section 2314 (D.C. Official Code §1-623.14) is amended to read as follows:

654 “Section 2314. Time for filing claims.

655 “(a) Except as otherwise provided in this section, the right to compensation for disability  
656 or death under this chapter shall be barred unless a claim therefor is filed within 1 year after the  
657 injury or death. If payment of compensation has been made without an award on account of such  
658 injury or death, a claim may be filed within 1 year after the date of the last payment. Such claim  
659 shall be filed with the Mayor. The time for filing a claim shall not begin to run until the  
660 employee or beneficiary is aware, or by the exercise of reasonable diligence should have been  
661 aware, of the relationship between the injury or death and the employment. Once a claim has  
662 been filed with the Mayor, no further written claims are necessary.

663 “(b) Notwithstanding the provisions of subsection (a) of this section, failure to file a  
664 claim within the period prescribed in such subsection shall not be a bar to such right unless

objection to such failure is made at the 1st hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

“(c) If a person who is entitled to compensation under this chapter is mentally incompetent or a minor, the provisions of subsection (a) of this section shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of such guardian or other representative, or in the case of a minor, if no guardian is appointed before they becomes of age, from the date they becomes of age.

“(d) Where recovery is denied to any person, in a suit brought at law to recover damages against the District government in respect of injury or death, on the ground that such a person was an employee of the District government subject to this chapter, the limitation of time prescribed in subsection (a) of this section shall begin to run only from the date of termination of such suit.”.

(q) Section 2315 (D.C. Official Code §1-623.15) is amended to read as follows:

“Section 2315. Payment of compensation.

“(a) Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled thereto, without an award, except where liability to pay compensation is controverted by the District government.

“(b) The 1st installment of compensation shall become due on the 14th day after the District government has knowledge of the job-related injury or death, on which date all compensation then due shall be paid. Thereafter compensation shall be paid in installments, biweekly, except where the Mayor determines that payment in installments should be made monthly or at some other period.

688 “(c) Upon making the 1st payment and upon suspension of payment for any cause, the  
689 District government shall immediately notify the Mayor in accordance with a form prescribed by  
690 the Mayor that payment of compensation has begun or has been suspended, as the case may be.

691 “(d) If the District government controverts the right to compensation they shall file with  
692 the Mayor, on or before the 14th day after they has knowledge of the alleged injury or death and  
693 its relationship to the employment, a notice in accordance with a form prescribed by the Mayor  
694 stating that the right to compensation is controverted, the name of the claimant, the name of the  
695 District government, the date of the alleged injury or death and the grounds upon which the right  
696 to compensation is controverted.

697 “(e) If any installment of compensation payable without an award is not paid within 14  
698 days after it becomes due, as provided in subsection (b) of this section, there shall be added to  
699 such unpaid installment an amount equal to 10% thereof, which shall be paid at the same time as,  
700 but in addition to, such installment, unless notice is filed under subsection (d) of this section, or  
701 unless such nonpayment is excused by the Mayor after a showing by the District government that  
702 owing to conditions over which they had no control such installment could not be paid within the  
703 period prescribed for the payment.

704 “(f) If any compensation, payable under the terms of an award, is not paid within 10 days  
705 after it becomes due, there shall be added to such unpaid compensation an amount equal to 20%  
706 thereof, which shall be paid at the same time as, but in addition to, such compensation, unless  
707 review of the compensation order making such award is had as provided in § 1-623.22 and an  
708 order staying payments has been issued by the Mayor or court. The Mayor may waive payment  
709 of the additional compensation after a showing by the District government that owing to

conditions over which they had no control such installment could not be paid within the period prescribed for the payment.

“(g) Within 16 days after final payment of compensation has been made, the District government shall send to the Mayor a notice, in accordance with a form prescribed by the Mayor, stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid.

“(h) The Mayor: (1) May upon their own initiative at any time in a case in which payments are being made without an award; and (2) shall in any case where right to compensation is controverted, or where payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation or from the District government, that the right to compensation is controverted, or where payments of compensation have been stopped or suspended, make such investigations, cause such medical examinations to be made, or hold such hearings, and take such further action as they considers will properly protect the rights of all parties.

“(i) If the District government has made advance payments of compensation, they shall be entitled to be reimbursed out of any unpaid installment or installments of compensation due. All payments prior to an award, to an employee who is injured in the course and scope of their employment, shall be considered advance payments of compensation.

“(j) An injured employee, or in case of death their dependents or personal representative, shall give receipts for payment of compensation to the District government paying the same and the District government shall produce the same for inspection by the Mayor, whenever required.

(r) Section 2316 (D.C. Official Code §1-623.16 is amended to read as follows:



733 “Section 2316. Invalid agreements.

734 “(a) No agreement by an employee to pay any portion of a premium payable by the  
735 District government to a carrier or to contribute to a benefit fund or department maintained by  
736 the District government for the purpose of providing compensation or medical services and  
737 supplies as required by this chapter shall be valid.

