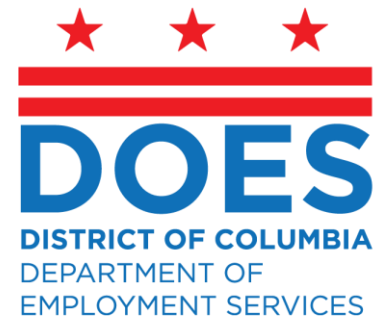


The  
Georgetown  
Firm



## ASSLA STUDY

September 23, 2022

### FY21 Accrued Sick and Safe Leave Study

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Requested by:  
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# Executive Summary

The Georgetown Firm was retained to perform a study in support of Section 16 of the Sick and Safe Leave Act of 2008, as amended (ASSLA), which requires the District of Columbia (District or D.C.) to report on ASSLA's economic impact on the private sector. The study is intended to assess, based on a sample of District businesses: (1) The compliance level of businesses with the posting requirements; and (2) whether companies are utilizing staffing patterns to circumvent the intention of this Act. ASSLA and the related acts, the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA) and the COVID-19 Emergency Response Act of 2020 (CREA), collectively referred to herein as "the Acts," enable employees who spend 50% or more of their time in the District to receive paid time off to care for themselves or a family member. Following precedent, The Georgetown Firm's study included an internet-based survey, semi-structured interviews with District of Columbia Government officials, and focus groups. Queries were posed to elucidate the effectiveness of practices to make employees aware of their rights and ascertain the economic impact of the Acts.

The Georgetown Firm developed the survey, foundationally following Dr. Donald A. Dillman's<sup>1</sup> recommended practices for survey methodologies. It was distributed online via email. Concerning distribution, relevant information to obtain email addresses was collected from the Office of Wage-Hour, the District of Columbia Board of Elections, the Small Business Administration, the Book of Lists, and the Department of Small and Local Business Development. Email addresses were compiled, and the survey was distributed to 62,486 recipients. Electronic distribution occurred at random intervals.

The survey was designed and scored for both respondent fatigue and accessibility. The final survey scored in the low range for respondent fatigue averaging three minutes per respondent and was found to be at the highest level for accessibility. The survey was distributed to recipients in both English and Spanish.

The survey included 41 questions, resulting in a maximum of 21 logic-driven questions per type of respondent. Questions displayed were only those applicable to the particular respondent and based on prior responses (i.e., an employee who did not need leave related to Covid-19 was not posed questions regarding an employer's response to their request for leave, and so on).

The survey yielded 374 survey responses. Of these, 129 were disqualified, enabling a statistically valid sample. Of the qualified respondents, 52.75% were employees, while

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<sup>1</sup> *Consistent with Hoddinott & Bass findings, components of the methodology were adapted to meet the abbreviated time table however all principles were applied in the survey design.*

47.25% were employers. Respondents reported representing all 16 categories of industries, with 9.6% reported as other. The top three categories of reported industries responses identified as respondents in (1) government 24.5%, (2) healthcare and social assistance 13.8%, and (3) hospitality 10.6%, industries. The study considered the daycare, construction, security, food service, and government industries. The internet survey was available in Spanish to enable expanded participation.

The sampling frame consisted of individuals employed as employees in the District of Columbia during the fiscal year 2021 and managers or owners of organizations operating in the District during the fiscal year 2021. The internet-based survey was distributed via email to a collection of district residents and businesses. Email addresses were accumulated from a database maintained by the Department of Employment Services (DOES) by matching email addresses with a list of registered voters acquired from the District of Columbia Board of Elections (BOE), a database of small businesses compiled from the Department of Small and Local Business Development (DSLBD) and a database of small businesses located in the D.C. Metropolitan area inclusive of Maryland and northern Virginia maintained by the Small Business Association. Additional efforts to increase participation included social media-based outreach.

Purposive sampling methodologies<sup>2</sup> were applied in the form of focus groups to further elucidate the evaluation of the existing outreach effort and provide information to develop strategies for improving the effectiveness of OWH's outreach. These focus groups further informed an understanding of ASSLA compliance and access in the selected industries.

Semi-structured interviews were held with the Department of Employment Services (DOES) and the Office of the Attorney General (OAG) representatives. The Department of Licensing and Consumer Protection<sup>3</sup> (DLCP) opted not to participate in this year's interviews.

## Survey Results

- Employees and employers reported similar levels of compliance with ASSLA and COVID-19 Emergency Act provisions; however, compliance was found to be under 55%.

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<sup>2</sup> Gideon, L. (2012). *Handbook of Survey Methodology for the Social Sciences* (1st ed. 2012. ed.). New York, NY: Springer New York: Imprint: Springer.

- Representing an improvement from prior years, over half (approximately 53.4%) of employees reported being aware of ASSLA and EESLA and informed about their right to access paid leave under ASSLA.
- Reported compliance with ASSLA poster requirements increased from 2020 by approximately 2% per employees and 10% per employers; however, a disparity continues to exist; employers reported approximately 12% higher rate of compliance with ASSLA than employees

### Focus Groups/Follow Up Interviews

- Despite the awareness of the Acts, employees continued to report that they did not and would not request leave for fear of being laid off or becoming unemployed. This was particularly prevalent in the construction industry. The majority of the participants indicated that they would not bring requests for leave if at all avoidable.
- Employees in the food service industry also reported an awareness of the Acts however cited two different rationales for avoiding leave requests. Some participants indicated a fear of businesses surviving as a result of the pandemic and therefore did not find requesting leave to be in their best interest. One cited a need to support the continued operations of the business, while another cited a need to earn money while they were able to do so. Some participants indicated that paid leave would result in less compensation than they currently make, creating a budget challenge.
- Employees represented in the focus groups reflected knowledge of ASSLA but skepticism of its implementation and actual impact regarding employer leave policies.

### Staff Interviews

- DOES educates employers and workers about ASSLA in person, virtually, and through social media and advertising campaigns.
- OAG reported an opportunity for improved information sharing before Administrative Referrals occur to facilitate increased enforcement - for example, sharing tips and minimum wage complaints before they rise to the referral stage.
- In FY 2021, high-profile recoveries led credibility to the overall success of ASSLA's implementation. DOES reported an increase in addressing and resolving ASSLA-related claims when reported by employees.

## Research Findings

Numerous jurisdictions have now enacted mandatory paid sick leave laws. At the time of this drafting of this report, these included Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington. The increase in legislation has generated public interest in the economic impact of paid leave.

In recent years multiple multi-year and geographically dispersed studies on the economic impact of paid leave have been published, largely reflecting positive impacts of paid sick leave laws for both employers and employees. Publicly available studies were reviewed to calibrate the results from this study and inform recommended actions to improve the District's outcomes<sup>4</sup>.

## Recommendations

- Develop incentives for employers to promote using paid sick leave, particularly in the industries of interest, through public recognition in the form of acknowledgments such as 'Best Places to Work' recognitions.
- Require employers with hybrid/remote workplaces to electronically disseminate ASSLA posters and maintain confirmation of employees' acknowledged receipt and review.
- Engage proactively with OAG to share successful outcomes and testimonials in the employee community.
- Further study is recommended to understand the primary drivers in the lack of interest by employees regarding the applicability of the ASSLA law and avenues available to employees.

