

HHS COMMITTEE #3
July 1, 2010

MEMORANDUM

June 29, 2010

TO: Health and Human Services Committee

FROM: Susan J. Farag, Legislative Analyst 

SUBJECT: Update: Implementation of Bill 2-08, Consumer Protection, Employment Contracts

Today the Committee will receive an update on the implementation of Bill 2-08, Consumer Protection, Employment Contracts, which requires employers in Montgomery County to either provide an employment contract with certain types of domestic workers, or offer a waiver. The following individuals are expected to brief the Committee:

Eric Friedman, Director, Office of Consumer Protection
Lorena Bailey, Office of Consumer Protection
Ashwini Jaisingh, Domestic Worker Organizer, CASA de Maryland

BACKGROUND

In 2006, the Committee sponsored a study that found many domestic workers in the County do not receive all of the legal protections they are entitled to under State employment law. A complete copy of this report, *Working Conditions of Domestic Workers in Montgomery County*, is available on the Council's website. The Executive Summary is attached at © 1-3 and provides an overview of the "typical" domestic worker and some of the employment challenges that such workers faced at the time the report was done. The Council passed Bill 2-08, which provides a model domestic workers contract and waiver, and provides that the Office of Consumer Protection (OCP) is responsible for investigating complaints and generally enforcing the law (copy of law on © 4-11).

IMPLEMENTATION

Advertising/Outreach: In order to have the maximum impact on domestic worker employment, it is critical that both employers and employees are aware of the mandate to offer a contract or waiver to prospective employees. OCP has developed both a model contract and disclosure form and has posted them, as well as other relevant information, on its website. The documents are also available in both Spanish and French. OCP advertises the Domestic Workers program through office brochures and its annual report. CASA de Maryland is the front-line community service provider and helps educate workers about their rights. CASA offers training workshops for workers on how to negotiate a contract.

Complaint History: OCP has received inquiries by both telephone and e-mail regarding domestic workers in general. The inquiries primarily involve contract terms and employer obligations. The office has received over 4,200 hits to its domestic workers web pages since January 2009. This web traffic includes over 600 hits to the model contract itself, although it is not possible to track whether the contract has been downloaded. While OCP is receiving inquiries, it has not received any complaints to date.

Various other County agencies, including the Office of Human Rights, the Commission for Women, and the Department of Housing and Community Affairs (DHCA) are points of contact for domestic workers. OCP advises that the Office of Human Rights has not received any calls concerning the Domestic Workers law. The Commission for Women reports that it receives occasional requests for its Domestic Workers brochures, primarily from prospective employers or agencies. CASA de Maryland's receives requests for assistance which primarily involve workers with a contract (employed by diplomats), or involve wage claims. CASA has not, however, referred any complaints to the OCP. CASA indicates that it has referred several cases to the Department of Justice.

DISCUSSION ISSUES AND QUESTIONS

The Committee may wish to discuss with OCP and CASA staff the possible reasons behind the lack of any formal complaints filed with OCP. Does this mean the law is preventing some employment disputes by encouraging employers and employees to contractually define working conditions? Or is there a need to provide additional education and outreach so that domestic workers know OCP can help remedy employee disputes in certain situations? Are employees filing complaints or pursuing legal action through the courts or other governmental entities? Are there any other barriers that exist that are preventing employees from filing complaints with OCP?

OCP has indicated that it will have summer interns available over the next few months who could assist in studying this issue in more depth. The employment needs and challenges of domestic workers may have changed over the past four years since the initial survey was conducted. CASA has also indicated its willingness to collaborate on a summer study project with OCP, if this is something the Committee wishes to pursue. Doing so could help identify whether domestic workers are aware of their rights, whether they have employment contracts in

place, and what changes, if any, the County could make to help employees understand and enforce their rights.

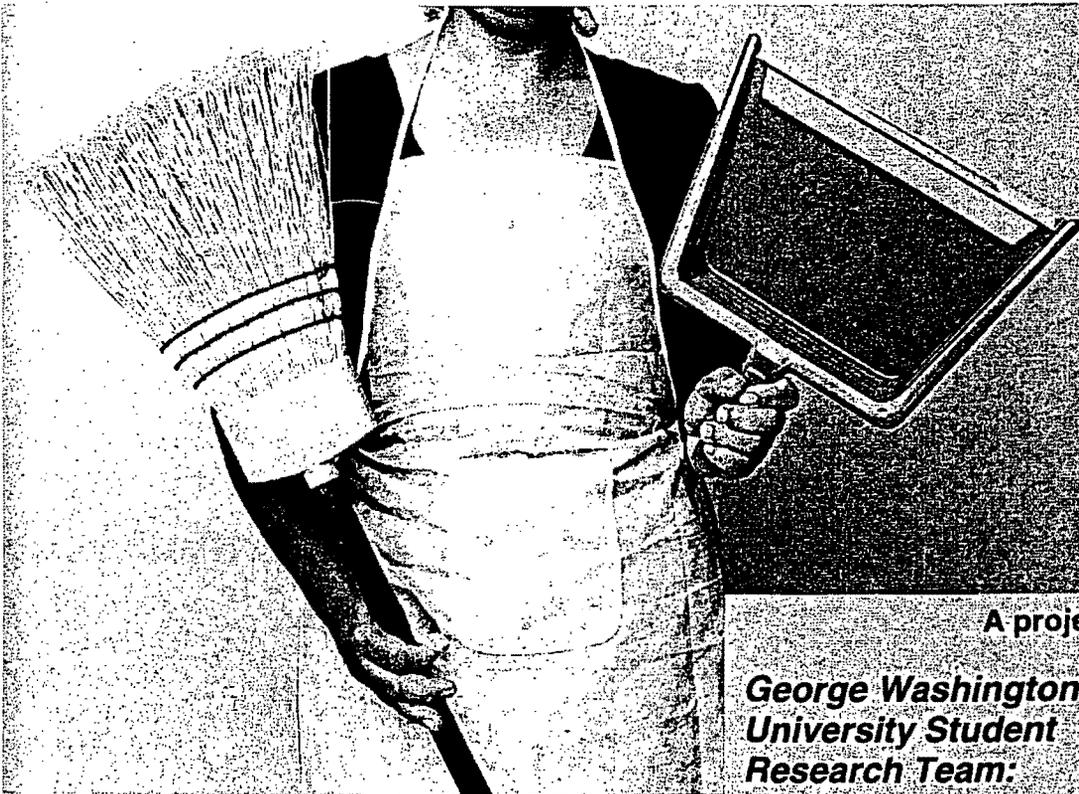
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Working Conditions of Domestic Workers in Montgomery County, Maryland



