

**Brazilian Immigrant Center for All
1067 Park Avenue
Bridgeport, Connecticut 06604**

February 17, 2015

*TESTIMONY OF NATALICIA TRACY IN SUPPORT OF SB446, AN ACT
CONCERNING A DOMESTIC WORKER BILL OF RIGHTS CONCEPT*

Good afternoon, Senator Winfield, Representative Tercyak, and members of the Labor and Public Employees Committee. Thank you for raising the domestic workers bill of rights concept that hopefully will create a space for constructive discussions that will lead to a comprehensive bill to make Connecticut the fifth state in the nation to recognize that all workers deserve protection under labor law, and to correct some glaring historical exclusions that have their origin in the past injustices of slavery and Jim Crow. My name is Natalicia Tracy. I am a Sociology PhD Candidate at Boston University and the Executive Director of the Brazilian Immigrant Center, here in Bridgeport, Connecticut. Before that, for 15 years I was a domestic worker myself, and I suffered a great of labor exploitation and abuse while was providing love and care to children in many U.S. families, and to many wonderful senior citizens who needed support to live independently.

In our neighboring New England state in June 2014, Governor Deval Patrick signed the most comprehensive domestic workers bill yet passed, making Massachusetts the fourth state, after California, Hawaii, and New York, to extend to domestic workers the same basic labor rights that other workers have enjoyed since the 1930s. Over 67,000 domestic workers in the state of Massachusetts now have those rights and are engaged in a public education campaign to inform workers and employers of their new rights and responsibilities under the law, which goes into effect on April 1. Workers in Massachusetts have been afforded the:

1/Right to be **paid for all working time** which includes:

- Any time the Domestic Worker is required to be on the employer's premises or on duty (except as provided below)
- Meal periods, rest periods, and sleeping time unless:
 - The Domestic Worker can leave the premises, and
 - Can use the time for her sole use and benefit, and
 - Is completely relieved of all work duties, and
 - There is a written agreement not to be paid
- The Employer doesn't have to pay for sleep time if:
 - The Domestic Worker works 24 hours or more, and
 - There is an agreement in writing between the Domestic Worker and employer, and
 - The Domestic Worker's sleeping time is not usually interrupted by work, and
 - The Employer provides adequate sleeping quarters.
- **2/The Right to days of rest**
 - If the Domestic Worker 40 or more hours a week, the employer must provide at least 24 consecutive hours of rest per week and 48 hours of consecutive rest per month (to coincide with religious worship, when possible).
 - If the Domestic Worker voluntarily works over 40 hours per week or during a day of rest, the employer must pay overtime rate (time and a half) for each excess hour worked.
- **3/Food:** The Domestic Worker does not have to pay for food and beverages unless:
 - Food/beverages are voluntarily and freely chosen, and
 - There is a written agreement between the employer and Domestic Worker stating the cost of food, and
 - The Domestic Worker has the ability to easily bring or prepare her own food if she wants, and
 - The price accurately reflects cost of food and cannot exceed \$1.50 for breakfast, \$2.25 for lunch, and \$2.25 for dinner.
- **4/Lodging:** Domestic Worker does not have to pay for lodging unless:
 - Lodging is voluntarily and freely accepted, and
 - The Domestic Worker actually desires and uses the lodging, and
 - There is a written agreement between the Domestic Worker and employer, and
 - Lodging meets safe and sanitary housing legal standards, and

- The price does not result in the Domestic Worker making less than the hourly minimum wage, and
- The price is reasonable, which means:
 - It does not exceed \$35.00 per week for a room used by one person, \$30.00 per week for a room occupied by 2 people, \$25.00 per week for a room occupied by 3 or more persons.
- 5/ The Right to **protection against trafficking**, through civil enforcement by the Attorney General under provisions of the Massachusetts Anti-Trafficking Law
 - Employer cannot engage in sex trafficking of domestic workers or labor trafficking, called “forced services”
 - Forced services entails threatening serious harm, physically restraining an individual, destroying, hiding or taking any immigration documents, engaging in extortion, or causing or threatening to cause financial harm, in order to confine the worker in the job
- 6/Right to **request a written evaluation** (though the employer is not required to provide it)
 - A Domestic Worker may request a written evaluation after 3 months and annually thereafter
 - A Domestic Worker may dispute the evaluation under the Personnel Records Law
- 7/Right to a **written employment agreement**, if the Domestic Worker works 16 hours or more per week. Agreement must include:
 - Rate of pay, including overtime
 - Whether additional pay is provided for added duties/multilingual skills
 - Working hours (including meal breaks and other time off)
 - Whether the employer provides benefits – paid or unpaid -- days of rest, sick days, vacation days, personal days, holidays, health insurance, severance pay, transportation costs, etc.
 - Fees or costs for the worker, if any, including costs for meals or lodging
 - Responsibilities of the job
 - The process for addressing grievances and asking additional pay for added duties
 - The right to collect workers compensation, if injured in the performance of job duties
 - Circumstances under which employer can enter the Domestic Worker’s designated living space on the employer’s premises
 - Required notice for termination by employer and, if required, by Domestic Worker
 - Any other rights or benefits provided to the Domestic Worker
- 8/Right to **document retention and notice of rights**

