A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To update the public sector workers' compensation system to mirror the private sector workers' compensation system, creating streamlined and improved workers' compensation laws to govern work injuries suffered by District of Columbia employees.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Sector Injured Workers' Equality Amendment Act of 2020".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, Public Sector Workers' Compensation Act (D.C. Official Code §1-623.01 et seq) is amended as follows:

(a) Section 2301 (D.C. Official Code §1-623.01) is amended to read as follows:

"Section 2301. Definitions.

"For the purposes in this chapter, the term:

(1) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(2) "Brother" or "sister" includes stepbrothers and stepsisters, half-brothers and half-sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee."
“(3) “Carrier” means any person or fund authorized under § 1-623.34 to insure under this chapter and includes self-insurers.

“(4) “Child” includes a posthumous child, a child legally adopted prior to the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least 1 year prior to the time of injury, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on the employee.

“(5) “Child,” “grandchild,” “brother,” or “sister” includes only persons who are:

(A) Under 18 years of age, and also persons who, though 18 years of age or over, are substantially dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability; or

(B) Are students as defined herein.

“(6) “Compensation” means the money allowance payable to an employee or to their dependents as provided for in this chapter, and includes funeral benefits provided herein.

“(7) “Death” as a basis for a right to compensation means only death resulting from an injury.

“(8) “Disability” means physical or mental incapacity because of injury which results in the loss of wages.

“(8A) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

“(8B) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

“(9) The term “employee” means:
“(A) A civil officer or employee in any branch of the District of Columbia
government, including an officer or employee of an instrumentality wholly owned by the District
of Columbia government;

“(B) An individual rendering personal service to the District of Columbia
government similar to the service of a civil officer or employee of the District of Columbia,
without pay or for nominal pay, when a statute authorizes the acceptance or use of the service or
authorizes payment of travel or other expenses of the individual, but does not include a member
of the Metropolitan Police Department or the Fire Department of the District of Columbia who is
pensioned or pensionable under §§ 5-701 through 5-724; and

“(C) An individual selected pursuant to Chapter 121 of Title 28 of the
United States Code and serving as a petit or grand juror and who is otherwise an employee for
the purposes of this subchapter as defined by subparagraphs (A) and (B) of this paragraph.

“(10) "Agency" means the agency or entity in the District of Columbia
government that employed the claimant at the time of accidental injury or occupational disease;

“(11) "Grandchild" means a child as above defined of a child as above defined.

“(12) "Injury" means accidental injury or death arising out of and in the course of
employment, and such occupational disease or infection as arises naturally out of such
employment or as naturally or unavoidably results from such accidental injury, and includes an
injury caused by the willful act of third persons directed against an employee because of their
employment.

“(13) "Insurance consultation services" means any survey, consultation,
inspection, advisory or related services performed by a carrier, its agents, employees or service
contractors incident to an applicable policy of insurance for the purpose of reducing the
likelihood of injury, death or loss, or to collect or verify information for purpose of underwriting.

"(14) "Mayor" means the agent designated by the Mayor of the District of
Columbia to administer the present chapter. Any agent designated by the Mayor shall be wholly
independent of any District of Columbia entity or agency responsible for payment for any
compensation benefit, medical benefit, penalty, or any other sum owed to an employee under this
chapter.

"(14A) "Nonscheduled benefits" means any partial disability not enumerated in §
1-623.08.

"(15) "Parent" includes stepparents and parents by adoption, parents-in-law, and
any person who for more than 3 years prior to the death of the deceased employee stood in the
place of a parent to them, if dependent on the injured employee.

"(16) "Person" means an individual, partnership, corporation, association, firm,
trust, or legal representative thereof.

"(17) "Physical impairment" means any physical or mental condition which is or
is likely to be a hindrance or obstacle to obtaining employment.

"(17A) "Physician" means a physician, dentist, or chiropractor licensed in:

"(A) Accordance with Chapter 12 of Title 3; or

"(B) Any state or jurisdiction of the United States, in accordance with the
laws of that state or jurisdiction.

"(17B) "Professional athlete" means a skilled athlete under a contract of hire or
collective bargaining agreement.
“(17C) "Professional athlete’s work life expectancy" means the work life expectancy of a professional athlete that is determined separately for each professional sports franchise in the District by the Office of Workers’ Compensation through its rulemaking authority.

“(17D) "Safe workplace program" means a program that the District government implements voluntarily to promote safety in the workplace. A certified program shall include a formal written safety policy developed by a safety committee made up of equal numbers of management representatives and employee representatives who are elected by their peers and who serve on the clock, and whose functions include a workplace inspection at least annually, regular meetings with written records, and making recommendations to the District government of ways to eliminate workplace hazards and unsafe work practices, appropriate training in hazard assessment and control, effective accident and incident identification and the role of the federal and local Occupational Safety and Health Administration. Where there is a duty to bargain collectively, the District government shall collectively bargain the use and implementation of the safe workplace program.

“(18) "Student" means a person regularly pursuing a full-time course of study or training at an institution which is:

“(A) A school or college or university operated or directly supported by the United States, or by any state or local government or political subdivision thereof;

“(B) A school or college or university which has been accredited by a state or the District of Columbia, or a state or District of Columbia recognized, or nationally recognized accrediting agency or body;
“(C) A school or college or university not so accredited but whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

“(D) An additional type of educational or training institution as defined by the Mayor, but not after they reaches the age of 23 or has completed 4 years of education beyond the high school level, except that, where their 23rd birthday occurs during a semester or other enrollment period, they shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed 5 months and if they shows to the satisfaction of the Mayor that they has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during a period of reasonable duration during which, in the judgment of the Mayor, they is prevented by factors beyond their control from pursuing their education. A child shall not be deemed a student under this section during a period of service in the Armed Forces of the United States.

“(18A) “Utilization review” means the evaluation of the necessity, character, and sufficiency of both the level and quality of medically related services provided an injured employee based upon medically related standards.

“(19) “Wages” means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the District government, and gratuities received in the course of employment from other than the District government.
“(20) “Surviving spouse or domestic partner” includes the decedent’s spouse or domestic partner living with or dependent for support upon the decedent at the time of their or her death, or living apart for justifiable cause or by reason of their or her desertion at such time.

“(21) When used in this chapter, the singular includes the plural.

“(22) “District government” means the entity responsible for representing the District of Columbia government in its capacity as employer for purposes of this chapter and shall be treated as analogous to an “Employer” as the term is used in D.C. Code §§ 32-1501 through 1545. The District government shall be wholly separate from and independent of any entity or agency assigned by the Mayor to have any adjudicative or administrative authority under this chapter.”.

(b) Section 2302a (D.C. Official Code § 1-623.02a) is amended to read as follows:

“Section 2302a. Administration and annual report to Council.

“(a) The Mayor shall administer the provisions of this chapter, and shall make such rules and regulations, appoint, and fix the compensation of such personnel, and make such expenditures as may be necessary. All expenditures of the Mayor in the administration of this chapter shall be allowed and paid as provided in § 1-623.41 upon the presentation of itemized vouchers therefor approved by the Mayor.

“(b) The Mayor shall report annually to the Council by February 1st of each year on the status, from the previous fiscal year, of the workers’ compensation program. The report shall include the following:

“(1) The total number of cases, the total number of lost time cases, the number of medical only cases, the number of cases where no compensation was paid, the number of cases that are more than 500 weeks, the number of permanent partial disability scheduled cases, the
number of permanent partial disability nonscheduled cases, the number of permanent total
disability cases, the number of temporary total disability cases, the total number of lost time
cases, the number of medical only cases, the number of cases in which claimant was represented
by an attorney, cumulative total attorney fees paid, the number of cases controverted, the number
of controverted cases decided in favor of District government and decided in favor of claimant,
the growth in the assigned risk plan, the number of cases in and the future liability of the special
fund; and

"(2) The percentage of the total number of cases each year that are: more than 500
weeks; permanent partial disability; permanent partial disability nonscheduled; permanent total
disability; and temporary total disability.”.

(c) Section 2302b is repealed.

(d) Section 2303 (D.C. Official Code §1-623.03) is amended to read as follows:

"Section 2303. Coverage.

"(a) The District government shall be liable for compensation subject to this chapter for
injury or death without regard to fault as a cause of the injury or death.

"(b) Liability for compensation shall not apply where injury to the employee was
occasioned solely by their intoxication or by their willful intention to injure or kill themselves or
another.”.

(e) Section 2304 (D.C. Official Code §1-623.04) is amended to read as follows:

"Section 2304. Exclusiveness of liability and remedy.