738 “(b) No agreement by an employee to waive their right to compensation under this  
739 chapter shall be valid.

740 (s) Section 2317 (D.C. Official Code §1-623.17) is amended to remove existing language  
741 and the following language is inserted:

742 “Section 2317. Assignment of compensation; exemption from claims of creditors.

743 “No assignment, release, or commutation of compensation or benefits due or payable  
744 under this chapter, except as provided by this chapter, shall be valid, and such compensation and  
745 benefits shall be exempt from all claims or creditors and from levy, execution, and attachment or  
746 other remedy for recovery or collection of a debt, which exemption may not be waived.

747 (t) Section 2318 (D.C. Official Code §1-623.18) is amended to read as follows:

748 “Section 2318. Compensation as lien against assets.

749 “Any person entitled to compensation under the provisions of this chapter shall have a  
750 lien against District government without limit of amount.

751  
752 (u) Section 2319 (D.C. Official Code §1-623.19) is amended to read as follows:

753 “Section 2319. Collection of defaulted payments.

754 “(a) In case of default by the District government in the payment of compensation due  
755 under any award of compensation for a period of 30 days after the compensation is due and

payable, the person to whom such compensation is payable may, within 2 years after such default, make application to the Mayor for a supplementary order declaring the amount of the default. After investigation, notice and hearing, as provided in § 1-623.20, the Mayor shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award the Mayor may, in their discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the Clerk of the Superior Court of the District of Columbia. Such supplementary order of the Mayor shall be final, and the Court shall, upon the filing of the copy, enter judgment for the amount declared in default by the supplementary order. No fee shall be required for filing the supplementary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the Court shall otherwise direct. The Court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the Court.

(v) Section 2320 (D.C. Official Code §1-623.20) is amended to read as follows:

“Section 2320. Procedure in respect of claims.

“(a) Subject to the provisions of § 1-623.14, a claim for compensation may be filed with the Mayor in accordance with regulations prescribed by the Mayor at any time after the first 3 days of disability following any injury, or at any time after death, and the Mayor shall have full power and authority to hear and determine all questions in respect of any claim.

“(b) Within 10 days after such claim is filed, the Mayor shall notify the District government, the insurer or administrator, and any other person (other than the claimant), whom the Mayor considers an interested party, that a claim has been filed. Such notice may be served

779 personally upon the District government or other person, or sent to the District government or  
780 person by registered or certified mail.

781 “(c) The Mayor shall make or cause to be made investigations of claims as they considers  
782 necessary, which may include processing the claim through a central system to give the Mayor  
783 an advisory opinion on the rate and degrees of disability. Upon application of any interested  
784 party the Mayor shall order a hearing within 90 days, unless the Mayor grants a special extension  
785 of time for the development of facts. The Mayor shall not use pre-hearing conferences to resolve  
786 workers’ compensation claims. If a hearing on the claim is ordered, the Mayor shall give the  
787 claimant and other interested parties at least 10 days’ notice of the hearing, served personally  
788 upon the claimant and other interested parties or sent to the claimant and other interested parties  
789 by registered or certified mail. No additional information shall be submitted by the claimant or  
790 other interested parties after the date of hearing, except under unusual circumstances as  
791 determined by the Mayor. Within 20 days after a hearing is held, the Mayor shall by order reject  
792 the claim or make an award in respect of the claim based on substantial evidence before them.  
793 The Mayor shall, by order, reject the claim or make an award in respect of the claim based upon  
794 substantial evidence before them, if no hearing is ordered within 20 days after notice is given as  
795 provided in subsection (b) of this section.

796 “(d) At such hearing the claimant and the District government may each present evidence  
797 in respect of such claim and may be represented by any person authorized in writing for such  
798 purpose.

799 “(e) The order rejecting the claim or making the award (referred to in this chapter as a  
800 compensation order) shall be filed with the Mayor, and a copy thereof shall be sent by registered  
801 or certified mail to the claimant and to the District government at the last known address of each.

802           “(f) An injured employee claiming or entitled to compensation shall submit to such  
803 physical examination by a medical officer of the District of Columbia or by a duly qualified  
804 physician or panel of physicians designated or approved by the Mayor as the Mayor may require.  
805 The place or places shall be reasonably convenient for the employee. Proceedings shall be  
806 suspended and no compensation be payable for any period during which the employee may  
807 refuse to submit to examination.

808           “(g) All medical reports submitted by the claimant or any other interested party shall  
809 become part of the record, except that the Mayor shall have the discretion to require the  
810 testimony at the hearing of any reporting physician. Copies of all medical reports submitted shall  
811 be supplied to any party upon request.

812           “(h) As noted in Sec. (mm)(c)(5) above, the office of the Mayor representing the  
813 adjudicatory authority pursuant to this chapter shall be wholly unaffiliated with and wholly  
814 independent of any agency designated by the Mayor to represent the interests of the District  
815 government as a party.