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<sup>4</sup> Studies reviewed are cited in the citations section of this report.

# Summary of Background and Methodology

## Background

D.C. Law 17-152, the Accrued Sick and Safe Leave Act of 2008 (ASSLA) was passed by the Council of the District of Columbia (Council) in March 2008 and made effective November 13<sup>th</sup> of the same year. ASSLA mandates that companies provide employees meeting certain thresholds of sick leave. Under the Act, safe leave for absences resulting from sexual or domestic abuse is also provided.

In February 2013, the Council passed D.C. Law 20-89, the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA), updating the ASSLA, taking effect in March 2014. This amendment increased the number of employees covered by the law, requires more documentation, and contains more robust penalties for breaking the law.

On April 10, 2020, the Council passed D.C. Act 23-286, the COVID-19 Response Supplemental Emergency Amendment Act of 2020, which creates a new category of ASSLA leave called 'Declared Emergency Leave' which was then amended in August of 2020 to be called 'public emergency leave.' The Act requires that employers provide paid leave to employees for any covered reason provided by the Families First Coronavirus Response Act (FFCRA).

On November 18, 2021, the Council passed Section 3 (d) of Act 24-168, which ended the Covid-19 amendments to ASSLA effective November 5, 2021, and on the same date, brought forward and passed D.C. Act 24-209, which amended ASSLA, on an emergency basis, to provide paid time off for COVID vaccinations and recovery. This Act also made conforming amendments to the District of Columbia Family and Medical Leave Act of 1990 and the Coronavirus Support Temporary Amendment Act of 2021.

ASSLA and the related acts, the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA) and the COVID-19 Emergency Response Act of 2020 (CREA), collectively referred to herein as "the Acts," enable employees who spend 50% or more of their time in the District to receive paid time off to care for themselves or a family member. Key provisions of the Acts are summarized in the sections that follow.

## The Accrued Sick and Safe Leave Act of 2008

In March of 2008, the Council of the District of Columbia passed the Accrued Sick and Safe Leave Act of 2008 (ASSLA) at that time, making Washington, D.C., the second city to pass a law requiring employers to provide paid sick leave to all employees. ASSLA took effect on November 13, 2008. Provisions of ASSLA required employers to provide accrued paid leave based upon business size:

- An employer with 100 or more employees must provide one hour of paid leave for every 37 hours worked, not to exceed 7 days a year;
- An employer with 25 to 99 employees must provide one hour of paid leave for every 43 hours worked, not to exceed 5 days a year; and
- An employer with 24 or fewer employees must provide one hour of paid leave for every 87 hours worked, not to exceed 3 days per year.

Under ASSLA, as enacted in 2008, accrued paid leave is not required to be provided to independent contractors, students who work less than 24 hours per week at the college or university that they attend, healthcare workers participating in a premium pay program, restaurant wait, staff and bartenders, if working for a combination of wages and tips, or employees who work less than 1,000 hours per year.

Additionally, although sick leave is accrued from the first day of employment, it is not available for use until the end of the first year of employment. ASSLA also permits employees to spend their leave provided under the Act to take care of a family member or oneself. ASSLA defines a family member as a spouse or domestic partner, parent, parent of a spouse, children or grandchildren, spouses of children, siblings, and the spouses of siblings. Unused sick leave is carried over from year to year, but employers are not required to pay a worker more than the maximum amount of sick leave allowed for that year, in that year.

Subsequent amendments to ASSLA expanded its definition of protected employees, strengthened remedies, and provided procedures available to employees, as well as established an outreach program to inform the public about ASSLA.

## The Earned Sick and Safe Leave Amendment Act of 2013

In February 2013, the D.C. Council passed ESSLA. The law became effective in 2014 and modified ASSLA in a number of significant ways. ESSLA reduced the probationary period for the use of sick leave from 12 months to 90 days. It also extended protection to tipped restaurant wait staff and bartenders who receive tips, commissions, or other gratuities and receive a base wage that is below the D.C. minimum wage.



## The COVID-19 Response Supplemental Emergency Amendment Act of 2020

On April 10, 2020, the District of Columbia enacted the COVID-19 Response Supplemental Emergency Amendment Act of 2020 (the COVID-19 Emergency Act), which temporarily amended ASSLA to require employers that are not in the healthcare industry and have 50 to 499 employees who work in the District of Columbia to offer up to 2 weeks of paid leave for employees for certain reasons related to COVID-19.

### Methodology

The Georgetown Firm's survey methodology applied a mixed-mode approach. The approach is based on Donald Dillman's recommended guidelines, tailored to consider prior-year practices and population attributes to enable comparative inferences when interpreting results. Sources that informed the study included:

- An internet-based survey disseminated to District employees and employers
- Three focus groups with employees
- Semi-structured interviews with District Officials
- A high-level literature review to inform findings and recommendations

The internet survey was designed and implemented with the aim of minimizing deviations of the frame population, compiled from four different sources and from the target population of businesses and employees in the District of Columbia. To reduce survey fatigue in the current year, with DOES' approval, demographic information was not requested. The format of the survey was designed to achieve a high level of accessibility and be mobile-compatible. The survey was distributed in both English and Spanish. Survey questionnaires were self-administered online surveys.

The survey's initial question, "Which statement best described you?" allowed respondents to certify that they were:

- Employed in the District of Columbia for less than 90 days in 2021; or
- Employed in the District of Columbia for more than 90 days in 2021; or
- Manage a business/organization operating in D.C. for more than 90 days in 2021; or
- None of the above

Respondents were then routed to applicable questions based on their responses. If none of the above was selected, the respondent was disqualified.

Focus group members were recruited offline. The focus group participants were selected based on the industries they worked in to enable insights into their understanding and perspective as well as the experience of those employed in specific industries of interest. Focus group members were drawn from the construction industry, the daycare industry, the food service industry, the government industry, and the security industry<sup>5</sup>.

Anonymity was given to encourage candid feedback as initial focus group members were reluctant to participate and cited fear of reprisal.

The focus group questions were developed based on feedback from the survey, the literature review, and insights from conversations with District officials and DOES staff. Each focus group was conducted using predetermined questions and open discussion.

Semi-structured interviews were held with officials from the Department of Employment Services and the Office of Attorney General to consider the role of each agency in enforcing ASSLA and the collaboration methods used to spread awareness, encourage compliance and investigate and enforce non-compliance. Inquiry was also made related to the perception of the progress the agencies have made regarding ASSLA.

Representatives from the Department of Licensing and Consumer Protection were unavailable to participate in the current year.

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<sup>5</sup> Only one participant from the security industry was represented in the focus groups, however, the survey included responses reported from the security industry.

