

File No. 211132

Committee Item No. 15

Board Item No. 1

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee Date December 8, 2021

Board of Supervisors Meeting Date January 4, 2022

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Completed by: Brent Jalipa Date December 2, 2021

Completed by: Brent Jalipa Date December 10, 2021

1 [Police Code - Domestic Workers' Access to Paid Sick Leave Through a Portable System]

2
3 **Ordinance amending the Police Code to establish a portable Paid Sick Leave (PSL)**
4 **system for domestic workers, and to require hiring entities that do not directly provide**
5 **PSL to provide PSL payments to domestic workers using the portable system.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The Police Code is hereby amended by adding Article 33N, consisting of
15 Sections 3300N.1 through 3300N.12, to read as follows:

16 **ARTICLE 33N: DOMESTIC WORKERS' EQUAL ACCESS TO PAID SICK LEAVE**

17
18 **SEC. 3300N.1. TITLE.**

19 *This Article 33N shall be known as the Domestic Workers' Equal Access to Paid Sick Leave*
20 *Ordinance.*

21
22 **SEC. 3300N.2. FINDINGS AND PURPOSE.**

23 *(a) More than two million domestic workers in the United States, and approximately 10,000 in*
24 *San Francisco, work in the homes of their employers, cooking; cleaning; caring for children, older*
25 *adults, people with disabilities, and others; and performing other labor.*

1 (b) Domestic workers generally are paid low wages, are unlikely to receive health benefits or
2 paid time off from employers, and are at high risk of wage theft and other violations of worker
3 protections. This vulnerability is long-standing and has deep historic, economic, and social roots in
4 racism and sexism. Domestic workers remain uniquely vulnerable, in part because they generally work
5 in isolation, behind the closed doors of private homes.

6 (c) In 2006, the people of the City and County of San Francisco (“City”) enacted the nation’s
7 first Paid Sick Leave Ordinance (PSLO), covering employees working in the City. Paid sick leave
8 (PSL) is an important public health tool for infectious disease control, as workers without it are more
9 likely to place others at risk by going to work sick or sending their children to school or daycare while
10 ill.

11 (d) Despite the PSLO, few domestic workers in the City have access to PSL. Only 17% of
12 domestic workers in San Francisco surveyed by researchers from the Graduate Center at the City
13 University of New York reported that they receive any paid time off as an employment benefit. Only
14 33% of those domestic workers reported that they had had even one paid day off during the previous
15 year, whether for sick leave, vacation, or a paid holiday. See Isaac Jabola-Carolus, “Profile of San
16 Francisco Domestic Workers,” December 2020, on file with the Clerk of the Board of Supervisors in
17 File No. _____.

18 (e) The COVID-19 pandemic has highlighted the urgency of ensuring that all workers have
19 access to PSL for illness, caregiving responsibilities, and other purposes. This is particularly true for
20 low-wage workers, like domestic workers, who may be unlikely to have adequate resources to take
21 unpaid time off when ill or when caring for an ill family member. The COVID-19 pandemic has further
22 increased both the economic vulnerabilities of domestic workers. Domestic workers have suffered
23 disproportionate job losses due to the COVID-19 pandemic and public health response, peaking as
24 high as 60% in May 2020. See the foregoing “Profile of San Francisco Domestic Workers.” But
25

1 domestic workers are less likely than other workers to have access to unemployment insurance due to
2 misclassification, informal employment arrangements, and immigration status.

3 (f) Domestic workers are at heightened risk of contracting COVID-19 and other infectious
4 diseases because they typically work indoors, often in close proximity to their employers and those for
5 whom they provide care. Domestic workers frequently work for multiple different individuals or
6 families, increasing their exposure risk. Domestic workers generally are not protected by the federal
7 Occupational Safety and Health Act or its California counterpart, and they are unlikely to be provided
8 with personal protective equipment or other COVID-19 safety measures.

9 (g) Employers of domestic workers that wish to provide the workers with PSL often lack access
10 to systems to facilitate accrual and tracking of benefits. For domestic workers who work for multiple
11 employers for varying lengths of time, PSL that does not allow for aggregation across employers may
12 not provide workers meaningful access to PSL. Misclassification of employees as independent
13 contractors and informal employment arrangements further reduce domestic workers' access to PSL.

14 (h) This Article 33N establishes a portable PSL system, which will allow Domestic Workers to
15 earn and consolidate PSL benefits from several employers and to keep and access that paid leave as
16 they move between jobs. The system would allow Hiring Entities to track PSL accruals, which would
17 be transferred from the Hiring Entity to the Domestic Worker when the Domestic Worker needs to take
18 PSL. PSL would not necessarily be used with the same Hiring Entity or Hiring Entities from which the
19 funds are drawn.

20 (i) The purpose of this Article 33N is to provide Domestic Workers in the City access to the
21 essential benefit of PSL, administered through the portable PSL system. By expanding access to PSL,
22 this Article is intended to mitigate the economic harm Domestic Workers are suffering due to the
23 pandemic, support the City's pandemic response, and improve public health more broadly.

1 **SEC. 3300N.3. DEFINITIONS.**

2 *For purposes of this Article 33N, the following definitions apply.*

3 *“Agency” means the Office of Labor Standards Enforcement.*

4 *“City” means the City and County of San Francisco.*

5 *“Domestic Worker” means an individual who is employed by or contracts with a Hiring Entity*
6 *to provide labor or services in a residence caring for a child; serving as a companion or providing*
7 *other non-medical care or services for a sick, convalescing, disabled, or senior person; cleaning,*
8 *cooking, providing food or butler service, gardening, personal organizing, or performing other in-*
9 *home personal or domestic service. Domestic Worker includes an individual who as part of the*
10 *individual’s employment or other work contract resides in the personal residence of the Hiring Entity.*

11 *Notwithstanding the foregoing definition, Domestic Worker does not include:*

12 *(a) An individual providing labor or services for a family member, meaning a spouse,*
13 *child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, parent-in-law,*
14 *child-in-law, stepparent, stepchild, stepsibling, or half-sibling, whether the individual is related by*
15 *blood, marriage, or adoption;*

16 *(b) An individual primarily engaged in house sitting, pet sitting, or dog walking;*

17 *(c) An individual working at a business operated primarily out of the person’s own*
18 *residence, such as a home day-care business;*

19 *(d) An individual whose primary work involves household repair or maintenance, such*
20 *as a roofer, plumber, mason, painter, or other similar contractor;*

21 *(e) A home health care worker for work that is paid through public funds, such as a*
22 *home health care worker while paid through Medicaid or Medicare;*

23 *(f) An individual under 18 years of age; or*

1 _____ (g) An individual who does not regularly perform work for the Hiring Entity. An
2 individual who performs an average of five hours or more per month shall be presumed to be a
3 Domestic Worker.

4 “Hiring Entity” means any person, as defined in Section 18 of the California Labor Code,
5 including corporate officers or executives, who directly or indirectly or through an agent or any other
6 person, including through the services of a temporary services or staffing agency or similar entity,
7 employs, contracts with, or hires a Domestic Worker.

8 “Implementation Date” means one year after the effective date of the ordinance in
9 Board File No. 211132 establishing this Article 33N.

10 “OEWD” means the Office of Economic and Workforce Development.

11 ~~“Operative Date” means six months after the effective date of the ordinance in Board~~
12 ~~File No. _____ establishing this Article 33N. Notwithstanding the impact of the Operative~~
13 ~~Date on other provisions of this Article, OEWD and the Agency shall fulfill within the time~~
14 ~~frames specified in Section 3300N.6 those responsibilities assigned to them to be completed~~
15 ~~before the Operative Date.~~

16 “PSL” means paid sick leave.

17
18 **SEC. 3300N.4. ESTABLISHMENT OF PORTABLE PAID SICK LEAVE SYSTEM.**

19 ~~(a) By the Operative Implementation Date, OEWD shall develop and implement the portable~~
20 ~~PSL system.~~

21 (b) Planning phase.

22 (1) OEWD shall seek input and recommendations from Domestic Workers,
23 Hiring Entities, other community partners, and City Departments on the PSL system, including
24 platform for and features of the system and its operational requirements.