A project of the
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Sponsored by
**Montgomery County Council Committee on
Health and Human Services**

Executive Summary

This report examines the working conditions of domestic workers in Montgomery County, Maryland. It is the outcome of collaborative efforts between George Washington University Master of Public Policy candidates and Montgomery County community organizations, working under the auspices of the County Council's Health and Human Services Committee. The objective of this research was to determine whether the working conditions of domestic workers are unfair, and if so, the extent and magnitude of such problems.

Women and men, primarily immigrants, provide invaluable services to the households of Montgomery County. They clean and cook in the homes of residents; they care for the community's children, its elderly, and its sick; and they add to the overall quality of life. Their labor is indispensable to many residents who employ them. However, their working conditions are widely perceived to be unfair – their pay inadequate, their hours long, their benefits lacking, and their treatment poor. In Montgomery County, domestic workers have called on the county for redress through the voice of community organizations and advocacy groups such as CASA de Maryland and the Montgomery County Commission for Women.

The goal of this study is to move beyond anecdotal evidence and provide the Montgomery County Health and Human Services Committee with sound empirical data on domestic working conditions in order to inform public discussion of these issues and potential policy solutions. To that end, this report presents findings from the Montgomery County Domestic Worker Survey.

This profile of domestic labor in Montgomery County is based on a county-wide survey of 286 domestic workers who live and work in Montgomery County. Domestic workers were surveyed at a variety of public locales, including parks, metro stations, churches, and community outreach centers over a period of approximately three weeks spanning March and April 2006. Data was analyzed using Excel and SPSS statistical software, as well as using US Census data and pre-existing scholarly studies.

The findings of this study show that there are substantive differences both among types of domestic workers as well as between domestic workers as a class and the general population of Montgomery County. In short, domestic workers are uniformly deprived of health benefits, retirement provisions, as well as standard breaks and holidays. These conditions warrant attention from policy makers in Montgomery County but the form that these policies should take will require further research and analysis. While the data presented in this report provides a detailed picture of the domestic worker population at large, the Live-in domestic worker population is difficult to reach and is therefore underrepresented in our survey. It is imperative to the improvement of domestic worker protections, rights, and welfare that this specific population is targeted for future research. However, should the county decide to take legislative action that may create mandated work standards it will be important to consider the extent to which the informal market for domestic work is predicated upon a certain degree tolerance on the part of both domestic workers and their employers. As such a useful alternative option may be coalition building and associative employee networks.

Summary of Findings

Domestic Workforce

- The 'average' domestic worker is an unmarried, 37-year-old Hispanic female with two children and a 9th grade education level.
- Domestic workers speak Spanish as their primary language (73%), and about half of all surveyed do not speak English (56%).

Domestic Work in Montgomery County

- Domestic workers in the county primarily work as nannies (28%) and housekeepers (44%).
- The largest cohort of domestic workers surveyed lives (35%) or works (21%) in Silver Spring.

Working Conditions

Live-ins

- \$6.29 / hour is the mean hourly wage reported by domestic workers who live with their employer (live-ins).
- On average, live-in domestic workers work 58 hours a week.
- Most live-in domestic workers do not receive overtime compensation (75%).
- 38% of live-in domestic workers reported having health insurance of some kind.

Live-outs

- 87% of domestic workers who do not live with their employer (live-outs) earn minimum wage or higher, 38% of which earn \$10.50 or more.
- On average, live-out domestic workers work 39 hours a week.
- Most live-out domestic workers do not receive overtime compensation (82%).
- Only 16% of live-out domestic workers reported having health insurance.

Domestic Voice

- In a free response question, most domestic workers commented on a lack of healthcare. Other prominent issues of concern included the inadequacy of wages, hours, and time-off.
- In an ordinal response question, which asked workers to rank how they felt treated by their employers on a scale of 1 (very bad) to 10 (very well), 87% ranked their employers 5 or higher, including 21% of respondents who indicated that they were treated "very well" by their employer.

Montgomery County Code

Chapter 11. Consumer Protection.

Sec. 11-4B. Domestic Workers - Written Employment Contracts.

(a) *Legislative findings.*

(1) Domestic workers are entitled to legal protections under State employment laws including, but not limited to:

- (A) minimum wage;
- (B) payment for all hours worked;
- (C) payment of wages in United States dollars twice per month;
- (D) overtime pay of 1.5 times the regular wage rate for hours worked in excess of 40 hours per week; and
- (E) worker's compensation.