"(a) The liability of the District government prescribed in § 1-623.03 shall be exclusive
and in place of all liability of the District government to the employee, their legal representative,
spouse or domestic partner, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from the District government at law on account of such injury or death.

“(b) The compensation to which an employee is entitled under this chapter shall constitute the employee’s exclusive remedy against the District government, or any collective-bargaining agent of the District government’s employees and any employee, officer, director, or agent of the District government, insurer, or collective-bargaining agent (while acting within the scope of their employment) for any illness, injury, or death arising out of and in the course of their employment.”.

(f) Section 2305 (D.C. Official Code §1-623.05 is amended to read as follows:

“Section 2305. Commencement of compensation; maximum compensation.

“(a) No compensation shall be allowed for the first 3 days of the disability, except the benefits provided for in § 1-623.07; provided, that in case the injury results in disability of more than 14 days the compensation shall be allowed from the date of the disability.

“(b) Compensation for disability or death shall not exceed the average weekly wages of insured employees in the District of Columbia or $396.78, whichever is greater. For any one injury causing temporary or permanent partial disability, the payment for disability benefits shall not continue for more than a total of 500 weeks. Within 60 days of the expiration of the duration of the compensation provided for in this subsection, an employee may petition the Mayor for an extension of up to 167 weeks. The extension shall be granted only upon a finding by an independent medical examiner appointed by the Mayor of continued whole body impairment exceeding 20% under the American Medical Association’s Guides to the Evaluation of Permanent Impairment. An injured employee shall have up to 3 years after termination of nonscheduled benefits to re-open their or her case due to changes in condition.
“(c) The minimum compensation for total disability or death shall be 25% of the maximum compensation.

“(d) For the purposes of this section, the average weekly wage of insured employees in the District shall be determined by the Mayor as follows:

“(1) For the calendar year 2013, the average weekly wage rate is set at $1,416.00.

“(2) For years commencing after January 1, 2013, on or before November 1st of each preceding year, the total wages reported on contribution reports for employees, excluding employees of the United States government, to the Department of Employment Services for the year ending on the preceding June 30th shall be divided by the average number of such employees (determined by dividing the sum of total employees reported in each quarter for the preceding year, excluding employees of the United States government, by 4). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the year beginning the following January 1.

“(3) For years preceding 2013, the average weekly wage shall be the same for purposes of this Chapter as it was for the Private Sector Workers' Compensation Act, D.C. Code Sec. 32-1501 et seq.

“(e) The average weekly wage shall not be deemed to have changed for any calendar year unless the computation in subsection (d) of this section results in an increase or decrease of $2 or more, raised to the next even dollar.”.

(g) Section 2306 (D.C. Official Code §1-623.06) is amended to read as follows:

“Section 2306. Supplemental allowance.
“(a) When the average weekly wage has changed as provided for in § 1-623.05, any
person who has a total and permanent disability or any surviving spouse or domestic partner who
is receiving payments for income benefits under this chapter in amounts per week less than the
new maximum for total disability or death shall receive weekly from the carrier, without
application, an additional supplemental allowance calculated by the Mayor in accordance with
the provisions of subsections (b) and (c) of this section; provided, that such allowance shall not
commence to accrue and be payable until the average weekly wage exceeds $396.78. The Mayor
shall notify the carrier of the amount of such additional supplemental allowance.

“(b) In any case where a person with a total disability, or surviving spouse or domestic
partner is receiving the maximum weekly income benefit applicable at the time such award was
made under this chapter, the supplemental allowance shall be an amount which, when added to
such award, will equal the new maximum weekly benefit.

“(c) In any case where a person with a total disability, or a surviving spouse or domestic
partner is receiving less than the maximum weekly income benefit rate applicable at the time
such award was made under this chapter, the supplemental allowance shall be an amount equal to
the difference between the amount the claimant is presently receiving and a percentage of the
new maximum determined by multiplying it by a fraction, the numerator of which is their present
award and the denominator of which is the maximum weekly rate applicable at the time such
award was made.

“(d) No supplemental allowance referred to in subsections (b) and (c) of this section shall
exceed 5% of the maximum weekly benefit received the preceding benefit year.”.

(h) Section 2306a and 2306b are repealed.

(i) Section 2307 (D.C. Official Code §1-623.07 is amended to read as follows:
"Section 2307. Medical services, supplies, and insurance.

(a) The District government shall furnish such medical, surgical, vocational rehabilitation services, including necessary travel expenses and other attendance or treatment, nurse and hospital service, medicine, crutches, false teeth or the repair thereof, eye glasses or the repair thereof, artificial or any prosthetic appliance for such period as the nature of the injury or the process of recovery may require. The District government shall furnish such additional payment as the Mayor may determine is necessary for the maintenance of an employee undergoing vocational rehabilitation, not to exceed $50 a week.

(a-1)(1) Any employing agency who provides health insurance coverage for an employee shall provide health insurance coverage equivalent to the existing health insurance coverage of the employee while the employee receives or is eligible to receive workers' compensation benefits under this chapter.

(2) For purposes of this subsection, the phrase "eligible to receive" means:

(A) An employee is away from work due to a job-related injury for which the employee has filed a claim for workers' compensation benefits under this chapter; or

(B) The District government has knowledge of a job-related injury of an employee who is away from work due to the job-related injury pursuant to which workers' compensation benefits may become due under § 1-623.15.

(3) The provision of health insurance coverage shall not exceed 52 weeks and shall be at the same benefit level that the employee had at the time the employee received or was eligible to receive workers' compensation benefits.

(4) Except as provided in paragraph (3) of this subsection, the District government shall pay the total cost for the provision of health insurance coverage during the time
that the employee receives or is eligible to receive workers' compensation benefits under this
chapter, including any contribution that the employee would have made if the employee had not
received or been eligible to receive workers' compensation benefits.

"(5) Each provider of medical care or services pursuant to this chapter shall use a
standard coding system for reports and bills generated pursuant to this chapter. Medical care and
services shall be billed at the rate established in the medical fee schedule adopted by the Mayor.
This fee schedule shall be based on 113% of Medicare's reimbursement amounts.

"(b)(1) The employee shall have the right to choose an attending physician to provide
medical care under this chapter. If, due to the nature of the injury, the employee is unable to
select a physician and the nature or the injury requires immediate treatment and care, the District
government shall select a physician for them. Where medically necessary or advisable, or at the
request of the employee, the attending physician shall consult with the employee's personal
physician.

"(2) The Mayor shall supervise the medical care rendered to injured employees,
shall require periodic reports as to the medical care being rendered to injured employees, shall
have the authority to determine the necessity, character, and sufficiency of any medical aid
furnished or to be furnished, and may order a change of physician or hospital when in their
judgment such change is necessary or desirable.

"(3) Each person who provides medical care or service under this chapter shall
utilize a standard coding system for reports and bills pursuant to rules issued by the Mayor.
Medical care and service shall be billed at a usual and customary rate.
“(4) Any medical care or service furnished or scheduled to be furnished under this chapter shall be subject to utilization review. Utilization review may be accomplished prospectively, concurrently, or retrospectively.

“(A) In order to determine the necessity, character, or sufficiency of any medical care or service furnished or scheduled to be furnished under this chapter and to allow for the performance of competent utilization review, a utilization review organization or individual used pursuant to this chapter shall be certified by the Utilization Review Accreditation Commission.

“(B) When it appears that the necessity, character, or sufficiency of medical care or service to an employee is improper or that medical care or service scheduled to be furnished must be clarified, the Mayor, employee, or District government may initiate review by a utilization review organization or individual.

“(C) If the medical care provider disagrees with the opinion of the utilization review organization or individual, the medical care provider shall have the right to request reconsideration of the opinion by the utilization review organization or individual 60 calendar days from receipt of the utilization review report. The request for reconsideration shall be written and contain reasonable medical justification for the reconsideration.

“(D) Disputes between a medical care provider, employee, or District government on the issue of necessity, character, or sufficiency of the medical care or service furnished, or scheduled to be furnished, or the fees charged by the medical care provider shall be resolved by the Mayor upon application for a hearing on the dispute by the medical care provider, employee, or District government. A party who is adversely affected or aggrieved by
the decision of the Mayor may petition for review of the decision by the District of Columbia Court of Appeals.

"(E) The District government shall pay the cost of a utilization review if the employee seeks the review and is the prevailing party.

"(5) Medical care providers shall not hold employees liable for service rendered in connection with a compensable injury under this chapter.

"(c) Vocational rehabilitation shall be designed, within reason, to return the employee to employment at a wage as close as possible to the wage that the employee earned at the time of injury. The Mayor shall monitor the provision of vocational rehabilitation of employees with disabilities and determine the adequacy and sufficiency of such rehabilitation. Where, in the judgment of the Mayor, the District government fails or refuses to provide adequate and sufficient rehabilitation services as required in subsection (a) of this section, the Mayor may order that the supplier of such services be changed.