1 (2) Not later than six months after the effective date of this Article 33N, OEWD
2 shall submit to the Board of Supervisors a plan for developing and administering the PSL
3 system, which shall address system development; organization and management, including
4 whether OEWD intends to select a third-party PLS system administrator; and funding
5 requirements, and which may include legislative recommendations. *Subject to the budgetary*
6 *and civil service provisions of the Charter, OEWD may delegate or assign functions of the development*
7 *and implementation of the portable PSL system to a third-party administrator.*

8 (3) During the remainder of the one-year planning phase, OEWD shall develop
9 the PSL system, in conjunction with a third-party PSL system administrator if applicable.

10 (bc) *The portable PSL system shall perform the following functions:*

11 (1) *Tracking each Domestic Worker's hours worked for a Hiring Entity and net pay*
12 *rates, and calculating the accrued right to PSL funds from such information;*

13 (2) *When PSL funds are requested, coordinating the transfer of funds to a Domestic*
14 *Worker who has accrued the right to PSL contributions from one or more Hiring Entities from which*
15 *the right to PSL funds have accrued, in the order the right to PSL funds accrued.*

16 (ed) *The portable PSL system shall be designed and administered to minimize administrative*
17 *burdens for the Hiring Entity and Domestic Worker.*

18 (ee) *The portable PSL system administrator may seek relevant background information from*
19 *the Domestic Worker and the Hiring Entity for the purpose of coordinating the transfer of funds from a*
20 *Hiring Entity to a Domestic Worker. All information provided to or retained in the portable PSL*
21 *system shall be confidential to the extent permitted by law, provided however, that such information*
22 *may be shared with 1) a financial institution facilitating payments by the PSL system to the extent*
23 *legally required and 2) the Agency to the extent needed to implement, administer, and enforce this*
24 *Article 33N. Such financial institutions and the Agency shall maintain the confidentiality of such*
25 *information to the extent permitted by law.*

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SEC. 3300N.5. DOMESTIC WORKERS’ ACCESS TO PAID SICK LEAVE.

(a) Except as provided in subsection (e) or in any exception created by rule under Section 3300N.8, and without regard to the employment classification of the Domestic Worker, a Hiring Entity shall provide PSL funds to a Domestic Worker. The right to PSL funds shall be accounted for in the portable PSL system established under Section 3300N.4, and the PSL system shall coordinate the transfer of funds from a Hiring Entity to a Domestic Worker when a Domestic Worker requests accrued PSL funds.

(b) A Domestic Worker shall accrue a right to PSL funds under subsection (a) equal to not less than one hour of net pay, at the Domestic Worker’s regular rate of pay, for every 30 hours of work for the Hiring Entity performed on or after the Operative Implementation Date. The Hiring Entity shall report the number of hours of work and net pay rate of a Domestic Worker to the PSL system. The Domestic Worker shall report the number of hours of work, net pay rate, and relevant contact information of the Hiring Entity. The information provided by the Hiring Entity and Domestic Worker to the portable PSL system administrator shall be retained, used to calculate a Domestic Worker’s right to PSL funds from a Hiring Entity, and used to coordinate the transfer of such PSL funds from the Hiring Entity to the Domestic Worker.

(c) The right to PSL funds shall accrue in hour-unit increments, but the funds shall not be transferred from the Hiring Entity to the Domestic Worker until the Domestic Worker requests the PSL funds. A Hiring Entity is responsible for fulfilling any tax withholding and tax reporting obligations for such contributions at the time PSL funds are transferred.

(d) A Hiring Entity may cap accrual of the right to PSL contributions for a Domestic Worker at 40 hours of PSL, provided however that a Hiring Entity that is an Employer under Administrative Code Section 12W.2(d) and not a “Small business” under Administrative Code Section 12W.2(f) may cap

1 accrual of the right to PSL contributions for a Domestic Worker at 72 hours of PSL. The right to PSL
2 contributions carries over from year to year (whether calendar year or fiscal year).

3 (e) A Domestic Worker may use the portable PSL system established under Section 3300N.4 to
4 request accrued PSL funds for use for any purpose for which paid sick leave may be used under
5 Administrative Code 12W.4.

6 (f) If a Hiring Entity directly provides a Domestic Worker PSL, including but not limited to PSL
7 under Administrative Code Chapter 12W, the Hiring Entity may offset that paid leave from the PSL
8 funds it must provide a Domestic Worker under subsections (a) and (b). A Hiring Entity that provides
9 at least one hour of PSL for every 30 hours of work shall be exempt from all provisions of this Article
10 33N, except for the requirements of Section 3300N.8(d).

11 (g) If a Hiring Entity that is an “Employer” under Administrative Code Section 12W.2(d)
12 complies with this Article 33N, the Employer shall be deemed to comply with Administrative Code
13 Chapter 12W.

14
15 **SEC. 3300N.6. NOTICE TO DOMESTIC WORKERS.**

16 (a) The Agency shall, within 90 days of the effective date of the ordinance in Board File No.
17 211132 establishing this Article 33N, publish and make available on its website and through electronic
18 communication an initial notice of the Domestic Workers’ Equal Access to Paid Sick Leave Ordinance.

19 (b) The Agency shall conduct outreach and education about this Article 33N in the community
20 to inform Domestic Workers and Hiring Entities.

21 (c) OEWD, in collaboration with the Agency, shall, not later than 21 days prior to the
22 OperativeImplementation Date, publish and make available on its website notice regarding the
23 portable PSL system and how to access it. The Agency shall promptly publish and make available on
24 its website and through electronic communication the same notice.

1 (d) The Agency shall, not later than 21 days prior to the ~~Operative~~Implementation Date of
2 this Article 33N, publish and make available on its website and through electronic communication a
3 notice suitable for Hiring Entities to inform Domestic Workers of their rights under this Article 33N, in
4 English, Spanish, Chinese, Filipino, and any language spoken by at least 5% of City residents. A
5 Hiring Entity shall, within seven days after the ~~Operative~~Implementation Date, provide the notice to
6 Domestic Workers in a manner calculated to reach each Domestic Worker by printing and providing
7 the notice on paper and/or sending it to the Domestic Worker via electronic mail or text message. Such
8 notice shall be provided in the Domestic Worker's native language if the notice is available in that
9 language.

10
11 **SEC. 3300N.7. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.**

12 (a) It shall be unlawful for a Hiring Entity or any other person to interfere with, restrain, or
13 deny the exercise of, or the attempt to exercise, any right protected under this Article 33N.

14 (b) It shall be unlawful for a Hiring Entity to take any adverse action~~s~~ against any Domestic
15 Worker in retaliation for exercising rights protected under this Article 33N, including the right to file a
16 complaint or inform any person about any Hiring Entity's alleged violation of this Article; the right to
17 cooperate with the Agency in its investigations of alleged violations of this Article; and the right to
18 inform any person of their possible rights under this Article.

19 (c) Protections of this Article 33N shall apply to any person who mistakenly but in good faith
20 alleges violations of this Article.

21 (d) Taking adverse action against a person within 90 days of the person's filing a complaint
22 with the Agency or a court alleging a violation of any provision of this Article 33N; of informing any
23 person about a Hiring Entity's alleged violation of this Article; of cooperating with the Agency or other
24 persons in the investigation or prosecution of any alleged violation of this Article; of opposing any
25 policy, practice, or act that is unlawful under this Article; or of informing any person of their rights

1 under this Article, shall raise a rebuttable presumption that such adverse action was taken in
2 retaliation for the exercise of one or more of the aforementioned rights. Unless the Hiring Entity rebuts
3 the presumption with clear and convincing evidence that the adverse action was solely for a reason
4 other than retaliation, the Hiring Entity shall be deemed to have violated this Section 3300N.7.

5
6 **SEC. 3300N.8. IMPLEMENTATION AND ENFORCEMENT.**

7 (a) OEWD is authorized to implement Section 3300N.4 and, in consultation with the Agency
8 and after seeking input and recommendations from Domestic Workers, Hiring Entities, and other
9 community partners, may promulgate guidelines or rules for such purposes. Such guidelines or rules
10 shall address the establishment and implementation of the portable PSL system, including platform
11 design, onboarding, and usability for Domestic Workers and Hiring Entities; transfer of funds from
12 Hiring Entities to Domestic Workers; and administration and cost management of the PSL system.

