



Legislation Text

File #: Int 1084-2016, Version: A

Int. No. 1084-A

By Council Member Cohen, The Speaker (Council Member Mark-Viverito), and Council Members Palma, Rose, Van Bramer, Rodriguez, Rosenthal, Cabrera, Lander, Treyger, Deutsch, Dromm, Chin, Reynoso, Levin, Vallone and Kallos

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of a division of paid care

Be it enacted by the Council as follows:

Section 1. Section 20-a of the New York city charter is amended by adding a new subdivision h to read as follows:

h. Division of paid care. The director of the office of labor standards shall establish a division of paid care within the office of labor standards and shall appoint the division head.

§ 2. The administrative code of the city of New York is amended by adding a new title 32 to read as follows:

TITLE 32  
LABOR AND EMPLOYMENT

Chapter 1 Office of Labor Standards.  
Chapter 2 Division of Paid Care.

CHAPTER 1  
OFFICE OF LABOR STANDARDS

§ 32-101 Reserved.

CHAPTER 2  
DIVISION OF PAID CARE

§ 32-201 Definitions. For the purposes of this chapter, the following terms have the following meanings:

Advocate. The term “advocate” means the advocate of the division who reports to the division head.

Child care worker. The term “child care worker” means a person paid to work in a home, including in the residence of an authorized child care provider, for the purpose of caring for one or more children.

Consumer directed personal assistant. The term “consumer directed personal assistant” has the same meaning as is ascribed to the term “personal assistant” in subdivision 3 of section 365-f of the social services law.

Director. The term “director” means the director of the office of labor standards established pursuant to section 20-a of the charter.

Division. The term “division” means the division of paid care established pursuant to subdivision h of section 20-a of the charter.

Employer. The term “employer” means any person who employs a paid care worker in the city of New York.

Home care worker. The term “home care worker” means a paid home health aide, personal care aide, home attendant, consumer directed personal assistant or other person whose primary responsibility is the provision of in-home assistance with simple health care tasks, personal hygiene services, and household tasks performed as part of paid care work.

Paid care worker. The term “paid care worker” means a child care worker or a home care worker.

Paid care services agency. The term “paid care services agency” means an organization primarily engaged in arranging or providing directly or through contract arrangement the services of paid care workers.

State-approved education or training program. The term “state-approved education or training program” means a program that provides education or training for persons to meet any requirement established by the New York state department of health for providing home health aide services or personal care services, which program is approved by the New York state department of health or the New York state education department.

§ 32-202 Division; powers and duties. a. The division shall assist the director in developing policies and

programs that apply to paid care workers.

b. The division shall conduct and promote public information and outreach campaigns, and in performing such activities the division shall seek to coordinate with appropriate stakeholders, such as other government agencies, worker advocacy groups, community and labor and employment organizations, paid care workers, employers and care recipients, to inform paid care workers, employers and care recipients about:

1. Their rights and obligations under applicable federal, state and local laws, including through regular informational clinics in each of the five boroughs to inform paid care workers about relevant labor and employment standards;

2. Their eligibility for benefits, as applicable;

3. The availability of low-cost health insurance offerings, immigration-related resources and English language classes;

4. Financial and tax credit information;

5. Health and safety issues in home-based workplaces, including those associated with household tasks performed as part of paid care work;

6. State-approved education or training programs and other worker training programs offered by or in conjunction with community organizations, including but not limited to costs of tuition and course materials, availability of free or low-cost programs in the city, trainees' rights and employment rates upon completion of a training program in the city, with such information conveyed in a pamphlet and on the division's website; and

7. Any other matters that the division deems relevant.

c. The division shall engage in and promote research on the paid care industry, and in performing such activities the division shall seek to coordinate with appropriate stakeholders as listed in subdivision b of this section, with the research covering the following topics:

1. The demographics of paid care workers and their clients and employers in the city, disaggregated by, at a minimum, age, gender, ethnicity and preferred language;