(2) The County Council Committee on Health and Human Services sponsored a study of domestic workers in the County which was released on May 10, 2006. The study found that:

- (A) domestic workers in the County have limited access to information concerning the legal protections available to them;
- (B) many domestic workers in the County are paid less than the minimum wage;
- (C) many domestic workers in the County do not receive overtime pay for work in excess of 40 hours per week;
- (D) few domestic workers in the County have written employment contracts setting forth the terms and conditions of their employment;
- (E) domestic workers in the County who live in their employer's residence are generally paid less and work longer hours than domestic workers who do not live at their employer's residence; and
- (F) domestic workers in the County are often isolated and unable to experience the peer to peer networking that is necessary for organized labor movements.

(3) The Council finds that legislation is needed to ensure that domestic workers in the County receive the legal protections they are entitled to under State law, as well as the right to a written employment contract governing the terms and conditions of employment.

(b) *Definitions.* In this Section, the following words have the meaning indicated:

Au pair means an individual who performs childcare services pursuant to the program administered by the State Department of the United States in a private home of the person by whom she is employed.

Disclosure statement means a document confirming that:

- (1) an employer presented a written employment contract signed by the employer to a domestic worker after offering to negotiate the terms and conditions of employment; and
- (2) the worker voluntarily chose not to sign the contract.

Domestic service means, when primarily performed in a home of a recipient of the service located in the County:

- (1) caring for a child;
- (2) serving as a companion to a sick, convalescing, disabled, or elderly individual;
- (3) housekeeping;
- (4) cooking;
- (5) cleaning; or
- (6) laundry.

Domestic worker means an individual who performs domestic service for wages in the County.

Domestic worker does not include:

- (1) a registered nurse, licensed practical nurse, or certified nursing assistant who is licensed or certified by the Maryland Board of Nursing;
- (2) a child, parent, spouse, or other member of the immediate family of the employer;
- (3) an au pair; or
- (4) an individual who primarily serves as a companion to a disabled or elderly individual who is unable to care for himself or herself, and who is not employed by an agency.

Elderly means an individual who is 67 years old or older.

Employment contract means a written agreement signed by a domestic worker and an employer which governs the terms and conditions of employment.

Employer means a person who hires a domestic worker to perform at least 20 hours of work each week during any period that is 30 days or longer. An employer may include an agency that hires a domestic worker to perform domestic service in the home of the recipient of the service.

Hours of work means the time during any 7-day period that a domestic worker is on duty.

Paid time off means time for which a domestic worker receives wages without working, including any holiday, vacation, or sick leave.

Unpaid time off means time during the normal hours of work when the domestic worker may be absent without receiving wages.

Wages means any compensation which a domestic worker receives, including any bonus, commission, fringe benefit, or other payment.

(c) *Employment Contract.* In order to employ a domestic worker, the employer must obtain either a written employment contract signed by both the employer and the domestic worker or a disclosure statement signed by the domestic worker. Each employer must present a proposed written employment contract to a domestic worker and offer to negotiate the terms and conditions of employment. Once a final contract is agreed upon, the employer must sign and give the domestic worker a copy. If the domestic worker is employed by an agency, the employment contract must be between the agency and the employee. Each written employment contract must specify the following terms and conditions of employment:

- (1) days and hours of work;
- (2) wages;
- (3) paid time off;
- (4) unpaid time off;
- (5) frequency of payment of wages;
- (6) deductions from wages;
- (7) eligibility for and calculation of overtime wages;
- (8) duties;
- (9) right of the employer, if any, to require the domestic worker to perform duties that are not specified in the contract;
- (10) living accommodations provided by the employer, if any, including deductions for rent;
- (11) meals provided by the employer, if any, including deductions for meals;
- (12) time allowed for breaks and meals during work hours;
- (13) required notice, if any, before the employer or domestic worker terminates the contract;
- (14) severance wages, if any, if the employer terminates the contract before the end of the contract period;
- (15) contract period;
- (16) reimbursement for work-related expenses; and
- (17) notice of employment rights under State law.

(d) *Living accommodation.* Any dwelling unit that includes living accommodations for a domestic worker must meet all minimum standards for a dwelling unit in Chapter 26 and the worker must have:

- (1) a private room for sleeping with a door that can be locked;
- (2) reasonable access to a kitchen;

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- (3) reasonable access to a bathroom;
- (4) reasonable access to laundry facilities.

(e) *Model Contract.* The Director, after consulting with the Commission for Women, must draft and make available a model employment contract and a model disclosure statement which an employer may use to comply with this Section. The model contract and the model disclosure statement must be published in English, French, and Spanish.

(f) *Retaliation.* An employer must not retaliate against a domestic worker who:

- (1) requests a written contract required under this Section;
- (2) seeks to enforce the terms of a written employment contract; or
- (3) files a complaint or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing to enforce this Section.

(g) *Complaint.* If an employer does not comply with this Section, a domestic worker may file a complaint under Section 11-6. (2008 L.M.C., ch. 27, § 1.)

Sec. 11-5. Exemptions from chapter.