816  
817           (w) Section 2321 (D.C. Official Code §1-623.21) is amended to read as follows:

818           “Section 2321. Presumptions.

819           “In any proceeding for the enforcement of a claim for compensation under this chapter it  
820 shall be presumed, in the absence of evidence to the contrary:

821                   “(1) That the claim comes within the provisions of this chapter;

822                   “(2) That sufficient notice of such claim has been given;

823                   “(3) That the injury was not occasioned solely by the intoxication of the injured  
824 employee; and

825                   “(4) That the injury was not occasioned by the willful intention of the injured  
826 employee to injure or kill themselves or another.

827           (x) A new Section 2321a is created and the following language is inserted:

828           “Section 2321a. Establishment of Compensation Order Review Board.

829           “(a) There is hereby established a Compensation Order Review Board (“Board”) that  
830 shall consist of 5 members as follows:

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

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

834                           “(A) Be appointed by the Chairperson;

835                           “(B) Have received an overall rating of satisfactory or above in their or her  
836 most recent performance review; and

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

838           “(b) The Chairperson shall have the authority to create from among the members of the  
839 Board one or more Compensation Order Review Panels (“panel”) which shall:

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

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

842                   “(3) Be prohibited from discussing the compensation order with the

843 Administrative Law Judge who issued the compensation order while the matter is undergoing  
844 review.

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

848           “(d) The panel shall:

849                   “(1) Review the compensation order for legal sufficiency;

850                   “(2) Dispose of the matter under review by issuing an order affirming the

851 compensation order; reversing the compensation order, in whole or in part, and amending the

852 order based on the panel’s findings, or by remanding the order to the issuing Administrative Law

853 Judge for further review; except, that:

854                   “(A) The panel shall affirm a compensation order that is based upon

855 substantial evidence and is in accordance with this chapter and other applicable laws and

856 regulations and shall not disturb factual findings contained in the compensation order that are

857 supported by substantial evidence; and

858                   “(B) Any reversal, in whole or in part, shall be supported by a written

859 order, which shall contain the legal and factual basis for the reversal, and may amend the

860 compensation order, in whole or in part, or remand the matter to the issuing Administrative Law

861 Judge for additional findings of fact or conclusions of law and the issuance of a compensation

862 order on remand; and

863                   “(3) Make its disposition within 30 days of being assigned the application for

864 review.

865                   “(e) A party aggrieved by the compensation order on remand may appeal it in the same

866 manner as a compensation order.

867           (y) Section 2322 (D.C. Official Code §1-623.22) is amended to read as follows:

868           “Section 2322. Review of compensation orders.

869           “(a) A compensation order shall become effective when filed with the Mayor as provided  
870 in § 1-623.20, and, unless an application for review has been filed with the Board as provided in  
871 subsection (b) of this section, shall become final at the expiration of the 30th day thereafter.

872           “(b)(1) Amended to remove existing language.

873           “(2) Amended to remove existing language.

874           “(2A)(A) A party aggrieved by a compensation order may file an application for  
875 review with the Board within 30 days of the issuance of the compensation order. A party adverse  
876 to the review may file an opposition answer within 15 days of the filing of an application for  
877 review.

878           “(B) A Memorandum of Points and Authorities, which sets forth the legal  
879 and factual basis for the review or the opposition thereto, shall be filed with an application for  
880 review and an opposition answer; no further submissions shall be permitted, unless requested by  
881 the reviewing panel.

882           “(3) Pursuant to the District of Columbia Administrative Procedure Act (§ 2-501  
883 et seq.), any party in interest who is adversely affected or aggrieved by a final decision rendered  
884 after review of a compensation order as provided in paragraph (2A) of this subsection or any  
885 party in interest who is adversely affected or aggrieved by a compensation order which has been  
886 filed as provided in § 1-623.20 may petition for review of such decision or order by the District  
887 of Columbia Court of Appeals. If any party shall apply to the Court for leave to adduce  
888 additional evidence and shall show to the satisfaction of the Court that such additional evidence  
889 is material and that there were reasonable grounds for failure to adduce such evidence in the  
890 hearing before the Mayor, the Court may order such additional evidence to be taken before the  
891 Mayor, and to be made part of the record. The Court may remand the case for appropriate action.



892 “(c) If the District government or their officers or agents fail to comply with a  
893 compensation order making an award that has become final, any beneficiary of such award, or  
894 the Mayor, may apply for the enforcement of the order to the Superior Court of the District of  
895 Columbia for enforcement of such order and upon showing that the District government or their  
896 officers or agents have failed to comply therewith, the Court shall enforce obedience to the order  
897 by writ of injunction or by other proper process, mandatory or otherwise, to enjoin upon such  
898 person and their officers and agents compliance with the order.

899 “(d) Proceedings for suspending, setting aside, or enforcing a compensation order,  
900 whether rejecting a claim or making an award, shall not be instituted otherwise than as provided  
901 in this section and § 1-623.20.