13 (b) The Agency is authorized to implement and enforce the remaining provisions of this Article
14 33N and may promulgate guidelines or rules for such purposes. Such guidelines or rules may address,
15 among other things, outreach to Hiring Entities and Domestic Workers and enforcement of this Article.

16 (c) A Domestic Worker or any other person who has reason to believe that a violation of this
17 Article 33N has occurred may report the suspected violation to the Agency. The Agency shall
18 encourage reporting pursuant to this subsection (c) by keeping confidential, to the maximum extent
19 permitted by law, the name and other identifying information of the person reporting the violation;
20 provided, however, that with the authorization of said person, the Agency may disclose their name and
21 identifying information as necessary to enforce this Article or for other appropriate purposes.

22 (d) Hiring Entities shall retain records pertaining to their compliance with this Article 33N for
23 a period of four years and shall allow the Agency access to such records upon reasonable notice.
24 Failure to maintain records or to allow the Agency reasonable access to such records shall result in a

1 presumption that the Hiring Entity has violated this Article, absent clear and convincing evidence
2 otherwise.

3 (e) The Agency may investigate possible violations of this Article 33N. Where the Agency has
4 reason to believe that a violation has occurred, it may order any appropriate temporary or interim
5 relief to mitigate the violation or maintain the status quo pending completion of a full investigation dor
6 hearing.

7 (f) Where the Agency determines that a violation has occurred following an investigation that
8 affords due process, including notice of the alleged violation and the right to respond, the Agency may
9 issue a determination of violation and order any appropriate relief, including but not limited to the
10 reinstatement of a Domestic Worker, back pay, and pursuant to California Constitution Article
11 XIIIC, Section 1(e)(5), the payment of an additional sum as an administrative penalty to each
12 employee or person whose rights under this Article 33N were violated. If any PSL contributions were
13 unlawfully withheld, the dollar amount of such contributions multiplied by three, or \$250, whichever
14 amount is greater, shall be included in the administrative penalty paid to a Domestic Worker. Further,
15 the Agency may order the payment of an additional sum as an administrative penalty ~~that does not~~
16 ~~exceed~~of \$1,000 for the Hiring Entity's first violation, \$5,000 for the second violation, and \$10,000
17 for the third and subsequent violations. For the purpose of this calculation, if multiple Domestic
18 Workers are impacted by the same violation at the same time, the Agency shall treat the violation as a
19 single violation rather than multiple violations. To compensate the City for the reasonable
20 regulatory costs of investigating and remedying the violation, pursuant to California Constitution
21 Article XIIIC, Section 1(e)(3), the Agency may also order the violating Hiring Entity to pay to the
22 City an amount that does not exceed the Agency's investigation and administrative enforcement
23 costs. ~~Subject to the budgetary and fiscal provisions of the Charter, such funds shall be~~
24 ~~allocated to the Agency and used to offset the costs of implementing and enforcing this Article~~
25 ~~and other ordinances the Agency enforces.~~

1 (g) The Agency may not issue a determination of violation under this Article 33N for the same
2 conduct by the same Hiring Entity subject to a determination of violation under Administrative Code
3 Chapter 12W.

4 (h) The determination of violation shall provide notice to the Hiring Entity of the right to appeal
5 the determination to the Controller and that failure to do so within 15 days shall result in the
6 determination becoming a final administrative decision enforceable as a judgment by the Superior
7 Court. When prompt compliance with a final administrative decision is not forthcoming, the Agency
8 may take any appropriate enforcement action to secure compliance, including requesting the City
9 Attorney seek enforcement of the decision in Superior Court and, except where prohibited by State or
10 Federal law, requesting that City agencies or departments revoke or suspend any registration
11 certificates, permits, or licenses held or requested by the Hiring Entity or person until such time as the
12 violation is remedied.

13 (i) The determination of violation shall specify a reasonable time period for payment of any
14 relief ordered. The Agency may award interest on all amounts due and unpaid at the expiration of such
15 time period at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil
16 Code, as may be amended from time to time.

17 (j) The remedies and penalties provided under this Article 33N are cumulative.

18 (k) The Agency may require that remedies and penalties due and owing to Domestic Workers be
19 paid directly to the City for disbursement to the Domestic Workers. The Controller shall hold these
20 funds in escrow for the Domestic Workers. The Agency shall make best efforts to distribute such funds
21 to Domestic Workers. In the event such funds are unclaimed for a period of three years, the Controller
22 may undertake administrative procedures for escheat of unclaimed funds under California Government
23 Code Sections 50050 et seq., as may be amended from time to time. Subject to the budgetary and fiscal
24 provisions of the Charter, such escheated funds shall be dedicated to the enforcement of this Article
25 33N or other laws the Agency enforces.

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SEC. 3300N.9. APPEAL PROCEDURE.

(a) A Hiring Entity may file an appeal from a determination of violation (“Appeal”) in accordance with the following procedures:

(1) The Hiring Entity shall file the Appeal with the Controller and serve a copy on the Agency. The Appeal shall be filed in writing within 15 days of the date of service of the determination of violation, and shall specify the basis for the Appeal and shall request that the Controller appoint a hearing officer to hear and decide the Appeal. Failure to submit a timely, written Appeal shall constitute concession to the violation, and the determination of violation shall be deemed the final administrative decision upon expiration of the 15-day period. Further, failure to submit a timely, written Appeal shall constitute a failure to exhaust administrative remedies, which shall serve as a complete defense to any petition or claim brought against the City regarding the determination of violation.

(2) Following the filing of the Appeal and service of a copy on the Agency, the Agency shall promptly afford the Hiring Entity an opportunity to meet and confer in good faith regarding possible resolution of the determination of violation.

(3) Within 30 days of receiving an Appeal, the Controller shall appoint an impartial hearing officer who is not part of the Agency and immediately notify the Agency and Hiring Entity of the appointment.

(4) The hearing officer shall promptly set a date for a hearing. The hearing shall commence within 45 days of the date of the Controller’s notice of appointment of the hearing officer and conclude within 75 days of such notice, provided, however, that the hearing officer may extend these time limits for good cause.

1 (5) The hearing officer shall conduct a fair and impartial evidentiary hearing. The
2 Hiring Entity shall have the burden of proving by a preponderance of the evidence that the Agency
3 erred in its determination of violation, and/or the relief ordered therein.

4 (6) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a
5 written decision affirming, modifying, or dismissing the determination of violation. The hearing
6 officer’s decision shall be the final administrative decision. The decision shall consist of findings, a
7 determination, any relief ordered, a reasonable time period for payment of any relief ordered, and
8 notice to the Hiring Entity of the right to appeal by filing a petition for a writ of mandate as described
9 in subsection (a)(7), and that failure to file a timely appeal shall result in the final administrative
10 decision becoming enforceable as a judgment by the Superior Court.

11 (7) The Hiring Entity may appeal the final administrative decision only by filing in San
12 Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure,
13 Section 1094.5 et seq., as applicable, and as may be amended from time to time.

14 (b) The final administrative decision is enforceable as a judgment in Superior Court. Where a
15 Hiring Entity fails to comply with a final administrative decision within the time period required
16 therein, the Agency may take any appropriate enforcement action to secure compliance, including
17 referring the action to the City Attorney to enforce the final administrative decision as a judgment and,
18 except where prohibited by State or Federal law, requesting that City agencies or departments revoke
19 or suspend any registration certificates, permits, or licenses held or requested by the Hiring Entity until
20 such time as the violation is remedied.

21
22 **SEC. 3300N.10. PREEMPTION.**

23 Nothing in this Article 33N shall be interpreted or applied so as to create any right,
24 requirement, power, or duty in conflict with Federal or State law. The term “conflict,” as used in this
25 Section 3300N.10 means a conflict that is preemptive under Federal or State law.

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SEC. 3300N.11. UNDERTAKING FOR THE GENERAL WELFARE.

In undertaking the adoption and enforcement of this Article 33N, the City is undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This Article does not create a legally enforceable right by any member of the public against the City.

SEC. 3300N.12. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Article 33N, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Article. The Board of Supervisors hereby declares that it would have passed this Article and every section, subsection, sentence, clause, phrase, and word not declared invalid and unconstitutional without regard to whether any other portion of this Article or application thereof would be subsequently declared invalid or unconstitutional.

