

137TH CONGRESS
1ST SESSION

S. 14

To establish rights and protections for domestic workers.

IN THE CONGRESS OF THE UNITED STATES

January 28, 2021

Mr. JOHNSON of Pennsylvania and Mr. SHEPHERD of Texas
(for themselves, Mr. MARSHMALL, Mr. MILLER, and Mr.
WOOD) introduced the following bill;

A BILL

To establish rights and protections for domestic workers.

Be it enacted by the Senate in Congress Assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Domestic Worker Protection and Security Act of 2021”.

SEC. 2 DEFINITIONS.

(a) **CHILD.**—In this Act, the term “child” means an individual who is under the age of 18 years and includes an individual who is—

(1) a biological, adopted, or foster child; or

(2) a stepchild or child of a domestic partner;

(b) **COMMITTED RELATIONSHIP.**—The term “committed relationship” means a relationship between 2 individuals that is granted legal recognition by a political subdivision as a marriage or analogous relationship, including a civil union or domestic partnership.

- (c) **DISABILITY.**—In this Act, the term “disability” has the meaning given to the term in section 3 of the Americans with Disabilities Act of 1990 ([42 U.S.C. 12102](#)).
- (d) **DOMESTIC PARTNER.**—In this Act, the term “domestic partner” means an individual with whom the individual is in a committed relationship.
- (e) **DOMESTIC SERVICES.**—In this Act, the term “domestic services”—
- (1) means services of a household nature provided in interstate commerce and performed by an individual in or about a private home; and
 - (2) includes services performed by individuals such as babysitters, butlers, caretakers, companions, cooks, gardeners, handymen, home health aides, housekeepers, janitors, laundresses, maids, nannies, nurses, valets, and waiters.
- (f) **DOMESTIC VIOLENCE.**—In this Act, the term “domestic violence” has the meaning given to the term in section 40002(a) of the Violence Against Women Act of 1994 ([34 U.S.C. 12291\(a\)](#))
- (g) **DOMESTIC WORKER.**—In this Act, the term “domestic worker” means an individual, including an employee, who is compensated directly or indirectly for the performance of domestic services, but does not include—
- (1) a family member, friend, or neighbor who provides child care in the child’s home;
 - (2) any individual who is an employee of or is a family child care provider; and
 - (3) any employee described in section 13(a)(15) of the Fair Labor Standards Act of 1938 ([29 U.S.C. 213\(a\)\(15\)](#))
- (h) **DOMESTIC WORK HIRING ENTITY.**—In this Act, the term “domestic work hiring entity” means any person who provides compensation directly or indirectly to a domestic worker for the performance of domestic services and includes a person acting directly or indirectly in the interest of a work hiring entity in relation to the domestic worker and includes an employer of a domestic worker.
- (i) **EMPLOYER.**—In this Act, the term “employer” has the meaning given to the term in section 3 of the Fair Labor Standards Act of 1938 ([29 U.S.C. 203](#))
- (j) **EMPLOYMENT.**—In this Act, the term “employment” has the meaning given to the term in section 3 of the Fair Labor Standards Act of 1938 ([29 U.S.C. 203](#))

- (k) **ON-CALL SHIFT.**—In this Act, the term “on-call shift” means any time a domestic work hiring entity expects a domestic worker to be available to work and to wait to contact or be contacted by the entity or a designee of the entity to determine whether the worker shall report for work for the time.
- (l) **PARENT.**—In this Act, the term “parent” means a biological, adoptive, or foster parent, or a stepparent, parent-in-law, parent of a domestic partner, or legal guardian of a domestic worker.
- (m) **PAID SICK TIME.**—In this Act, the term “paid sick time” means an increment of compensated leave that can be earned by a domestic worker for use during—
- (1) an absence resulting from an injury or medical condition of the domestic worker;
 - (2) an absence resulting from obtaining medical care, including preventive medical care and diagnosis;
 - (3) an absence for the purpose of caring for a child, parent, spouse, domestic partner, or individual close to the domestic worker or domestic worker’s family;
 - (4) an absence resulting from obtaining counseling, services from a victim services organization, or other assistance for domestic violence, sexual assault, or stalking;
- (n) **PRIVATE COMMUNICATIONS.**—In this Act, the term “private communications” means any communications through telephone or internet services.
- (o) **SECRETARY.**—In this Act, the term “Secretary” means the Secretary of Labor.
- (p) **SEXUAL ASSAULT.**—In this Act, the term “sexual assault” has the meaning given to the term in section 40002(a) of the Violence Against Women Act of 1994 ([34 U.S.C. 12291\(a\)](#))
- (q) **SPOUSE.**—In this Act, the term “spouse”, with respect to a domestic worker, has the meaning given to such term by the marriage laws of the State where the marriage was.
- (r) **STALKING.**—In this Act, the term “stalking” has the meaning given to the term in section 40002(a) of the Violence Against Women Act of 1994 ([34 U.S.C. 12291\(a\)](#))
- (s) **VICTIM SERVICES ORGANIZATION.**—In this Act, the term “victim services organization means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual assault, or stalking, or provides advocacy, counseling or legal services, or other assistance, legal or otherwise.