"(d) If the District government fails to provide the medical or other treatment, services, supplies, or insurance coverage required to be furnished by subsections (a) and (a-1) of this section, after request by the injured employee, such injured employee may procure the medical or other treatment, services, supplies, or insurance coverage and select a physician to render treatment and services at the expense of the District government. The employee shall not be entitled to recover any amount expended for the treatment, service, or insurance coverage unless the employee requested the District government to furnish the treatment or service or to furnish the health insurance coverage and the District government refused or neglected to do so, or unless the nature of the injury required the treatment or service and the District government or their superintendent or foreman having knowledge of the injury neglected to provide the
treatment or service; nor shall any claim for medical or surgical treatment be valid or
enforceable, as against the District government, unless within 20 days following the 1st
treatment the physician giving the treatment furnishes to the District government and the Mayor
a report of the injury or treatment, on a form prescribed by the Mayor. The Mayor may, however,
excuse the failure to furnish such report within 20 days when they finds it to be in the interest of
justice to do so, and they may, upon application by a party in interest, make an award for the
reasonable value of such medical or surgical treatment so obtained by the employee. If at any
time during such period the employee unreasonably refuses to submit to medical or surgical
treatment or to an examination by a physician selected by the District government, or to accept
vocational rehabilitation the Mayor shall, by order, suspend the payment of further
compensation, medical payments, and health insurance coverage during such period, unless the
circumstances justified the refusal.

“(e) Whenever, in the opinion of the Mayor, the injured employee, or the District
government, a physician has improperly estimated the degree of permanent disability or the
extent of temporary disability occasioned by the injury or where in the opinion of such parties a
physician recommends a treatment for an injury not generally recognized by the medical
community the Mayor shall cause such employee to be examined by another physician selected
by the Mayor and to obtain from such physician a report containing their estimate of such
disabilities and a recommendation for treatment. If the report of such physician shows that the
estimate of the former physician is improper or that the treatment recommended is not one that is
generally recognized in the medical community, the Mayor shall have the power in their
discretion to charge the cost of such examination to the District government.
“(f) All fees and other charges for such treatment or service shall be limited to such charges as prevail in the same community for similar treatment of injured persons and shall be subject to regulation by the Mayor.

“(g) The liability of the District government for medical treatment as provided in this section shall not be affected by the fact that their employee was injured through the fault or negligence of a third party not in the same employ, or suit has been brought against such 3rd party. The District government shall, however, have a cause of action against such 3rd party to recover any amounts paid by them for such medical treatment in like manner as provided in § 1-623.35(b).

“(h) When the District government and an employee so agree in writing, nothing in this chapter shall be construed to prevent an employee, whose injury or disability has been established in accordance with the provisions of this chapter, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof, and having nursing services appropriate therewith, without suffering loss or diminution of the compensation benefits under this chapter; provided, the employee shall submit to all physical examinations required by this chapter.

“(i) The employee and District government are entitled upon request to all medical reports made pursuant to claims arising under this chapter.”.

(j) Section 2308 (D.C. Official Code §1-623.08) is amended to read as follows:

“Section 2308. Compensation for disability.

“Compensation for disability shall be paid to the employee as follows:
“(1) In case of total disability adjudged to be permanent, 66 2/3% of the employee’s average weekly wages shall be paid to the employee during the continuance thereof. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any 2 thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined only if, as a result of the injury, the employee is unable to earn any wages in the same or other employment;

“(2) In case of disability total in character but temporary in quality, 66 2/3% of the employee’s average weekly wages shall be paid to the employee during the continuance thereof;

“(3) In case of disability partial in character but permanent in quality, the compensation shall be 66 2/3% of the employee’s average weekly wages which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with paragraph (2) or (4) of this subsection respectively, and shall be paid to the employee, as follows:

“(A) Arm lost, 312 weeks’ compensation;
“(B) Leg lost, 288 weeks’ compensation;
“(C) Hand lost, 244 weeks’ compensation;
“(D) Foot lost, 205 weeks’ compensation;
“(E) Eye lost, 160 weeks’ compensation;
“(F) Thumb lost, 75 weeks’ compensation;
“(G) First finger lost, 46 weeks’ compensation;
“(H) Great toe lost, 38 weeks’ compensation;
“(I) Second finger lost, 30 weeks’ compensation;
“(J) Third finger lost, 25 weeks’ compensation;

“(K) Toe other than great toe lost, 16 weeks’ compensation;

“(L) Fourth finger lost, 15 weeks’ compensation;

“(M) Compensation for loss of hearing of 1 ear, 52 weeks. Compensation for loss of hearing of both ears, 200 weeks, provided that the Mayor may establish a waiting period, not to exceed 6 months, during which an employee may not file a claim for loss of hearing resulting from nontraumatic causes in their occupational environment until the employee has been away from such environment for such period, and provided further, that nothing in this subparagraph shall limit an employee’s right to file a claim for temporary partial disability pursuant to paragraph (5) of this section;

“(N) Compensation for loss of more than 1 phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the 1st phalange shall be one half of the compensation for loss of the entire digit;

“(O) Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as for a loss of the arm or leg; but if amputated between the elbow and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot;

“(P) Compensation for loss of binocular vision or for 80% or more of the vision of an eye shall be the same as for loss of the eye;

“(Q) Compensation for loss of 2 or more digits, or 1 or more phalanges of 2 or more digits, of a hand or foot, may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the compensation for loss of a hand or foot;

“(R) Compensation for permanent total loss of use of a member shall be the same as for loss of the member;
“(S) Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. Benefits for partial loss of vision in 1 or both eyes, or partial loss of hearing in 1 or both ears shall be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss;

“(T) The Mayor shall award proper and equitable compensation for serious disfigurement of the face, head, neck or other normally exposed bodily areas not to exceed $7,500;

“(U) In any case in which there shall be a loss of, or loss of use of, more than 1 member or parts of more than 1 member set forth in subparagraphs (A) to (S) of this paragraph, not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively, except that where 1 injury affects only 2 or more digits of the same hand or foot, subparagraph (Q) of this paragraph shall apply; and

“(U-i) In determining disability pursuant to subparagraphs (A) through (S) of this subsection, the most recent edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment may be utilized, along with the following 5 factors:

Guides to the Evaluation of Permanent Impairment

“(i) Pain;

“(ii) Weakness;

“(iii) Atrophy;

“(iv) Loss of endurance; and
“(v) Loss of function.

“(V)(i) In other cases the employee shall elect:

“(I) To have their or her compensation calculated in accordance with the formula set forth in either sub-subparagraph (ii)(I) or (II) of this subparagraph; and

“(II) To receive the compensation at the time the employee returns to work or achieves maximum medical improvement.

“(ii) The compensation shall be 662/3% of the greater of:

“(I) The difference between the employee’s actual wage at the time of injury and the average weekly wage, at the time of injury, of the job that the employee holds after the employee has a disability; or

“(II) The difference between the average weekly wage, at the time the employee returns to work, of the job that the employee held before the employee had the disability and the actual wage of the job that the employee holds when the employee returns to work.

“(iii) If the employee voluntarily limits their or her income or fails to accept employment commensurate with the employee’s abilities, the employee’s wages after the employee becomes disabled shall be deemed to be the amount the employee would earn if the employee did not voluntarily limit their or her income or did accept employment commensurate with the employee’s abilities. Notwithstanding the provisions of this section, in the case of injury occurring on or after April 16, 1999, the periods of compensation set forth in subparagraphs (A) through (S) of this paragraph shall each be reduced by a proportion of 25% of the stated period of weeks, rounded upward to the nearest whole week.
“(W) The compensation and remuneration payable to a professional athlete claimant pursuant to subparagraph (V)(ii) of this paragraph shall be determined by referring to the date of the claimant’s disability and a date that is not later than the date on which the claimant’s employment as a professional athlete would have ended, as determined pursuant to § 1-623.01(17C), if the disability for which they or she seeks compensation and remuneration pursuant to subparagraph (V)(ii) of this paragraph had not occurred.

“(A) If there be a surviving spouse or domestic partner and no child of the deceased to such spouse or domestic partner;

“(B) If there be a surviving spouse or domestic partner and surviving child or children of the deceased, one half shall be payable to the spouse or domestic partner and the other one half to the surviving child or children;

“(C) The Mayor may in their discretion require the appointment of a guardian for the purpose of receiving the compensation of the minor child. In the absence of such a requirement, the appointment for such a purpose shall not be necessary;

“(D) If there be a surviving child or children of the deceased but no surviving spouse or domestic partner, then to such child or children;

“(E) If there be no surviving spouse or domestic partner and no surviving children, such unpaid amount of the award shall be paid to the survivors specified in § 1-623.09
(other than a spouse, domestic partner, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in § 1-623.09(4), but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each.