Section 2. Effective and Operative Dates.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

~~(b) As stated in Police Code Section 3300N.3, this ordinance shall become operative six months after its effective date. However, notwithstanding the impact of the Operative Date on other provisions of Police Code Article 33N, the Office of Economic and Workforce~~

1 ~~Development and the Office of Labor Standards Enforcement shall fulfill within the time~~
2 ~~frames specified in Police Code Section 3300N.6 those responsibilities assigned to them to be~~
3 ~~completed before the Operative Date.~~

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5
6 APPROVED AS TO FORM:
7 DAVID CHIU, City Attorney

8 By: /s/ _____
9 LISA POWELL
10 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 12/8/2021)

[Police Code - Domestic Workers' Access to Paid Sick Leave Through a Portable System]

Ordinance amending the Police Code to establish a portable Paid Sick Leave (PSL) system for domestic workers and to require hiring entities that do not directly provide PSL to provide PSL payments to domestic workers using the portable system.

Existing Law

The proposed ordinance does not amend existing law, but it supplements the City's Paid Sick Leave Ordinance (PSLO), Administrative Code Chapter 12W, which requires most employers in the City to provide employees one hour of paid sick leave (PSL) for every 30 hours of work.

Amendments to Existing Law

The proposed ordinance, which would add Article 33N to the Police Code, would establish a portable PSL system. "Hiring Entities" of Domestic Workers would be required to provide PSL through the portable PSL system. The term "Hiring Entities" includes employers as well as those who hire domestic workers as independent contractors.

Hiring Entities that directly provide at least one hour of PSL for every 30 hours of work are exempt from the ordinance, except for recordkeeping requirements. Hiring Entities that comply with the proposed ordinance are deemed to comply with the PSLO as well.

The PSL system will track the accruals of the right to PSL and facilitate the transfer of leave payments from one or more hiring entities to a domestic worker when the domestic worker requests the payment.

The Office of Economic and Workforce Development (OEWD) will develop and administer the PSL system and the Office of Labor Standards Enforcement will administer and enforce the remainder of the ordinance.

Background Information

Although domestic workers who are employees are legally entitled to PSL under the PSLO, few have access to it. The portable PSL system is intended to facilitate access to PSL by allowing domestic workers to accrue and aggregate PSL from multiple employers over time.

City University of New York (CUNY)

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Profile of San Francisco Domestic Workers

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Profile of San Francisco Domestic Workers

Report by Isaac Jabola-Carolus | The Graduate Center, City University of New York
December 2020

Introduction

Domestic workers are integral to the social and economic fabric of San Francisco, providing childcare to working families, cleaning and maintaining homes, and supporting older adults and people with disabilities in their everyday activities. This report, based on an ongoing study, outlines the demographic composition and employment conditions of this workforce. The analysis draws upon U.S. Census Bureau data, Bureau of Labor Statistics data, and an original survey of over 200 domestic workers employed in San Francisco.¹

Approximately 10,000 home attendants, nannies, and housecleaners work in San Francisco, excluding individuals employed through the state's In-Home Supportive Services (IHSS) Program and other publicly funded programs.² This report focuses on the first group—domestic workers employed by private households or private agencies. Unlike IHSS providers, these workers often lack collective bargaining rights, rendering public policy especially crucial in shaping their employment outcomes.

The inadequacy of employment conditions in this field poses serious challenges, both during the COVID-19 crisis and in the face of long-term economic trends. Amid the pandemic, low wages and weak labor protections leave domestic workers acutely vulnerable to both illness and economic hardship. This vulnerability is worsened by informal employment arrangements that often leave workers without access to employee benefits and social safety net programs, such as paid sick leave and time off, unemployment insurance, and paid family leave. Workers who patch together employment across multiple households—especially common among housecleaners—experience further insecurity.

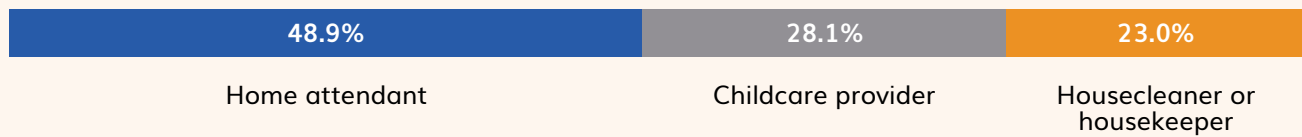
Beyond the pandemic, these realities perpetuate racial and gender inequality, as the low wages and poor conditions in this field fall upon a workforce predominated by immigrant women of color. Workers and their families are not the only ones affected: households who rely on domestic workers also suffer, as the dearth of good jobs contributes to high worker turnover and mounting labor shortages. While greater public investment from the state and federal government will be critical in reversing these trends, the City and County of San Francisco should consider a range of immediate policies to advance change in this sector.



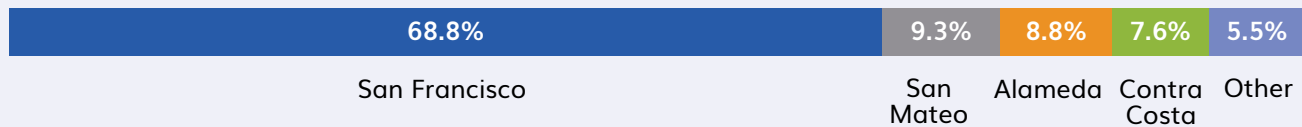
Workforce Overview

The figures below are estimates based on analysis of the Census Bureau's 2014-2018 American Community Survey five-year file. This survey data tends to underrepresent recent immigrants, non-citizens, and undocumented immigrants. The estimates should be interpreted with this limitation in mind.³

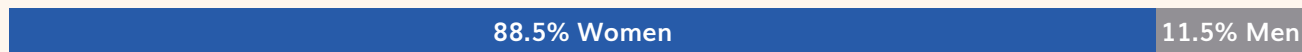
Type of Worker



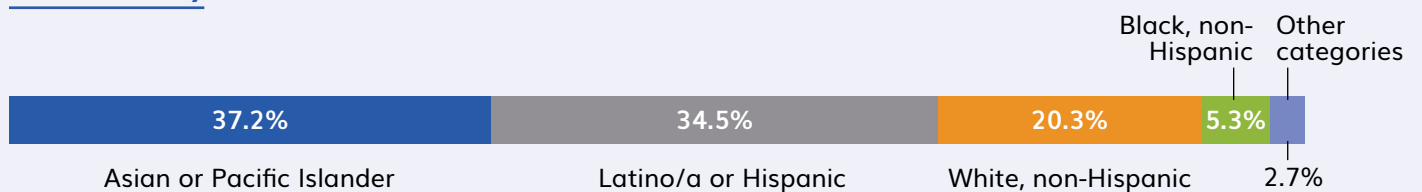
County of Residence



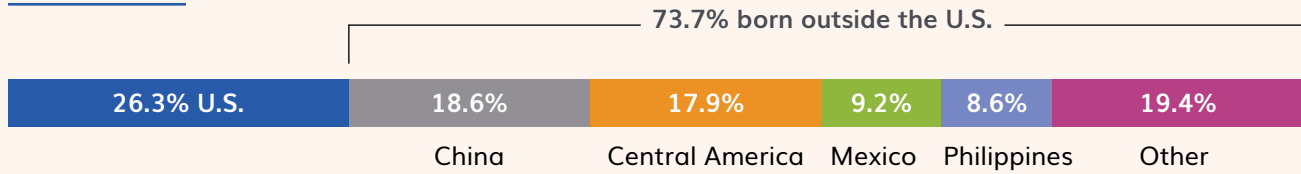
Gender



Race/Ethnicity



Place of Birth



Age

San Francisco domestic workers tend to be much older than workers in other low-wage industries.

1 in 4 domestic workers is 60 or older, and the median age is 50.

