

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3828

To require the Secretary of Labor, in consultation with the Secretary of Health and Human Services, to draft disclosures describing the rights and liabilities of customers of domestic care services and require that such services provide such disclosures to customers in any contract for such services.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2014

Mr. CARTWRIGHT introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To require the Secretary of Labor, in consultation with the Secretary of Health and Human Services, to draft disclosures describing the rights and liabilities of customers of domestic care services and require that such services provide such disclosures to customers in any contract for such services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Notification of Your  
5       Eldercare Rights Act”.

1 **SEC. 2. DISCLOSURE OF RIGHTS AND LIABILITIES OF CUS-**  
2 **TOMERS OF DOMESTIC CARE SERVICES.**

3 (a) DRAFT DISCLOSURE DOCUMENT AND REQUIRE-  
4 MENT TO INCLUDE IN CONTRACT.—Not later than one  
5 year after the date of enactment of this Act, the Secretary  
6 of Labor, in consultation with the Secretary of Health and  
7 Human Services, shall—

8 (1) draft a two-page disclosure document in-  
9 cluding the disclosures described in subsection (b);  
10 and

11 (2) require, by rule, that any provider of domes-  
12 tic care services—

13 (A) provide such disclosure document to  
14 each customer prior to entering into contract  
15 with such customer for the provision of such  
16 services; and

17 (B) disclose to the customer whether the  
18 individual or individuals who will provide such  
19 services are employees of the provider of domes-  
20 tic care services or independent contractors for  
21 purposes of treatment under the Fair Labor  
22 Standards Act of 1938.

23 (b) REQUIRED DISCLOSURES.—The disclosures re-  
24 quired to be included on the disclosure document described  
25 in subsection (a) shall include—

1           (1) information substantially similar to the in-  
2           formation contained on Fact Sheets 79 and 79B  
3           issued by the Wage and Hour Division of the De-  
4           partment of Labor and relating to private homes  
5           and domestic service employment and live-in domes-  
6           tic service workers, respectively, under the Fair  
7           Labor Standards Act of 1938;

8           (2) simple, plain-language explanation of the  
9           difference between employees of the provider of do-  
10          mestic care services or independent contractors, for  
11          purposes of treatment under the Fair Labor Stand-  
12          ards Act of 1938; and

13          (3) disclosures regarding—

14                (A) the rights and legal liabilities of the  
15                customer with respect to any employee or inde-  
16                pendent contractor, including rights of action;

17                (B) the presence or lack of vicarious liabil-  
18                ity of the provider of domestic care services  
19                with respect to an employee or independent con-  
20                tractor; and

21                (C) any liability the customer might have  
22                with respect to keeping their property free from  
23                unreasonable risk of harm.

1 **SEC. 3. ENFORCEMENT.**

2 (a) PROHIBITED ACT.—Beginning on the effective  
3 date of the rule required by section 2, it shall be unlawful  
4 for any provider of domestic care services to enter into  
5 contract with any customer for the provision of such serv-  
6 ices without first providing the prospective customer with  
7 the disclosure document required by section 2.

8 (b) PENALTY.—Any person who violates subsection  
9 (a) shall be subject to a civil penalty not to exceed \$1,100  
10 per violation. Any person who violates subsection (a) hav-  
11 ing previously been assessed a civil penalty under this sec-  
12 tion, or who knowingly violates subsection (a), shall be  
13 subject to a civil penalty not to exceed \$5,000 per viola-  
14 tion.

15 **SEC. 4. DEFINITIONS.**

16 As used in this Act—

17 (1) the term “domestic care services” means  
18 those services described in section 13(a)(15) of the  
19 Fair Labor Standards Act of 1938 (29 U.S.C.  
20 213(a)(15)); and

21 (2) the term “provider of domestic care serv-  
22 ices” means a business that employs or contracts  
23 with individuals who provide domestic care services  
24 to customers of the business.

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