"(5) In case of temporary partial disability, the compensation shall be 66 2/3% of the injured employee’s wage loss to be paid during the continuance of such disability, but shall not be paid for a period exceeding 5 years. Wage loss shall be the difference between the employee’s average weekly wage before the employee had the disability and the employee’s actual wages after the employee had the disability. If the employee voluntarily limits their income or fails to accept employment commensurate with their abilities, then their wages after the employee had the disability shall be deemed to be the amount they would earn if they did not voluntarily limit their income or did accept employment commensurate with their abilities.

"(6)(A) If an employee receives an injury, which combined with a previous occupational or nonoccupational disability or physical impairment causes substantially greater disability or death, the liability of the District government shall be as if the subsequent injury alone caused the subsequent amount of disability and shall be the payment of:

"(i) All medical expenses;

"(ii) All monetary benefits for temporary total or partial injuries; and

"(iii) Monetary benefits for permanent total or partial injuries up to 104 weeks.

"(6)(B) The requirements of this paragraph shall apply to injuries occurring prior to April 16, 1999.
“(7) In each case, payment of benefits shall be 66 2/3 % of the employee’s average weekly wage.

“(8) The Mayor may approve lump-sum settlements agreed to in writing by the interested parties, discharging the liability of the District government for compensation, notwithstanding §§ 1-623.6 and 1-623.17, in any case where the Mayor determines that it is in the best interest of an injured employee entitled to compensation or individuals entitled to benefits pursuant to § 1-623.09. The Mayor shall approve the settlement, where both parties are represented by legal counsel who are eligible to receive attorney fees pursuant to § 1-623.30.

These settlements shall be the complete and final dispositions of a case and shall be a final binding compensation order.

“(9) An award for disability may be made after the death of an injured employee from causes other than work-related injury. If the award made is for permanent partial disability, pursuant to paragraph (3)(A) through (U) of this section, the award shall be payable in full pursuant to paragraph (4) of this section. If the award made is for any other category of disability, the amount of the award shall be computed from the date of the injury to the date of death, and shall be payable in full in the same manner as an award payable pursuant to paragraph (4) of this section.”.

(k) Section 2309 (D.C. Official Code §1-623.09) is amended to read as follows:

“Section 2309. Compensation for death.

“If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

“(1) Reasonable funeral expenses not exceeding $5,000.
“(2) If there be a surviving spouse or domestic partner and no child of the deceased, to such surviving spouse or domestic partner 50% of the average wages of the deceased, for as long as the surviving spouse or domestic partner does not remarry or enter into a domestic partnership, with 2 years’ compensation in 1 sum upon remarriage or entry into a domestic partnership; and if there be a surviving child or children of the deceased, the additional amount of 16 2/3% of such wages for each such child; in case of the death, remarriage, or entry into a domestic partnership of such surviving spouse or domestic partner, if there be 1 surviving child of the deceased employee, such child shall have their compensation increased to 50% of such wages, and if there be more than 1 surviving child of the deceased employee to such children, in equal parts, 50% of such wages increased by 16 2/3% of such wages for each child in excess of 1; provided, that the total amount payable shall in no case exceed 66 2/3% of such wages. The Mayor may, in their discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement, the appointment of a guardian for such purposes shall not be necessary.

“(3) If there be 1 surviving child of the deceased, but no surviving spouse or domestic partner then for the support of such child 50% of the wages of the deceased; and if there be more than 1 surviving child of the deceased, but no surviving spouse or domestic partner then for the support of such children, in equal parts 50% of such wages increased by 16 2/3% of such wages for each child in excess of 1; provided, that the total amount payable shall in no case exceed 66 2/3% of such wages.

“(4) If there be no surviving spouse or domestic partner or child or if the amount payable to a surviving spouse or domestic partner and to children shall be less in the aggregate than 66 2/3% of the average wages of the deceased, then for the support of grandchildren or
brothers and sisters if dependent upon the deceased at the time of the injury, 20% of such wages
for the support of each such person and for the support of each parent, or grandparent, of the
decedent if dependent upon them at the time of the injury 25% of such wages during such
dependency. But in no case shall the aggregate amount payable under this paragraph exceed the
difference between 66 2/3% of such wages and the amount payable as herein before provided to
 surviving spouse or domestic partner and for the support of surviving child or children.

“(5) Weekly death benefits paid under this section shall not exceed the average
weekly wages of insured employees in the District of Columbia, or $396.78, whichever is
greater.

“(6) All questions of dependency shall be determined as of the time of the injury
or knowledge by the employee of an occupational disease.”.

(I) Section 2310 (D.C. Official Code §1-623.10) is amended to read as follows:

“Section 2310. Occupational disease.

“In case of pneumoconiosis, such as silicosis and asbestosis, radiation diseases, and any
other generally recognized occupational disease, liability for compensation rests with the
employer of the last known exposure, which includes the District government on the same terms
as any private employer.”.

(m) Section 2311 (D.C. Official Code §1-623.11) is amended to read as follows:

“Section 2311. Determination of average weekly wage.

“(a) Except as otherwise provided in this chapter, the average weekly wage of the injured
employee at the time of the injury shall be taken as the basis upon which to compute
compensation and shall be determined as follows:
“(1) If at the time of the injury the wages are fixed by the week, the amount so fixed shall be the average weekly wage;

“(2) If at the time of the injury the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by 12 and divided by 52;

“(3) If at the time of the injury the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by 52;

“(4) If at the time of injury wages are fixed by the day, hour, or by the output of the employee, the average weekly wage shall be computed by dividing by 26 the total wages the employee earned in the employ of the District government in the 26 consecutive calendar weeks immediately preceding the injury. If the employee has been in the employ of the District government less than 26 weeks, the total wages referred to in paragraph (3) of this subsection shall be the amount the employee would have earned had the employee been employed by the District government for the full 26 calendar weeks immediately preceding the injury and had worked, when work was available to other employees, in a similar occupation; or

“(5) If it be established that the employee, when injured, was a minor or a student as defined in § 1-623.01(18) and that under normal conditions their wages should be expected to increase during the period of disability, whether such disability be temporary, partial, or permanent in character, the fact shall be considered in arriving at their average weekly wage.

“(6) If the injured employee has not worked in this employment during substantially the whole of the period, the employee’s average weekly wage shall consist of 130 times the average daily wage or salary, divided by 26 weeks, which an employee of the same class working substantially the whole of the immediately preceding period in the same or similar
employment, in the same or a similar neighboring place, shall have earned in the employment
during the days when so employed.

(b) The terms “average weekly wage” and “total wages” as used in this section shall
include reasonable value for board and lodging received from the District government plus
gratuities declared for tax purposes by the employee.”.

(n) Section 2312 (D.C. Official Code §1-623.12) is amended to read as follows:

“Section 2312. Guardian for minor or incompetent.

“The Mayor may require the appointment by a court of competent jurisdiction, for any
person who is mentally incompetent or a minor, of a guardian or other representative to receive
compensation payable to such person under this chapter and to exercise the powers granted to or
to perform the duties required of such person under this chapter.”.

(o) Section 2313 (D.C. Official Code §1-623.13) is amended to read as follows:

“Section 2313. Notice of injury or death.

“(a) Notice of any injury or death in respect of which compensation is payable under this
chapter shall be given within 30 days after the date of such injury or death, or 30 days after the
employee or beneficiary is aware or in the exercise of reasonable diligence should have been
aware of a relationship between the injury or death and the employment.

“(b) Such notice shall be in writing, shall contain the name and address of the employee
and a statement of the time, place, nature, and cause of the injury or death, and shall be signed by
the employee or by some person on their behalf, or, in case of death, by any person claiming to
be entitled to compensation for such death or by a person on their behalf.
“(c) Notice shall be given to the Mayor by delivering it or sending it by mail to the entity
at the Department of Employment Services designated by the Mayor for such purpose.

“(d) Failure to give such notice shall not bar any claim under this chapter:

“(1) If the District government (or their agent in charge of the business in the
place where the injury occurred) or the carrier had knowledge of the injury or death and its
relationship to the employment and the Mayor determines that the District government or its
carrier has not been prejudiced by failure to give such notice; or

“(2) If the Mayor excuses such failure on the ground that for some satisfactory
reason such notice could not be given; or unless objection to such failure is raised before the
Mayor at the 1st hearing of a claim for compensation in respect of such injury or death.”.

