AN ACT to:

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

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

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

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Section 11-4B is added as follows:

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

(a) Legislative findings.

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

(A) minimum wage;

(B) payment for all hours worked;

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

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

(E) worker’s compensation.

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

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

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

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

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

(E) domestic workers in the County who live in their employer’s residence are generally paid less and work
longer hours than domestic workers who do not live at
their employer's residence; and
(F) domestic workers in the County are often isolated and
unable to experience the peer to peer networking that is
necessary for organized labor movements.

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

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

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

_Disclosure statement_ means a document confirming that:

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

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

_Domestic service_ means, when primarily performed in a home of a
recipient of the service[, or in connection with work that is primarily
performed in a home,] located in the County:

(1) caring for a child;

(2) serving as a companion to a sick, convalescing, disabled, or
elderly individual;

(3) housekeeping:
(4) cooking;
(5) cleaning; or
(6) laundry; [for
(7) any other work which would traditionally be done by members of
   a household without pay.]]

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

(1) a registered nurse, licensed practical nurse, or certified nursing
    assistant who is licensed or certified by the Maryland Board of
    Nursing;

(2) a child, parent, spouse, or other member of the immediate family
    of the employer;

(3) an au pair; or

(4) an individual who [[is authorized to organize for the purpose of
    collective negotiation with the State as an individual home care
    provider under Executive Order 01.012007.15.]] primarily serves
    as a companion to a disabled or elderly individual who is unable
    to care for himself or herself, and who is not employed by an
    agency.

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

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

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

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

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

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

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

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

1. days and hours of work;
2. wages;
3. paid time off;
4. unpaid time off;
5. frequency of payment of wages;
6. deductions from wages;
(7) eligibility for and calculation of overtime wages;
(8) duties;
(9) right of the employer, if any, to require the domestic worker to perform duties that are not specified in the contract;
(10) living accommodations provided by the employer, if any, including deductions for rent;
(11) meals provided by the employer, if any, including deductions for meals;
(12) time allowed for breaks and meals during work hours;
(13) required notice, if any, before the employer or domestic worker terminates the contract;
(14) severance wages, if any, if the employer terminates the contract before the end of the contract period;
(15) contract period;
(16) reimbursement for work-related expenses; and
(17) notice of employment rights under State law.

(d) Living accommodation. Any dwelling unit that includes living accommodations for a domestic worker must meet all minimum standards for a dwelling unit in Chapter 26 and the worker must have:

(1) a private room for sleeping with a door that can be locked except as provided in Subsection (e));
(2) reasonable access to a kitchen;
(3) reasonable access to a bathroom; and
(4) reasonable access to laundry facilities.

(e) [Exception. A private room for sleeping with a door that can be locked is not required for a live-in worker serving primarily as a companion to]
a disabled or elderly person unable to take care of himself or herself if
the worker:

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

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

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

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

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

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

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

11-6. Filing complaints.

(a) Definition. In this section “domestic worker” has the meaning stated in
Section 11-4B.
(b) Complaint. Any consumer or domestic worker may file a written
complaint with the Director.
(c) **Contents.** [The] A complaint should state the name and address of the person alleged to have committed [the] a violation of this Chapter, describe the violation, and provide any other information that the Office requires. However, the Director may act on a complaint that is not complete. The Director may investigate any violation of and enforce this Chapter without receiving a complaint.

(d) **Referral to Department of Housing and Community Affairs.** The Director must refer a complaint from a domestic worker alleging living accommodations that do not comply with Section 11-4B(d) to the Department of Housing and Community Affairs for investigation and enforcement.

(e) **Referral to the Office of Human Rights.** The Director must refer a complaint from a domestic worker alleging a discriminatory employment practice to the Office of Human Rights.

(f) **Referral to the Commission for Women.** The Director may refer a domestic worker to the Commission for Women Counseling and Career Center for additional assistance if the Director determines that the services offered there would benefit the worker.
Sec. 3. Effective Date.

This Act takes effect 180 days after it becomes law.

Approved:

Michael J. Knapp, President, County Council

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council