



THE MASSACHUSETTS DOMESTIC WORKERS BILL OF RIGHTS

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2014 HB 5527

During the 2014 legislative session, the Labor Committee raised [HB 5527](#), originally titled, "An Act Concerning a Domestic Workers Bill of Rights." The bill was subsequently voted out of committee with substitute language that created a Domestic Workers Task Force to study issues involving domestic workers and recommend legislative initiatives to provide outreach and education services to domestic workers and their employers. This version of the bill was enacted as [SA 14-17](#). This report describes the bill as originally raised by the committee (LCO 2297), which would have created a "bill of rights" for Connecticut's domestic workers.

ISSUE

This report summarizes the Massachusetts Domestic Workers Bill of Rights and compares its provisions to Connecticut's 2014 [HB 5527](#), as originally raised by the Labor Committee.

SUMMARY

In June 2014, the Massachusetts General Court passed a "Domestic Workers Bill of Rights" ([2014 Mass. Acts Chapter 148](#)). Among other things, the act requires certain employers of domestic workers to (1) notify their domestic workers about certain aspects of their employment, including the worker's rights and the employer's legal obligations; (2) provide domestic workers with up to eight weeks of unpaid maternity leave; (3) provide full-time domestic workers with at least one day off per week and two consecutive days off per month; and (4) meet minimum requirements for providing lodging or severance pay when they terminate live-in domestic

workers. It also extends the state's sexual harassment and anti-discrimination laws to cover domestic workers.

The Connecticut General Assembly's Labor Committee also considered a bill that would have created a domestic workers bill of rights in the 2014 legislative session. The provisions of that year's [HB 5527](#), as originally raised by the committee, are generally similar to the Massachusetts act, although details within comparable provisions often vary (e.g., the Massachusetts act requires one day off per week for

full-time workers, while the Connecticut bill requires one day off per week for all domestic workers, regardless of their work hours). The bill also contains certain provisions that are not in the Massachusetts act, such as requiring employers to provide domestic workers with annual paid leave and lowering the threshold for when domestic workers must be covered by workers' compensation insurance.

The following summarizes the provisions of the Massachusetts Domestic Workers Bill of Rights ("the act") and compares them to their counterparts in [HB 5527](#) ("the bill"). It also summarizes the provisions of [HB 5527](#) that were not included in the Massachusetts act.

DEFINING "DOMESTIC WORKERS" AND THEIR "EMPLOYERS"

The act defines a "domestic worker" as an individual or employee who is paid by an employer to perform work of a domestic nature within a household, including:

1. housekeeping;
2. house cleaning;
3. home management;
4. nanny services;
5. caretaking in the home, including caring for sick, convalescing, and elderly individuals;
6. laundering;
7. cooking;
8. home companion services; and
9. other household services for household members or their guests in private homes.

Under the act, domestic workers are not (1) personal care attendants (PCAs) who provide services to people with disabilities or seniors under the Mass Health PCA program, (2) individuals whose vocation is not childcare, or (3) individuals whose service for the employer primarily consists of childcare on a casual, intermittent, and irregular basis for one or more family or household members (i.e., babysitting).

An “employer” under the act is a person who employs a domestic worker to work within a household, regardless of whether the person has an ownership interest in the household. It does not include staffing, employment, or placement agencies licensed or registered under state law or a person to whom a PCA provides services.

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[HB 5527](#)’s definition of “domestic workers” is essentially the same as in the Massachusetts act. While the act exempts PCAs under the Mass Health PCA program, the Connecticut bill more broadly exempts PCAs providing services under any state-funded program.

Because the bill’s definition includes anyone who is paid by a private dwelling’s owner or occupier to perform work of a domestic nature, it appears that it could include domestic workers who work as independent contractors (and not employees). However because the bill does not define “employers,” it is unclear if its provisions would apply to consumers or other entities who contract with independent contractors to provide domestic services. Unlike the Massachusetts act, the bill does not exempt staffing, employment, or placement agencies that employ domestic workers.