(p) Section 2314 (D.C. Official Code §1-623.14) is amended to read as follows:

“Section 2314. Time for filing claims.

“(a) Except as otherwise provided in this section, the right to compensation for disability
or death under this chapter shall be barred unless a claim therefor is filed within 1 year after the
injury or death. If payment of compensation has been made without an award on account of such
injury or death, a claim may be filed within 1 year after the date of the last payment. Such claim
shall be filed with the Mayor. The time for filing a claim shall not begin to run until the
employee or beneficiary is aware, or by the exercise of reasonable diligence should have been
aware, of the relationship between the injury or death and the employment. Once a claim has
been filed with the Mayor, no further written claims are necessary.

“(b) Notwithstanding the provisions of subsection (a) of this section, failure to file a
claim within the period prescribed in such subsection shall not be a bar to such right unless
objection to such failure is made at the 1st hearing of such claim in which all parties in interest
are given reasonable notice and opportunity to be heard.

"(c) If a person who is entitled to compensation under this chapter is mentally
incompetent or a minor, the provisions of subsection (a) of this section shall not be applicable so
long as such person has no guardian or other authorized representative, but shall be applicable in
the case of a person who is mentally incompetent or a minor from the date of appointment of
such guardian or other representative, or in the case of a minor, if no guardian is appointed
before they becomes of age, from the date they becomes of age.

"(d) Where recovery is denied to any person, in a suit brought at law to recover damages
against the District government in respect of injury or death, on the ground that such a person
was an employee of the District government subject to this chapter, the limitation of time
prescribed in subsection (a) of this section shall begin to run only from the date of termination of
such suit."

(q) Section 2315 (D.C. Official Code §1-623.15) is amended to read as follows:

"Section 2315. Payment of compensation.

"(a) Compensation under this chapter shall be paid periodically, promptly, and directly to
the person entitled thereto, without an award, except where liability to pay compensation is
controverted by the District government.

"(b) The 1st installment of compensation shall become due on the 14th day after the
District government has knowledge of the job-related injury or death, on which date all
compensation then due shall be paid. Thereafter compensation shall be paid in installments,
bweekly, except where the Mayor determines that payment in installments should be made
monthly or at some other period.
“(c) Upon making the 1st payment and upon suspension of payment for any cause, the
District government shall immediately notify the Mayor in accordance with a form prescribed by
the Mayor that payment of compensation has begun or has been suspended, as the case may be.

“(d) If the District government controverts the right to compensation they shall file with
the Mayor, on or before the 14th day after they have knowledge of the alleged injury or death and
its relationship to the employment, a notice in accordance with a form prescribed by the Mayor
stating that the right to compensation is controverted, the name of the claimant, the name of the
District government, the date of the alleged injury or death and the grounds upon which the right
to compensation is controverted.

“(e) If any installment of compensation payable without an award is not paid within 14
days after it becomes due, as provided in subsection (b) of this section, there shall be added to
such unpaid installment an amount equal to 10% thereof, which shall be paid at the same time as,
but in addition to, such installment, unless notice is filed under subsection (d) of this section, or
unless such nonpayment is excused by the Mayor after a showing by the District government that
owing to conditions over which they had no control such installment could not be paid within the
period prescribed for the payment.

“(f) If any compensation, payable under the terms of an award, is not paid within 10 days
after it becomes due, there shall be added to such unpaid compensation an amount equal to 20%
thereof, which shall be paid at the same time as, but in addition to, such compensation, unless
review of the compensation order making such award is had as provided in § 1-623.22 and an
order staying payments has been issued by the Mayor or court. The Mayor may waive payment
of the additional compensation after a showing by the District government that owing to
conditions over which they had no control such installment could not be paid within the period
prescribed for the payment.

“(g) Within 16 days after final payment of compensation has been made, the District
government shall send to the Mayor a notice, in accordance with a form prescribed by the
Mayor, stating that such final payment has been made, the total amount of compensation paid,
the name of the employee and of any other person to whom compensation has been paid, the date
of the injury or death, and the date to which compensation has been paid.

“(h) The Mayor: (1) May upon their own initiative at any time in a case in which
payments are being made without an award; and (2) shall in any case where right to
compensation is controverted, or where payments of compensation have been stopped or
suspended, upon receipt of notice from any person entitled to compensation or from the District
government, that the right to compensation is controverted, or where payments of compensation
have been stopped or suspended, make such investigations, cause such medical examinations to
be made, or hold such hearings, and take such further action as they considers will properly
protect the rights of all parties.

“(i) If the District government has made advance payments of compensation, they shall
be entitled to be reimbursed out of any unpaid installment or installments of compensation due.
All payments prior to an award, to an employee who is injured in the course and scope of their
employment, shall be considered advance payments of compensation.

“(j) An injured employee, or in case of death their dependents or personal representative,
shall give receipts for payment of compensation to the District government paying the same and
the District government shall produce the same for inspection by the Mayor, whenever required.

(r) Section 2316 (D.C. Official Code §1-623.16 is amended to read as follows:
“Section 2316. Invalid agreements.

(a) No agreement by an employee to pay any portion of a premium payable by the
District government to a carrier or to contribute to a benefit fund or department maintained by
the District government for the purpose of providing compensation or medical services and
supplies as required by this chapter shall be valid.

(b) No agreement by an employee to waive their right to compensation under this
chapter shall be valid.

(s) Section 2317 (D.C. Official Code §1-623.17) is amended to remove existing language
and the following language is inserted:

“Section 2317. Assignment of compensation; exemption from claims of creditors.

No assignment, release, or commutation of compensation or benefits due or payable
under this chapter, except as provided by this chapter, shall be valid, and such compensation and
benefits shall be exempt from all claims or creditors and from levy, execution, and attachment or
other remedy for recovery or collection of a debt, which exemption may not be waived.

(t) Section 2318 (D.C. Official Code §1-623.18) is amended to read as follows:

“Section 2318. Compensation as lien against assets.

Any person entitled to compensation under the provisions of this chapter shall have a
lien against District government without limit of amount.

(u) Section 2319 (D.C. Official Code §1-623.19 is amended to read as follows:

“Section 2319. Collection of defaulted payments.

(a) In case of default by the District government in the payment of compensation due
under any award of compensation for a period of 30 days after the compensation is due and
payable, the person to whom such compensation is payable may, within 2 years after such default, make application to the Mayor for a supplementary order declaring the amount of the default. After investigation, notice and hearing, as provided in § 1-623.20, the Mayor shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award the Mayor may, in their discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the Clerk of the Superior Court of the District of Columbia. Such supplementary order of the Mayor shall be final, and the Court shall, upon the filing of the copy, enter judgment for the amount declared in default by the supplementary order. No fee shall be required for filing the supplementary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the Court shall otherwise direct. The Court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the Court.

(v) Section 2320 (D.C. Official Code §1-623.20) is amended to read as follows:

"Section 2320. Procedure in respect of claims.

(a) Subject to the provisions of § 1-623.14, a claim for compensation may be filed with the Mayor in accordance with regulations prescribed by the Mayor at any time after the first 3 days of disability following any injury, or at any time after death, and the Mayor shall have full power and authority to hear and determine all questions in respect of any claim.

(b) Within 10 days after such claim is filed, the Mayor shall notify the District government, the insurer or administrator, and any other person (other than the claimant), whom the Mayor considers an interested party, that a claim has been filed. Such notice may be served
personally upon the District government or other person, or sent to the District government or
person by registered or certified mail.

“(c) The Mayor shall make or cause to be made investigations of claims as they considers
necessary, which may include processing the claim through a central system to give the Mayor
an advisory opinion on the rate and degrees of disability. Upon application of any interested
party the Mayor shall order a hearing within 90 days, unless the Mayor grants a special extension
of time for the development of facts. The Mayor shall not use pre-hearing conferences to resolve
workers’ compensation claims. If a hearing on the claim is ordered, the Mayor shall give the
claimant and other interested parties at least 10 days’ notice of the hearing, served personally
upon the claimant and other interested parties or sent to the claimant and other interested parties
by registered or certified mail. No additional information shall be submitted by the claimant or
other interested parties after the date of hearing, except under unusual circumstances as
determined by the Mayor. Within 20 days after a hearing is held, the Mayor shall by order reject
the claim or make an award in respect of the claim based on substantial evidence before them.
The Mayor shall, by order, reject the claim or make an award in respect of the claim based upon
substantial evidence before them, if no hearing is ordered within 20 days after notice is given as
provided in subsection (b) of this section.

“(d) At such hearing the claimant and the District government may each present evidence
in respect of such claim and may be represented by any person authorized in writing for such
purpose.