902 (z) Section 2323 (D.C. Official Code §1-623.23) is amended to read as follows:

903 “Section 2323. Appearance of Attorney General for the District of Columbia for Mayor.

904

905 “In any court proceedings instituted under the provisions of this chapter, the Attorney  
906 General of the District of Columbia shall represent the Mayor in any court in which such case  
907 may be carried on appeal.

908 (aa) Section 2324 (D.C. Official Code §1-623.24) is amended to read as follows:

909 “Section 2324. Modification of awards.

910 “(a) At any time prior to 1 year after the date of the last payment of compensation or at  
911 any time prior to 1 year after the rejection of a claim, provided, however, that in the case of a  
912 claim filed pursuant to § 1-623(a)(3)(V) the time period shall be at any time prior to 3 years after  
913 the date of the last payment of compensation or at any time prior to 3 years after the rejection of  
914 a claim, the Mayor may, upon their own initiative or upon application of a party in interest, order

a review of a compensation case pursuant to the procedures provided in § 1-623.20 where there is reason to believe that a change of conditions has occurred which raises issues concerning:

“(1) The fact or the degree of disability or the amount of compensation payable pursuant thereto; or

“(2) The fact of eligibility or the amount of compensation payable pursuant to § 1-623.09.

“(b) A review ordered pursuant to subsection (a) of this section shall be limited solely to new evidence which directly addresses the alleged change of conditions.

“(c) Upon the completion of a review conducted pursuant to subsection (a) of this section, the Mayor shall issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation previously paid, or award compensation. An award increasing or decreasing the compensation rate may be made and shall be effective from the date of the Mayor’s order for a review of the compensation case. If, since the date of the Mayor’s order for a review of the compensation case, the District government has made any payments of compensation at a rate greater than the rate provided in the new compensation order, the District government shall be entitled to be reimbursed for the difference in accordance with rules promulgated by the Mayor. If, since the date of the Mayor’s order for review of the compensation case, the District government has made any payments of compensation at a rate less than the rate provided in the new compensation order, the employee shall be entitled to the difference as additional compensation in accordance with rules promulgated by the Mayor.

“(d) A compensation order issued pursuant to subsection (c) of this section shall be reviewable pursuant to § 1-623.22.

(bb) Section 2325 (D.C. Official Code §1-623.25) is amended to read as follows:

938           “Section 2325. Hearings before Mayor.

939           “(a) In making an investigation or inquiry or conducting a hearing the Mayor shall not be  
940 bound by common law or statutory rules of evidence or by technical or formal rules of  
941 procedure, except as provided by this chapter, but may make such investigation or inquiry or  
942 conduct such hearing in such manner as to best ascertain the rights of the parties. Prior to the  
943 hearing before the Mayor the parties may conduct such discovery, including but not limited to  
944 the use of interrogatories and depositions as, in the opinion of the Mayor, will be helpful in  
945 determining the rights of the parties. Declarations of a deceased employee concerning the injury  
946 in respect of which the investigation or inquiry is being made or the hearing conducted shall be  
947 received in evidence and shall, if corroborated by other evidence, be sufficient to establish the  
948 injury.

949           “(b) Hearings before the Mayor shall be open to the public and shall be reported  
950 stenographically or by such other method capable of producing an accurate transcript. The  
951 Mayor shall by regulation provide for the preparation of a record of the hearings and other  
952 proceedings before the Mayor.

953           (cc) Section 2326 (D.C. Official Code §1-623.26) is amended to read as follows:

954           “Section 2326. Attendance of witnesses.

955           “No person shall be required to attend as a witness in any proceeding before the Mayor at  
956 more than 25 miles of the place of the hearing, unless their lawful mileage and fee for 1 day’s  
957 attendance shall be first paid or tendered to them; but the testimony of any witness including that  
958 of an interested party may be taken by deposition or interrogatories according to the rules of  
959 practice of the Superior Court of the District of Columbia.

960           (dd) Section 2327 (D.C. Official Code §1-623.27) is amended to read as follows:

961 "Section 2327. Witness fees.

962 "Witnesses summoned in a proceeding before the Mayor or whose depositions are taken  
963 shall receive the same fees and mileage as witnesses in the Superior Court of the District of  
964 Columbia.

965 (ee) Section 2328 (D.C. Official Code §1-623.28) is amended to read as follows:

966 "Section 2328. Costs in proceedings brought without reasonable grounds; penalty for  
967 unreasonable delay in payment of compensation.

968 "(a) If the trier of fact or court having jurisdiction of proceedings in respect of any claim  
969 or compensation order determines that the proceedings in respect of such claim or order have  
970 been instituted or continued without reasonable ground, the costs of such proceedings shall be  
971 assessed against the party who has so instituted or continued such proceedings.