This chapter does not apply to:

- (a) other than practicing or acting without a license, professional services rendered by any certified public accountants, architects, clergymen, professional engineers, lawyers, veterinarians, insurance agents and brokers licensed by the state, Christian Science practitioners, land surveyors and property line surveyors, optometrists, physical therapists, podiatrists, psychologists, and medical and dental practitioners, engaging in their respective professional activities;
- (b) any television or radio broadcasting station or any publisher or printer of a newspaper, magazine, or other form of printed advertising who broadcasts, publishes, or prints an advertisement which violates this Chapter, except insofar as the station or publisher or printer engages in a deceptive or unconscionable practice in the sale or offering for sale of its own goods or services or knows that the advertising violates this Chapter;
- (c) public utility companies to the extent that the company's services and operations are regulated by the state Public Service Commission;
- (d) defective tenancies or other complaints concerning any condition in rental housing which arises out of a landlord-tenant relationship and constitutes a violation of Chapter 29; and
- (e) the sale of real estate, directly or indirectly, by any owner-occupant of the real estate, except as provided in Section 40-14. (1972 L.M.C., ch. 11, § 1; 1974 L.M.C., ch. 13, § 3; 2006 L.M.C., ch. 7, § 1; 2007 L.M.C., ch. 22, § 2.)

Sec. 11-6. Filing complaints.

- (a) *Definition.* In this section "domestic worker" has the meaning stated in Section 11-4B.
- (b) *Complaint.* Any consumer or domestic worker may file a written complaint with the Director.
- (c) *Contents.* A complaint should state the name and address of the person alleged to have committed a violation of this Chapter, describe the violation, and provide any other information that the Office requires.



However, the Director may act on a complaint that is not complete. The Director may investigate any violation of and enforce this Chapter without receiving a complaint.

(d) *Referral to Department of Housing and Community Affairs.* The Director must refer a complaint from a domestic worker alleging living accommodations that do not comply with Section 11-4B(d) to the Department of Housing and Community Affairs for investigation and enforcement.

(e) *Referral to the Office of Human Rights.* The Director must refer a complaint from a domestic worker alleging a discriminatory employment practice to the Office of Human Rights.

(f) *Referral to the Commission for Women.* The Director may refer a domestic worker to the Commission for Women Counseling and Career Center for additional assistance if the Director determines that the services offered there would benefit the worker. (1972 L.M.C., ch. 11, § 1; 1993 L.M.C., ch. 25, § 1; 1996 L.M.C., ch. 13, § 1; 2006 L.M.C., ch. 7, § 1; 2008 L.M.C., ch. 27, § 2.)

Sec. 11-6A. Discriminatory, predatory, or abusive lending practices.*

A consumer who is concerned about a potentially discriminatory, predatory, or abusive lending practice in the County may file a written request for assistance with the Officer of Consumer Protection.

(a) Within 20 business days after receiving a written request with all supporting documentation, the Office must review the request.

(b) Upon reviewing the request, the Office must either:

(i) advise the consumer to file a complaint with the Office if a potential violation of Chapter 11 or Chapter 27 exists;

(ii) assist the consumer in filing a complaint with the appropriate government office or agency that has jurisdiction; or

(iii) provide the consumer with information, education, counseling, or a referral to an appropriate outside agency, group, or organization.

(c) The Office, in assisting a consumer with filing a complaint, may consult with any appropriate federal, state, county, or quasi-governmental office or agency. If the Office assists a consumer in filing a complaint with another agency, the Office must contact the appropriate agency within 45 business days after the referral to determine the status of the complaint, and must forward this information to the consumer.

(d) The Office, in conducting activities to identify and educate consumers about discriminatory, predatory, or abusive lending practices, may work with non-government organizations. (2005 L.M.C., ch. 29, § 3.)

Sec. 11-7. Procedures.

(a) The Director must enforce this Chapter, and may:

(1) investigate a violation or a complaint;

(2) refer a complaint or a violation to any federal, state, or local agency with jurisdiction over the complaint;

(3) refer a complaint or a violation to a hearing officer under Section 11-10;

(4) pursue an enforcement action under Section 11-11; or



(5) attempt to conciliate a matter with the parties.

(b) The Director must attempt to conciliate a matter before taking enforcement action. However, when the Director finds that any violation is causing or will cause immediate, substantial, and irreparable injury, or it is otherwise in the public interest, the Director may take immediate enforcement action without first attempting conciliation, including issuing a cease and desist order.

(c) This Section does not prevent any person from exercising any right or seeking any remedy to which that person is otherwise entitled, or from filing any complaint with any other agency or court.

(d) This Section does not prevent the Director from following a different procedure or pursuing a different enforcement action during or after an investigation when the Director finds that doing so will serve the public interest.

(e) The Director may seek the cooperation of any licensing authority and contracting department in County government. (1972 L.M.C., ch. 11, § 1; 1974 L.M.C., ch. 13, § 4; 1993 L.M.C., ch. 25, § 1; 1996 L.M.C., ch. 13, § 1; 2005 L.M.C., ch. 24, § 1; 2005 L.M.C., ch. 26, § 1; 2006 L.M.C., ch. 7, § 1.)

Sec. 11-8. Conciliation Procedures.

(a) When conciliating a matter, the Director may use the services of any member of the Advisory Committee on Consumer Protection.

(b) The parties may incorporate the terms of a conciliation into a settlement agreement. A settlement agreement does not constitute an admission by any party that any law has been violated. The Director may sign a settlement agreement on behalf of the Office.

(c) Any settlement agreement may require a party to pay the costs of the Office's investigation and related activities and restitution to a consumer of money, property, or any other thing received in apparent violation of this Chapter. A settlement agreement must not preclude the Office from using any other remedy to correct a violation of this Chapter.

(d) Each signatory must adhere to any settlement agreement. Any failure by the Office or another party to pursue a violation of any settlement agreement does not waive any provision of the agreement or any right of the Office under the agreement or this Chapter.

(e) The Director may enforce a violation of a settlement agreement under Section 11-11 as if it is a violation of this Chapter. (2006 L.M.C., ch. 7, § 1; 2006 L.M.C., ch. 33, § 1.)

Sec. 11-9. Enforcement of summonses and subpoenas.

