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Councilmember Phil Mendelson		Councilmember Marion Barry	2
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Councilmember Kwame R. Brown		Councilmember Harry Thomas, Jr.	4
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Councilmember Jim Graham		Councilmember Mary Cheh	6
	A BILL		7
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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA 9

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To require employers in the District of Columbia to provide up to 10 days paid leave to 11  
employees for physical or mental illness, preventive medical care, family care, parental 12  
leave and absences associated with domestic violence or sexual violence abuse. 13

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act 14  
may be cited as the "Paid Sick and Safe Days Act of 2007." 15

Sec. 2. Definitions 16

For the purposes of this act: 17

(1) "Employee" has the same meaning as defined in section 2(1) of the "District of 18  
Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; 19  
D.C. Official Code § 32-501(1)) 20

(2) "Employer" has the same meaning as defined in section 2(2) of the "District of 21  
Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; 22  
D.C. Official Code § 32-501(2)) 23

(3) "Family member" means: 24

(A) A person to whom the employee is related by blood, legal custody, or 25

marriage; 1

(B) A child who lives with an employee and for whom the employee permanently 2  
assumes and discharges parental responsibility; or 3

(C) A person with whom the employee shares or has shared, for not less than the 4  
preceding 12 months, a mutual residence and with whom the employee maintains a committed 5  
relationship. 6

(4) The term “Victim of Domestic Violence or Sexual Abuse” means a victim, or the 7  
parent or guardian of a minor victim, of an intrafamily offense as defined in D.C. Official Code § 8  
16-1001(5) and the "Anti-Sexual Abuse Act of 1994," effective May 23, 1995 (D.C. Law 10-257; 9  
D.C. Official Code § 22-3001 *et. seq.*) 10

Sec. 3. Provision of paid leave 11

(a)(1) An employer with six or more employees shall provide for each employee not less 12  
than one hour of paid leave for every 26 hours worked, up to a maximum of 10 days within this 13  
minimum standard, per year. An employer with fewer than 6 employees shall provide not less 14  
than one hour of paid leave for every 52 hours worked, up to a maximum of 5 days within this 15  
minimum standard, per year. 16

(2) In the case of employees who are exempt from overtime payment under Sec. 213 of 17  
the Fair Labor Standards Act (FLSA), employers cannot be required to provide more hours of 18  
paid sick and safe days than would be accrued if the employee worked for 40 hours in a given 19  
week. 20

(b)(1) Paid leave provided for under this section shall accrue as determined appropriate 21  
by the employer, but at least every two weeks. An employee may begin to access paid leave after 22  
60 days with his or her employer. Paid leave may be used as accrued or may be loaned by the 23

employer to the employee in advance of accrual of the paid leave. 1

(2) Accrued paid leave shall carry over annually to the extent not used by the employee, 2  
but unless the employer chooses otherwise, this act shall not require that unused accrued paid 3  
leave shall accumulate to more than the total amount of paid leave otherwise available to the 4  
employee during that calendar year. This act shall not require that paid leave earned under this 5  
act be reimbursed upon the termination or resignation of any employee. 6

(c) Paid leave accrued under this section may be used by an employee for any of the 7  
following: 8

(1) An absence resulting from a physical or mental illness, injury, or medical 9  
condition of the employee; 10

(2) An absence resulting from obtaining professional medical diagnosis or care, or 11  
preventive medical care, for the employee subject to the requirement of subsection (e). 12

(3) An absence for the purpose of caring for a child, a parent, a spouse, or any 13  
other family member as defined herein, who has any of the conditions or needs for diagnosis or 14  
care described in paragraph (1) or (2). 15

(4) An absence if the employee or the employee's family member is a victim of 16  
stalking, domestic violence or sexual violence, provided the paid leave is directly related to 17  
social or legal services pertaining to the stalking, domestic violence or sexual violence, to: 18

(A) Seek medical attention for the employee or the employee's family 19  
member to recover from physical or psychological injury or disability caused by domestic 20  
violence or sexual abuse; 21

(B) Obtain services from a victim services organization; 22

(C) Obtain psychological or other counseling; 23

(D) Temporarily or permanently relocate; or 1  
(E) Take legal action, including preparing for or participating in any civil 2  
or criminal legal proceeding related to or resulting from the domestic violence or sexual abuse, or 3  
other actions to enhance the physical, psychological, or economic health or safety of the 4  
employee or the employee’s family member or to enhance the safety of those who associate or 5  
work with the employee. 6

(5) An absence for parental leave as defined under D.C. Official Code 32-1202. 7

(e) An employee shall make a reasonable effort to schedule paid leave under subsection 8  
(d) in a manner that does not unduly disrupt the operations of the employer. 9