972 "(b) If the Mayor or court determines that the District government or its carrier has  
973 delayed the payment of any installment of compensation to an employee in bad faith, the District  
974 government shall pay to the injured employee, for the duration of the delay, the actual weekly  
975 wage of the employee for the period that the employee is eligible to receive workers'  
976 compensation benefits under this chapter. The penalty shall be in addition to any amount paid  
977 pursuant to § 1-623.15.

978 (ff) Section 2329 (D.C. Official Code §1-623.29) is amended to read as follows:

979 "Section 2329. Powers of Mayor.

980 "(a) The Mayor shall have the power to preserve and enforce order during any such  
981 proceedings, to issue subpoenas for, to administer oaths to, and to compel the attendance and  
982 testimony of witnesses, or the production of books, papers, documents, and other evidence, or  
983 the taking of depositions before any designated individual competent to administer oaths; to

984 examine witnesses; and to do all things in conformity with law which may be necessary to enable  
985 them to effectively discharge the duties of their office.

986  
987 “(b) If any person in proceedings before the Mayor disobeys or resists any lawful order or  
988 process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or  
989 neglects to produce, after having been ordered to do so, any pertinent book, paper, or document,  
990 or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as  
991 a witness, or after having taken the oath refuses to be examined according to law, the Mayor  
992 shall certify the facts to the Superior Court of the District of Columbia which shall thereupon in a  
993 summary manner hear the evidence as to the acts complained of, and, if the evidence so  
994 warrants, punish such person in the same manner and to the same extent as for a contempt  
995 committed before the Court, or commit such person upon the same conditions as if the doing of  
996 the forbidden act had occurred with reference to the process of or in the presence of the Court.

997 (gg) Section 2330 (D.C. Official Code §1-623.30) is amended to read as follows:

998 “Section 2330. Attorney fees.

999 “(a) If the District government or its carrier declines to pay any compensation on or  
1000 before the 30th day after receiving written notice from the Mayor that a claim for compensation  
1001 has been filed, on the grounds that there is no liability for compensation within the provisions of  
1002 this chapter, and the person seeking benefits thereafter utilizes the services of an attorney-at-law  
1003 in the successful prosecution of their claim, there shall be awarded, in addition to the award of  
1004 compensation, in a compensation order, a reasonable attorney’s fee against the District  
1005 government or its carrier in an amount approved by the Mayor, or court, as the case may be,

1006 which shall be paid directly by the District government or its carrier to the attorney for the  
1007 claimant in a lump sum after the compensation order becomes final.

1008       “(b) If the District government or its carrier pays or tenders payment of compensation  
1009 without an award pursuant to this chapter, and thereafter a controversy develops over the amount  
1010 of additional compensation, if any, to which the employee may be entitled, the Mayor shall  
1011 recommend in writing a disposition of the controversy. If the District government or its carrier  
1012 refuse to accept such written recommendation, within 14 days after its receipt by them, they shall  
1013 pay or tender to the employee in writing the additional compensation, if any, to which they  
1014 believe the employee is entitled. If the employee refuses to accept such payment or tender of  
1015 compensation and thereafter utilizes the services of an attorney-at-law, and if the compensation  
1016 thereafter awarded is greater than the amount paid or tendered by the District government or its  
1017 carrier, a reasonable attorney’s fee based solely upon the difference between the amount awarded  
1018 and the amount tendered or paid shall be awarded in addition to the amount of compensation.  
1019 The foregoing sentence shall not apply if the controversy relates to degree or length of disability,  
1020 and if the District government or its carrier offers to submit the case for evaluation by physicians  
1021 employed or selected by the Mayor, as authorized in § 1-623.07(e), and offers to tender an  
1022 amount of compensation based upon the degree or length of disability found by the independent  
1023 medical report at such time as an evaluation of disability can be made. If the claimant is  
1024 successful in review proceedings before the Mayor or court in any such case, an award may be  
1025 made in favor of the claimant and against the District government or its carrier for a reasonable  
1026 attorney’s fee for claimant’s counsel in accordance with the above provisions. In all other cases  
1027 any claim for legal services shall not be assessed against the District government or its carrier.



1028           “(c) In all cases, fees for attorneys representing the claimant shall be approved in the  
1029 manner herein provided. If any proceedings are had before the Mayor or any court for review of  
1030 any actions, award, order or decision, the Mayor or court may approve an attorney’s fee for the  
1031 work done before them or it, as the case may be, by the attorney for the claimant. An approved  
1032 attorney’s fee, in cases in which the obligation to pay the fee is upon the claimant, may be made  
1033 a lien upon the compensation due under an award, and the Mayor or court shall fix in the award  
1034 approving the fee such lien and manner of payment.

1035           “(d) In cases where an attorney’s fee is awarded against the District government or its  
1036 carrier there may be further assessed against the District government or its carrier as costs, fees  
1037 and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the  
1038 necessity for the witness and the reasonableness of the fees of expert witnesses must be approved  
1039 by the Mayor, or the court, as the case may be. The amounts awarded against the District  
1040 government or its carrier as attorney’s fees, costs, fees and mileage of witnesses shall not in any  
1041 respect affect or diminish the compensation payable under this chapter.

