



Companions & Homemakers

Testimony of David L. Denvir
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Labor and Public Employees Committee Public Hearing

Proposed SB 446 AAC THE DEFINITION OF THE TERM "DOMESTIC WORKER"

Tuesday, February 17, 2015

Senator Winfield, Representative Tercyak and distinguished members of the Labor and Public Employees Committee:

Good Afternoon. My name is David Denvir. I thank the Committee for the opportunity to address Proposed Bill 446, "An Act Concerning the Definition of the Term Domestic Worker", and speak to you in my role as General Counsel for Companions and Homemakers, Inc.

Companions and Homemakers, one of Connecticut's largest providers of non-medical homecare for seniors, has provided homecare to seniors in every one of Connecticut's 169 cities and towns since 1990. In those twenty-five years we've observed domestic service employment from three perspectives: the senior receiving homecare, the hardworking domestic worker, and the business challenges of balancing the needs of each.

With that experience, I share a few observations.

It is difficult to speak forcefully to Proposed Bill 446 in its present form of less than thirty words. Part of the bill – defining domestic worker – is already underway. In 2014, substitute bill 5527, Special Act 14-17, created a Domestic Worker's Taskforce. The Taskforce is currently defining domestic worker and will submit a final report no later than October 2015. I have the pleasure of serving on that taskforce with Senator Winfield, Representatives Tercyak and Santiago, Commissioner Sharon Palmer, and others. Since that panel, if you'll pardon my liberties, has been tasked with defining domestic worker, I respectfully suggest that additional legislation to the same point is not needed.

The origin of substitute bill 5527 was a bill that proposed, but did not adopt, a definition of 'domestic worker' wherein the employer was the talisman separating domestic workers from other laborers. That definition split domestic service into two groups: workers employed by state licensed agencies, and workers employed by individual homeowners. I suggest that distinction is an appropriate starting place to define domestic worker.

The Taskforce convened a public hearing eliciting testimony of two distinctly different employment experiences and employment models for domestic workers. The first model was the agency employed domestic worker, where workers labor under the same umbrella of protection applicable to other industries. Worker's compensation insurance, health insurance, unemployment compensation, regulatory wage and hour enforcement and discrimination policing courtesy of the CHRO, EEOC and other agencies.

Agency employees afforded full labor protections were contrasted by a second domestic service workforce, a workforce employed not by licensed agencies, but by individual homeowners, and that workforce reported employment abuses. Those workers, deserving no less protection, were predominantly of an immigrant community. They often experienced language barriers and had limited awareness of labor enforcement organizations or their legal rights. Without exception those workers were employed and paid by the homeowner, not by licensed agency employers.

Domestic workers in that second group can include those privately hired by the homeowner upon 'referral' by a registry. Registries receive a fee in exchange for referring a domestic worker to a private homeowner for direct hire. Registries, unlike Agency employers, have no obligation under current law to monitor whether the homeowner follows wage and hour laws, have no obligation to provide worker's compensation, health or unemployment insurance, and no financial incentive to support homeowner compliance with labor laws. Workers hired by registry referral are employed and paid by the homeowner, not an agency employer, and where wages are paid in such a fashion, labor violations can escape the notice of enforcement agencies or go unreported.

I urge this Committee to adopt a definition designating domestic workers as those employed by the homeowner, only. Agency employers undergo annual licensing and constant regulatory review. Homeowners privately paying domestic workers are not likely to have the expertise or desire to withhold taxes, file quarterly returns or provide insurance, and where one labor law is suborned, many will likely follow.