



General Assembly

February Session, 2014

Raised Bill No. 5527

LCO No. 2297



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING A DOMESTIC WORKERS BILL OF RIGHTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 31-58 of the 2014 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2014*):

4 (e) "Employee" means any individual employed or permitted to
5 work by an employer but shall not include any individual employed in
6 camps or resorts which are open no more than six months of the year,
7 [or in domestic service in or about a private home, except any
8 individual in domestic service employment as defined in the
9 regulations of the federal Fair Labor Standards Act,] or an individual
10 employed in a bona fide executive, administrative or professional
11 capacity as defined in the regulations of the Labor Commissioner or an
12 individual employed by the federal government, or any individual
13 engaged in the activities of an educational, charitable, religious,
14 scientific, historical, literary or nonprofit organization where the
15 employer-employee relationship does not, in fact, exist or where the
16 services rendered to such organizations are on a voluntary basis, or

17 any individual employed as a head resident or resident assistant by a
18 college or university, or any individual engaged in babysitting of an
19 irregular and intermittent or a casual nature, or an outside salesman as
20 defined in the regulations of the federal Fair Labor Standards Act, or
21 any individual employed by a nonprofit theater, provided such theater
22 does not operate for more than seven months in any calendar year, or a
23 member of the armed forces of the state performing military duty, as
24 such terms are defined in section 27-61;

25 Sec. 2. Subdivision (9) of section 31-275 of the 2014 supplement to
26 the general statutes is repealed and the following is substituted in lieu
27 thereof (*Effective October 1, 2014*):

28 (9) (A) "Employee" means any person who:

29 (i) Has entered into or works under any contract of service or
30 apprenticeship with an employer, whether the contract contemplated
31 the performance of duties within or without the state;

32 (ii) Is a sole proprietor or business partner who accepts the
33 provisions of this chapter in accordance with subdivision (10) of this
34 section;

35 (iii) Is elected to serve as a member of the General Assembly of this
36 state;

37 (iv) Is a salaried officer or paid member of any police department or
38 fire department;

39 (v) Is a volunteer police officer, whether the officer is designated as
40 special or auxiliary, upon vote of the legislative body of the town, city
41 or borough in which the officer serves;

42 (vi) Is an elected or appointed official or agent of any town, city or
43 borough in the state, upon vote of the proper authority of the town,
44 city or borough, including the elected or appointed official or agent,
45 irrespective of the manner in which he or she is appointed or

46 employed. Nothing in this subdivision shall be construed as affecting
47 any existing rights as to pensions which such persons or their
48 dependents had on July 1, 1927, or as preventing any existing custom
49 of paying the full salary of any such person during disability due to
50 injury arising out of and in the course of his or her employment;

51 (vii) Is a member of the armed forces of the state while in the
52 performance of military duty, whether paid or unpaid for such
53 military duty, in accordance with the provisions of section 27-17, 27-18
54 or 27-61; or

55 (viii) Is elected to serve as a probate judge for a probate district
56 established in section 45a-2.

57 (B) "Employee" shall not be construed to include:

58 (i) Any person to whom articles or material are given to be treated
59 in any way on premises not under the control or management of the
60 person who gave them out;

61 (ii) One whose employment is of a casual nature and who is
62 employed otherwise than for the purposes of the employer's trade or
63 business;

64 (iii) A member of the employer's family dwelling in his house; but,
65 if, in any contract of insurance, the wages or salary of a member of the
66 employer's family dwelling in his house is included in the payroll on
67 which the premium is based, then that person shall, if he sustains an
68 injury arising out of and in the course of his employment, be deemed
69 an employee and compensated in accordance with the provisions of
70 this chapter;

71 (iv) Any person engaged in [any type of service in or about a private
72 dwelling provided he is not regularly employed by the owner or
73 occupier over twenty-six hours per week] domestic service in or about
74 a private dwelling, except that if the owner or occupier of such

75 dwelling has paid such person employed in such domestic service one
76 thousand dollars or more in any calendar quarter in the current or
77 preceding calendar year such person shall be considered an employee.
78 For purposes of this clause, "domestic service" means any service
79 provided to the owner or occupier of a private dwelling for the
80 operation or maintenance of such dwelling and does not include
81 service as an employee in the pursuit of an employer's trade,
82 occupation, profession, enterprise or vocation;

83 (v) An employee of a corporation who is a corporate officer and
84 who elects to be excluded from coverage under this chapter by notice
85 in writing to his employer and to the commissioner; or

86 (vi) Any person who is not a resident of this state but is injured in
87 this state during the course of his employment, unless such person (I)
88 works for an employer who has a place of employment or a business
89 facility located in this state at which such person spends at least fifty
90 per cent of his employment time, or (II) works for an employer
91 pursuant to an employment contract to be performed primarily in this
92 state.

