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A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To declare the existence of an emergency with respect to the need to extend amendments to the Universal Paid Leave Amendment Act of 2016 to prohibit the reduction of private market short-term disability benefits based on actual or estimated paid leave benefits to which an eligible individual may be entitled to from the District, regardless of in which jurisdiction the policy was issued or written; and to extend amendments to Title I of the Insurance Trade and Economic Development Amendment Act of 2000 to make the prohibition of offsetting or reducing benefits under a private market short-term disability insurance policy based on estimated or actual benefits received under the Universal Paid Leave Amendment Act of 2016 enforceable under that law, regardless of the jurisdiction in which the insurance policy was issued or written.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Short-Term Disability Insurance Benefit Protection Clarification Emergency Declaration Resolution of 2025.”

Sec. 2. (a) There exists an immediate need to extend the Short-Term Disability Insurance Benefit Protection Clarification Temporary Amendment Act of 2024 (D.C. Law 25-215), expiring May 1, 2025, to protect benefits from the District’s Universal Paid Leave program and benefit payments from short-term disability insurance plans for District workers who are entitled to both.

(b) Many District employers provide optional, private short-term disability insurance plans as part of the compensation package paid and available to employees. These plans provide enrolled employees with partial income replacement for the employee’s absence from work due

37 to recovery from injury or illness, including postpartum recovery. A typical short-term disability  
38 plan provides between 40 and 60% of the employee’s salary up to a duration of between 3 to 6  
39 months, based on documented medical need. Some employers pay the premiums for these plans,  
40 while many employers require employees to pay all or part of the premiums.

41 (c) The District’s Universal Paid Leave (“UPL”) program launched in July 2020. It  
42 provides benefits, in the form of partial wage replacement, to District workers who need to take  
43 time off from work for events associated with the birth or placement of a new child, including  
44 bonding (“parental leave”), recovery from serious illness or injury (“medical leave”), or caring  
45 for a family member with a serious illness or injury (“family leave”). District employers pay  
46 quarterly contributions into a social insurance fund from which benefits are paid to eligible  
47 workers when a qualifying leave event arises.

48 (d) The UPL program provides up to 12 total weeks of benefits for parental leave,  
49 medical leave, and family leave.

50 (e) Many District workers use the public and private programs together, relying on them  
51 to achieve closer to full wage replacement in total and to extend the period of wage replacement  
52 to more fully cover unpaid periods of leave from work necessitated by sometimes complex and  
53 lengthy medical needs.

54 (f) In 2021, the Council learned that, since the UPL program began paying benefits to  
55 workers, private insurance companies providing coverage to District workers were offsetting the  
56 amount of benefits paid under their short-term disability plans by the amount of benefits the  
57 employee was expected to receive from the District’s UPL program, regardless of whether the  
58 beneficiary had applied for or received those paid leave benefits or not, and regardless of the  
59 purpose for which the leave was used (i.e., parental bonding leave rather than medical leave).

60 (g) In Council Period 24, the Committee on Labor and Workforce Development (“Labor  
61 Committee”) worked to partially close this coordination of benefits loophole to prohibit benefit  
62 offsetting by including amendments to the Universal Paid Leave Act of 2016 (D.C. Law 21-264)  
63 in the Fiscal Year 2022 Budget Support Act of 2021 (D.C. Law 24-45).

64 (h) It later came to the attention of the Labor Committee that the Department of  
65 Insurance, Securities, and Banking’s (“DISB”) ability to enforce the anti-offsetting law, as  
66 intended, was hampered by the fact that the agency’s enforcement authority is typically limited  
67 to insurance policies that were written or issued in the District. Thus, DISB was likely unable to  
68 take enforcement action against an insurer for unlawfully offsetting UPL benefits for District-  
69 based employees because the employer’s short-term disability policy was written or delivered  
70 outside the District.

71 (i) Some employers of District employees—such as national employers or those based in  
72 other states—may purchase a policy that was written or delivered outside the District. It was  
73 previously reported to the Labor Committee that several insurance companies do not believe  
74 their short-term disability benefit is protected by the District’s anti-offsetting provision and  
75 Council offices continue to hear reports of District workers being victims of offsetting practices.

76 (j) The Council did not intend for UPL benefits to reduce or limit workers’ access to  
77 short-term disability benefits as:

78 (1) The UPL law states that the right to UPL benefits is not to be diminished by a  
79 collective bargaining agreement, by any other contract, or by an employer policy;

80 (2) The law enumerates 2 programs, unemployment insurance and long-term  
81 disability insurance, that, if an individual is receiving benefits under those programs, will make

82 the individual ineligible for UPL benefits, implying that individuals are permitted to receive  
83 benefits under other programs like short-term disability;

84 (3) The law states that the UPL benefits shall not prevent an employer from  
85 supplementing or providing greater benefits than required under the UPL law;

86 (4) Individual workers often use the programs for different purposes, such as UPL  
87 for bonding leave and short-term disability for postpartum recovery which are subject to  
88 different time restrictions; and

89 (5) The UPL program and short-term disability insurance have completely  
90 separate and independent funding mechanisms.

91 (k) Under the UPL law, it is unlawful for any person to interfere with an employee's right  
92 to UPL. Using the UPL benefits as an offset for short-term disability benefits renders the UPL  
93 benefit meaningless because an employee receives no more benefit than they would in the  
94 absence of UPL; that is interference.

95 (l) The intent of this legislation is to continue to strengthen DISB's enforcement authority  
96 to prevent interference by including an extraterritoriality clause that requires application of the  
97 law regardless of the jurisdiction in which the private market short-term disability insurance  
98 policy was written or issued.

99 (m) The Council initially passed emergency legislation to safeguard the benefits of  
100 District workers on July 11, 2022, and the corresponding temporary legislation went into effect  
101 December 23, 2022; the legislation was renewed in a second round of emergency and temporary  
102 that went into effect July 26, 2023 and November 28, 2023, respectively; and the legislation was  
103 renewed in a third round of emergency and temporary that went into effect on July 18, 2024 and  
104 September 18, 2024, respectively. The current temporary measure will expire on May 1, 2025,

105 and action must be taken to enact a new round of legislation while passage of the permanent bill  
106 is pending in the current Council period.

107           Sec. 3. The Council of the District of Columbia determines that the circumstances  
108 enumerated in section 2 constitute emergency circumstances making it necessary that the Short-  
109 Term Disability Insurance Benefit Protection Clarification Emergency Amendment Act of  
110 2025 should be adopted after a single reading.

111           Sec. 4. This resolution shall take effect immediately.