(a) If any person does not comply with any summons or subpoena issued under this Chapter, the County may enforce the summons or subpoena by appropriate legal action.

(b) Any court with jurisdiction may grant injunctive or other appropriate relief to enforce a summons or subpoena.

(c) A person must comply with any summons or subpoena issued under this Chapter. (1976 L.M.C., ch. 28, § 1; 1996 L.M.C., ch. 13, § 1; 2005 L.M.C., ch. 26, § 1; 2006 L.M.C., ch. 7, § 1.)

Sec. 11-10. Administrative hearing.

(a) The Director may refer a complaint or a violation to a hearing officer designated by the Chief Administrative Officer for an administrative hearing

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(b) If the Director refers a complaint or violation to a hearing officer, the Director must prepare a statement of charges that summarizes:

- (1) the nature of the alleged violation, and the approximate date the violation was committed;
- (2) the provision of this Chapter alleged to be violated; and
- (3) the right of the respondent to be represented by counsel and present witnesses and evidence pertinent to the charges.

(c) The Director must serve the statement of charges and a notice of the time and place of a hearing on the person who is alleged to have violated this Chapter and notify any complainant or other interested person of the time and place of the hearing.

(d) The Director may use any of the following methods to serve or notify a person under this Chapter:

- (1) personal service;
- (2) regular or certified mail, postage prepaid, addressed to the last-known residential or business address of the respondent; regular mail is presumed to be served 3 days after mailing;
- (3) posting a notice in a conspicuous place at the respondent's residence or place of business; or
- (4) publication in a newspaper of general circulation in the County once a week for 3 successive weeks if no address can be found for a party after a diligent search or if the hearing officer determines that the person is avoiding receiving notice.

(e) Unless otherwise provided in this Section, Article 1 of Chapter 2A governs any proceeding held under this Section.

(f) If a person notified of the hearing does not appear at the hearing, the hearing officer may proceed with the hearing and dismiss the charges, enter a default judgment, or issue another appropriate order, including an order directing the person who has not appeared to take or refrain from taking certain actions.

(g) In addition to the requirements of Section 2A-10, if the hearing officer finds by a preponderance of the evidence that a person has violated this Chapter, the hearing officer may order the violator to:

- (1) stop committing the violation;
- (2) restore money or property;
- (3) pay any costs of investigation or related activities of the Department;
- (4) post a performance bond or other security;
- (5) pay a civil penalty authorized under Section 11-11; or
- (6) take any other action that would:
 - (A) assist the public in obtaining relief; or
 - (B) prevent future violations.

(h) When a violator is ordered to post a performance bond or other security, in setting the amount of security to be posted the hearing officer should consider:

- (1) the nature of the violation;
- (2) the amount of money, property, or any other thing received from a consumer in connection with the violation;
- (3) whether full restitution has been paid to each affected consumer; and
- (4) the risk of future harm to other consumers.

(i) If the hearing officer imposes a civil penalty, the hearing officer should consider:

- (1) the severity of the violation;
- (2) the severity of any harm to the consumer;
- (3) the motives of the violator;
- (4) any previous violations by the same person or entity;
- (5) whether the penalty will deter future misconduct; and
- (6) whether a stop order or restitution would sufficiently protect consumers.

(j) Every person must comply with each order or decision issued by a hearing officer under this Section.

(k) The Director may enforce an order or decision of a hearing officer by taking any appropriate legal action. In addition, the Director may enforce any violation of a decision or order under Section 11-11. (2006 L.M.C., ch. 7, § 1; 2006 L.M.C., ch. 33, § 1.)

Sec. 11-11. Enforcement and penalties.

(a) A person who violates this Chapter is subject to a civil penalty under Section 11-10 of not more than \$1,000 for each violation or the penalty for a Class A violation. If the violation is enforced as a Class A civil violation, the maximum penalty is \$1,000 rather than the penalty set under Section 1-19.

(b) The Director may bring an action in any court with jurisdiction to recover a civil penalty, enjoin any violation of this Chapter, or enforce any order, decision, summons or subpoena issued under this Chapter.

(c) In any action the Director brings to enforce this Chapter, the Director may seek damages, restitution, the posting of a bond, or any other available legal or equitable relief. (1972 L.M.C., ch. 11, § 1; 1983 L.M.C., ch. 22, § 16; 1983 L.M.C., ch. 41, § 1; CY 1991 L.M.C., ch. 18, § 2; 2006 L.M.C., ch. 7, § 1.)

Disclaimer: This text is provided for informational purposes only. Please contact Montgomery County for official copies of the County Code. Copies of the County Code are available for purchase from the County Attorney's Office, 101 Monroe Street, 3rd floor, Rockville, MD 20850. Telephone: (240) 777-6753 or click on this [Order Form](#) to order.

MODEL DOMESTIC WORKER EMPLOYMENT CONTRACT

INSTRUCTIONS: Employer and Employee should negotiate the terms of this contract to reach an agreement. Check the appropriate box when selecting a contract term. Additional terms may be added as necessary. Any text in **bold** refers to Federal, State, or County law.

This contract, made on _____ (date), between _____ (Employer) and _____ (Employee) has the following terms of employment:

1. Employee will start employment on: _____ (date).

2. EMPLOYMENT TERM

_____ (#) Month(s) Year(s) Other: _____

3. LOCATION of employment is: _____ (address).

4. HOUSEHOLD INFORMATION

Household members include: # of Adults _____ # of Children _____

Are there any pets in the household? Yes No

If yes, what kind and how many? _____

Will Employee be expected to care for the pets? Yes No

5. LIVE-IN/LIVE-OUT

Employee will live in the Employer's home. (See Section 12 Living Accommodations)

Employee will live-out. (Employee will not live in the Employer's home.)