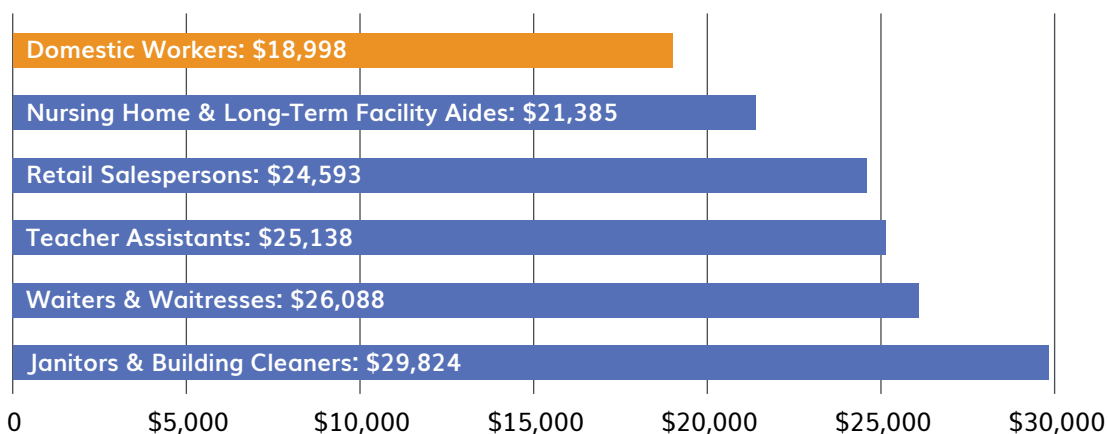
By contrast, the median age is 36 in retail and 33 in food services.

Employment Conditions

Domestic workers are paid less than other low-wage workers, and far below a living wage.

- According to Census Bureau data, the median annual pre-tax income of San Francisco domestic workers is only \$19,000—lower than that of most other low-wage occupations.⁴

Median Annual Earned Income in Select Low-Wage Occupations, San Francisco



Source: Author's analysis of 2014-2018 American Community Survey five-year data. Estimates are inflation-adjusted to 2020 dollars.

- Domestic workers' current wages fall far below living wage levels for all counties in the metro area. For a single worker with no children, the median domestic worker wage amounts to less than 50% of the living wage in San Francisco, which is \$21.15 an hour or \$43,993 annually.⁵ Yet 47% do have children to support, and 20% are single parents.
- Facing such economic hardship, at least 14% receive food assistance through SNAP. The true percentage is likely higher, given the underreporting of such reciprocity in official survey data.⁶
- Among workers surveyed by the author, 60% report that they do not earn enough to meet their living expenses. Many work for multiple households in order to assemble an income; this is common among housecleaners, 81% of whom work for more than one household.

Domestic workers have limited access to employee benefits and social safety net programs.

- 72% of respondents do not receive any benefits through their employer, such as health and dental insurance, paid time off, retirement contributions, or other forms of non-wage compensation.*
- 71% are paid by cash, personal check, or an app such as Venmo or PayPal, suggesting an informal employment arrangement. As a result, these workers likely lack access to unemployment insurance, paid family leave, disability insurance, and workers' compensation. As they retire or age, they may also lack access to Medicare and Social Security. Fewer than 40% of respondents report that they pay into these programs, either directly or through payroll deductions.
- 90% do not have any type of personal retirement savings.
- Less than 5% of respondents report that their employers provide retirement contributions as a fringe benefit.⁷

Employee Benefits and Retirement Savings among San Francisco Survey Respondents, 2019–2020

Receives benefits through employer



Has retirement savings



Receives retirement contributions from employer



Yes

* Unless otherwise noted, all following statistics on employee benefits, safety net programs, paid time off, and workplace hazards are based on the author's survey of San Francisco domestic workers.

One divergent trend emerges in relation to health insurance and healthcare coverage:

- 86% of respondents report that they are covered by some form of health insurance or plan.⁸
- 44% are covered through public programs, including Medi-Cal and Healthy San Francisco.
- Healthy San Francisco, which offers coverage to qualifying undocumented immigrants, appears especially crucial in boosting domestic workers' access to healthcare: approximately 20% of survey respondents, all of whom are migrant workers, report receiving coverage through that program. Furthermore, 72% of respondents had heard or read about the program.⁹

These healthcare coverage indicators should be interpreted with some caution, given the potential underrepresentation of undocumented workers in both the Census Bureau data and the author's survey. However, these same data sources show low levels of access to other types of safety net support, suggesting that the health coverage statistics do reveal a meaningful pattern of relatively broader access. Nevertheless, the number of uninsured individuals remains sizable, comprising at least 10–15% of the workforce. These basic indicators, moreover, do not address the quality or affordability of existing plans and programs among those with coverage.

Few domestic workers have access to paid time off.

- Only 17% of respondents receive paid time off or vacation days based on their terms of employment.
- 28% have ever accessed paid time off under San Francisco's Paid Sick Leave Ordinance. A larger share, 50%, say they have heard or read about that ordinance, indicating basic awareness of its existence and purpose.
- 33% have received some type of paid time off in the past 12 months, whether for illness, national holidays, or vacation. Two-thirds have received no paid time off.
- More than 10% were denied paid sick leave by an employer in the past 12 months.

Access to Paid Time Off among San Francisco Survey Respondents, 2019–2020

Receives paid time off as a formal employee benefit



Has accessed paid time off through the Paid Sick Leave Ordinance



Has received any type of paid time off, past 12 months*



* Note: Includes paid time off for illness, national holidays, or vacation that a respondent has accessed through any of the following means: formal employee benefits; San Francisco's Paid Sick Leave Ordinance; and informal or ad hoc provision by one's employer.

Workplace hazards are common and are exacerbated by the COVID-19 pandemic.

Access to paid leave and safety net programs is critical because domestic work is physically demanding and often dangerous. Home attendants lift and assist clients in ways that can strain and injure. Nannies keep up with young children and often contract their frequent colds and illnesses. Housecleaners handle toxic cleaning chemicals and maneuver vacuums, laundry, and garbage bags. All face the possibility of sexual harassment, assault, and workplace violence. And now, the risk of COVID-19 exposure compounds these dangers. Notably, the chances of injury and illness are further elevated because domestic workers are excluded from protections established by California's Occupational Safety and Health Act.¹⁰

Among San Francisco respondents:

- 22% have been injured on the job at least once in the past 12 months.
- 10% have been seriously injured, requiring medical attention, in the past 3 years.
- 12% have experienced verbal or physical aggression in the past 12 months, reporting that they have been yelled at, threatened, pushed, or physically hurt by an employer or client.

Injury and illness rates from other data sources add further context:

- The author's survey of domestic workers in the Los Angeles metro area found that approximately 25% said they had contracted a contagious illness on the job in the past year. That rate is even higher for nannies—38%—likely due to their close contact with children.
- National data from the Bureau of Labor Statistics reveals that home health aides experience higher rates of injury and illness than registered nurses and physical therapists. Compared to occupations beyond the healthcare sector, home health aides have somewhat lower overall rates of injury and illness than construction workers and building cleaners—but comparable or higher rates of back injury; soreness or pain; and sprains, strains, and tears.¹¹

Because domestic workers often lack access to workers' compensation, such workplace injuries can result in steep medical costs and lost wages.¹²

The COVID-19 pandemic has caused widespread job loss within this sector.

Official unemployment statistics for domestic workers are unavailable at the local level. But national trends, and survey data from other cities, indicate that the pandemic has caused unprecedented levels of job loss among domestic workers. There is little reason to believe that San Francisco is any exception.

- A review of multiple data sources suggests that the percentage of domestic workers out of work rose from less than 10% in February 2020 to a peak between 40–60% by early May, before stabilizing between 15–30% by August. When accounting for partial job loss, such as a housecleaner's reduction of clients, those rates are even higher.¹³
- These ranges are necessarily large due to data limitations involved in measuring domestic employment. It is not yet clear how the latest surge is affecting these trends.

- Available data indicates that housecleaners have been most severely affected by job loss. The author's Los Angeles survey found that 48% of housecleaners were out of work when contacted in April and May 2020, compared to 41% of nannies and 32% of home attendants. National estimates based on the Current Population Survey show a similar pattern. And the National Domestic Workers Alliance's weekly survey of Spanish-speaking domestic workers, primarily housecleaners, saw joblessness peak at 68% in early May 2020 before sliding to 30% in mid-August.¹⁴

Poor Conditions Create Short-Term and Long-Term Problems

The short-term consequences of inadequate employment conditions have been magnified by the COVID-19 crisis. Domestic workers who are now fully or partly jobless find themselves facing immense hardship, often with little chance of accessing unemployment insurance or other public assistance. Those who remain employed must confront the daily hazards of exposure, which are compounded by domestic workers' general exclusion from Cal/OSHA workplace safety protections. Low wages and limited access to paid time off create extra pressure to tolerate otherwise avoidable health risks.