# Objectives and Scope

The primary objective of this study is to comply with Section 16 of the Sick and Safe Leave Act of 2008, as amended (ASSLA), which requires the District of Columbia (District or D.C.) to report on ASSLA's economic impact on the private sector. Based on a sample of District businesses, this study is intended to assess:

- (1) Gauge the compliance level of D.C. based businesses with the requirement to post a notice advising employees about ASSLA
- (2) Describe the economic impact of ASSLA on the private sector by investigating whether companies are utilizing staffing patterns to circumvent ASSLA's provisions
- (3) Track the role that the Department of Employment Services and other agencies have played to protect workers' rights and enforce ASSLA's provisions

Additionally, this study seeks to accomplish the following secondary objectives:

- Provide recommendations based on the findings
- Provide insight into the potential obstacles that prevent full implementation based on the survey, focus groups, and interviews of the ASSLA stakeholders
- Provide additional insights about compliance in selected industries (construction, daycare, food service, government, and security)
- Determine if there are significant differences between employee and employer perspectives of ASSLA

The scope of the survey is limited to District of Columbia employers and employees subject to or covered by the Acts. The period under study is the fiscal year 2021 (herein referred to as FY 2021 or 2021).

*Objective 1: Gauge the compliance level of D.C. based businesses with the requirement to post a notice advising employees about ASSLA.*

The level of compliance was assessed based on survey respondents and confirmed by focus group participants. Of note, the physical posting of a note as a primary method of advising employees about ASSLA may be outdated in a time of evolution toward hybrid and remote work.

*Objective 2: Describe the economic impact of ASSLA on the private sector by investigating whether companies are utilizing staffing patterns to circumvent ASSLA's provisions.*

Inferences were drawn regarding the economic impact of ASSLA from survey responses and focus group commentary. Economic impact assessment was also informed by research findings noted in Other Matters. Staffing patterns as a method to circumvent ASSLA's provisions were considered in light of survey responses.

*Objective 3: Track the role that the Department of Employment Services and other agencies have played to protect workers' rights and enforce ASSLA's provisions.*

The role that the Department of Employment Services and other agencies have played to protect workers' rights has been studied through interviews, survey results, and focus groups. This year, we were unable to meet with the Department of Licensing and Consumer Protection, the successor to the Department of Consumer Regulatory Affairs.

# Summary of Findings for Sick Leave Audit

This section provides a high-level summary of the audit and study findings explored in the Audit Findings and Study Findings Sections of this report. This effort considered the perspectives of both employers and employees as well as the economic impact of the Acts. The results of the primary objectives are summarized as follows:

*Objective 1: Gauge the compliance level of D.C. based businesses with the requirement to post a notice advising employees about ASSLA.*

In 2021, approximately 65% of employer respondents in the District were aware of their requirement to offer paid leave to employees as mandated by ASSLA (Q25), which is a slight decrease from the approximately 68% level of awareness observed in 2020. Despite this, approximately 61% (Q27) of companies demonstrated compliance in making the DOES ASSLA poster visible in their workplace in 2021, marking a 6% increase over the 55% seen in 2020. In 2021, approximately 93% (Q31) of respondent businesses represented reported that they did not change their leave policy, and 90% of respondent businesses allowed employees to use their paid leave for quarantine purposes. This suggests that while lower levels of poster compliance are observed, many businesses are aware of and have implemented ASSLA requirements into their business plan. The survey sample size included companies from diverse industries, which is representative of the overall population.

ASSLA/ESSLA awareness appears to be gaining momentum as the government is seen as an ASSLA resource; an 8% (Q28) increase was seen in businesses contacting the D.C. government to obtain ASSLA/ESSLA information for distribution purposes. Additionally, approximately 48% of respondents in 2020 did not believe the distribution of ASSLA information was necessary, which decreased to approximately 42% (Q29) in 2021.

*Objective 2: Describe the economic impact of ASSLA on the private sector by investigating whether companies are utilizing staffing patterns to circumvent ASSLA's provisions.*

Businesses do not appear to be economically sensitive to ASSLA/ESSLA requirements in general. In 2021, approximately 62% (Q33) of businesses indicated no impact or an increased level seen from employees' performance, while approximately 40% did not know or deemed it not applicable. While a total of approximately 10% of businesses offset unwanted ASSLA impacts by reducing salaries, reducing vacation time, or

converting time off to sick days, 80% of companies did not implement any measure to hedge against ASSLA requirements (Q36). 2020 and 2021 both saw greater than 90% of businesses report that they implemented no measure to offset any negative ASSLA impact (Q34). Approximately 23% of businesses did not see it reasonable to measure, which suggests the impact was negligible (Q35), and approximately 8% reported a decrease in profitability. This is a slight departure from 2020 when only approximately 1% of businesses saw an increase in profitability, and approximately 14% saw a decrease in profitability. This suggests that businesses have adapted overall to ASSLA requirements and have incorporated it as an asset in their business plan, formally or informally.

Businesses appear to have adapted to the effects of COVID-19. When COVID-19 impacted employees, they were likely to keep working, as approximately 51% of businesses experienced at least one employee who was ordered to quarantine (Q37). When an employee was affected by COVID-19, approximately 67% (Q40) of employees opted to continue working, despite not necessarily being required to (Q18, Q19), and being allowed to use paid leave to complete isolation requirements (Q14). As most businesses did not change their policies on sick days or paid leave, it appears that preexisting policies were flexible enough to allow for most COVID-19 accommodations without having to implement measures to protect themselves against negative impacts from COVID-19 or ASSLA requirements.

*Objective 3: Track the role that the Department of Employment Services and other agencies have played to protect workers' rights and enforce ASSLA's provisions.*

Measures by the Department of Employment Services and the Office of the Attorney General appear effective at raising awareness among employees and employers about ASSLA requirements and any subsequent obligations. Representatives from DOES and OAG reported proactive outreach efforts during the fiscal year 2021. These include hosting or attending in-person town hall events and summits, giving webinars, issuing newsletters, press releases for prominent enforcement and recovery actions, audits (900+ in 2021) and grants, and targeted community organization outreach.

Awareness of ASSLA increased by approximately 3.5% from 2020 to 2021 among employees regarding their right to paid leave caused by domestic violence or COVID-19 (Q8, 2021). The increase in awareness of ASSLA requirements reported by employees from 2020 to 2021 suggests that the D.C. government is becoming more effective at protecting employees' rights and increasing knowledge of the ASSLA among D.C. employees.

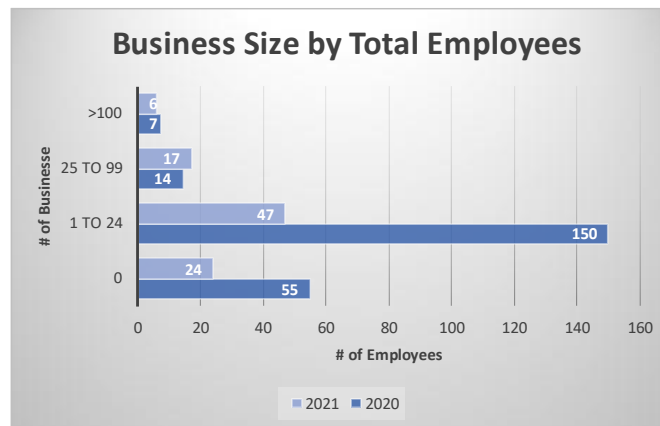
A large number of businesses have had to adapt to COVID-19 regulations, and the Department of Employment Services has demonstrated success in ensuring that businesses are aware of their responsibilities relating to the pandemic. 2021 saw twice the number of employees required to quarantine than 2020, approximately 45% and approximately 21%, respectively, and approximately 76% (Q14) of employees in 2021 were allowed to use paid leave as a compensation method for that period compared with approximately 60% in 2020. Furthermore, an approximately 10% decrease was observed in 2021 among employees that had paid leave but were not allowed to use it (Q16), suggesting that employers appear to be increasingly sensitive to their requirements under ASSLA.