Other: _____

6. WORK SCHEDULE Employee will work the following schedule:

Sunday Begin: _____ am / pm End: _____ am / pm

Monday Begin: _____ am / pm End: _____ am / pm

Tuesday Begin: _____ am / pm End: _____ am / pm

Wednesday Begin: _____ am / pm End: _____ am / pm

Thursday Begin: _____ am / pm End: _____ am / pm

Friday Begin: _____ am / pm End: _____ am / pm

Saturday Begin: _____ am / pm End: _____ am / pm

7. JOB RESPONSIBILITIES

Employee will perform the following job responsibilities: (Check all that apply.)

Babysitting or Child Care

Description of Child(ren) [Name, age, gender, activities, etc.]

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Adult Care

Describe the adult(s), state why care is needed, and list the type(s) of care to be provided:

Housekeeping List the specific tasks below:

- Vacuuming ___ x per week Dusting ___ x per week Mopping ___ x per week
 Dishwashing ___ x per week Laundry ___ x per week Cooking ___ x per week
 Shopping ___ x per week Bathrooms (#___) ___ x per week
 Kitchen clean up ___ x per week including: _____

- Car pick-up ___ x per week using Employer's car Employee's car
 Other: _____ x per week Other: _____ x per week
 Other: _____ x per week Other: _____ x per week

Pet Care

- Feeding ___ x per day Walking ___ x per day
 Grooming ___ x per week Other: _____ x per week

8. WAGES

a. The Employer will pay the Employee the following wages:

Regular rate of pay is \$ _____ per hour.

Overtime rate of pay is \$ _____ per hour for every hour worked over 40 hours per week.

Maryland law requires that workers be paid at least a minimum wage of \$6.55 per hour as of July 24, 2008 and that workers receive overtime compensation at the rate of 1.5 times their regular hourly pay for each hour worked over 40 hours in a given 7-day work week. As a reference point, Montgomery County, Maryland has set its "Living Wage" at \$12.40 per hour as of July 1, 2008. See Domestic Worker's Resource List for additional information on state minimum wage and county living wage laws.

b. Employee will receive compensation in addition to regular and/or overtime wages for the following conditions:

- Sleepovers for live-out employee: \$ _____ per _____;
 Overnight guests: \$ _____ per _____;
 Addition to Employer's Household: \$ _____ per _____;
 Travel: \$ _____ per _____;
 Other: _____ : \$ _____ per _____;
 Other: _____ : \$ _____ per _____.

c. Employee will receive the following additional wages (bonus, commission, fringe benefit, other payment):

d. Wage Deductions

Employer will make the following deductions from Employee's wages every pay period:

- Federal Taxes State Taxes
 Municipal Taxes Social Security
 Health Insurance Premium: \$ _____ Meals Amount: \$ _____
 Rent Amount: \$ _____ Other _____ : \$ _____

Employer will not deduct money if Employee breaks an item.

e. Wages will be paid:

- Weekly Bi-Weekly on _____ (day of the week).

Wages will be paid by: Check Cash

f. Employer and Employee will both maintain a signed record of hours worked and payment of wages.

9. BREAKS Employee will receive the following periodic breaks throughout the day:

15 minute break for every four (4) hours worked

Paid Unpaid

30 minute meal break for every eight (8) hours worked

Paid Unpaid

Other: _____

Paid Unpaid

Other: _____

Paid Unpaid

10. LEAVE

a. Employee will receive the following paid family sick leave:

Equivalent of one (1) work week paid family sick days every year (total of ___ days).

Other: _____

Employee may use sick leave to attend to her or his own medical needs as well as those of any family member. Whenever sick leave is used, Employee will notify Employer before the start of the workday unless Employee is physically unable to do so. Employee will be entitled to carry over a maximum of one year of accrued family sick leave to the following year.

b. Employee will receive the following paid vacation leave:

Equivalent of one (1) work week paid vacation days every year (total of ___ days).

Other: _____

Employee will determine the timing of vacation leave. Employer cannot require Employee to take her or his vacation to coincide with that of the employer. Employee will make every attempt to provide a minimum of four (4) weeks advance notice of her or his intent to use vacation leave. Employee will be entitled to carry over a maximum of one year of accrued vacation leave to the following year.

c. Employee will receive the following unpaid leave:

Equivalent of one (1) work week unpaid leave days every year (total of ___ days).

Other: _____

Employee will make every attempt to provide a minimum of four (4) weeks advance notice of her or his intent to use unpaid leave.

d. Employee will receive the following paid holidays: (Check all that apply.)

New Year's Day

Martin Luther King, Jr.'s Birthday

President's Day

Memorial Day

Independence Day (July 4)

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day

Christmas Day (December 25)

Other: _____

Other: _____

If Employee is required to work on a paid holiday, Employee will receive Holiday Pay at a rate of 1.5 times her or his regular/overtime rate of pay.

11. OUT-OF-TOWN TRAVEL (Other than commute between Employee's home and place of employment.)

a. If the Employer decides to travel outside of the local area with the Employee, Employer will cover all associated costs.

b. Employee will be required to travel. Yes No

c. Employer will provide the following minimum notice of travel plans:

Four (4) weeks

Other: _____

d. Employer will discuss travel plans with Employee if travel is required.

e. If Employee is not required to travel, Employee will be paid when Employer is away. Yes No

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12. LIVING ACCOMMODATIONS

County law requires that Employers provide live-in Employees with reasonable room and board accommodations. Such accommodations must meet all minimum standards for a dwelling unit as established in Chapter 26 of the Montgomery County Code; accommodations include, but are not limited to, a private room for sleeping with a door that can be locked. Employer shall also provide Employee with reasonable access to a kitchen, bathroom, and laundry facilities. See Domestic Worker's Resource List for additional information.