SEC. 3 SICK DAYS.

- (a) **EARNED PAID SICK TIME.**—

(1) EARNING OF TIME.—

(A) IN GENERAL.—A domestic work hiring entity shall provide each domestic worker employed by the hiring entity not less than 1 hour of earned paid sick time for every 30 hours worked, to be used as described in paragraph (2).

(B) DATES.—Domestic workers shall begin to earn paid sick time at the commencement of their employment. A domestic worker shall be entitled to use the earned paid sick time beginning on the 30th calendar day of the domestic worker's employment. A domestic work hiring entity may loan paid sick time to a domestic worker in advance of the domestic worker earning such sick time as provided in this paragraph and may permit use before the 30th day of employment.

(C) CARRYOVER.—

(i) IN GENERAL.—Paid sick time earned under this subsection shall carry over from one year to the next.

(D) EXISTING POLICIES.—Any domestic work hiring entity with a paid leave policy who makes available an amount of paid leave that is sufficient to meet the requirements of this subsection and that may be used for the same purposes and under the same conditions as the purposes and conditions outlined in paragraph (2) shall not be required to permit a domestic worker to earn additional paid sick time under this subsection.

(E) REINSTATEMENT.—If a domestic worker is separated from employment with a domestic work hiring entity and is rehired within 3 months after that separation by the same hiring entity, the hiring entity shall reinstate previously earned paid sick time, unless the cause of the separation of the domestic worker from employment occurred as a disciplinary action.

(F) PROHIBITION.—A domestic work hiring entity shall not require the domestic worker involved to search for or find a replacement to cover the hours during which the domestic worker is using paid sick time.

(2) USES.—Paid sick time earned under this subsection may be used by a domestic worker for any of the following:

(A) An absence resulting from a physical or mental illness, injury, or medical condition of the domestic worker.

(B) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the domestic worker.

(C) An absence for the purpose of caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the domestic worker is the equivalent of a family relationship, who—

- (i) has any of the conditions or needs for diagnosis or care described in subparagraph (A) or (B);
- (ii) is otherwise in need of care.

(D) An absence resulting from domestic violence, sexual assault, or stalking, if the time is to—

- (i) seek medical attention for the domestic worker or a related person described in subparagraph (C);
- (ii) recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;
- (iii) obtain or assist a related person described in subparagraph (C) in obtaining services from a victim services organization;
- (iv) obtain or assist a related person described in subparagraph (C) in obtaining psychological or other counseling;
- (v) seek or assist a related person in seeking relocation; or
- (vi) take or assist a related person in taking legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic violence, sexual assault, or stalking.

(3) SCHEDULING.—A domestic worker shall make a reasonable effort to schedule a period of paid sick time under this subsection in a manner that does not unduly disrupt the operations of the domestic work hiring entity.

(4) PROCEDURES.—

(A) IN GENERAL.—Paid sick time shall be provided upon the communicated request of a domestic worker. Such request shall—

- (i) include the expected duration of the period of such time;
- (ii) in a case in which the need for such period of time is foreseeable at least 7 days in advance of such period, be provided at least 7 days in advance of such period; and
- (iii) otherwise, be provided as soon as practicable after the domestic worker is aware of the need for such period.

(b) CONSTRUCTION AND APPLICATION.—

(1) EXISTING LAWS.—

(A) STATE AND LOCAL LAWS.—Nothing in this section shall be construed to preempt or supersede any State or local law that provides greater paid sick time or leave rights.

(B) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this section shall be construed to affect any Federal or State law prohibiting discrimination on the basis of race, sex, religion, color, national origin, age, disability status, marital status, familial status, or other protected statuses.

(2) EXISTING EMPLOYMENT BENEFITS.—

(A) Nothing in this section shall be construed to reduce the domestic work hiring entity's obligation to comply with an existing contract that offers greater rights than those established under this section.