Sec. 4. Certification 10

(a) Paid leave shall be provided upon the oral or written request of an employee. Such 11  
request shall include a reason for the absence involved and the expected duration of the paid 12  
leave. If the paid leave is foreseeable, the request shall be provided at least 10 days, or as early 13  
as possible, in advance of such paid leave. If the paid leave is unforeseeable, the request for paid 14  
leave shall be provided as soon as practicable after the employee is aware of the need to take 15  
such paid leave. 16

(b)(1) An employer may require that a request for paid leave under Section 3(d) for more 17  
than 3 consecutive days be supported by a reasonable certification. 18

(2) The employee shall provide a copy of the certification to the employer. The 19  
employer shall not delay the commencement of the paid leave on the basis that the employer has 20  
not yet received the certification. 21

(c) Confidentiality and Nondisclosure 22

(1) Nothing in this Act shall be construed to require a health care professional to 23

disclose information in violation of section 1177 of the Social Security Act (42 U.S.C. 1320 (d-6) 1  
or the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and 2  
Accountability Act (42 U.S.C. 1320 (d-2) note). 3

(2) All information provided to the employer under Section 3 shall be maintained 4  
in the strictest confidence by the employer, and shall not be disclosed, except to the extent that 5  
the disclosure is: 6

(A) Requested or consented to by the employee; 7

(B) Ordered by a court or administrative agency; or 8

(C) Otherwise required by applicable federal or local law. 9

Sec. 5. Current paid leave policies 10

(a) An employer with a paid leave policy providing paid leave options shall not be 11  
required to modify such policy, if such policy offers an employee the option, at the employee's 12  
discretion, to take paid leave that is at least equivalent to the paid leave described in this act. 13

Sec. 6. Employment and benefits protection 14

(a) An employee's employment benefits and seniority shall be protected pursuant to 15  
section 6 of the "District of Columbia Family and Medical Leave Act of 1990, effective October 16  
3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-505) 17

Sec. 7. Posting requirement 18

(a) The Mayor shall devise, and an employer shall post and maintain in a conspicuous 19  
place, a notice that sets forth excerpts from or summaries of the pertinent provisions of this act 20  
and information that pertains to the filing of a complaint under this act. 21

(b) Any employer who willfully violates this section shall be assessed a civil penalty not 22  
to exceed \$100 for each day that the employer fails to post the notice. 23

Sec. 8. Prohibited acts	1
(a) It shall be unlawful for any person to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by this act.	2 3
(b) It shall be unlawful for an employer to discharge or discriminate in any manner against any person because the person:	4 5
(1) Opposes any practice made unlawful by this act;	6
(2) Pursuant or related to this act:	7
(A) Files or attempts to file a charge;	8
(B) Institutes or attempts to institute a proceeding; or	9
(C) Facilitates the institution of a proceeding; or	10
(3) Gives any information or testimony in connection with an inquiry or proceeding related to this act.	11 12
Section 9. Enforcement	13
This act shall be enforced pursuant to sections 10 and 11 of the "District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(1))	14 15 16
Sec. 10. Effect on other laws	17
(a) Nothing in this act shall supersede any provision of law or contract that provides greater employee paid leave rights than the rights established under this act.	18 19
(b) Nothing in this Act shall be construed to modify or affect any Federal or Local law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, disability, pregnancy, personal appearance, marital status, family responsibility, sexual orientation, matriculation, or political affiliation.	20 21 22 23

Sec. 11. Effect on existing employment benefits	1
(a) Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid leave rights to employees than the rights established under this Act.	2 3 4 5
(b) The paid leave requirements under this act may be waived by the written terms of a bona fide collective bargaining	6 7
Sec. 12. Encouragement of more generous paid leave policies	8
Nothing in this Act shall be construed to prevent an employer from the adoption or retention of a paid leave policy more generous than the one required by this act.	9 10
Sec. 13. Applicability	11
(a) This Act shall take effect on the date that is 6 months after the date of enactment of this Act for employers who employ 20 or more employees and 2 years, 6 months for employers who employ less than 20 persons in the District.	12 13 14
(b) In the case of a collective bargaining agreement in effect on the effective date prescribed by subsection (a), this Act shall take effect on the earlier of the date of the termination of such agreement; or the date that occurs 12 months after the date of enactment of this Act.	15 16 17
Sec. 14. Fiscal impact statement.	18
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).	19 20 21
Sec. 15. Effective date.	22
This act shall take effect following approval by the Mayor (or in the event of veto by the	23

Mayor, action by the Council to override the veto), a 30-day period of Congressional review as 1  
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 2  
24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia 3  
Register. 4