# Audit Findings

Audit findings encompass non-compliance, improvement opportunities, strengths, and weaknesses related to the study objectives. The observations summarized and corresponding findings, as applicable, present from the employer and the employee perspectives. Results from the focus groups addressing the focused industries are noted throughout and summarized.

## Employer Perspectives

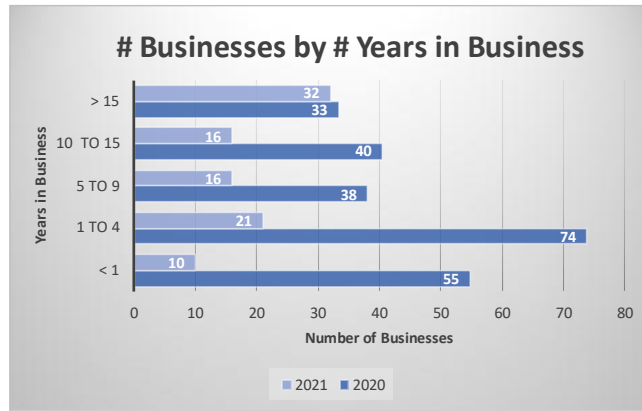
Employer survey respondents in 2021 (120) decreased from 2020 (238) but represented a significantly larger percentage of the total respondent population. The chart below presents the distribution of businesses by size for the employers that responded to the survey. Of note, the distribution remained directionally similar. The majority of the businesses that responded to the survey reported between 1 and 24 employees. Consistent with the prior year's study, the smallest percentage of businesses that responded to the survey were those with over 100 employees. This is expected as the U.S. Small Business Administration reports that 98.2% of all District businesses are small businesses<sup>6</sup>. The second highest percentage falls into the category of business with 1-19 employees after those with no employees.



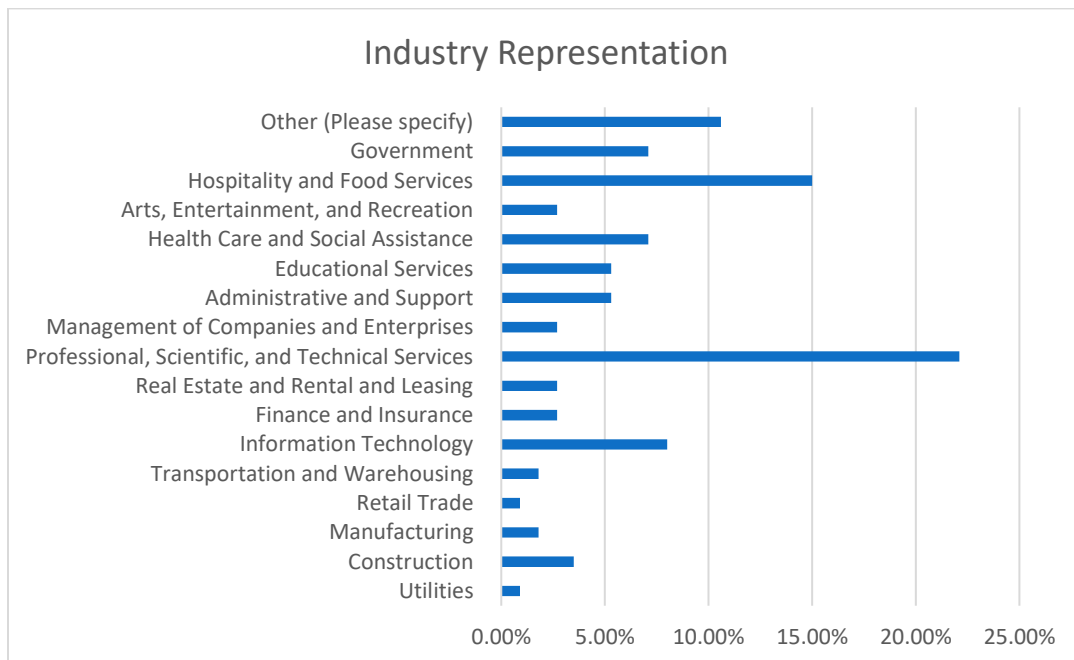
<sup>6</sup> Source: <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30141324/Small-Business-Economic-Profile-DC.pdf>

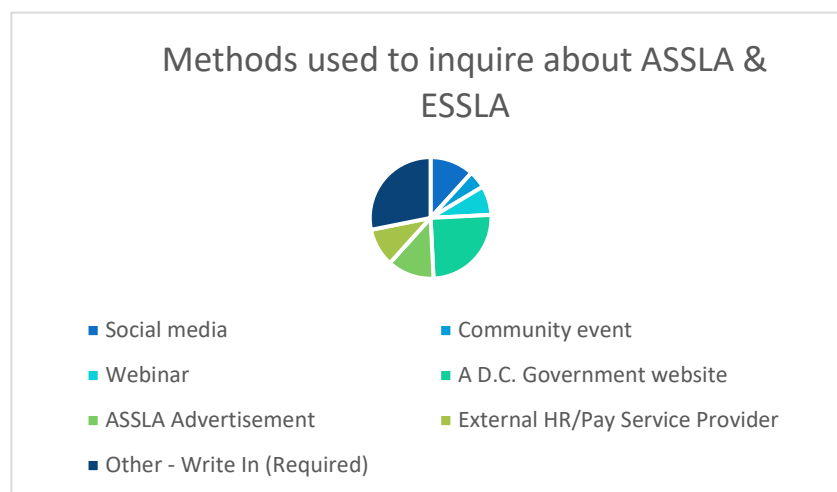


The business distribution by years in operation differed in 2021 from 2020, as presented in the chart below. This, too, is expected due to the prevalence of business closures during 2021 attributable to the pandemic and new openings.



Of the industries represented, approximately 40% comprised Professional, Scientific, & Technical Services, Hospitality & Food Services, and industries not represented, categorized as other. Another 20% comprised Government, Health Care & Social Assistance, and Information Technology. All other industries had less than 5% representation. Focus groups were used to supplement the desired categories of interest. While no presentation was significant enough to change the distribution of industry representation, participants from daycare, construction, security, food service, and government industries were recruited.





While there was a high degree of diversity among industries, two out of every three companies were aware of their obligation to offer paid leave for domestic violence-related absences. The same proportion of companies made the ASSLA & ESSLA requirements available to employees in a poster format.