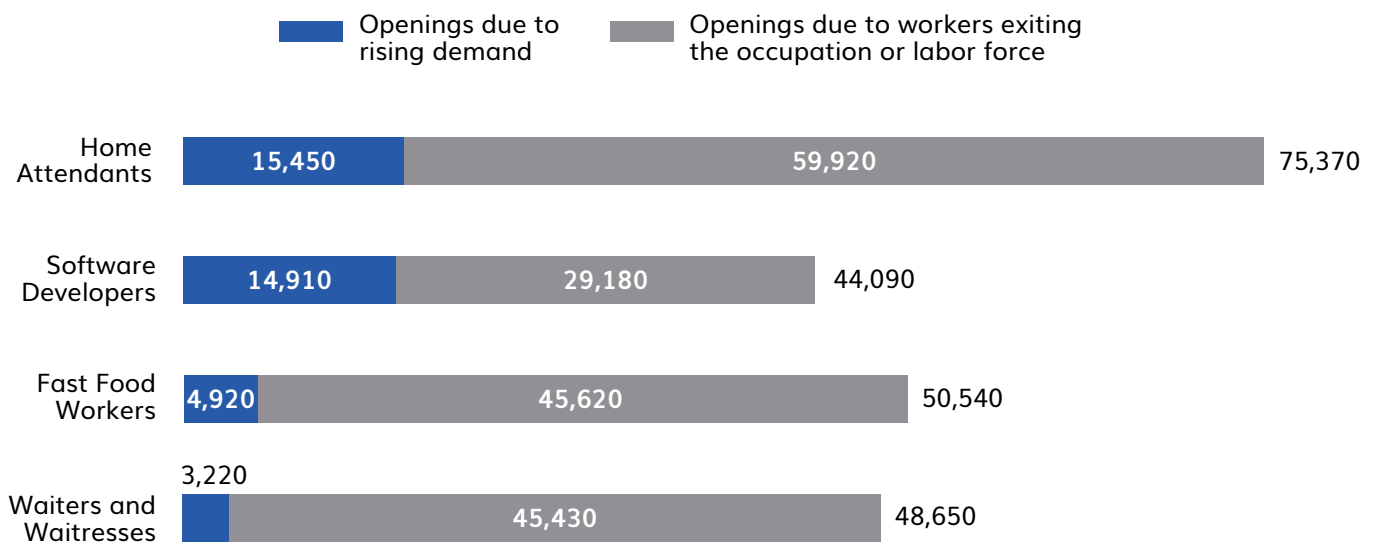
As the pandemic unfolds, however, a slower-moving crisis continues to build. Both nationally and locally, demand for home attendants is soaring, given the aging of the population and the advantages of "aging in place" instead of in nursing homes or institutions. Yet the labor supply is lagging behind, and this shortage leaves many without access to the care they need. Poor employment conditions exacerbate the shortage, causing turnover within the field and propelling workers away from the field entirely. Official employment projections capture the scale of this crisis. While these estimates include home attendants working in both institutional and non-institutional settings, the latter group is driving the change:¹⁵

- Both statewide and locally, home attendants are projected to see more job growth between the years 2016 and 2026 than any other occupation. Due to rising demand, this occupation is projected to add over 15,000 new positions in San Francisco and San Mateo Counties during that period, an increase of 44%—more job growth than among teachers, construction workers, and restaurant workers combined.
- Every year, however, approximately 6,000 home attendants in San Francisco and San Mateo leave the labor force or change occupations—more exits than in any other occupation. These exits result in 60,000 job vacancies to be filled between 2016–2026, on top of the 15,000 openings from rising demand.
- In total, over 75,000 job openings for home attendants need to be filled in San Francisco and San Mateo Counties between 2016–2026 to keep up with rising demand and occupational exits. Of these openings, 80% result from workers leaving the occupation, often due to inadequate wages and employment conditions.

The COVID-19 pandemic has likely exacerbated these trends, making it even more difficult to recruit and retain home attendants given the high risks posed by intimate, in-person work. On the demand side, the nursing home crisis amid the pandemic may further shift preferences away from institutional care, toward home-based care.

Occupational exits among cleaners and childcare workers are nearly as common as among home attendants, although projected job growth in those categories is much more modest. Thus, while cleaners and childcare workers may avoid the labor shortage seen in home care, high rates of occupational exit across domestic worker occupations can pose significant turnover costs: employers must recruit and onboard new workers, while forgoing the experience and skills left behind by workers exiting the field.

Projected Job Openings in San Francisco and San Mateo Counties, 2016-2026, Top Four Occupations



Source: Author's analysis of 2016-2026 Occupational Projections, State of California Employment Development Department¹⁶

Recommendations

Taken together, the immediate and long-term crises affecting domestic work underscore the need for policy action that will improve employment conditions. While greater public funding from the state and federal government will be critical in transforming this field, actions that the City and County of San Francisco can pursue now include:

- Strengthen enforcement of the Minimum Wage Ordinance and Paid Sick Leave Ordinance to ensure that domestic workers benefit from annual minimum wage increases and existing sick leave provisions.
- Expand access to paid time off by creating a portable benefits system, allowing domestic workers to accrue time off through the contributions of multiple employers. Explore such a benefits system for other programs as well, such as retirement savings.

- Continue funding and promoting Healthy San Francisco as a means to ensure healthcare access, especially for undocumented domestic workers. Dedicate adequate resources for targeted outreach to such workers.
- Protect and support domestic workers during the COVID-19 pandemic.
 - Create emergency workplace safety rules that are specific to domestic work. Legislation to include domestic workers under Cal/OSHA regulations recently passed the State Legislature but was vetoed by the Governor. As a result, there are no COVID-19 safety rules or guidelines in place for domestic work. The City and County should require domestic employers to abide safety precautions modeled upon Cal/OSHA's emergency COVID-19 regulations,¹⁷ including covering the cost of workers' personal protective equipment (PPE).
 - Extend hazard pay to domestic workers. In addition to performing essential labor, domestic workers are incurring out-of-pocket costs for PPE and safer commuting options, such as taxis and ride-hail services. Raising wages would dampen those financial burdens, boost worker retention, and compensate workers for the risks they are shouldering during the pandemic.

Acknowledgments

This research was supported by grant funding from the Washington Center for Equitable Growth. Design was provided by Jason Luz. Many individuals offered valuable guidance that shaped the original survey, including Rocio Avila, Eileen Boris, Juana Flores, Sarah Gonzaga, KC Ho, Ken Jacobs, Sarah Leadem, Daniel Schneider, Nik Theodore, and Megan Whelan. Worker center leaders and members, as well as online group moderators, generously facilitated survey distribution. Special thanks to the domestic workers who participated in the research, and to the California Domestic Workers Coalition, Chinese Progressive Association, Dolores Street Community Services, La Colectiva, Mujeres Unidas y Activas, and the National Domestic Workers Alliance.

Author

Isaac Jabola-Carolus is a Ph.D. Candidate in Sociology at The Graduate Center, CUNY. His dissertation examines the enforcement of labor standards within paid in-home care industries, with a focus on Los Angeles, San Francisco, New York City, and Seattle. He is currently a fellow at the Berkeley-based Center for Engaged Scholarship and a member of the Scholars Strategy Network.



Appendix: Methodological Details

The San Francisco survey was fielded between November 2019 and February 2020. The primary survey sample was recruited through targeted Facebook advertisements, an approach shown to be effective in studying hard-to-reach, industry-specific populations.¹⁸ In collaboration with the California Domestic Workers Coalition, a second sample was recruited through worker centers and Facebook groups. For the purposes of this report, the two samples have been pooled and analyzed jointly. Comparisons between ad-based and non-ad samples are explored in the author's ongoing research, and further information is available upon request. A total of 230 respondents participated in the San Francisco survey. The analysis presented here excludes IHSS providers, resulting in a sample size of 166.