(B) Nothing in this section shall be construed to reduce any agreements, contracts, or plans made by the domestic work hiring entity

SEC. 4 BREAKS.

(a) MEAL BREAKS.—

(1) IN GENERAL.—Except as provided in subsection (c), a domestic work hiring entity shall not require a domestic worker to work more than 6 hours without an uninterrupted meal break of not less than 30 minutes.

(2) RATE OF PAY.—A domestic work hiring entity shall pay a domestic worker for a meal break at the regular rate of pay of the domestic worker unless the domestic

worker is relieved of all duty for not less than 30 minutes during the meal break and is permitted to leave the work site during such break.

- (3) PAID MEAL BREAK.—Except as provided in subsection (c), for any paid meal break required under paragraph (2), a domestic work hiring entity shall;

(A) Provide a reasonable opportunity for a domestic worker to take such break for a period of uninterrupted time that is not less than 30 minutes; and

(B) Not impede or discourage a domestic worker from taking such a meal break.

(b) REST BREAKS.—

- (1) IN GENERAL.—Except as provided in subsection (c), for every 4 hours of work that a domestic worker is scheduled to perform for a domestic work hiring entity, the entity shall allow for the worker a rest break of not less than 10 uninterrupted minutes in which the domestic worker is relieved of all duties related to providing domestic services to the domestic work hiring entity. The domestic work hiring entity shall allow such rest break to occur during the first 3 hours of consecutive work performed by the worker for the entity.

- (2) RATE OF PAY.—A domestic work hiring entity shall pay a domestic worker for the times spent by the worker for a rest break at the regular rate of pay of the worker. The hiring entity shall not impede or discourage a domestic worker from taking such a break.

- (c) EXCEPTIONS.—In a case in which the safety of an individual under the care of the domestic worker prevents the domestic worker from taking such break, the domestic worker may still take an on-duty break described under subsections (a) and (b) if—

- (1) the nature of the work prevents a domestic worker from being relieved of all duties required of the domestic worker for the domestic work hiring entity; and
- (2) the domestic worker and the domestic work hiring entity agree to such an on-duty break in the written agreement.

SEC. 5 PRIVACY.

(a) IN GENERAL.—

- (1) A domestic work hiring entity shall not—

(A) monitor or record a domestic worker while such domestic worker is—

- (i) using restroom or bathing facilities;
- (ii) in their private living quarters; or
- (iii) engaging in any activities associated with dressing, undressing, or changing of clothes;

(B) Restrict or interfere with the private communications of such domestic worker; or

(C) take possession of any documents or other personal effects of such domestic worker.

(b) PRIVATE COMMUNICATIONS.—

(1) A domestic work hiring entity may—

(A) restrict or interfere with the private communications of a domestic worker if the domestic work hiring entity has a reasonable belief that such communications significantly interfere with the domestic worker's performance of expected duties; and

(B) establish reasonable restrictions on the private communication of a domestic worker while such worker is performing work for the work hiring entity.

(c) EXISTING LAWS.—This section shall not preclude liability under any other law.

SEC. 6 PROTECTIONS.

(a) IN GENERAL.—It shall be unlawful for any person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided in this Act, including—

(1) discharging, retaliating against, or in any manner discriminating against any domestic worker for exercising, or attempting to exercise, any right provided in this Act; or

(2) discriminating against any domestic worker by using the exercise of a right provided in this Act as a negative factor in an employment action, including hiring, promotion, disciplinary action, discharging of duties, or shift or work hour changes.

(b) RETALIATION PROTECTION.—It shall be unlawful for any domestic work hiring entity to take any adverse employment action against, threaten to take an adverse action against, or in any other manner discriminate against a domestic worker with respect to compensation, terms, conditions, or privileges of employment because of the domestic worker, whether at

the initiative of the domestic worker or in the ordinary course of the domestic worker's duties (or any person acting pursuant to the request of the domestic worker) for—

- (1) asserting any claim or right in this Act;
 - (2) assisting a domestic worker in asserting such claim or right;
 - (3) informing any domestic worker of protections afforded by this Act;
 - (4) opposing any practice made unlawful by this Act;
 - (5) giving, being about to give, or intending to give any information relating to an inquiry or proceeding related to any right provided in this Act;
 - (6) filing an action or instituting or causing to be instituted any proceeding in or relating to this Act;
 - (7) testifying, being about to testify, or intending to testify in any inquiry or proceeding relating to any right provided in or relating to this Act;
- (c) **PRESUMPTION OF RETALIATION.**—For the purposes of subsections (a) and (b), proof that a person discharged an individual or discriminated against an individual with respect to compensation, terms, conditions, or privileges of employment, within 30 days of the individual involved asserting any claim or right in this Act, or assisting any other individual in asserting such a claim or right, shall raise a presumption that the discharge or discrimination was in retaliation as prohibited under subsection (a) or (b), as the case may be. This presumption may be rebutted by clear and convincing evidence that such action or actions were taken for another permissible reason or reasons.