Approximately 35% of companies sourced information about ASSLA/ESSLA through social media, H.R. providers, and ASSLA advertisements. The most common ways companies sourced their information were through D.C. government websites, or by means not listed, for a combined total of approximately 53%. In a separate question, approximately 88% of businesses reported never contacting the D.C. government to obtain ASSLA/ESSLA information. When asked why, approximately 75% were unfamiliar with ASSLA or believed it was unnecessary, while approximately 17% did not know it was possible.

As of 2021, 93% of businesses had not changed their leave policy, and a further approximately 70% of businesses saw no impact on employee performance or did not consider it applicable regarding ASSLA requirements. Additionally, there was a five-fold increase in businesses that reported improved performance vs. decreased performance regarding ASSLA requirements. (10% improved or significantly improved performance vs. 2% harmed or significantly harmed performance).

When asked about profitability, 70% of businesses reported that ASSLA/ESSLA had either no impact or increased profitability, and 80% of business owners did not implement measures to offset negative ASSLA impacts. A limitation is that businesses may have acted proactively instead of reactively if any unwanted repercussions were identified, as 20% of businesses implemented various cost-cutting measures to minimize the impact of ASSLA requirements.

## COVID-19

While 53% of companies had employees who had to quarantine, 90% of those companies allowed compensation through paid leave if it was already available. 67% of employees continued working during their quarantine period, suggesting that virtual work was allowed by companies during that time.

The average employer is a Professional Services, Information Technology, or Hospitality firm that complies with and has adapted to ASSLA regulations despite the effects of COVID-19.

## Employee Perspective

From the participants surveyed, respondents were likely to stay at their current job. Approximately 68% of respondents reported working for their employer in the District for over one year. Despite this, approximately 80% of participants reported "not applicable" when asked if their leave balance was restored after returning to their employer following an employment gap. This suggests that most employees find a new employer following an employment gap rather than returning to the previous employer.

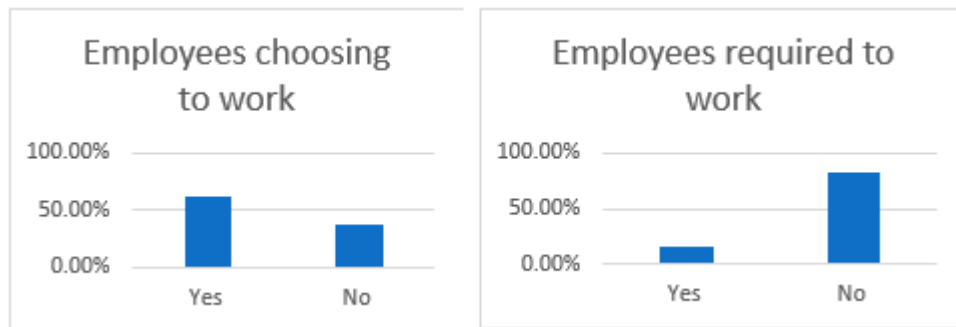
Approximately 75% of participants were paid bi-weekly or semi-monthly, and 82% of participants were able to see their wage breakdown on their pay stubs for those paydays.

While 50% of participants reported that the sick leave requirements were posted at their worksite, another 30% reported it was not applicable. As over half (52%) of participants reported that they were unaware of some ASSLA/ESSLA requirements for paid leave, this may be driven by the increase of remote workers and reduced presence at traditional worksites.

## COVID-19

45% of respondents indicated a required quarantine period due to COVID-19, and while 76% of those respondents were allowed to use paid leave, only 20% of participants had paid leave accrued to use.

Although 83% of participants were not required to work while isolated, 62% of participants continued to work despite being impacted by COVID-19. Additionally, 53% of participants were unaware that employers with more than 50 employees were required to provide compensation for an inability to work caused by COVID-19. This suggests that employees entitled to receive leave for COVID-related reasons could have been unaware of their employer's responsibilities during the pandemic.



Focus group participants across industries did not have a notable deviation, with the exception of daycare workers and government employees. Three daycare workers were among the focus group participants, and they reported that paid leave was available to them. Of note, one daycare worker worked for a small child development center and reported strict Covid guidelines; another was a full-time nanny whose employer-provided paid leave, and the third was a part-time care provider who reported paid time off was given but may have been an incentive to remain in the position she filled.

Government employees reported awareness and compliance. Per the focus group participants, which included three employees of government contractors and two D.C. government employees, ASSLA was well known, and paid sick leave was made available to these participants. One focus group member did state that they were encouraged to work remotely rather than take sick leave in one instance.

Employees in the construction industry reported awareness of paid leave but opted not to request time off due to job insecurity. This was reported by roofers, a mason, and a drywall professional. The sole representative from the security industry was an employee of a government contractor and was aware of paid leave and utilized it.

Foodservice participants reported differing reasons for not requesting leave. One reported, "The restaurant was just trying to stay afloat. When there was work, I was going to call in and cause more problems. I need the restaurant to be operating to have income." Another reported that paid sick leave was not equal to the earnings made from working.

When asked if more ASSLA information should be provided, 81% of participants reported no, suggesting that while ASSLA requirements are in employees' best interests, there is not sufficient interest among employees to pursue it. No member of any of the focus groups expressed interest in learning more.

Employee Profile: The average worker is employed for at least one year, is not knowledgeable about employer requirements surrounding leave and is largely insensitive to COVID-19 and ASSLA influences.

# Study Findings

Study findings encompass observations that may be meaningful for enhancements or adjustments as these relate to the study objectives. These findings principally address the role that the Department of Employment Services and other agencies have played to protect workers' rights and enforce ASSLA's provisions.

Semi-structured interviews were held with officials from DOES and OAG to understand the roles, responsibilities, collaboration efforts, and opportunities for enhancement concerning the objectives of this study.

The Department of Employment Services' Office of Wage Hour (DOES OWH) conducts compliance audits. It works to recover unpaid wages for employees who have not been paid according to D.C. wage laws, either administratively or through court action. Wage-Hour compliance involves ensuring adherence to the wage laws of the District of Columbia by holding employers accountable to the laws.

DOES OWH is effective at accomplishing its mission as it relates to ASSLA. Survey results, semi-structured interview data, and external evidence of outreach and enforcement support this. Survey results indicate continued progress in ASSLA's awareness and implementation across the District. Semi-structured interviews cited DOES OWH as proactive in outreach and enforcement. OAG acknowledged the referral process from DOES is working; however, the official did cite opportunities for improvement collaboration prior to Administrative Referrals<sup>7</sup>. External evidence further corroborated this finding, including public education events cited (e.g., webinars, ASSLA Day), newsletters, survey audits, and confirmation of engagement with community-based entities – e.g., MOAIPA.

DOES cited a positive working relationship with the Department of Consumer and Regulatory Affairs (DCRA) in prior years, acknowledging the need to rebuild this relationship as DCRA has been restructured into two different agencies – the Department of Licensing and Consumer Protection and the Department of Buildings. Active engagement by DOES to re-establish the relationship with the Department of Licensing and Consumer Protection (DCLP) was observed. DOES acknowledged further engagement with other agencies would improve its effectiveness.