1042           “(e) Any person who receives any fees, other consideration or any gratuity on account of  
1043 services rendered as a representative of a claimant, unless such consideration or gratuity is  
1044 approved by the Mayor or court, or who makes it a business to solicit employment for a lawyer,  
1045 or for themselves in respect of any claim or award for compensation, shall upon conviction  
1046 thereof for each offense be punished by a fine of not more than \$1,000 or by imprisonment for  
1047 not more than 1 year, or by both such fine and imprisonment.

1048           “(f) At no time shall an attorney’s fee be approved in excess of 20% of the actual benefit  
1049 secured through the efforts of the attorney. This provision applies to all benefits secured through  
1050 the efforts of an attorney, including settlements provided for under this chapter.



(hh) Section 2331 (D.C. Official Code §1-623.31) is amended to read as follows:

“Section 2331. District government record of injury or death.

“The District government shall keep a record with respect of any injury to an employee.

Such record shall contain such information of disease, other disability, or death in respect of such injury as the Mayor may by regulation require, and shall be available for inspection by an authorized representative of the Mayor or of any agency of the government of the District of Columbia at such times and under such conditions as the Mayor may by regulation prescribe.

(ii) Section 2332 (D.C. Official Code §1-623.32) is amended to read as follows:

“Section 2332. District government reports.

“(a) Within 10 days from the date of any injury or death or from the date that the District government has knowledge of a disease or infection in respect of such injury, the District government shall send to the Mayor a report setting forth: (1) the name and address of the District government agency for whom the injured employment; (2) the name, address, and occupation of the employee; (3) the cause and nature of the injury or death; (4) the year, month, day, and hour when and the particular locality where the injury or death occurred; and (5) such other information as the Mayor may require. The District government shall also send a copy of the report together with such other information as may be required by the Mayor to the Department of Employment Services. The District government shall send to the employee or the employee’s next of kin, by certified mail, return receipt requested, concurrent with the submission of the report to the Department of Employment Services, a statement of the employee’s rights and obligations pursuant to this chapter, including the right to file a claim for compensation within one year from the date of injury or death.

1074           “(b) Additional reports in respect of such injury and of the condition of such employee  
1075 shall be sent by the District government to the Mayor at such times and in such manner as the  
1076 Mayor may prescribe.

1077           “(c) Any report provided for in subsection (a) or (b) of this section shall not be evidence  
1078 of any fact stated in such report in any proceeding in respect of such injury or death on account  
1079 of which the report is made.

1080           “(d) The mailing of any such report and copy in a stamped envelope, within the time  
1081 prescribed in subsection (a) or (b) of this section, to the Mayor shall be a compliance with this  
1082 section.

1083           “(e) If the District government fails or refuses to send any report required of them by this  
1084 section they shall be subject to a civil penalty not to exceed \$1,000 for each such failure or  
1085 refusal.

1086           “(f) Where the District government or its carrier has been given notice, or the District  
1087 government (or their agent in charge of the business in the place where the injury occurred) or its  
1088 carrier has knowledge of any injury or death of an employee and fails, neglects, or refuses to file  
1089 report thereof as required by the provisions of subsection (a) of this section, the limitations in §  
1090 1-623.14(a) shall not begin to run against the claim of the injured employee or their dependents  
1091 entitled to compensation, or in favor of either the District government or its carrier, until such  
1092 report shall have been furnished as required by the provisions of subsection (a) of this section.

1093           “(g) On receiving the report provided by subsection (a) of this section, the Mayor shall  
1094 notify the injured employee of the employee’s rights and obligations under this chapter.

1095           (jj) Section 2333 (D.C. Official Code §1-623.33) is amended to read as follows:

1096           “Section 2333. Penalty for misrepresentation.

1097           “Any person who willfully makes any false or misleading statement or representation for  
1098 the purpose of obtaining any benefit or payment under this chapter shall be guilty of a  
1099 misdemeanor and on conviction thereof shall be punished by a fine of not to exceed \$1,000 or by  
1100 imprisonment of not to exceed 1 year, or by both such fine and imprisonment.

1101           (kk) Section 2334 (D.C. Official Code §1-623.34) is repealed.

1102           (ll) Section 2335 (D.C. Official Code §1-623.35) is amended to read as follows:

1103           “Section 2335. Compensation for injuries where third persons are liable.

1104           “(a) If, on account of a disability or death for which compensation is payable under this  
1105 chapter, the person entitled to such compensation determines that some person other than those  
1106 enumerated in § 1-623.04(b) is liable for damages, they need not elect whether to receive such  
1107 compensation or to recover damages against such third person.