13. TELEPHONE

Employee will have reasonable use of Employer's telephone for placing local calls. Employer may deduct the cost of Employee's long-distance calls from Employee's wages.

Other: _____

14. HEALTH INSURANCE Employer will provide Employee with Health Insurance. Yes No

If Employer provides Health Insurance, the plan will cover:

Insurance Provider: _____ Telephone: _____

Subscriber Number: _____ Group Number: _____

If Employee is to pay for part of the insurance, Employee will pay \$ _____ per pay period.

15. REIMBURSEMENT Employer will reimburse Employee for any travel or other work-related pre-approved expenses. Such pre-approved expenses include but are not limited to, expenses for travel at the request of Employer, expenses incurred while caring for a child or children in Employee's charge, and other expenses related to the services Employee was hired to perform.

16. Employer will provide a minimum of two (2) days notice whenever Employee is required to work late or when overtime is required.

Other: _____

17. Employer will provide transportation or taxi fare if Employee is required to work late.

Other: _____

18. Employee will be entitled to a raise of at least 5% every year.

Other: _____

19. Rights of the Employer, if any, to require Employee to perform duties that are not specified in the contract:

None

Other: _____

20. Other: _____

21. Other: _____

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22. **NOTICE OF TERMINATION AND SEVERANCE***

If Employer terminates this employment contract, the Employee will be given _____ week(s) written notice or _____ week(s) pay in lieu of notice. After one year of employment, Employer will provide one week's wages as severance pay and one additional week of wages for every year of work with that Employer, up to _____ week(s).

Employee will make every attempt to give Employer at least _____ week(s) notice of termination of this employment contract.

* This provision does not apply if Employee is terminated for cause.

23. **NOTICE OF EMPLOYMENT RIGHTS UNDER STATE LAW**

Employee, regardless of her or his immigration status, race, gender or age, is entitled to legal protections under Maryland employment laws including, but not limited to:

- a. **payment of minimum wage;**
- b. **payment for all hours worked;**
- c. **payment of wages in United States dollars no less than twice per month;**
- d. **overtime pay of 1.5 times the regular hourly wage for every extra hour worked over 40 hours per week;**
- e. **notice of rate of pay, regular payday, and leave benefits; statement of earnings and deductions for each pay period; and notice of any change in a payday or wage at least one pay period in advance;**
- f. **worker's compensation; and**
- g. **upon termination of employment, payment of all wages due for work performed before the termination of employment, on or before Employee's regular payday.**

24. An employer may not retaliate against a domestic worker who:

- a. requests a written contract required under Montgomery County Code, Chapter 11, Sec. 11-4B(c), Consumer Protection
- b. seeks to enforce the terms of a written employment contract; or
- c. files a complaint or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing to enforce any section of the Consumer Protection Statute.

Employer's Signature

Date

Employer's Name

Employee's Signature

Date

Employee's Name



Provided by the Montgomery County, MD Office of Consumer Protection
100 Maryland Avenue, #330
Rockville, MD 20850
Tel: 240.777.3636
www.montgomerycountymd.gov/consumer



MODEL DOMESTIC WORKER DISCLOSURE STATEMENT

INSTRUCTIONS: The Montgomery County, Maryland Domestic Workers' Law requires an employer of certain domestic workers located in the County to offer a written contract that specifies the terms and conditions of employment. If, after an employer presents a written employment contract and offers to negotiate the terms and conditions of employment, a worker voluntarily chooses not to sign the contract, then the parties must sign this disclosure statement.

Employer and worker (employee) acknowledge that, notwithstanding the fact that they are proceeding without a written contract, employee is entitled to the legal protections under State employment laws including, but not limited to:

1. payment of minimum wage (\$6.55 per hour as of July 24, 2008);
2. payment for all hours worked;
3. payment of wages in United States dollars no less than twice per month;
4. overtime pay of 1.5 times the regular hourly wage for every extra hour worked over 40 hours per week;
5. notice of rate of pay, regular paydays, and leave benefits; statement of earnings and deductions for each pay period; and notice of any change in a payday or wage at least one pay period in advance;
6. worker's compensation; and
7. upon termination of employment, payment of all wages due for work performed before the termination of employment, on or before employee's regular payday.

Employer's Certification:

Employer certifies that she or he offered to negotiate the terms and conditions of employment and presented a written employment contract to the worker.

Employer's Signature

Date

Employer's Name

Employee's Acknowledgement:

Worker acknowledges that she or he was offered a written employment contract and is voluntarily choosing not to sign the contract.

Employee's Signature

Date

Employee's Name



Provided by the Montgomery County, MD Office of Consumer Protection
100 Maryland Avenue, #330
Rockville, MD 20850
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Office of Consumer Protection 240-777-3636

Main Home	Law	Contract	Disclosure	FAQs	Resources	Contact Us	OCP
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FAQs

Frequently Asked Questions

1. [What is the purpose of this law?](#)
2. [Which domestic workers are covered by the law?](#)
3. [Who is NOT considered a domestic worker?](#)
4. [Who is responsible for providing the employment contract?](#)
5. [What must an employer do?](#)
6. [What must the contract include?](#)
7. [Does an employer have to use the Model Contract?](#)
8. [Who do I contact if my employer has not given me a written contract?](#)
9. [What is the penalty for a violation of the law?](#)
10. [How do I file a complaint?](#)

1. What is the purpose of this law?

Montgomery County wants to ensure that domestic workers in the County receive the legal protections they are entitled to under State law, as well as the right to a written employment contract governing the terms and conditions of employment.