2. Working conditions and market standards in the paid care industry, including wages, terms of employment, benefits and non-wage supports;

3. Health and safety issues in home-based workplaces, including those associated with housecleaning tasks performed by paid care workers as part of their paid care work;

4. Employer compliance with applicable labor and employment laws and barriers to such compliance;

5. The registration status of elder care or case managers with the national associations that establish standards for the profession;

6. The practices of entities offering paid care referral or placement assistance, including the practice of charging placement fees to paid care workers, employers and care recipients;

7. Policies and programs related to non-wage supports, such as state-approved education or training programs, other worker education and training programs, medical equipment to assist either workers or care recipients, technological tools that promote fair labor standards, health insurance and transportation;

8. The effectiveness of, and recommendations for the expansion of, child care and home care worker cooperatives in the city; and

9. Any other matters that the division deems relevant.

d. The division shall seek to coordinate with and, where appropriate, may contract with appropriate stakeholders as listed in subdivision b of this section to provide some or all of the workforce development programming and training to paid care workers described in such subdivision.

e. The division shall establish a working group with no fewer than five members chosen from among appropriate stakeholders as listed in subdivision b of this section. Such working group shall meet at least once a year, as convened by the division, to provide recommendations for assisting the paid care workforce and recommendations for model standards for the paid care worker industry. The division shall establish the working group within one year of the effective date of the local law that added this subdivision.

f. The division shall seek to work with the New York state department of health to expand the New York

state home care services worker registry established pursuant to section 3613 of the public health law.

§ 32-203 Advocate; powers and duties. a. The advocate and division staff shall engage with the paid care industry to address workforce concerns, including by:

1. Developing a system to assist paid care workers to obtain information about their rights under federal, state and local labor and employment laws and about the appropriate federal, state and city agencies and officials, community organizations and legal services organizations that provide assistance with respect to potential violations of labor and employment laws;

2. Developing a system to assist paid care workers to submit complaints regarding potential violations of such laws through a hotline, a texting number and an online submission mechanism and responding to such complaints by providing referrals to other agencies as appropriate;

3. Seeking to coordinate with and, where appropriate, contracting with appropriate stakeholders as listed in subdivision b of section 32-202 to operate such systems or elements thereof;

4. Tracking the status and outcome of submissions to the systems created by paragraphs 1 and 2 of this subdivision; and

5. Coordinating with 311 to ensure that questions regarding paid care industry issues are referred to the division.

b. With respect to individual employers against whom the division receives complaints, the advocate shall seek to identify and notify appropriate agencies about potential systemic violations of labor and employment laws, including those involving:

1. The practices of paid care services agencies that may constitute violations of applicable federal, state and local laws;

2. The operation of any unlicensed paid care services agencies in the city;

3. The exploitation and abuse of paid care workers, including retaliation, harassment, discrimination and trafficking; and

4. The compliance of the city and its contracted home care providers with relevant laws.

§ 32-204 Website and reporting. The division shall post on the division's website and submit to the speaker of the council, beginning no later than one year after the effective date of this law and annually thereafter, the following information for the preceding calendar year:

a. The results of the research conducted as required by subdivision c of section 32-202;

b. The number of complaints received by the systems, the types of information provided and the number of referrals made pursuant to subdivision a of section 32-203;

c. The results of the findings made pursuant to subdivision b of section 32-203 regarding any systemic legal allegations;

d. Any recommendations for assisting the paid care workforce and any recommendations for model industry standards made by the working group pursuant to subdivision e of section 32-202;

e. Education and outreach efforts made by the division; and

f. Any other information the division deems appropriate.

§ 3. This local law takes effect 180 days after it becomes law, except that the department of consumer affairs may take all actions necessary for its implementation, including the promulgation of rules, before such effective date.

AD; JR; ML  
LS # 6484; 6519  
08/08/16 3:22 p.m.