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<sup>7</sup> OAG's Workers' Rights and Antifraud Section Public Advocacy Division recommended flagging earlier in the process of employers with a pattern of disregard or noncompliance rather than the notification occurring upon Administrative referral.

The Office of the Attorney General (OAG), under the Public Advocacy Division, Workers' Rights and Antifraud Section, works in parallel with DOES OWH, educating the public and enforcing ASSLA through investigation and litigation. OAG enforces D.C. wage laws in accordance with D.C. Law 21-232. Council Independent Authority Clarification Amendment Act of 2016, effective April 1, 2017. Under District law, employers who fail to pay their workers or do not pay their workers on time can be liable for up to four times the amount of unpaid wages, plus administrative penalties, attorney's fees, and costs.

The Public Advocacy Division (PAD) promotes the rights of District residents through civil enforcement actions—with a particular emphasis on protecting vulnerable and disadvantaged communities. The Workers' Rights and Antifraud Section within the PAD holds employers accountable for paying the wages they owe their employees. This Section protects workers' rights to minimum wage, overtime pay, and sick and safe leave. It also investigates and litigates against businesses that misclassify their employees as independent contractors to avoid the protections accorded workers by District law. The Section also seeks recovery from companies and individuals who defraud the District, resulting in the loss of public funds, including non-resident tuition fraud.<sup>8</sup>

The OAG's office is active in publishing on its website and in connection with its enforcement work. The office publicizes instances of enforcement victory. It also works with community partners to spread the word about ASSLA. Additionally, OIG administers a grant program providing funds for grantees to promulgate know your rights materials. OAG perceives itself as working in parallel with DOES regarding ASSLA outreach and independently as the legal enforcement entity.

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<sup>8</sup> Obtained from OAG's Website

# Other Matters

Numerous jurisdictions have now enacted mandatory paid sick leave laws. At the time of this drafting of this report, these included Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington. The increase in legislation has generated public interest in the economic impact of paid leave.

A high-level literature review was performed to inform findings and recommendations. Key observations from the research are summarized as follows:

Beneficial economic impacts on the overall economies are well documented across the nation:

- Several studies report workers with paid leave are more likely to access preventive health care, avoiding more costly state-subsidized health care.
- One study found, "There is a 6% decrease in E.R. visits in states that have mandated sick leave laws."
- Another study found, "Overall, low-income workers without paid sick leave tend to delay treatment of any kind for themselves or family members approximately 3x more often than workers with paid sick leave. Workers with paid sick leave are more likely to take time off to recover or help a family member, which leads to shorter recovery times and possibly reduced overall costs."

Based on the employer's survey responses, with approximately 33% of responding employers reporting that they offer no paid time off benefits (Q 30), the District is lagging behind national access rates to sick pay.

- One study noted, "At the same time, however, we find that approximately 1 in 5 workers still lacks access to sick pay even after the law is implemented."
- Per the U.S. Bureau of Labor Statistics, 78% of civilian employees had access to paid sick leave, resulting in more than 33 million workers with no paid sick leave options, weighted toward lower-wage workers in most industries.

Studies cited little to no impact on employers and some benefits. While the majority of employer responses from the study did not report benefits, less than 2% reported a negative impact on employee performance (Q 33), and approximately 8% reported

additional costs (Q34); however, 94% reported that they made no changes to offset any negative impact from the Acts (Q35):

- "Additionally, we do not find that employers cut hours worked for employees or reduce wages as a result of paid sick leave policies."
- One study reported that "Results suggest that paid sick leave decreases the probability of job separation by at least 2.5 percentage points. The association is strongest for workers without paid vacation leave and for mothers."
- Another study reported, "Many businesses reported no change in costs, and any increase was under 5%. If costs increased, it was likely because of the inclusion of P.T. workers within the employee sample size." This same study noted "approximately 85% of employers reported no change in completing business operations when sick leave was used," "approximately 47% of employers reported no change in costs," and "approximately 90% of businesses did not have to reduce hours, and 85% did not raise prices as a result of mandated sick leave"; while "99% did not see a measurable decrease in the quality of service or have to reduce wages."



# Recommendations

Recommendations generated from findings of this study are provided below. While intended to drive further awareness, adoption and compliance of ASSLA, more research is needed.

Despite awareness of ASSLA, respondents in the focus groups reported fear of requesting paid sick leave as they felt it would lead to job insecurity. Whether real or perceived, job insecurity is a significant consideration for employees in the target demographic and industries of interest. Despite mounting evidence that the cost to employers is minimal, ASSLA's compliance is growing in acceptance and implantation among employers with recognition, and there are employer benefits to providing paid sick leave; this reported fear is undermining the impact of ASSLA.

***Incentivize employers to promote paid sick leave through recognition, particularly in the industries of interest. Publicly recognizing 'Best Places to Work' for promoting paid sick and safe leave within their respective organizations may aid in creating environments in which employees feel secure in requesting their accrued sick and safe leave as needed leave.***

The prevalence of a hybrid/remote work format appears to compromise the effectiveness of physical methods of ensuring all employees are knowledgeable about ASSLA requirements, as there is a lack of a centralized workspace.

The COVID-19 pandemic saw record numbers of workers transition to remote or hybrid work models, with some hires never working from or visiting a physical office. While employers previously ensured compliance by posting all requirements in a centralized location, approximately 52% (Q8, Q20) of survey respondents were unaware of ASSLA requirements for paid leave. Additionally, about 30% (Q9) of participants reported "not applicable" when asked if sick leave requirements were posted at their worksite. While no definitive reason was given, this suggests that remote work may be responsible for a decreased general awareness regarding ASSLA requirements.

***As a physical workplace appears vital in raising awareness, we recommend DOES require employers with hybrid/remote workplaces to electronically disseminate ASSLA posters and confirm employees' acknowledged receipt and review. This would help ensure that regular communication is available to employees to confirm that they know of the online resources available to them regarding ASSLA/ESSLA requirements through the District of Columbia.***

OAG perceives opportunities to increase enforcement through earlier engagement by DOES. During the fiscal year 2021, OAG took or concluded several high-profile enforcement actions related directly or tangentially to ASSLA.

***Engaging proactively with OAG to share successful outcomes and testimonials in the employee community will promote increased collaboration and raise further awareness.***

While ASSLA requirements are designed to help employees, there is a disproportionately low amount of interest among employees in acquiring information about them. Participants in focus groups were unaware of resources available to them should there be a violation but consistent with surveyed employees, there was little interest in learning more.

Approximately 45% (Q8, Q9) of surveyed employees were aware of various ASSLA/ESSLA requirements, while approximately 85% (Q21) of those employees explicitly stated they were not interested in learning more about them. A variety of drivers may be responsible for this. Employees may not see the tangible relevance of ASSLA requirements despite knowing about them; financial circumstances may have driven them to work regardless. As noted above, some employees may fear retribution, among other factors. As approximately 70% (Q2) of employees choose to work for their employer for over one year in the District, accumulating time off may not be a deciding factor.