1108           “(b) Acceptance of such compensation under an award in a compensation order filed with  
1109 the Mayor shall operate as an assignment to the District government of all rights of the person  
1110 entitled to compensation to recover damages against such third person unless such person shall  
1111 commence an action against such third person within 6 months after such award. If the District  
1112 government fails to commence an action against such third person within 90 days after the cause  
1113 of action is assigned under this section, the right to bring the action shall revert to the person  
1114 entitled to compensation.

1115           “(c) A payment made pursuant to §§ 1-623.09 and 1-623.40(d)(1) shall operate as an  
1116 assignment to the District government of all rights of the legal representative of the deceased  
1117 (hereinafter referred to as “representative”) to recover damages against such third person.

1118           “(d) The District government on account of such assignment may either institute  
1119 proceedings for the recovery of such damages or may compromise with such third person either  
1120 without or after instituting such proceeding.

1121           “(e) Any amount recovered by the District government on account of such assignment,  
1122 whether or not as the result of a compromise, shall be distributed as follows:

1123                 “(1) The District government shall retain an amount equal to:

1124                         “(A) The expenses incurred by them in respect to such proceedings or  
1125 compromise (including a reasonable attorney’s fee as determined by the Mayor);

1126                         “(B) The cost of all benefits actually furnished by them to the employee  
1127 under § 1-623.07;

1128                         “(C) All amounts paid as compensation; and

1129                         “(D) The present value of all amounts thereafter payable as compensation,  
1130 such present value to be computed in accordance with a schedule prepared by the Mayor, and the  
1131 present value of the cost of all benefits thereafter to be furnished under § 1-623.07, to be  
1132 estimated by the Mayor, and the amounts so computed and estimated to be retained by the  
1133 District government as a trust fund to pay such compensation and the cost of such benefits as  
1134 they become due, and to pay any sum finally remaining in excess thereof to the person entitled to  
1135 compensation or to the representative; and

1136                 “(2) The District government shall pay any excess to the person entitled to  
1137 compensation or to the representative, less one fifth of such excess which shall belong to the  
1138 District government.

1139           “(f) If the person entitled to compensation institutes proceedings within the period  
1140 described in subsection (b) of this section, the District government shall be required to pay as

1141 compensation under this chapter a sum equal to the excess of the amount which the Mayor  
1142 determines is payable on account of such injury or death over the amount recovered against such  
1143 third person.

1144 “(f-1) If the person entitled to compensation institutes proceedings within the period  
1145 described in subsection (b) of this section and recovers an amount against a third person, the  
1146 costs of litigation and attorneys’ fees shall be proportionally shared between the person entitled  
1147 to compensation, or the employee’s eligible survivors or legal representative, and the District  
1148 government relative to the amount each received in the total recovery against the third person.

1149 “(g) If compromise with such third person is made by the person entitled to compensation  
1150 or such representative of an amount less than the compensation to which such person or  
1151 representative would be entitled under this chapter, the District government shall be liable for  
1152 compensation as determined in subsection (f) of this section, only if the written approval of such  
1153 compromise is obtained from the District government and their insurance carrier by the person  
1154 entitled to compensation or such representative at the time of or prior to such compromise in a  
1155 form and manner prescribed by the Mayor.

1156 “(h) If the District government purchases private insurance for purposes of this chapter,  
1157 there shall be no distinction for purposes of this section between the District government and its  
1158 insurer.

1159 “(i) The right to compensation or benefits under this chapter shall be the exclusive  
1160 remedy to an employee when they are injured, or to their eligible survivors or legal  
1161 representative if they is killed, by the negligence or wrong of any other person or persons in the  
1162 same employ; provided, that this provision shall not affect the liability of a person other than an  
1163 officer or employee of the District government.

(mm) Section 2336 (D.C. Official Code §1-623.36) is repealed.

(nn) Section 2337 (D.C. Official Code §1-623.37) is amended to read as follows:

“Section 2337. Discharge of liability.

“If the District government elects not to self-insure, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the District government, and in order that the administration of this chapter in respect of such liability may be facilitated, the Mayor shall by regulation provide for the discharge, by the carrier for the District government, of such obligations and duties of the District government, in respect to such liability, imposed by this chapter upon the District government, as they consider proper in order to effectuate the provisions of this chapter. For such purposes:

“(1) Notice to or knowledge of the District government of the occurrence of the injury shall be notice to or knowledge of the carrier; and

“(2) Any requirement by the Mayor or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the District government.

(oo) Section 2338 (D.C. Official Code §1-623.38) is amended to read as follows:

“Section 2338. Insurance policies.

The District government shall have full authority and discretion to secure insurance or to self-insure, subject to rules identical to those governing private employers. Any entity designated by the Mayor to function as insurer or administrator of any compensation claim shall be wholly independent of the Department of Employment Services and any other body having adjudicative authority over any claim arising under this chapter.

(pp) Section 2339 (D.C. Official Code §1-623.39) is repealed.

1187 (qq) Section 2340 (D.C. Official Code §1-623.40) is repealed.