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2. Which domestic workers are covered by the law?

This law applies to domestic workers if she or he:

- works primarily in a residence located in Montgomery County
- works at least 20 hours per week for at least a 30 day period
- performs primarily childcare, housekeeping, cooking, cleaning or laundry-type work
- works as a companion to a sick, convalescing, disabled, or elderly individual
- has an employer that is an individual or an employment agency

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3. Who is NOT considered a domestic worker?

Domestic worker does NOT include:

- A registered nurse (RN), licensed practical nurse (LPN), or certified nursing assistant (CNA) who is licensed or certified by the Maryland Board of Nursing;
- A child, parent, spouse, or other member of the immediate family of the employer;
- An au pair; or
- An individual who primarily serves as a companion to a disabled or elderly individual who is unable to care for himself or herself, and who is not employed by an agency.

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4. Who is responsible for providing the employment contract?

The Montgomery County Office of Consumer Protection (OCP) will maintain a model employment contract and a model disclosure statement that an employer may use to comply with this law. The model contract and model disclosure statement are published in English, French, and Spanish and will be maintained electronically on OCP's website.

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5. What must an employer do?

The law requires employers to negotiate with the domestic worker over the terms and conditions of employment and offer to sign a written contract specifying those terms and conditions of employment. An employer of a domestic worker must obtain either a written employment contract signed by both the employer and the domestic worker or a disclosure statement signed by the domestic worker.

If the domestic worker is employed by an agency, the employment contract must be between the agency and the worker.

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6. What must the contract include?

The new law requires employers to present a written

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contract to domestic workers and offer to negotiate its terms. It does not require minimums in terms of payment, benefits, or time off. The contract must include the following terms:

- Work
 - Work Schedule (days/hours)
 - Duties
 - Whether an employer can require worker to perform additional duties
- Payment
 - Salary
 - How often worker will be paid
 - Deductions
 - Overtime pay
- Paid/Unpaid Time Off
 - Sick Leave
 - Vacation Time
 - Holidays
- Living Conditions
 - Living accommodations to be provided
 - Deductions for food and lodging, if any
- Termination of the Contract
 - Severance pay, if any
 - Notice required before termination of contract
- Additional Terms
 - Length of the contract
 - Reimbursement for work related expenses
 - Notice of employment rights under Maryland law

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7. Does an employer have to use the Model Contract?

No, an employer is not required to use the Model Contract; however, employers must use a contract that contains all the required provisions under the law.

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8. Who do I contact if my employer has not given me a written contract?

If your employer has not given you a written contract AND you did not sign a disclosure statement, contact the Montgomery County Office of Consumer Protection by calling 240.777.3636 or visiting the office at 100 Maryland Avenue, #330, Rockville, MD 20850.



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9. What is the penalty for a violation of the law?

An employer who violates this law is subject to a civil penalty of not more than \$1,000.00 for each violation or the penalty for a Class A violation. The Director of the Office of Consumer Protection may seek damages, restitution, or any other available legal or equitable relief when seeking to enforce Chapter 11.

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10. How do I file a complaint?

To file a complaint with the Office of Consumer Protection, please download our complaint form, complete it and mail the complaint form and copies of all related documentation (such as invoices, receipts or correspondence) to:

Montgomery County Office of
Consumer Protection
100 Maryland Ave., Suite 330
Rockville, MD 20850
Attn: New Complaint Department

[Complaint Form](#)

[Complaint Form \(Spanish\)](#)

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MEMORANDUM

Date: 25 June 2010
To: Eric Friedman
From: Lorena Bailey
Subject: Domestic Workers Update

Legislative Analyst Questions

Does OCP advertise the existence of the model contract and disclosure statement?

OCP advertises its Domestic Workers program in our office brochures, annual report and web page. Our office brochure is disseminated at all our outreach events and is available in English and Spanish and online. Recently, OCP posted information on a nanny blog.

Do you work with any community groups to help educate the public about the contract?

OCP worked closely with Casa de Maryland and the domestic workers alliance in developing the model contract and disclosure statement. Casa de Maryland is the front line community service provider and is committed to educating workers about their rights. Casa de Maryland offers training workshops for workers on how to negotiate a contract.

Have you received any web, phone, or mail inquiries about domestic workers in general? The contract in particular?

OCP has received inquiries by telephone and email regarding domestic workers in general. These inquiries primarily involve contract terms, and employer obligations. (Ex. workers compensation, wage guidelines, tax obligations) OCP has also received over 4,200 hits to its domestic workers web pages since going live in January '09 including over 600 hits to its contract pages.

Have you had any complaints related to domestic worker conditions or contractual disputes? If so, what were the outcomes?

OCP has received inquiries for information only and has not received any complaints to date.

The law provides that if OCP receives a complaint, that it may be referred as needed to DHCA, the Office of Human Rights, or the Commission for Women. If OCP has received complaints, have any been referred to these agencies? Do you know if these agencies have independently received any complaints or inquiries related to domestic workers since the law was passed?

OCP has not received referrals from other agencies. Office of Human Rights reports that it has not received any calls concerning the Domestic Workers bill. Commission for Women reports that it receives occasional requests for its Domestic Workers brochures primarily from prospective employers or agencies. Casa de Maryland's request for assistance primarily involve workers with a contract (employed by diplomats), or involve a wage claim.