# Appendices

## Appendix I - Survey Questions

1. Which statement best describes you?

Value	Percent	Count
Employed in the District of Columbia for less than 90 days in 2021	6.7%	23
Employed in the District of Columbia for more than 90 days in 2021	26.9%	92
Manage a business/organization operating in D.C. for more than 90 days in 2021	30.1%	103
None of the above	36.3%	124
	Total	342

2. How long have you worked for your employer in the District?

Value	Percent	Count
Under 30 days	3.1%	3
Between 30 and 89 days	9.2%	9
Over 90 days	10.2%	10
Less than one year	8.2%	8
Over one year	69.4%	68
	Total	98

3. How frequently were you paid?

Value	Percent	Count
Daily	1.9%	2
Weekly	9.7%	10
Bi-weekly (every other week)	63.1%	65
Semi-monthly (typically the 15th and last day of the month)	13.6%	14
Monthly	5.8%	6
Other	5.8%	6
	Total	103

4. Did you receive a pay stub detailing your wages on payday?

Value	Percent	Count
Yes	82.5%	85
No	17.5%	18
	Total	103

5. If you had a break in employment for less than 12 months and returned to your previous employer, was your leave balance restored?

Value	Percent	Count
Yes	7.7%	8
No	14.4%	15
Not applicable	77.9%	81
	Total	104

6. During 2021, did you perform work you were not paid for (excluding volunteer work)?

Value	Percent	Count
Yes	9.6%	10
No	90.4%	94
	Total	104

7. During 2021, did you experience any of the following? (Select all that apply)

Value	Percent	Count
I worked overtime and either was not paid at all or was not paid the correct amount.	7.9%	8
I was asked to start work early or stay at work late and was either not paid or was not paid the correct amount.	9.9%	10
My employer docked my salary or benefits without cause.	3.0%	3
Other - Write In (Required)	5.0%	5
Not applicable	84.2%	85
	Total	111

8. Are you aware that companies operating in D.C. are required to offer employees paid leave for work absences associated with domestic violence or abuse in accordance with the Accrued Sick and Safe Leave Act of 2008 (ASSLA) and Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA)?

Value	Percent	Count
Yes	46.6%	48
No	53.4%	55
	Total	103

9. Were the sick leave requirements posted at your worksite (if onsite)?

Value	Percent	Count
Yes	50.0%	52
No	23.1%	24
N/A	27.9%	29
	Total	105

10. Did your job offer paid leave?

Value	Percent	Count
Yes	82.7%	86
No	17.3%	18
	Total	104

11. Where did you work?

Widely varying responses – presented as a graphical representation:





12. What industry did you work in during 2021?

Value	Percent	Count
Agriculture	1.9%	2
Utilities	1.0%	1
Construction	1.9%	2
Manufacturing	1.0%	1
Transportation and Warehousing	1.9%	2
Information Technology	2.9%	3
Government	25.2%	26
Finance and Insurance	1.0%	1
Real Estate and Rental and Leasing	1.0%	1
Professional, Scientific, and Technical Services	7.8%	8
Management of Companies and Enterprises	1.0%	1
Administrative and Support	6.8%	7
Educational Services	7.8%	8
Health Care and Social Assistance	14.6%	15
Arts, Entertainment, and Recreation	3.9%	4
Hospitality and Food Services	10.7%	11
Other (Please specify)	9.7%	10
	Total	103

13. Were you required to quarantine or isolate due to a COVID-related exposure?

Value	Percent	Count
Yes	44.4%	44
No	55.6%	55
	Total	99

14. Were you allowed to use paid leave to complete your quarantine or isolation?

Value	Percent	Count
Yes	77.3%	34
No	22.7%	10
	Total	44

15. How many hours of leave were you paid?

Response ranged from don't remember, none with the notation, "I was exposed but not sick so worked remotely." to 80. One respondent provided "unlimited access during 2021." Graphical representation of frequency:



16. Did you have accrued paid leave that you were not allowed to use?

Value	Percent	Count
Yes	20.0%	2
No	80.0%	8
	Total	10

17. How many hours were you unable to work due to COVID-related reasons and not paid?

Responses ranged from 0 to 60 with the mean of 0. Graphical representation of frequency:



18. Did you continue working during the time COVID-19 impacted you?

Value	Percent	Count
Yes	59.1%	26
No	40.9%	18
	Total	44

19. Were you required to work after reporting that you had been directed to isolate or quarantine because of exposure or potential exposure to COVID-19?

Value	Percent	Count
Yes	15.9%	7
No	84.1%	37
	Total	44

20. Are you aware that if you worked for your employer for at least 15 days and had a COVID-related reason for being unable to work, your employer was required to pay you leave based upon the hours you normally work? (This benefit is only applicable if your employer employed 50-499 employees who work in Washington, DC and you do not work for a healthcare provider.)

Value	Percent	Count
Yes	46.9%	46
No	53.1%	52
	Total	98

21. Would you like to obtain more information related to ASSLA or provide additional feedback?

Value	Percent	Count
Yes	20.2%	20
No	79.8%	79
	Total	99

Respondents answering yes were provided DOES OWH's contact information.

22. What is the primary industry of your business?

Value	Percent	Count
Utilities	1.7%	2
Construction	3.3%	4
Manufacturing	1.7%	2
Retail Trade	0.8%	1
Transportation and Warehousing	1.7%	2
Information Technology	7.5%	9
Finance and Insurance	2.5%	3
Real Estate and Rental and Leasing	2.5%	3
Professional, Scientific, and Technical Services	21.7%	26
Management of Companies and Enterprises	2.5%	3
Administrative and Support	5.0%	6
Educational Services	5.8%	7
Health Care and Social Assistance	7.5%	9
Arts, Entertainment, and Recreation	2.5%	3
Hospitality and Food Services	15.0%	18
Government	7.5%	9
Other (Please specify)	10.8%	13

23. How many years has your company employed employees who spend 50% or more of their time working in D.C.?

Responses ranged from not applicable to over 50 years. Graphical representation depicting frequency:



24. How many employees did you employ in 2021?

Responses ranged from not applicable to more than 300. Graphical representation depicting frequency:



25. Were you aware that companies operating in D.C. are required to offer employees paid leave for work absences associated with domestic violence in accordance with the D.C. Accrued Sick and Safe Leave Act of 2008 (ASSLA) or COVID-19 related reasons (temporary)?

Value	Percent	Count
Yes	64.2%	68
No	35.8%	38
	Total	106

26. How did your company obtain information about ASSLA/ESSLA? (Select all that apply)

Value	Percent	Count
Social media	15.8%	16
Community event	6.9%	7
Webinar	10.9%	11
A D.C. Government website	32.7%	33
ASSLA Advertisement	15.8%	16
External H.R./Pay Service Provider	13.9%	14
Other - Write In (Required)	37.6%	38
	Total	135



27. Did you make the DOES ASSLA poster, including the requirements of ASSLA and the D.C. Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA), available to all employees to see it?

Value	Percent	Count
Yes	61.8%	63
No	38.2%	39
	Total	102

28. Have you ever contacted D.C. Government to obtain information about ASSLA/ESSLA for learning purposes or to distribute to employees?