1188 (rr) Section 2341 (D.C. Official Code §1-623.41) is amended to read as follows:

1189 “Section 2341. Administration fund.

1190 “There is maintained in the District of Columbia government the Employees’

1191 Compensation Fund (“Fund”), which shall consists of sums that the Council of the District of

1192 Columbia government or Congress, from time to time, may appropriate for or transfer to it and

1193 amounts that otherwise accrue to it under this chapter or other statute. The Fund is available

1194 without time limit for the payment of compensation and other benefits and expenses incurred to

1195 implement the provisions of this chapter.

1196 (ss) Section 2342 (D.C. Official Code §1-623.42) is amended to read as follows:

1197 “Section 2342. Retaliatory actions by District government prohibited.

1198 “It shall be unlawful for the District government or their duly authorized agent to

1199 discharge or in any other manner discriminate against an employee as to their employment

1200 because such employee has claimed or attempted to claim compensation from the District

1201 government, or because they has testified or is about to testify in a proceeding under this chapter.

1202 Any employee so discriminated against shall be restored to their employment and shall be

1203 compensated by their District government for any loss of wages arising out of such

1204 discrimination; provided, that if such employee ceases to be qualified to perform the duties of

1205 their employment, they shall not be entitled to such restoration and compensation. Any provision

1206 in an insurance policy undertaking to relieve the District government from liability for such

1207 penalties and payments shall be void.

1208 (tt) A new Section 2342c is added to read as follows:

1209 “Section 2342c. Compliance.



1210           “(a) The Director of Employment Services (“Director”) shall assign from the workforce  
1211 in the Workers’ Compensation office a staff for the enforcement of District government  
1212 compliance with Workers’ Compensation requirements, including enforcing existing law and  
1213 referring cases to the Office of the Attorney General for prosecution.

1214           “(b) The Director shall file a semi-annual compliance report with the Council by March  
1215 31st and by September 30th, which shall contain detailed and comprehensive information about  
1216 the compliance enforcement activities during the preceding 6 months.

1217           (uu) Section 2343 (D.C. Official Code §1-623.43) is repealed.

1218           (vv) Section 2344 (D.C. Official Code §1-623.44) is amended to read as follows:

1219           “Section 2344. Severability.

1220           “Should a court of competent jurisdiction declare any provision of this chapter to be  
1221 unconstitutional or beyond the authority of the Council of the District of Columbia, such  
1222 declaration shall have no effect upon any other provision of this chapter.

1223           (ww) Section 2345 (D.C. Official Code §1-623.45) is repealed.

1224           (xx) Section 2346 (D.C. Official Code §1-623.46) is repealed.

1225           (yy) Section 2347 (D.C. Official Code §1-623.47) is repealed.

1226           Sec. 3. Conforming amendments.

1227           A new section is added to D.C. Official Code §1-1504.02, Part (C), reading as follows:

1228           “The rules and standards for the Division of Public Sector Compensation shall be  
1229 identical to those for the private sector.

1230           (a) Section 6(b)(1) of the Office of Administrative Hearings Establishment Act of 2001  
1231 (D.C. Official Code § 2-1831, *et seq*) is amended by striking the word “private.”

1232 (b) Section 12 of the Uniform Emergency Volunteer Health Practitioners Act of 2010  
1233 (D.C. Official Code § 7-2361.01, *et seq*) is amended by striking the phrase “§1-623.03” and  
1234 replacing it with “§1-623.07.”

1235 Sec. 4. Administration.

1236 Rulemaking and regulatory authority under this chapter is assigned exclusively to the  
1237 same agency of the D.C. government entrusted with authority under the Private Sector Act, D.C.  
1238 Code Sec. 32-1501 *et seq.*

1239 Sec. 5. Applicability

1240 (a) As of January 1, 2021, this chapter shall apply to all claims arising under the former  
1241 D.C. Public Sector Workers' Compensation Act, D.C. Code Sec.1-623.01 through Sec. 1-623.47,  
1242 whether the injury arose before or after January 1, 2021, provided that:

1243 (i) any claim that was resolved by final order under former Sec. 1-623.35 cannot be  
1244 reopened; and

1245 (ii) any and all orders issued prior to January 1, 2021 by any adjudicative body, whether  
1246 the Office of Administrative Hearings, the Office of Hearings and Adjudication, the  
1247 Administrative Hearings Division, the Compensation Review Board, the Director of the  
1248 Department of Employment Services in their adjudicative capacity, or the District of Columbia  
1249 Court of Appeals shall remain in effect, except insofar as they prejudice the rights of claimants to  
1250 benefits to which they may be eligible after January 1, 2021.

1251 Sec. 6. Fiscal impact statement.

1252 The Council adopts the fiscal impact statement in the committee report as the fiscal  
1253 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
1254 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

1255           Sec. 7. Effective date.

1256           This act shall take effect following approval by the Mayor (or in the event of veto by the  
1257 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
1258 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
1259 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
1260 Columbia Register.