SEC. 7 ENFORCEMENT.

(a) IN GENERAL.—

(1) INVESTIGATIVE AUTHORITY.—

(A) **IN GENERAL.**—To ensure compliance with the provisions of this Act, or any regulation or order issued in this Act, the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 ([29 U.S.C. 211\(a\)](#)), with respect to hiring entities, domestic workers, and other individuals affected.

(B) **RECORDS.**—A domestic work hiring entity shall make, keep, and preserve records pertaining to compliance with this Act in accordance with section

11(c) of the Fair Labor Standards Act of 1938 ([29 U.S.C. 211\(c\)](#)) and in accordance with regulations prescribed by the Secretary.

(C) SUBPOENA AUTHORITY.—For the purposes of any investigation under this paragraph, the Secretary shall have the subpoena authority provided under section 9 of the Fair Labor Standards Act of 1938 ([29 U.S.C. 209](#))

(2) CIVIL ACTION BY DOMESTIC WORKERS.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against a domestic work hiring entity by one or more domestic workers, or a representative for and on behalf of the domestic workers and any other domestic workers in similar situations.

(B) LIABILITY.—A domestic work hiring entity that violates this Act shall be liable to a domestic worker aggrieved by the violation, except as provided in subparagraph (C) for—

(i) damages equal to—

(I) the amount of—

(a) any compensation denied or lost by reason of the violation; or

(b) in a case in which compensation has not been denied or lost, any actual monetary losses sustained, or the costs reasonably related to damage to or loss of property, or any other injury to the person, reputation, character, or feelings sustained by a domestic worker as a direct result of the violation, by the domestic work hiring entity;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate;

(III) an additional amount as liquidated damages; and

(IV) such other legal relief as may appropriate;

(ii) Such equitable relief as may be appropriate, including employment, reinstatement, and promotion; and

- (iii) in a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action.

(C) MEAL AND REST BREAKS.—In the case of a violation of section 8, the domestic work hiring entity involved shall be liable under subparagraph (B)—

- (i) For the amount of damages described in subclauses (I), (II), and (III) of subparagraph (B)(i); and
- (ii) under subparagraph (B)(i)(IV), for each such violation, for an amount equal to 1 hour of pay at the domestic worker's regular rate of compensation, but not more than 2 hours of such pay for each workday for which the domestic work hiring entity is in violation of such section.

(D) VENUE.—An action under this paragraph may be maintained in any Federal or State court of the competent jurisdiction.

SEC. 8 EFFECT ON EXISTING LAWS, CONTRACTS, AND BENEFITS.

(a) IN GENERAL.—Nothing in this Act shall—

- (1) supersede a provision in a collective bargaining agreement; or
- (2) Be construed to diminish the obligation of the domestic work hiring entity to comply with any contract, collective bargaining agreement, or employment benefit plan or program that provides greater rights or benefits to domestic workers than the rights established under this Act.

(b) EXISTING LAWS.—Nothing in this Act shall—

- (1) affect the obligation of a domestic work hiring entity to provide a reasonable accommodation in the form of a change to the work schedule of a domestic worker required under any other law, or to otherwise comply with any other law;
- (2) preempt, limit, or otherwise affect the applicability of any State or local law that provides comparable or superior benefits for domestic workers to the requirements under this Act; or
- (3) diminish the rights, privileges, or remedies of any domestic worker under any Federal, State, or local law or under any collective bargaining agreement.

- (c) **WAIVERS.**—The rights and remedies in this Act may not be waived by a domestic worker through any agreement, policy or form, or as a condition of employment.

SEC. 9 SEVERABILITY.

SEVERABILITY.—Should any provision of this act be deemed invalid or unconstitutional for any reason in a court with relevant jurisdiction, the rest of the Act, and the application of the remaining provisions, shall not be affected.

SEC. 10 ENACTMENT.

EFFECTIVE DATE.—This Act shall come into effect immediately upon passage.

Based off of SB 535, introduced in the Hawaii State Senate in the 2019 Session, and Senate Bill S2311E, introduced in the New York State Senate in the 2009-2010 Session.