93 Sec. 3. Subdivisions (9) and (10) of section 46a-51 of the general
94 statutes are repealed and the following is substituted in lieu thereof
95 (*Effective October 1, 2014*):

96 (9) "Employee" means any person employed by an employer but
97 shall not include any individual employed by such individual's
98 parents, spouse or child; [~~or in the domestic service of any person;~~]

99 (10) "Employer" includes the state and all political subdivisions
100 thereof and means any person or employer (A) with three or more
101 persons in such person's or employer's employ, or (B) employing a
102 domestic worker, as defined in section 5 of this act, without regard to
103 the total number of domestic workers in such person's or employer's
104 employ;

105 Sec. 4. Section 31-71f of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective October 1, 2014*):

107 (a) Each employer shall: (1) Advise his or her employees in writing,
108 at the time of hiring, of the rate of remuneration, hours of employment
109 and wage payment schedules, and (2) make available to his or her
110 employees, either in writing or through a posted notice maintained in
111 a place accessible to his employees, any employment practices and
112 policies or change therein with regard to wages, vacation pay, sick
113 leave, health and welfare benefits and comparable matters.

114 (b) Each employer employing a domestic worker, as defined in
115 section 5 of this act, shall advise the domestic worker in writing, at the
116 time of hiring, of: (1) The rate of remuneration, hours of employment
117 and wage payment schedules; (2) the job duties and responsibilities; (3)
118 the availability of sick leave, vacation, personal days and holidays, and
119 whether such days are paid or unpaid, and the rate at which such days
120 accrue; (4) necessary or required modes of transportation, and whether
121 such transportation is provided, paid or reimbursed; (5) the
122 availability of health insurance, and whether it is paid or reimbursed;
123 (6) any applicable severance, yearly raises or other forms of
124 compensation; (7) whether the employer may charge any fees or costs
125 for board and lodging, as defined in section 31-60-3 of the regulations
126 of Connecticut state agencies; (8) the domestic worker's right to collect
127 workers' compensation if injured; and (9) any other rights afforded to
128 such domestic worker under the provisions of this section and sections
129 6 to 13, inclusive, of this act.

130 Sec. 5. (NEW) (*Effective October 1, 2014*) For the purposes of this
131 section, section 46a-51 of the general statutes, as amended by this act,
132 section 31-71f of the general statutes, as amended by this act, and
133 sections 6 to 14, inclusive, of this act, "domestic worker" means any
134 individual or employee who is paid or employed by an owner or
135 occupier of a private dwelling to perform work of a domestic nature in
136 or about such private dwelling, including, but not limited to,

137 housekeeping, home management, child care, caretaking of
138 individuals, including sick, convalescing and elderly individuals,
139 laundering, meal preparation, home companion services and other
140 household services for occupants of the private dwelling or the guests
141 of such occupants. Domestic worker does not include (1) a babysitter
142 whose employment is irregular and intermittent or of a casual nature,
143 or (2) a personal care attendant providing services pursuant to a state-
144 funded program, including, but not limited to, (A) the program for
145 individuals with acquired brain injuries, established pursuant to
146 section 17b-260a of the general statutes, (B) the personal care assistance
147 program, established pursuant to section 17b-605a of the general
148 statutes, (C) the Connecticut home care program for the elderly,
149 established pursuant to section 17b-342 of the general statutes, (D) the
150 pilot program to provide home care services to disabled persons,
151 established pursuant to section 17b-617 of the general statutes, (E) the
152 individual and family support waiver program administered by the
153 Department of Developmental Services, and (F) the comprehensive
154 waiver program administered by the Department of Developmental
155 Services.

