

A RESOLUTION

**Proposed
Resolution
20-1042**

**See Emergency
D.C. Act 20-436
20 DCStat 4164**

*To declare the existence of an emergency with respect to the need to amend the District of Columbia
Workers' Compensation Act of 1979 to match the federal statute of limitations for private-sector
employees who are injured at work.*

**Workers'
Compensation
Statute of
Limitations
Second
Emergency
Declaration
Resolution of
2014**

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Workers' Compensation Statute of Limitations Second Emergency Declaration Resolution of 2014".

Sec. 2. (a) Previously, under District law, a private-sector employee who was injured on the job had only 6 months to file a lawsuit against the party responsible for the employee's injury. After 6 months, the injured worker's rights to recover damages were automatically assigned to the employee's employer and its insurance company.

(b) A 6-month time limit to file a lawsuit is often too short for District residents who are injured on the job to investigate cases and deal with significant life issues following their at-work accidents. Moreover, the injured worker's employer and the employer's insurance company may not take action or have the interests of the injured worker in mind when doing so.

(c) If an individual were injured in a District location other than a workplace, the individual would have 3 years to file a lawsuit against the party responsible for the injury, as the standard 3-year statute of limitations for negligence would apply.

(d) The District's private-sector workers compensation statute, which was enacted in 1979, was modeled on the federal Longshore and Harbor Workers' Compensation Act ("LHWCA").

(e) In 1984, Congress changed the corresponding section of the LHWCA. Under federal law, if an injured employee does not file a lawsuit within 6 months, the employee's rights to do so are still automatically assigned to the employee's employer and its insurance company; however, if the employer and its insurance company do not take action within 90 days, the right to sue automatically reverts back to the injured employee.

(f) Although the District's private-sector workers compensation statute was modeled on the LHWCA, the District statute was never amended to reflect the 1984 amendment to the LHWCA. Because of this, District residents who are injured on the job have only 6 months to file a lawsuit, while residents who are injured outside of the workplace have 3 years to commence legal action.

(g) As a result of this inequity, the Council previously enacted emergency and temporary legislation that amended the District's private-sector workers' compensation statute to match the federal law on which it was based. On June 23, 2014, the Council enacted Bill 20-786, the

Workers' Compensation Statute of Limitations Temporary Amendment Act of 2014; however, due to delays in the congressional calendar, the effective date for Bill 20-786 was delayed until September 9, 2014. The previous emergency legislation, Bill 20-785, the Workers' Compensation Statute of Limitations Emergency Amendment Act, expired on August 20, 2014, leaving a gap during which an injured worker would not be covered by the revised statute of limitations. Under this new emergency legislation, Bill 20-925, the Workers' Compensation Statute of Limitations Second Emergency Amendment Act of 2014, workers injured in the gap period will retroactively receive the full 3-year statute of limitations to bring their claim.

(h) This emergency legislation would amend the private-sector workers' compensation statute to match the federal law on which it was based. With this change, if an injured employee does not file a lawsuit against the party responsible for the employee's injury within 6 months, the right to sue will still automatically transfer to the employee's employer and its insurance company; however, as under federal law, if the employer and its insurance company do not take action within 90 days, the right to sue will revert back to the injured employee, and the District's standard 3-year statute of limitations will apply.

(i) In addition to matching federal law, this emergency legislation would make the District's statute of limitations for injured workers similar to laws in neighboring jurisdictions. In Maryland, the statute of limitations for injured workers to file suit is 3 years. In Virginia, the statute of limitations is 2 years.

(j) This emergency legislation is necessary to provide a fair opportunity for injured employees to recover damages for injuries that they have received.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Workers' Compensation Statute of Limitations Second Emergency Amendment Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.