

Bill No. 2-08
Concerning: Consumer Protection –
Domestic Workers – Employment
Contracts
Revised: 7-15-08 Draft No. 16
Introduced: January 29, 2008
Enacted: July 15, 2008
Executive: July 22, 2008
Effective: January 18, 2009
Sunset Date: None
Ch. 27, Laws of Mont. Co. 2008

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Elrich and Leventhal

AN ACT to:

- (1) require an employer of certain domestic workers located in the County to sign a written contract which specifies the terms and conditions of employment;
- (2) authorize a domestic worker to file a complaint with the Office of Consumer Protection if an employer does not comply with this requirement; and
- (3) generally amend the County law regarding consumer protection, employment, and domestic workers.

By adding

Montgomery County Code
Chapter 11, Consumer Protection
Section 11-4B

By amending

Montgomery County Code
Chapter 11, Consumer Protection
Section 11-6

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 11-4B is added as follows:**

2 **11-4B. Domestic Workers – Written Employment Contracts.**

3 **(a) Legislative findings.**

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

6 (A) minimum wage;

7 (B) payment for all hours worked;

8 (C) payment of wages in United States dollars twice per
9 month;

10 (D) overtime pay of 1.5 times the regular wage rate for hours
11 worked in excess of 40 hours per week; and

12 (E) worker's compensation.

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

16 (A) domestic workers in the County have limited access to
17 information concerning the legal protections available to
18 them;

19 (B) many domestic workers in the County are paid less than
20 the minimum wage;

21 (C) many domestic workers in the County do not receive
22 overtime pay for work in excess of 40 hours per week;

23 (D) few domestic workers in the County have written
24 employment contracts setting forth the terms and
25 conditions of their employment;

26 (E) domestic workers in the County who live in their
27 employer's residence are generally paid less and work

28 longer hours than domestic workers who do not live at
 29 their employer's residence; and

30 (F) domestic workers in the County are often isolated and
 31 unable to experience the peer to peer networking that is
 32 necessary for organized labor movements.

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

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

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

43 Disclosure statement means a document confirming that:

44 (1) an employer presented a written employment contract signed by
 45 the employer to a domestic worker after offering to negotiate the
 46 terms and conditions of employment; and

47 (2) the worker voluntarily chose not to sign the contract.

48 Domestic service means, when primarily performed in a home of a
 49 recipient of the service[[, or in connection with work that is primarily
 50 performed in a home,]] located in the County:

51 (1) caring for a child;

52 (2) servng as a companion to a sick, convalescing, disabled, or
 53 elderly individual;

54 (3) housekeeping;

- 55 (4) cooking;
- 56 (5) cleaning; or
- 57 (6) laundry; [[or
- 58 (7) any other work which would traditionally be done by members of
- 59 a household without pay.]]

60 Domestic worker means an individual who performs domestic service
 61 for wages in the County. Domestic worker does not include:

- 62 (1) a registered nurse, licensed practical nurse, or certified nursing
 63 assistant who is licensed or certified by the Maryland Board of
 64 Nursing;
- 65 (2) a child, parent, spouse, or other member of the immediate family
 66 of the employer;
- 67 (3) an au pair; or
- 68 (4) an individual who [[is authorized to organize for the purpose of
 69 collective negotiation with the State as an individual home care
 70 provider under Executive Order 01.012007.15.]] primarily serves
 71 as a companion to a disabled or elderly individual who is unable
 72 to care for himself or herself, and who is not employed by an
 73 agency.

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

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

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

81 worker to perform domestic service in the home of the recipient of the
 82 service.

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

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

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

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

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

- 102 (1) days and hours of work;
- 103 (2) wages;
- 104 (3) paid time off;
- 105 (4) unpaid time off;
- 106 (5) frequency of payment of wages;
- 107 (6) deductions from wages;