“(e) The order rejecting the claim or making the award (referred to in this chapter as a
compensation order) shall be filed with the Mayor, and a copy thereof shall be sent by registered
or certified mail to the claimant and to the District government at the last known address of each.
“(f) An injured employee claiming or entitled to compensation shall submit to such physical examination by a medical officer of the District of Columbia or by a duly qualified physician or panel of physicians designated or approved by the Mayor as the Mayor may require. The place or places shall be reasonably convenient for the employee. Proceedings shall be suspended and no compensation be payable for any period during which the employee may refuse to submit to examination.

“(g) All medical reports submitted by the claimant or any other interested party shall become part of the record, except that the Mayor shall have the discretion to require the testimony at the hearing of any reporting physician. Copies of all medical reports submitted shall be supplied to any party upon request.

“(h) As noted in Sec. (mm)(c)(5) above, the office of the Mayor representing the adjudicatory authority pursuant to this chapter shall be wholly unaffiliated with and wholly independent of any agency designated by the Mayor to represent the interests of the District government as a party.

(w) Section 2321 (D.C. Official Code §1-623.21) is amended to read as follows:

"Section 2321. Presumptions.

"In any proceeding for the enforcement of a claim for compensation under this chapter it shall be presumed, in the absence of evidence to the contrary:

“(1) That the claim comes within the provisions of this chapter;

“(2) That sufficient notice of such claim has been given;

“(3) That the injury was not occasioned solely by the intoxication of the injured employee; and
“(4) That the injury was not occasioned by the willful intention of the injured employee to injure or kill themselves or another.

(x) A new Section 2321a is created and the following language is inserted:

“Section 2321a. Establishment of Compensation Order Review Board.

“(a) There is hereby established a Compensation Order Review Board ("Board") that shall consist of 5 members as follows:

“(1) The Chief Judge of the Office of Hearings and Adjudication ("OHA") within the Department of Employment Services who shall serve as Chairperson; and

“(2) Four Administrative Law Judges from the OHA, who shall:

“(A) Be appointed by the Chairperson;

“(B) Have received an overall rating of satisfactory or above in their or her most recent performance review; and

“(C) Be a member in good standing of the OHA.

“(b) The Chairperson shall have the authority to create from among the members of the Board one or more Compensation Order Review Panels ("panel") which shall:

“(1) Consist of 3 members and may include the Chairperson;

“(2) Decide matters before it by majority vote; and

“(3) Be prohibited from discussing the compensation order with the Administrative Law Judge who issued the compensation order while the matter is undergoing review.

“(c) The Chairperson shall, within 7 days of an application for review being filed, create and assign a panel to review the application for review; provided, that no member of the panel is the Administrative Law Judge who issued the compensation order that is under review.
“(d) The panel shall:

“(1) Review the compensation order for legal sufficiency;

“(2) Dispose of the matter under review by issuing an order affirming the compensation order; reversing the compensation order, in whole or in part, and amending the order based on the panel’s findings, or by remanding the order to the issuing Administrative Law Judge for further review; except, that:

“(A) The panel shall affirm a compensation order that is based upon substantial evidence and is in accordance with this chapter and other applicable laws and regulations and shall not disturb factual findings contained in the compensation order that are supported by substantial evidence; and

“(B) Any reversal, in whole or in part, shall be supported by a written order, which shall contain the legal and factual basis for the reversal, and may amend the compensation order, in whole or in part, or remand the matter to the issuing Administrative Law Judge for additional findings of fact or conclusions of law and the issuance of a compensation order on remand; and

“(3) Make its disposition within 30 days of being assigned the application for review.

“(e) A party aggrieved by the compensation order on remand may appeal it in the same manner as a compensation order.

(y) Section 2322 (D.C. Official Code §1-623.22) is amended to read as follows:

“Section 2322. Review of compensation orders.
“(a) A compensation order shall become effective when filed with the Mayor as provided in § 1-623.20, and, unless an application for review has been filed with the Board as provided in subsection (b) of this section, shall become final at the expiration of the 30th day thereafter.

“(b) (1) Amended to remove existing language.

“(2) Amended to remove existing language.

“(2A) (A) A party aggrieved by a compensation order may file an application for review with the Board within 30 days of the issuance of the compensation order. A party adverse to the review may file an opposition answer within 15 days of the filing of an application for review.

“(B) A Memorandum of Points and Authorities, which sets forth the legal and factual basis for the review or the opposition thereto, shall be filed with an application for review and an opposition answer; no further submissions shall be permitted, unless requested by the reviewing panel.

“(3) Pursuant to the District of Columbia Administrative Procedure Act (§ 2-501 et seq.), any party in interest who is adversely affected or aggrieved by a final decision rendered after review of a compensation order as provided in paragraph (2A) of this subsection or any party in interest who is adversely affected or aggrieved by a compensation order which has been filed as provided in § 1-623.20 may petition for review of such decision or order by the District of Columbia Court of Appeals. If any party shall apply to the Court for leave to adduce additional evidence and shall show to the satisfaction of the Court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Mayor, the Court may order such additional evidence to be taken before the Mayor, and to be made part of the record. The Court may remand the case for appropriate action.
“(c) If the District government or their officers or agents fail to comply with a compensation order making an award that has become final, any beneficiary of such award, or the Mayor, may apply for the enforcement of the order to the Superior Court of the District of Columbia for enforcement of such order and upon showing that the District government or their officers or agents have failed to comply therewith, the Court shall enforce obedience to the order by writ of injunction or by other proper process, mandatory or otherwise, to enjoin upon such person and their officers and agents compliance with the order.

“(d) Proceedings for suspending, setting aside, or enforcing a compensation order, whether rejecting a claim or making an award, shall not be instituted otherwise than as provided in this section and § 1-623.20.

(z) Section 2323 (D.C. Official Code §1-623.23) is amended to read as follows:


In any court proceedings instituted under the provisions of this chapter, the Attorney General of the District of Columbia shall represent the Mayor in any court in which such case may be carried on appeal.

(aa) Section 2324 (D.C. Official Code §1-623.24) is amended to read as follows:

“Section 2324. Modification of awards.

“(a) At any time prior to 1 year after the date of the last payment of compensation or at any time prior to 1 year after the rejection of a claim, provided, however, that in the case of a claim filed pursuant to § 1-623(a)(3)(V) the time period shall be at any time prior to 3 years after the date of the last payment of compensation or at any time prior to 3 years after the rejection of a claim, the Mayor may, upon their own initiative or upon application of a party in interest, order
a review of a compensation case pursuant to the procedures provided in § 1-623.20 where there is reason to believe that a change of conditions has occurred which raises issues concerning:

“(1) The fact or the degree of disability or the amount of compensation payable pursuant thereto; or

“(2) The fact of eligibility or the amount of compensation payable pursuant to § 1-623.09.

“(b) A review ordered pursuant to subsection (a) of this section shall be limited solely to new evidence which directly addresses the alleged change of conditions.

“(c) Upon the completion of a review conducted pursuant to subsection (a) of this section, the Mayor shall issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation previously paid, or award compensation. An award increasing or decreasing the compensation rate may be made and shall be effective from the date of the Mayor’s order for a review of the compensation case. If, since the date of the Mayor’s order for a review of the compensation case, the District government has made any payments of compensation at a rate greater than the rate provided in the new compensation order, the District government shall be entitled to be reimbursed for the difference in accordance with rules promulgated by the Mayor. If, since the date of the Mayor’s order for review of the compensation case, the District government has made any payments of compensation at a rate less than the rate provided in the new compensation order, the employee shall be entitled to the difference as additional compensation in accordance with rules promulgated by the Mayor.

“(d) A compensation order issued pursuant to subsection (c) of this section shall be reviewable pursuant to § 1-623.22.

(bb) Section 2325 (D.C. Official Code §1-623.25) is amended to read as follows:
“Section 2325. Hearings before Mayor.

“(a) In making an investigation or inquiry or conducting a hearing the Mayor shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter, but may make such investigation or inquiry or conduct such hearing in such manner as to best ascertain the rights of the parties. Prior to the hearing before the Mayor the parties may conduct such discovery, including but not limited to the use of interrogatories and depositions as, in the opinion of the Mayor, will be helpful in determining the rights of the parties. Declarations of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

“(b) Hearings before the Mayor shall be open to the public and shall be reported stenographically or by such other method capable of producing an accurate transcript. The Mayor shall by regulation provide for the preparation of a record of the hearings and other proceedings before the Mayor.

(cc) Section 2326 (D.C. Official Code §1-623.26) is amended to read as follows:

“Section 2326. Attendance of witnesses.