- Employer must retain all notices and agreements for at least two years
- Employer must provide notice to worker that enumerates Domestic Worker labor rights under all applicable state and federal laws
- 9/Right to **notice/lodging/severance before termination of live-in Domestic Workers** without cause
 - 30 days of written notice of loss of living quarters, or granting of at least 30 days of lodging either on-site or in comparable off-site conditions, or severance pay equivalent to average earnings for 2 weeks
 - **Note:** There is no right to notice or severance pay if the employer makes good faith allegation in writing of abuse, neglect or other harmful conduct towards employer, employer's family, or individuals residing in employer's home
- 10/Right to **protection against retaliation**
 - The employer may not fire or in any other way discriminate against a Domestic Worker who seeks to assert her rights to fair wages and overtime. This provision removes the exception for DWs who work 16 hours or less.

11/The right to **protection against discrimination**

- Right to take a **sexual harassment** or other harassment claim to the Massachusetts Commission Against Discrimination (MCAD)
- *Personal Care Attendants* have right to take **sexual harassment** claims only to MCAD.
- Right to maternity leave of up to 8 weeks for the birth or adoption of a child.
- Right given to all domestic workers to bring **discrimination** claims to the Massachusetts Commission Against Discrimination. For workers where there are 6 or more employees, the right is effective on September 24, 2014; for workers where there are less than 6 employees, the right is effective on April 1, 2015.

[The Massachusetts Commission Against Discrimination enforces the provisions under Right No. 11.]

- 12/Right to bring a private lawsuit if Domestic Worker is **injured on the job** by a fellow employee (effective September 24, 2014.)
- 13/Right to **privacy**
 - A Domestic Worker has the right to expect privacy (which includes the right to privacy in the bathroom) that is available under the state's Privacy Law

- The employer cannot take any of the domestic worker's documents or other personal effects
- Employer cannot restrict or interfere with domestic worker's private communication or monitor communication

By April 1, 2015, the Executive Office of Labor and Workforce Development (EOLWD) in consultation with the Attorney General will:

- Develop and implement a multilingual outreach program to inform Domestic Workers and their employers about rights and responsibilities under the law
- The outreach and education program will include know your rights information, model employment agreements, educational materials for employers on their human resources duties – including information on taxes, benefits, worker's compensation insurance laws, and a model written work evaluation form.

By April 1, 2015, the Attorney General will publish regulations concerning the parts of the bill enforced by that Office.

We advocate for domestic workers because they are alone at the workplace. Domestic service is the one of the occupations with the highest rates of labor exploitation, such as having illegal deductions withheld from pay, or receiving no pay at all, or having long working hours with no clarity about when work begins and ends, or what the job duties really are. These are very basic labor rights that we usually think accompany most jobs, but domestic workers were deliberately *not granted* them under the law, due to racially biased exclusions in the past. What we ask for in the Bill of Rights addresses many workers' rights that we assume today are universally enjoyed; attempts to bring domestic workers up to the same standard our society holds for other kinds of workers; and, provides some civil remedies to address continuing unfair working conditions. Right now, domestic workers have little or no recourse for complaint if they are exploited or abused, which they are too often. This is due in large part to the lack of regulation in the industry, and the absence of clear legal guidelines for employers to follow in how they should treat their employees.

An added urgency, of course, is that the people who do domestic work in Connecticut – as in other parts of the nation – are mostly *low-income women of color, many of them immigrants*. Anything we can do to increase the labor rights and protections of these important caregivers – especially provisions for fair compensation – can thus be very effective as a poverty-reduction strategy in our state.

American families depend on over 2 million domestic workers today to take care of their most precious and vulnerable possessions -- their children, their parents, their sick family members, and their private homes. As baby boomers turn 65 -- one every 8 seconds -- by 2035 the U.S. will need 4 million domestic workers. If we are lucky enough to live a long life, we eventually all will need someone to care for us. We all gain in receiving the quality care we want if we also give those who deliver it the respect, dignity and fair pay that their important work deserves.... so they in turn can provide and care for their own families. This is a win-win situation.

The domestic workers movement has gone global, with the International Labor Organization's passage of Convention 189 on Decent Work for Domestic Workers, making decent working conditions a human right that has already been approved by 17 nations. In the United States now working with the NDWA are *46 organizations in 26 cities, throughout 18 states*, all working to build a grassroots movement with the objective to introduce Domestic Worker Bills of Rights in many more states throughout the nation.

I know Connecticut cares about all workers and I am honored to be part of the team here that is working to bring needed, positive changes, hopefully making Connecticut the fifth state in the U.S. to recognize domestic workers' need for standard labor protections. I'm confident that, as in so many other areas, Connecticut will do the right thing and once again set a standard for other states to follow.

Again, thank you so much for raising this important bill. All domestic workers are only seeking -- as I have myself in my own years of experience doing care work -- dignity, respect and protection from abuse. We are grateful for your continuing support of SB446, *an Act Concerning the Domestic Worker Bill of Rights Concept*.

Yours sincerely,



Natalicia Tracy
Executive Director