- 108 (7) eligibility for and calculation of overtime wages;
 109 (8) duties;
 110 (9) right of the employer, if any, to require the domestic worker to
 111 perform duties that are not specified in the contract;
 112 (10) living accommodations provided by the employer, if any,
 113 including deductions for rent;
 114 (11) meals provided by the employer, if any, including deductions for
 115 meals;
 116 (12) time allowed for breaks and meals during work hours;
 117 (13) required notice, if any, before the employer or domestic worker
 118 terminates the contract;
 119 (14) severance wages, if any, if the employer terminates the contract
 120 before the end of the contract period;
 121 (15) contract period;
 122 (16) reimbursement for work-related expenses; and
 123 (17) notice of employment rights under State law.
- 124 (d) Living accommodation. Any dwelling unit that includes living
 125 [[accommodation]] accommodations [[provided]] for a domestic worker
 126 must meet all minimum standards for a dwelling unit in Chapter 26 and
 127 [[include]] the worker must have:
- 128 (1) a private room for sleeping with a door that can be locked
 129 [[except as provided in Subsection (e)]];
- 130 (2) reasonable access to a kitchen;
 131 (3) reasonable access to a bathroom; and
 132 (4) reasonable access to laundry facilities.
- 133 (e) [[Exception. A private room for sleeping with a door that can be locked
 134 is not required for a live-in worker serving primarily as a companion to

135 a disabled or elderly person unable to take care of himself or herself if
 136 the worker:

137 (1) has a secure place that can be locked to store personal
 138 belongings; and

139 (2) is not required to sleep in the same room as the disabled or
 140 elderly person unless the dwelling unit contains only one room.]]

141 ~~[[f]]~~ Model Contract. The Director,[[in consultation]] after consulting with
 142 the Commission for Women, must draft and make available a model
 143 employment contract and a model disclosure statement which an
 144 employer may use to comply with this Section. The model contract and
 145 the model disclosure statement must be published in English, French,
 146 and Spanish.

147 ~~[[f]]~~ ~~[[g]]~~ (f) Retaliation. An employer must not retaliate against a
 148 domestic worker who:

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

153 ~~[[g]]~~ ~~[[h]]~~ (g) Complaint. If an employer does not comply with this
 154 Section, a domestic worker may file a complaint under Section 11-6.

155 **Sec. 2. Section 11-6 is amended as follows:**

156 **11-6. Filing complaints.**

157 (a) Definition. In this section “domestic worker” has the meaning stated in
 158 Section 11-4B.

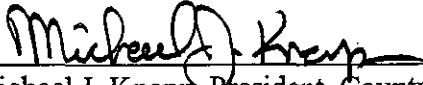
159 (b) Complaint. Any consumer or domestic worker may file a written
 160 complaint with the Director.

- 161 (c) Contents. [The] A complaint should state the name and address of the
162 person alleged to have committed [the] a violation of this Chapter,
163 describe the violation, and provide any other information that the Office
164 requires. However, the Director may act on a complaint that is not
165 complete. The Director may investigate any violation of and enforce
166 this Chapter without receiving a complaint.
- 167 (d) Referral to Department of Housing and Community Affairs. The
168 Director must refer a complaint from a domestic worker alleging living
169 accommodations that do not comply with Section 11-4B(d) to the
170 Department of Housing and Community Affairs for investigation and
171 enforcement.
- 172 (e) Referral to the Office of Human Rights. The Director must refer a
173 complaint from a domestic worker alleging a discriminatory
174 employment practice to the Office of Human Rights.
- 175 (f) Referral to the Commission for Women. The Director may refer a
176 domestic worker to the Commission for Women Counseling and Career
177 Center for additional assistance if the Director determines that the
178 services offered there would benefit the worker.

179 Sec. 3. Effective Date.

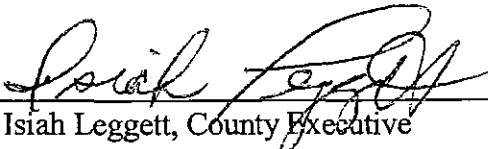
180 This Act takes effect 180 days after it becomes law.

181 *Approved:*

182  17 JULY 08

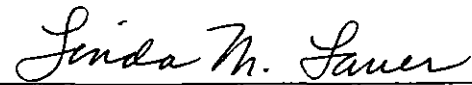
Michael J. Knapp, President, County Council Date

183 *Approved:*

184  July 22, 2008

Isiah Leggett, County Executive Date

185 *This is a correct copy of Council action.*

186  July 24, 2008

Linda M. Lauer, Clerk of the Council Date