“No person shall be required to attend as a witness in any proceeding before the Mayor at more than 25 miles of the place of the hearing, unless their lawful mileage and fee for 1 day’s attendance shall be first paid or tendered to them; but the testimony of any witness including that of an interested party may be taken by deposition or interrogatories according to the rules of practice of the Superior Court of the District of Columbia.

(dd) Section 2327 (D.C. Official Code §1-623.27) is amended to read as follows:
“Section 2327. Witness fees.

Witnesses summoned in a proceeding before the Mayor or whose depositions are taken shall receive the same fees and mileage as witnesses in the Superior Court of the District of Columbia.

(ee) Section 2328 (D.C. Official Code §1-623.28) is amended to read as follows:

"Section 2328. Costs in proceedings brought without reasonable grounds; penalty for unreasonable delay in payment of compensation.

(a) If the trier of fact or court having jurisdiction of proceedings in respect of any claim or compensation order determines that the proceedings in respect of such claim or order have been instituted or continued without reasonable ground, the costs of such proceedings shall be assessed against the party who has so instituted or continued such proceedings.

(b) If the Mayor or court determines that the District government or its carrier has delayed the payment of any installment of compensation to an employee in bad faith, the District government shall pay to the injured employee, for the duration of the delay, the actual weekly wage of the employee for the period that the employee is eligible to receive workers' compensation benefits under this chapter. The penalty shall be in addition to any amount paid pursuant to § 1-623.15.

(ff) Section 2329 (D.C. Official Code §1-623.29) is amended to read as follows:

"Section 2329. Powers of Mayor.

(a) The Mayor shall have the power to preserve and enforce order during any such proceedings, to issue subpoenas for, to administer oaths to, and to compel the attendance and testimony of witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to
examine witnesses; and to do all things in conformity with law which may be necessary to enable
them to effectively discharge the duties of their office.

"(b) If any person in proceedings before the Mayor disobeys or resists any lawful order or
process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or
neglects to produce, after having been ordered to do so, any pertinent book, paper, or document,
or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as
a witness, or after having taken the oath refuses to be examined according to law, the Mayor
shall certify the facts to the Superior Court of the District of Columbia which shall thereupon in a
summary manner hear the evidence as to the acts complained of, and, if the evidence so
warrants, punish such person in the same manner and to the same extent as for a contempt
committed before the Court, or commit such person upon the same conditions as if the doing of
the forbidden act had occurred with reference to the process of or in the presence of the Court.

(gg) Section 2330 (D.C. Official Code §1-623.30) is amended to read as follows:

"Section 2330. Attorney fees.

"(a) If the District government or its carrier declines to pay any compensation on or
before the 30th day after receiving written notice from the Mayor that a claim for compensation
has been filed, on the grounds that there is no liability for compensation within the provisions of
this chapter, and the person seeking benefits thereafter utilizes the services of an attorney-at-law
in the successful prosecution of their claim, there shall be awarded, in addition to the award of
compensation, in a compensation order, a reasonable attorney’s fee against the District
government or its carrier in an amount approved by the Mayor, or court, as the case may be,
which shall be paid directly by the District government or its carrier to the attorney for the
claimant in a lump sum after the compensation order becomes final.

“(b) If the District government or its carrier pays or tenders payment of compensation
without an award pursuant to this chapter, and thereafter a controversy develops over the amount
of additional compensation, if any, to which the employee may be entitled, the Mayor shall
recommend in writing a disposition of the controversy. If the District government or its carrier
refuse to accept such written recommendation, within 14 days after its receipt by them, they shall
pay or tender to the employee in writing the additional compensation, if any, to which they
believe the employee is entitled. If the employee refuses to accept such payment or tender of
compensation and thereafter utilizes the services of an attorney-at-law, and if the compensation
thereafter awarded is greater than the amount paid or tendered by the District government or its
carrier, a reasonable attorney’s fee based solely upon the difference between the amount awarded
and the amount tendered or paid shall be awarded in addition to the amount of compensation.
The foregoing sentence shall not apply if the controversy relates to degree or length of disability,
and if the District government or its carrier offers to submit the case for evaluation by physicians
employed or selected by the Mayor, as authorized in § 1-623.07(e), and offers to tender an
amount of compensation based upon the degree or length of disability found by the independent
medical report at such time as an evaluation of disability can be made. If the claimant is
successful in review proceedings before the Mayor or court in any such case, an award may be
made in favor of the claimant and against the District government or its carrier for a reasonable
attorney’s fee for claimant’s counsel in accordance with the above provisions. In all other cases
any claim for legal services shall not be assessed against the District government or its carrier.
“(c) In all cases, fees for attorneys representing the claimant shall be approved in the
manner herein provided. If any proceedings are had before the Mayor or any court for review of
any actions, award, order or decision, the Mayor or court may approve an attorney’s fee for the
work done before them or it, as the case may be, by the attorney for the claimant. An approved
attorney’s fee, in cases in which the obligation to pay the fee is upon the claimant, may be made
a lien upon the compensation due under an award, and the Mayor or court shall fix in the award
approving the fee such lien and manner of payment.

“(d) In cases where an attorney’s fee is awarded against the District government or its
carrier there may be further assessed against the District government or its carrier as costs, fees
and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the
necessity for the witness and the reasonableness of the fees of expert witnesses must be approved
by the Mayor, or the court, as the case may be. The amounts awarded against the District
government or its carrier as attorney’s fees, costs, fees and mileage of witnesses shall not in any
respect affect or diminish the compensation payable under this chapter.

“(e) Any person who receives any fees, other consideration or any gratuity on account of
services rendered as a representative of a claimant, unless such consideration or gratuity is
approved by the Mayor or court, or who makes it a business to solicit employment for a lawyer,
or for themselves in respect of any claim or award for compensation, shall upon conviction
thereof for each offense be punished by a fine of not more than $1,000 or by imprisonment for
not more than 1 year, or by both such fine and imprisonment.

“(f) At no time shall an attorney’s fee be approved in excess of 20% of the actual benefit
secured through the efforts of the attorney. This provision applies to all benefits secured through
the efforts of an attorney, including settlements provided for under this chapter.
Section 2331. District government record of injury or death.

The District government shall keep a record with respect of any injury to an employee. Such record shall contain such information of disease, other disability, or death in respect of such injury as the Mayor may by regulation require, and shall be available for inspection by an authorized representative of the Mayor or of any agency of the government of the District of Columbia at such times and under such conditions as the Mayor may by regulation prescribe.

Section 2332. District government reports.

(a) Within 10 days from the date of any injury or death or from the date that the District government has knowledge of a disease or infection in respect of such injury, the District government shall send to the Mayor a report setting forth: (1) the name and address of the District government agency for whom the injured employment; (2) the name, address, and occupation of the employee; (3) the cause and nature of the injury or death; (4) the year, month, day, and hour when and the particular locality where the injury or death occurred; and (5) such other information as the Mayor may require. The District government shall also send a copy of the report together with such other information as may be required by the Mayor to the Department of Employment Services. The District government shall send to the employee or the employee's next of kin, by certified mail, return receipt requested, concurrent with the submission of the report to the Department of Employment Services, a statement of the employee's rights and obligations pursuant to this chapter, including the right to file a claim for compensation within one year from the date of injury or death.
“(b) Additional reports in respect of such injury and of the condition of such employee shall be sent by the District government to the Mayor at such times and in such manner as the Mayor may prescribe.

“(c) Any report provided for in subsection (a) or (b) of this section shall not be evidence of any fact stated in such report in any proceeding in respect of such injury or death on account of which the report is made.

“(d) The mailing of any such report and copy in a stamped envelope, within the time prescribed in subsection (a) or (b) of this section, to the Mayor shall be a compliance with this section.

“(e) If the District government fails or refuses to send any report required of them by this section they shall be subject to a civil penalty not to exceed $1,000 for each such failure or refusal.

“(f) Where the District government or its carrier has been given notice, or the District government (or their agent in charge of the business in the place where the injury occurred) or its carrier has knowledge of any injury or death of an employee and fails, neglects, or refuses to file report thereof as required by the provisions of subsection (a) of this section, the limitations in §1-623.14(a) shall not begin to run against the claim of the injured employee or their dependents entitled to compensation, or in favor of either the District government or its carrier, until such report shall have been furnished as required by the provisions of subsection (a) of this section.

“(g) On receiving the report provided by subsection (a) of this section, the Mayor shall notify the injured employee of the employee’s rights and obligations under this chapter.

(jj) Section 2333 (D.C. Official Code §1-623.33) is amended to read as follows:

“Section 2333. Penalty for misrepresentation.
“Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this chapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed $1,000 or by imprisonment of not to exceed 1 year, or by both such fine and imprisonment.

(kk) Section 2334 (D.C. Official Code §1-623.34) is repealed.