Value	Percent	Count
Yes	12.7%	13
No	87.3%	89
	Total	102

29. Why not?

Value	Percent	Count
Not necessary	40.9%	36
Did not know it was possible	15.9%	14
Unfamiliar with ASSLA	34.1%	30
Other - Write In (Required)	9.1%	8
	Total	88

30. Which of the following benefits did you offer to some or all of your employees?  
(Select all that apply)

Value	Percent	Count
Paid sick days	56.7%	55
Universal Leave (PTO)	44.3%	43
Floating Benefits	17.5%	17
Bereavement	42.3%	41
Do not offer paid time off benefits	33.0%	32
	Total	188

31. Did you change your business's leave policy in 2021?

Value	Percent	Count
Yes	8.0%	8
No	92.0%	92
	Total	100

32. What type of changes did you make?

Varying responses; graphical representation below. Three notable responses included:

- "Added COVID leave policies to allow staff to use specific leave in response to getting vaccinated, recovering from, or caring for someone with COVID. Leave also applied to child care because of school closure due to COVID."
- "Added extra time off for mental health days."
- "We could not afford to maintain PTO for P.T. employees in 2021. We issued limited vacation to hourly instead in 2021 and 2022 and will be reinstating our PTO accrual program completely effective 01.01.2023."



33. How do you believe the requirements of ASSLA/ESSLA have impacted employee performance?

Value	Percent	Count
Significantly Improved Performance	5.0%	5
Improve Performance	6.0%	6
No Impact	50.0%	50
Harmed to Performance	1.0%	1
Significantly Harmed Performance	1.0%	1
Do not know	18.0%	18
Not applicable	19.0%	19
	Total	100

34. What impact has ASSLA/ESSLA had on your business's profitability?

Value	Percent	Count
Increased Profitability	6.1%	6
Decreased Profitability	8.1%	8
No impact	62.6%	62
I do not know	23.2%	23
	Total	99

35. Has your business implemented measures to offset any negative impact ASSLA/ESSLA may have?

Value	Percent	Count
Yes	6.0%	6
No	94.0%	94
	Total	100

36. What measures have you put in place to offset any negative impact ASSLA/ESSLA may have on your business? (Select all that apply)

Value	Percent	Count
Reduced vacation time accrual	4.0%	4
Converted paid vacation time, paid time off or paid sick days	3.0%	3
Reduced salaries, raises, or bonuses	2.0%	2
Combination of the above	4.0%	4
None	80.0%	80
Other - Write In	9.0%	9
	Total	102

37. Did you have any employees who were ordered to quarantine or isolate due to COVID-19 related exposure?

Value	Percent	Count
Yes	52.0%	53
No	48.0%	49
	Total	102

38. Were they allowed to use paid leave to complete their quarantine or isolation? NOTE: Quarantine period consisted of two (2) consecutive weeks following exposure to the COVID-19 virus.

Value	Percent	Count
Yes	90.4%	47
No	9.6%	5
	Total	52

39. Did they have accrued paid leave that they were not allowed to use to complete their quarantine or isolation?

Value	Percent	Count
Yes	20.0%	1
No	80.0%	4
	Total	5

40. Did they continue working during the time that they were impacted by COVID-19 or would have been under quarantine?

Value	Percent	Count
Yes	66.7%	2
No	33.3%	1
	Total	3

41. Is there any feedback you would like to provide the Office of Wage-Hour regarding ASSLA?

Value	Percent	Count
Yes	14.9%	15
No	85.1%	86
	Total	101

Respondents answering yes were provided DOES OWH's contact information.

## Appendix II – Focus Group Queries

Small focus groups were convened to supplement survey findings and study specific industries to better understand the obstacles associated with ASSLA implementation. Questions included engagement questions, exploration questions, and an exit question. For one focus group, questions were posed in both English and Spanish.

### Engagement Questions

1. How long have you been employed in the District of Columbia?
2. Do you spend 50% or more of your time in the District of Columbia?
3. How long have you worked for your current employer?
4. Are you aware of D.C.'s sick and safe leave law? If so, how? If not, the researcher provided a high-level explanation and re-checked awareness.

### Exploration Questions

5. Were you or a family member sick or in need of safe leave during the fiscal year 2021 (October 1, 2020 – September 30, 2021)?
6. Did you request leave? If so, was it granted? If not, why not?
7. Did you need to quarantine due to Covid-19? If so, did you request leave? If so, was it granted? If not, why not?
8. Did you take leave to obtain a vaccination for Covid-19? If so, was it paid?
9. Were you ever denied sick leave? If so, why?
10. Have you ever reached out to the government in support of or filed a complaint due to issues of leave and payment? If so, what happened? How was it resolved?
11. If you were not aware of ASSLA, how do you think the government can help make you and others more aware?
12. Do you have any additional recommendations for how the District government can better support employees when it comes to ASSLA or any matters of leave and wage theft by employers?
13. Are there any patterns or concerns you are seeing that are common issues in your industry as it relates to ASSLA or leave in general?

### Exit Questions:

1. Are there any topics we have not discussed as it relates to paid sick and safe leave that you would like to discuss?
2. Is there anything else you would like to add?



## Appendix III – Interview and Discussion Questions

Interview and discussion questions were posed by government officials to prompt discussions to gather information addressing primary and secondary objectives. The research team allowed the discussion to dictate the flow of information. Certain questions were not applicable to certain government officials and accordingly omitted.

1. How long have you been with the agency?
2. What is going very well with respect to the agency's efforts to increase awareness and compliance with ASSLA?
3. What did you do differently as a result of the Covid Paid Leave Emergency requirement?
4. What other agencies does your agency work with?
5. What approaches are you taking to reach the audiences within the District's community?
6. How do you define success as it relates to the agency's impact on ASSLA?
7. How does the agency segregate areas of focus?
8. What could be better in 2022 than it was in 2021?
9. How does the agency inform the public of their rights concerning ASSLA?
10. What can DOES do better with respect to ASSLA?
11. What role does your office play in overseeing ASSLA as it relates to the law?
12. Give me an example of a recent non-compliance case. Who was involved, and how was it resolved?
13. How does your agency work together with other agencies in enforcing (or supporting the enforcement of, as applicable) ASSLA and ensuring businesses stay in compliance?
14. Overall, how do you feel like [agency] is doing enforcing the law? Why?
15. Are there any industries that have more problems with compliance with ASSLA than others? What are the challenges? How can they be improved?
16. Describe the support you have received from DOES.
17. OAG has successfully secured a number of settlements in the past few years against companies who committed wage theft, were all of these cases referred through DOES?
18. If someone reaches out to OAG first with an allegation of an ASSLA violation, does OAG begin an independent investigation or is DOES immediately notified?
19. What roles do OAG, DCRA and DOES play with respect to the litigation process and/or settlement negotiations?

## Appendix IV – Citations of Studies Used to Inform Findings and Recommendations

In performing this study, The Georgetown Firm considered the results of other research efforts and studies from a variety of sources. The following publications were reviewed throughout the course of this study, from which thoughts and ideas may have informed our work.

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