156 Sec. 6. (NEW) (*Effective October 1, 2014*) (a) Each employer shall
157 provide paid leave, annually, to each of such employer's domestic
158 workers that he or she employs (1) on a full-time basis, or (2) upon
159 completion of a year of employment with the employer, on a part-time
160 basis. Such paid leave shall accrue (A) beginning January 1, 2015, or
161 for a domestic worker hired after said date, beginning on the domestic
162 worker's date of employment, (B) at a rate of one hour of paid leave for
163 each forty hours worked by a domestic worker, and (C) in one-hour
164 increments up to a maximum of fifty-six hours per calendar year.

165 (b) Upon a domestic worker's completion of a year of full-time
166 employment with an employer, such employer shall provide such
167 domestic worker with eight hours of paid leave for each calendar
168 quarter of full-time work the domestic worker performs for the
169 employer, in addition to the paid leave provided pursuant to

170 subsection (a) of this section.

171 (c) Each domestic worker shall be entitled to carry over up to fifty-
172 six unused accrued hours of paid leave from the current calendar year
173 to the following calendar year, but no domestic worker shall be
174 entitled to use more than the maximum number of accrued hours, as
175 described in subparagraph (C) of subsection (a) of this section, in any
176 calendar year.

177 (d) Each employer shall pay each domestic worker for paid leave at
178 a pay rate equal to the greater of either (1) the normal hourly wage for
179 that domestic worker, or (2) the minimum fair wage rate under section
180 31-58 of the general statutes, as amended by this act, in effect for the
181 pay period during which the domestic worker used paid leave. For
182 any domestic worker whose hourly wage varies depending on the
183 work performed by the domestic worker, the "normal hourly wage"
184 means the average hourly wage of the domestic worker in the pay
185 period prior to the one in which the domestic worker used paid leave.

186 Sec. 7. (NEW) (*Effective October 1, 2014*) No employer shall require a
187 domestic worker, as defined in section 5 of this act, to work more than
188 six days in any calendar week. A domestic worker may work seven
189 days in any calendar week provided the domestic worker and his or
190 her employer agree, in writing, to such schedule and the domestic
191 worker is compensated at a rate of not less than one and one-half times
192 his or her average hourly salary for all hours worked on the seventh
193 day.

194 Sec. 8. (NEW) (*Effective October 1, 2014*) Wages paid to any domestic
195 worker, as defined in section 5 of this act, may include the reasonable
196 value of board and lodging, as defined in section 31-60-3 of the
197 regulations of Connecticut state agencies, and may be considered as
198 part of the minimum fair wage if the employer has advised the
199 domestic worker, in writing, of such conditions pursuant to subsection
200 (b) of section 31-71f of the general statutes, as amended by this act, and

201 the domestic worker has voluntarily accepted such conditions, in
202 writing, at the time of hiring.

203 Sec. 9. (NEW) (*Effective October 1, 2014*) (a) When a domestic worker
204 is required to be on duty for less than twenty-four consecutive hours at
205 an employer's private dwelling, the employer may permit the domestic
206 worker to sleep or engage in personal activities when not actively
207 engaged in an assignment for the employer, provided the employer
208 compensates the domestic worker for such time as hours worked.

209 (b) When a domestic worker is required to be on duty for twenty-
210 four consecutive hours or more at an employer's private dwelling, the
211 domestic worker and his or her employer may agree, in writing, to
212 exclude from the hours worked a regularly scheduled sleeping period
213 of not more than eight hours, provided (1) adequate on-site sleeping
214 facilities are furnished to the domestic worker, (2) the domestic worker
215 receives not less than seven consecutive hours off duty and
216 uninterrupted by an assignment to work during each such sleeping
217 period, and (3) if the scheduled sleeping period is interrupted by an
218 assignment to work, working time shall begin when the domestic
219 worker is notified of his or her assignment and shall end when the
220 domestic worker has completed his or her assignment. If the sleeping
221 period is interrupted so that the domestic worker receives less than
222 seven consecutive hours off duty during such period, the entire period
223 shall be considered hours worked.