(ll) Section 2335 (D.C. Official Code §1-623.35) is amended to read as follows:

“Section 2335. Compensation for injuries where third persons are liable.

“(a) If, on account of a disability or death for which compensation is payable under this chapter, the person entitled to such compensation determines that some person other than those enumerated in § 1-623.04(b) is liable for damages, they need not elect whether to receive such compensation or to recover damages against such third person.

“(b) Acceptance of such compensation under an award in a compensation order filed with the Mayor shall operate as an assignment to the District government of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within 6 months after such award. If the District government fails to commence an action against such third person within 90 days after the cause of action is assigned under this section, the right to bring the action shall revert to the person entitled to compensation.

“(c) A payment made pursuant to §§ 1-623.09 and 1-623.40(d)(1) shall operate as an assignment to the District government of all rights of the legal representative of the deceased (hereinafter referred to as “representative”) to recover damages against such third person.
(d) The District government on account of such assignment may either institute proceedings for the recovery of such damages or may compromise with such third person either without or after instituting such proceeding.

(e) Any amount recovered by the District government on account of such assignment, whether or not as the result of a compromise, shall be distributed as follows:

1. The District government shall retain an amount equal to:
   
   (A) The expenses incurred by them in respect to such proceedings or compromise (including a reasonable attorney’s fee as determined by the Mayor);
   
   (B) The cost of all benefits actually furnished by them to the employee under § 1-623.07;
   
   (C) All amounts paid as compensation; and
   
   (D) The present value of all amounts thereafter payable as compensation, such present value to be computed in accordance with a schedule prepared by the Mayor, and the present value of the cost of all benefits thereafter to be furnished under § 1-623.07, to be estimated by the Mayor, and the amounts so computed and estimated to be retained by the District government as a trust fund to pay such compensation and the cost of such benefits as they become due, and to pay any sum finally remaining in excess thereof to the person entitled to compensation or to the representative; and

2. The District government shall pay any excess to the person entitled to compensation or to the representative, less one fifth of such excess which shall belong to the District government.

(f) If the person entitled to compensation institutes proceedings within the period described in subsection (b) of this section, the District government shall be required to pay as
compensation under this chapter a sum equal to the excess of the amount which the Mayor
determines is payable on account of such injury or death over the amount recovered against such
third person.

“(f-1) If the person entitled to compensation institutes proceedings within the period
described in subsection (b) of this section and recovers an amount against a third person, the
costs of litigation and attorneys’ fees shall be proportionally shared between the person entitled
to compensation, or the employee’s eligible survivors or legal representative, and the District
government relative to the amount each received in the total recovery against the third person.

“(g) If compromise with such third person is made by the person entitled to compensation
or such representative of an amount less than the compensation to which such person or
representative would be entitled under this chapter, the District government shall be liable for
compensation as determined in subsection (f) of this section, only if the written approval of such
compromise is obtained from the District government and their insurance carrier by the person
entitled to compensation or such representative at the time of or prior to such compromise in a
form and manner prescribed by the Mayor.

“(h) If the District government purchases private insurance for purposes of this chapter,
there shall be no distinction for purposes of this section between the District government and its
insurer.

“(i) The right to compensation or benefits under this chapter shall be the exclusive
remedy to an employee when they are injured, or to their eligible survivors or legal
representative if they is killed, by the negligence or wrong of any other person or persons in the
same employ; provided, that this provision shall not affect the liability of a person other than an
officer or employee of the District government.
Section 2336 (D.C. Official Code §1-623.36) is repealed.

Section 2337 (D.C. Official Code §1-623.37) is amended to read as follows:

"Section 2337. Discharge of liability.

"If the District government elects not to self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the District government, and in order that the administration of this chapter in respect of such liability may be facilitated, the Mayor shall by regulation provide for the discharge, by the carrier for the District government, of such obligations and duties of the District government, in respect to such liability, imposed by this chapter upon the District government, as they consider proper in order to effectuate the provisions of this chapter. For such purposes:

"(1) Notice to or knowledge of the District government of the occurrence of the injury shall be notice to or knowledge of the carrier; and

"(2) Any requirement by the Mayor or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the District government.

Section 2338 (D.C. Official Code §1-623.38) is amended to read as follows:

"Section 2338. Insurance policies.

The District government shall have full authority and discretion to secure insurance or to self-insure, subject to rules identical to those governing private employers. Any entity designated by the Mayor to function as insurer or administrator of any compensation claim shall be wholly independent of the Department of Employment Services and any other body having adjudicative authority over any claim arising under this chapter.

Section 2339 (D.C. Official Code §1-623.39) is repealed.
(qq) Section 2340 (D.C. Official Code §1-623.40) is repealed.

(rr) Section 2341 (D.C. Official Code §1-623.41) is amended to read as follows:

"Section 2341. Administration fund.

There is maintained in the District of Columbia government the Employees' Compensation Fund ("Fund"), which shall consist of sums that the Council of the District of Columbia government or Congress, from time to time, may appropriate for or transfer to it and amounts that otherwise accrue to it under this chapter or other statute. The Fund is available without time limit for the payment of compensation and other benefits and expenses incurred to implement the provisions of this chapter.

(ss) Section 2342 (D.C. Official Code §1-623.42) is amended to read as follows:

"Section 2342. Retaliatory actions by District government prohibited.

It shall be unlawful for the District government or their duly authorized agent to discharge or in any other manner discriminate against an employee as to their employment because such employee has claimed or attempted to claim compensation from the District government, or because they has testified or is about to testify in a proceeding under this chapter.

Any employee so discriminated against shall be restored to their employment and shall be compensated by their District government for any loss of wages arising out of such discrimination; provided, that if such employee ceases to be qualified to perform the duties of their employment, they shall not be entitled to such restoration and compensation. Any provision in an insurance policy undertaking to relieve the District government from liability for such penalties and payments shall be void.

(tt) A new Section 2342c is added to read as follows:

"Section 2342c. Compliance."
“(a) The Director of Employment Services ("Director") shall assign from the workforce in the Workers’ Compensation office a staff for the enforcement of District government compliance with Workers’ Compensation requirements, including enforcing existing law and referring cases to the Office of the Attorney General for prosecution.

“(b) The Director shall file a semi-annual compliance report with the Council by March 31st and by September 30th, which shall contain detailed and comprehensive information about the compliance enforcement activities during the preceding 6 months.

(uu) Section 2343 (D.C. Official Code §1-623.43) is repealed.

(vv) Section 2344 (D.C. Official Code §1-623.44) is amended to read as follows:

“Section 2344. Severability.

"Should a court of competent jurisdiction declare any provision of this chapter to be unconstitutional or beyond the authority of the Council of the District of Columbia, such declaration shall have no effect upon any other provision of this chapter.

(ww) Section 2345 (D.C. Official Code §1-623.45) is repealed.

(xx) Section 2346 (D.C. Official Code §1-623.46) is repealed.

(yy) Section 2347 (D.C. Official Code §1-623.47) is repealed.

Sec. 3. Conforming amendments.

A new section is added to D.C. Official Code §1-1504.02, Part (C), reading as follows:

“The rules and standards for the Division of Public Sector Compensation shall be identical to those for the private sector.

(a) Section 6(b)(1) of the Office of Administrative Hearings Establishment Act of 2001 (D.C. Official Code § 2-1831, et seq) is amended by striking the word “private.”
(b) Section 12 of the Uniform Emergency Volunteer Health Practitioners Act of 2010 (D.C. Official Code § 7-2361.01, et seq) is amended by striking the phrase “§1-623.03” and replacing it with “§1-623.07.”

Sec. 4. Administration.

Rulemaking and regulatory authority under this chapter is assigned exclusively to the same agency of the D.C. government entrusted with authority under the Private Sector Act, D.C. Code Sec. 32-1501 et seq.

Sec. 5. Applicability

(a) As of January 1, 2021, this chapter shall apply to all claims arising under the former D.C. Public Sector Workers' Compensation Act, D.C. Code Sec. 1-623.01 through Sec. 1-623.47, whether the injury arose before or after January 1, 2021, provided that:

(i) any claim that was resolved by final order under former Sec. 1-623.35 cannot be reopened; and

(ii) any and all orders issued prior to January 1, 2021 by any adjudicative body, whether the Office of Administrative Hearings, the Office of Hearings and Adjudication, the Administrative Hearings Division, the Compensation Review Board, the Director of the Department of Employment Services in their adjudicative capacity, or the District of Columbia Court of Appeals shall remain in effect, except insofar as they prejudice the rights of claimants to benefits to which they may be eligible after January 1, 2021.

Sec. 6. Fiscal impact statement.

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.