All surveys were completed digitally, using the survey platform Qualtrics. As a participation incentive, respondents had the option to enter a drawing for one of five \$50 digital Target gift cards after completing the survey. The survey was available in English, Spanish, Russian, Korean, Nepali, and Haitian Kreyol, Tagalog (Filipino), and Chinese (simplified and traditional). Participants completed a set of screening questions upon reaching the survey website. To be included in the survey, workers were required to be at least 18 years of age; to have worked in a private home in the past week as a housecleaner, housekeeper, nanny, personal care aide, or home health aide; and to have performed that work in San Francisco.

Estimates from the U.S. Census Bureau's American Community Survey (ACS) were used to set targets for sample recruitment and to weight the final data to align with demographic benchmarks for this workforce in San Francisco. Following previous research by the Economic Policy Institute,¹⁹ home attendants are defined as home health aides (Census occupation code 3601) and personal care aides (3602) who work in one of the following industries: home health care services (Census industry code 8170); employment services (7580); individual and family services (8370); or private households (9290). Childcare providers include two groups: nannies, who are defined as childcare workers (4600) in private households (9290) or employment services (7580); and workers who provide childcare in their own homes, defined as childcare workers (4600) in child daycare services (8470) who are self-employed and not incorporated. Housecleaners are defined as maids and housekeeping cleaners (4230) in private households (9290). The ACS analysis presented in this report is based on the same definitions.

Notes

¹ The original survey data is drawn from the author's Care Worker Survey, a multi-city online survey conducted in 2019 and 2020. See Appendix for further methodological details.

² The precise size of the workforce is difficult to estimate because many domestic workers lack documentation or work authorization, and many work in informal employment arrangements. Official surveys tend to underrepresent such workers (see Note 3). According to 2014-2018 American Community Survey data, there were approximately 8,700 domestic workers employed by private households or agencies in San Francisco in 2018, but this figure likely underestimates the true size of the workforce. Given that limitation, and given rapid employment growth in home care since 2018, a figure of at least 10,000 is likely a more accurate estimate of the workforce size. When incorporating workers employed through public programs, the total estimate grows to over 30,000, as more than 20,000 IHSS providers are employed in San Francisco ("[Wage Increase for IHSS Caregivers](#)," San Francisco IHSS Public Authority, October 24, 2018).

³ American Community Survey (ACS) data was accessed through: Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek, *IPUMS USA: Version 10.0 [dataset]*, (Minneapolis, MN: IPUMS, 2020). For ACS limitations relating to immigration, see: Elizabeth M. Grieco, Luke J. Larsen, and Howard Hogan, "How Period Data Influence the Estimates of Recently Arrived Immigrants in the American Community Survey," *International Migration Review* 52, no. 1 (2018): 299–313; Eric B. Jensen, Renuka Bhaskar, and Melissa Scopilliti, "Demographic Analysis 2010: Estimates of Coverage of the Foreign-Born Population in the American Community Survey" (U.S. Census Bureau, 2015); Jennifer Van Hook and James D. Bachmeier, "How Well Does the American Community Survey Count Naturalized Citizens?," *Demographic Research* 29, no. 1 (2013): 1–32; and Jennifer Van Hook et al., "Recent Trends in Coverage of the Mexican-Born Population of the United States: Results From Applying Multiple Methods Across Time," *Demography* 51, no. 2 (2014): 699–726.

⁴ Estimates of median personal earned income are adjusted to 2020 dollars using annual August values of the Consumer Price Index (CPI) for the San Francisco metro area (see Bureau of Labor Statistics, "[All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted](#)," Series ID CUURS49BSA0). Adjusting for inflation, however, does not account for minimum wage increases implemented since 2018, the last year of data used in this analysis of the American Community Survey 2014-2018 five-year file. As a result, the estimates presented here may underestimate current median earnings. Since July 2018, the minimum wage has risen from \$15.00 to \$16.07, a 7.1% increase. The author's analysis of Current Population Survey data for 2018 and 2020 show that median wages in low-wage occupations have similarly risen, by approximately 7.6%. If such an increase has been fully realized in the domestic work sector, then annual earnings may be closer to \$20,000; but such a scenario is improbable, given the prevalence of minimum wage non-compliance in this sector. According to a recent analysis, an estimated 51% of private household workers in San Francisco were paid less than minimum wage between 2005 and 2018 (see Daniel J. Galvin, Jenn Round, and Janice Fine, "[A Roadmap for Strategic Enforcement: Complaints and Compliance with San Francisco's Minimum Wage](#)," Rutgers Center for Innovation in Worker Organization, 2020). Such widespread violations make it difficult to account for recent minimum wage increases when estimating current wages. Nevertheless, domestic workers' annual incomes likely remain lower than those of other low-wage workers, who have also benefited from recent minimum wage increases.

⁵ Amy K. Glasmeier and the Massachusetts Institute of Technology, "[Living Wage Calculator](#)." Living wage levels presented here are adjusted to 2020 dollars; annual figures assume full-time work of 2080 hours per year.

⁶ Kathryn Shantz and Liana Fox, "Precision in Measurement: Using State-Level Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families Administrative Records and the Transfer Income Model (TRIM3) to Evaluate Poverty Measurement," Working Paper SEHSD-WP2018-30, U.S. Census Bureau, 2018.

⁷ Workers reporting receipt of retirement contributions are almost all employed by formal home care or cleaning agencies.

⁸ This figure aligns with American Community Survey data, according to which 89% of San Francisco domestic workers have health coverage, and 42% have coverage through Medi-Cal or other public plans.

⁹ As of June 2020, Healthy San Francisco provides healthcare access to approximately 13,500 enrolled individuals citywide (author's email correspondence with San Francisco Department of Public Health, December 2020). The overwhelming majority of enrollees are Spanish speakers (SFDPH Office of Managed Care, "[Healthy SF Annual Report](#) (Fiscal Year 2016-17)," December 2017).

¹⁰ In 2020, the California State legislature passed SB 1257 to rectify domestic workers' exclusion from Cal/OSHA protections, but Governor Gavin Newsom vetoed the bill. As a result, households that hire domestic workers have no legal obligation to mitigate workplace hazards, inform workers about unsafe conditions, or provide workers with training or protective equipment. See Jacqueline Garcia, "[Governor Vetoes Bill Extending Protections to Domestic Workers](#)," *CalMatters*, October 1, 2020; Carolyn Said, "[California House Cleaners, Nannies, Caregivers Could Get New Workplace Protections](#)," *San Francisco Chronicle*, September 23, 2020; and Frank Shyong, "[In the Midst of Wildfires and a Pandemic, Domestic Workers Need Protections More than Ever](#)," *Los Angeles Times*, September 21, 2020.

¹¹ Author's analysis of U.S. Bureau of Labor Statistics, "[Case and Demographic Characteristics for Work-related Injuries and Illnesses Involving Days Away From Work](#)," Tables R97, R98, R99, and R100, 2018.

¹² UCLA Labor and Occupational Safety and Health Program, "[Hidden Work, Hidden Pain: Injury Experiences of Domestic Workers in California](#)," 2020.

¹³ Estimated job loss trends derive from three sources: (1) Paulina López González and Tracy Anderson, "[6 Months in Crisis: The Impact of COVID-19 on Domestic Workers](#)," National Domestic Workers Alliance/NDWA Labs, October 2020; (2) author's original survey of Los Angeles domestic workers, presented in Isaac Jabola-Carolus, "[Unprotected on the Job: How Exclusion from Safety and Health Laws Harms California Domestic Workers](#)," CUNY Graduate Center, September 2020; and (3) author's analysis of the monthly Current Population Survey (CPS), conducted by the U.S. Census Bureau and the Bureau of Labor Statistics. CPS data for January 2020 through October 2020 was accessed through: Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren, *IPUMS, Current Population Survey: Version 8.0 [dataset]*, (Minneapolis, MN: IPUMS, 2020). The typical CPS variable for "employment status" offers the most conservative monthly estimates, according to which the overall percentage of privately employed domestic workers out of work jumped from 7% in February to 28% in April, before leveling around 17% from July to October. "Out of work" is defined here as any employment status other than "employed, at work." I include workers coded as "employed, not at work" and "not in the labor force," due to employment status misclassification during the COVID-19 pandemic (Heidi Shierholz, "[The Economy President-Elect Biden Is Inheriting](#)," *Economic Policy Institute*, December 4, 2020).