224 Sec. 10. (NEW) (*Effective October 1, 2014*) (a) No employer shall (1)
225 restrict or interfere with a domestic worker's private communications,
226 (2) seize, search or inspect the domestic worker's personal belongings,
227 or (3) engage in any conduct against a domestic worker that violates
228 subsection (a) of section 53a-192a of the general statutes or any other
229 section of the general statutes.

230 (b) No employer of a domestic worker who resides in or about the
231 employer's private dwelling shall enter the domestic worker's

232 designated living area in or about the employer's private dwelling
233 without such domestic worker's informed and voluntary consent,
234 except the employer may enter such designated living area if
235 emergency repairs are required, provided (1) securing such domestic
236 worker's consent within a reasonable time is not feasible, and (2) the
237 employer provides notice to the domestic worker that the employer
238 entered the domestic worker's designated living area to conduct such
239 emergency repairs within a reasonable time after doing so.

240 (c) No employer of a domestic worker shall monitor the domestic
241 worker's activities or communications by any means other than direct
242 observation, including the use of a computer, telephone, wire, radio,
243 camera, electromagnetic, photoelectronic or photo-optical systems,
244 without such domestic worker's informed and voluntary consent,
245 except an employer may use such devices to monitor a domestic
246 worker while he or she is performing care-giving tasks including, but
247 not limited to, babysitting, child care and caretaking of sick,
248 convalescing or elderly individuals.

249 Sec. 11. (NEW) (*Effective October 1, 2014*) (a) Not less than seven days
250 prior to terminating a domestic worker, an employer shall (1) provide
251 a written notice of termination to such domestic worker, and (2) if such
252 domestic worker is not eligible for unemployment compensation
253 benefits under chapter 567 of the general statutes, provide severance
254 pay to such domestic worker in an amount equal to the domestic
255 worker's average weekly work hours for the employer in the most
256 recent complete calendar quarter.

257 (b) The provisions of subsections (a) and (c) of this section shall not
258 apply to any employer who terminates a domestic worker due to the
259 domestic worker's wilful misconduct in the course of his or her
260 employment. For purposes of this subsection, "wilful misconduct"
261 means deliberate misconduct in wilful disregard of the employer's
262 interest and shall include any abuse, assault or other harmful or
263 destructive conduct committed by the domestic worker against the

264 employer, the employer's possessions, members of the employer's
265 family, guests or other individuals residing in or about the employer's
266 private dwelling.

267 (c) Upon terminating a domestic worker, an employer shall take all
268 reasonable steps to prevent the homelessness of the domestic worker.

269 Sec. 12. (NEW) (*Effective October 1, 2014*) No employer shall
270 discharge, discipline, discriminate against, retaliate against or
271 otherwise penalize any domestic worker because the domestic worker
272 has (1) complained to the employer, an authorized representative of
273 the domestic worker or any other person, (2) filed a claim with the
274 Labor Commissioner or instituted or caused to be instituted any
275 proceeding under section 13 of this act, (3) testified or is about to
276 testify in any such proceeding, or (4) exercised any right afforded to
277 him or her by the provisions of sections 6 to 13, inclusive, of this act.

278 Sec. 13. (NEW) (*Effective October 1, 2014*) (a) A domestic worker
279 may file a complaint with the Labor Commissioner alleging a violation
280 of any provision of section 31-71f of the general statutes, as amended
281 by this act, and sections 6 to 12, inclusive, of this act. Upon receipt of
282 the complaint, the commissioner shall investigate such complaint and
283 may hold a hearing. After the hearing, the commissioner shall send
284 each party a written copy of his or her decision. A domestic worker
285 who prevails in such hearing shall be awarded reasonable attorney's
286 fees and costs.

287 (b) If the commissioner finds a domestic worker has been aggrieved
288 by an employer's violation of any provision of section 31-71f of the
289 general statutes, as amended by this act, and sections 6 to 12, inclusive,
290 of this act, the commissioner shall (1) levy against the employer a civil
291 penalty of up to five hundred dollars for the first violation and one
292 thousand dollars for each subsequent violation, and (2) award such
293 domestic worker all appropriate relief including rehiring or
294 reinstatement to his or her previous job, payment of back wages and

295 any interest due on such wages, compensation for the denial of days of
296 leave, reestablishment of employee benefits or any other remedies that
297 the commissioner may deem appropriate.

298 (c) Any party aggrieved by the decision of the commissioner may
299 appeal the decision to the Superior Court, in accordance with the
300 provisions of chapter 54 of the general statutes.

301 (d) The commissioner may request the Attorney General to bring an
302 action in the Superior Court to recover the penalties levied pursuant to
303 subsection (b) of this section.

304 (e) Nothing in this section shall prohibit a domestic worker from
305 filing a civil suit against an employer in a court of competent
306 jurisdiction to recover all appropriate relief including rehiring or
307 reinstatement to his or her previous job, payment of back wages and
308 any interest due on such wages, compensation for the denial of days of
309 leave, reestablishment of employee benefits or any other remedies that
310 the judge may deem appropriate.

311 Sec. 14. (*Effective October 1, 2014*) (a) There is established a domestic
312 workers task force. Such task force shall study issues involving
313 domestic workers in the state and make recommendations for
314 legislative initiatives to provide outreach and education services to
315 domestic workers and employers of domestic workers in the state.

316 (b) The task force shall consist of the following members:

317 (1) The executive director of the Permanent Commission on the
318 Status of Women, or the executive director's designee;

319 (2) The Labor Commissioner, or the commissioner's designee;

320 (3) The Attorney General, or the Attorney General's designee;

321 (4) One appointed by the house chair of the joint standing
322 committee of the General Assembly having cognizance of matters

323 relating to labor and public employees, who shall represent domestic
324 workers in the state;

325 (5) One appointed by the senate chair of the joint standing
326 committee of the General Assembly having cognizance of matters
327 relating to labor and public employees, who shall represent employers
328 that employ domestic workers in the state;

329 (6) The speaker of the House of Representatives, or the speaker's
330 designee;

331 (7) The president pro tempore of the Senate, or the president pro
332 tempore's designee;

333 (8) The majority leader of the House of Representatives, or the
334 majority leader's designee;

335 (9) The majority leader of the Senate, or the majority leader's
336 designee;

337 (10) The minority leader of the House of Representatives, or the
338 minority leader's designee; and

339 (11) The minority leader of the Senate, or the minority leader's
340 designee.

341 (c) Any member of the task force appointed under subdivisions (4)
342 to (11), inclusive, of subsection (b) of this section may be a member of
343 the General Assembly.

344 (d) All appointments to the task force shall be made not later than
345 thirty days after the effective date of this section. Any vacancy shall be
346 filled by the appointing authority.

347 (e) The speaker of the House of Representatives and the president
348 pro tempore of the Senate shall select the chairpersons of the task force
349 from among the members of the task force. Such chairpersons shall

350 schedule the first meeting of the task force, which shall be held not
351 later than sixty days after the effective date of this section.

352 (f) The administrative staff of the joint standing committee of the
353 General Assembly having cognizance of matters relating to labor and
354 public employees shall serve as administrative staff of the task force.

355 (g) Not later than October 1, 2015, the task force shall submit, in
356 accordance with the provisions of section 11-4a of the general statutes,
357 a report on its findings and recommendations to the Governor, the
358 Joint Committee on Legislative Management and the joint standing
359 committee of the General Assembly having cognizance of matters
360 relating to labor and public employees. The task force shall terminate
361 on the date that it submits such report or October 1, 2015, whichever is
362 later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	31-58(e)
Sec. 2	<i>October 1, 2014</i>	31-275(9)
Sec. 3	<i>October 1, 2014</i>	46a-51(9) and (10)
Sec. 4	<i>October 1, 2014</i>	31-71f
Sec. 5	<i>October 1, 2014</i>	New section
Sec. 6	<i>October 1, 2014</i>	New section
Sec. 7	<i>October 1, 2014</i>	New section
Sec. 8	<i>October 1, 2014</i>	New section
Sec. 9	<i>October 1, 2014</i>	New section
Sec. 10	<i>October 1, 2014</i>	New section
Sec. 11	<i>October 1, 2014</i>	New section
Sec. 12	<i>October 1, 2014</i>	New section
Sec. 13	<i>October 1, 2014</i>	New section
Sec. 14	<i>October 1, 2014</i>	New section

Statement of Purpose:

To establish certain requirements for the employment of domestic workers in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]