In May 2020, however, the CPS introduced a question to assess whether a worker was unable to work due to the pandemic, and this variable suggests a higher rate of job loss (for further detail, see Note 14). Measured with this variable, the percentage of domestic workers unable to work in May 2020 is nearly 10 points higher than when measured with the typical "employment status" variable. Based on this discrepancy, I conclude that a low estimate for peak unemployment among domestic workers in 2020 is approximately 40%, or roughly 10 points higher than an April estimate based on the typical "employment status" variable. This low estimate is consistent with my Los Angeles survey, which found that approximately 38% of respondents were out of work in April and May 2020. The high estimates, including the peak estimate of 60%, are informed by the National Domestic Workers Alliance (NDWA) data. Although based on a non-probability sample, NDWA's weekly surveys likely reached undocumented and informally employed workers more effectively than the CPS, thus offering a valuable reference point. Yet the NDWA data also likely overrepresent housecleaners, who have been most affected by job loss; as a result, the peak measurement of 68% may be an overestimate of unemployment among domestic workers overall. I assume that reasonable high-end estimates may be 5-10 percentage points lower than the NDWA measurements.

¹⁴ Based on the core CPS employment status question, the percentage of housecleaners out of work ballooned from 9.5% in February 2020 to nearly 50% in April, before leveling around 20% from July to October. The CPS's supplemental COVID-19 question yields an even higher peak estimate, 63%, for May 2020. The discrepancy likely stems from question wording, as other occupations also see a higher estimate from the supplemental question than from the core employment status question. Specifically, while the supplemental question is potentially confusing from a domestic worker's perspective, it likely yields higher estimates because it uses a broader time frame and explicitly asks whether one's work has been affected by the pandemic: "At any time in the last 4 weeks, were you unable to work because your employer closed or lost business due to the coronavirus pandemic?" In addition, CPS interviewers are instructed to "Enter Yes for the self-employed who lost work or customers because of the Coronavirus pandemic." No housecleaners are classified as self-employed in the January-October dataset,

but interviewers may have coded housecleaners reporting a loss of most clients as "unable to work." With its more expansive wording, this supplemental question may more accurately capture the scale of job disruption caused by the pandemic than the traditional employment status question.

¹⁵ Employment projections are based on the author's analysis of: State of California Employment Development Department, "[2016-2026 Occupational Employment Projections, San Francisco-Redwood City-South San Francisco Metropolitan Division \(San Francisco and San Mateo Counties\)](#)," accessed November 2020. The term "home attendants" is used here to encompass "personal care aides" (SOC code 39-9021) and "home health aides" (31-1011). Occupation codes for the comparison groups are: 25-2000 (Preschool, Primary, Secondary, and Special Education School Teachers); 47-2000 (Construction Trades Workers); and 35-3000 (Food and Beverage Serving Workers). For information on the regional definitions used for projections, see State of California Employment Development Department, "[Metropolitan Statistical Areas in California](#)," accessed November 2020.

¹⁶ Fast food workers include occupation codes 35-3021 (Combined Food Preparation and Serving Workers, Including Fast Food) and 35-3022 (Counter Attendants, Cafeteria, Food Concession, and Coffee Shop). Software developers include codes 15-1132 (Software Developers, Applications) and 15-1133 (Software Developers, Systems Software). Waiters and waitresses are occupation code 35-3031.

¹⁷ See California State Department of Industrial Relations, "[COVID-19 Prevention](#)," 2020, accessed December 2020.

¹⁸ Daniel Schneider and Kristen Harknett, "[What's to Like? Facebook as a Tool for Survey Data Collection](#)," *Sociological Methods & Research*, 2019, 1–33.

¹⁹ Julia Wolfe, Jori Kandra, Lora Engdahl, and Heidi Shierholz, "[Domestic Workers Chartbook: A Comprehensive Look at the Demographics, Wages, Benefits, and Poverty Rates of the Professionals Who Care for Our Family Members and Clean Our Homes](#)," Economic Policy Institute, 2020.

BOARD of SUPERVISORS



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Fax No. (415) 554-5163
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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448
FROM: Alisa Somera, Clerk, Public Safety and Neighborhood Services Committee
Board of Supervisors
DATE: November 4, 2021
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 211132 Police Code - Domestic Workers' Access to Paid Sick Leave Through a Portable System

Ordinance amending the Police Code to establish a portable Paid Sick Leave (PSL) system for domestic workers, and to require hiring entities that do not directly provide PSL to provide PSL payments to domestic workers using the portable system.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: 12/8/2021

x No Comment
Recommendation Attached

Kerry Birnbach, Commission Secretary
Chairperson, Small Business Commission

c: Chair Gordon Mar, Public Safety and Neighborhood Services Committee
Alan Wong, Office of Supervisor Gordon Mar

President, District 10
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Shamann Walton

PRESIDENTIAL ACTION

Date: 11/15/2021

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____

(Primary Sponsor)

Title. _____

Transferring (Board Rule No 3.3)

File No. _____

211132

Ronen

(Primary Sponsor)

Title. Police Code - Domestic Workers' Access to Paid Sick Leave Through a Portable System

From: Public Safety & Neighborhood Services

Committee

To: Budget & Finance

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____

Replacing Supervisor: _____

For: _____

(Date)

(Committee)

Meeting

Start Time: _____

End Time: _____

Temporary Assignment: Partial Full Meeting



Shamann Walton, President
Board of Supervisors

From: [Chema Hernández Gil](#)
To: [Mar, Gordon \(BOS\)](#); [Haney, Matt \(BOS\)](#); [Safai, Ahsha \(BOS\)](#)
Cc: [Theresa Rutherford](#); [Jalipa, Brent \(BOS\)](#)
Subject: SEIU 1021 members support SF Paid Sick Leave
Date: Wednesday, December 8, 2021 9:59:26 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

I am writing on behalf of the SEIU Local 1021 San Francisco Committee on Political Education (COPE). SF COPE has carefully heard and considered the Domestic Workers' Access to Paid Sick Leave Through a Portable System (also known as SF Paid Sick Leave) ordinance that is on today's Budget & Finance Committee agenda and has decided to fully support this legislation. We believe that this is an important way of addressing the systemic inequality that plagues nearly all domestic workers, most of them immigrant women.

We thank you for sponsoring this innovative mechanism and hope it is quickly implemented.

Sincerely,

Chema Hernández Gil
Political Organizer
SEIU Local 1021

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Somera, Alisa \(BOS\)](#)
Subject: FW: Public Comment - PTO
Date: Thursday, November 4, 2021 8:46:40 AM

From: Pamela Tau <ptlee14@gmail.com>
Sent: Tuesday, November 2, 2021 11:18 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Public Comment - PTO

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Honorable Members of the SF Board of Supervisors,
I am writing in support of the proposed PTO legislation.
My name is Pamela Tau Lee, I live at 781 16th Ave., D1.

In 2011, both my parents became ill. My dad, John from a fall and my mother was beginning to show signs of severe dementia that eventually turned into full blown Alzheimers.

Over the course of 10 years, (my mother recently passed away 1/25/2021 from COVID), eight wonderful individuals: Felt, Rex, San, Joy, Ed, Rowena, Connie, Le, Doria and Marissa provided professional and loving care to my parents. Initially my parents received care at home but around 2016 I needed to move them to a small assisted living facility in Millbrae.

As a former employer, I support both the initial 2016 and current proposed legislation. I support the original because I knew that most of my parent's caregivers worked more than one job. I could see they were exhausted, but the quality of their care never waived.

At age 73, in the event we need care, my husband and I have made plans to be able to stay at home as long as possible; I am in support of the current proposed legislation. It offers an affordable, reasonable and clear process to provide an environment that respect the hard work of care givers and domestic workers. It is my hope that If San Francisco passes this initiative, it can spread to other countries like Millbrae and across the country.

Thank you
Pamela Tau Lee

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Ronen

Subject:

[Police Code - Domestic Workers' Access to Paid Sick Leave Through a Portable System]

The text is listed:

Ordinance amending the Police Code to establish a portable Paid Sick Leave (PSL) system for domestic workers and to require hiring entities that do not directly provide PSL to provide PSL payments to domestic workers using the portable system.

Signature of Sponsoring Supervisor: /s/ Hillary Ronen

For Clerk's Use Only