RECORDS AND NOTICE

The act specifies that a domestic worker’s employer must keep wage and hour records for the worker as required by the state’s law for all employers. In addition, those who employ a domestic worker for at least 16 hours per week must provide the worker with information on the:

1. pay rate, including overtime and additional compensation for added duties or multilingual skills;
2. work hours, including meal breaks and other time off;
3. if applicable, rest, sick, vacation, and personal days; holidays; transportation; health insurance, including whether costs are paid or reimbursed; severance; and transportation costs;
4. fees or other costs, including room and board;
5. job responsibilities;
6. process for raising and addressing grievances and additional compensation if new duties are added;

7. right to collect workers' compensation if injured (Massachusetts law requires workers' compensation coverage for domestic workers who work at least 16 hours per week);
8. circumstances in which the employer will enter the domestic worker's designated living space on the employer's premises;
9. act's termination notice requirement; and
10. any other rights or benefits given to the worker.

The act also requires an employer to provide a domestic worker with a notice that contains all applicable state and federal laws that apply to employing domestic workers. The notice must be prepared by the attorney general and is available on her office's [website](#).

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The Connecticut bill's notice provisions are essentially the same as the act's. However the bill, unlike the act, requires employers to notify all domestic workers, regardless of their work hours. It also requires the notice to include wage payment schedules. Unlike the act, the bill does not require employers' notice to include a process for addressing grievances and additional compensation if new duties are added.

MATERNITY LEAVE

The act extends to domestic workers the state's requirement for employers to provide female employees with up to eight weeks of unpaid maternity leave. Under the state's law, employees are eligible for the leave once they have completed an initial probationary period or been employed by their employers for at least three consecutive months as full-time employees. Employers may provide paid leave at their own discretion ([Mass. Gen. Laws ch. 149, § 105D](#)).

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[HB 5527](#) does not have any provisions that specifically provide domestic workers with maternity leave. However, the bill's extension of state anti-discrimination laws to domestic workers (see below) would require employers to provide a reasonable leave of absence for a disability resulting from a pregnancy. Unlike Massachusetts, Connecticut does not require employers to provide maternity leave unless they are covered by the state's family and medical leave law, which applies to employers

with at least 75 employees in the state and also provides paternity leave. The federal Family and Medical Leave Act also requires employers with at least 50 employees to provide unpaid maternity and paternity leave.

MANDATORY DAYS OFF

The act requires employers to provide a domestic worker who works at least 40 hours per week with rest periods of at least 24 consecutive hours in each calendar week and 48 consecutive hours in each calendar month. When possible, the rest period must allow time for religious worship. Under the act, a rest period is a period of time with complete freedom from all duties, during which a domestic worker may leave the employer's premises or stay on the premises for purely personal pursuits. However, paid rest days must be considered vacation time. A worker may voluntarily agree to work on a day of rest if the agreement is in writing and the worker is paid at the overtime rate (time-and-a-half) for the day.

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[HB 5527](#) similarly prohibits employers from requiring any domestic worker to work more than six days in any calendar week, although this prohibition applies regardless of the worker's work hours. The bill does not have any provisions requiring 48 consecutive hours off each month or time for religious worship. As under the act, the bill allows workers to agree, in writing, to work a seventh day each week if they are paid at least one-and-a-half times their average hourly rate.

SLEEP, MEAL, AND REST PERIODS

Under the act, a domestic worker required to be on duty for at least 24 consecutive hours may agree with an employer to exclude a regularly scheduled sleeping period of up to eight hours from their compensable working time. Without an agreement, all meal periods, rest periods, and sleeping periods must count as compensable time.

A domestic worker who is on duty for less than 24 consecutive hours and does not reside on the employer's premises must be paid for all meal, rest, and sleeping periods unless the worker is completely relieved of all work-related duties and free to leave the employer's premises and use the time for his or her sole use and benefit.

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[HB 5527](#) has a similar provision for exempting the sleep time of workers who are required to be on duty for at least 24 consecutive hours, although it requires an agreement on the exemption to be in writing. The provisions regarding workers required to be on duty for less than 24 consecutive hours are also largely similar.

ROOM AND BOARD DEDUCTIONS

The act allows employers to deduct an amount for food and beverages from a domestic worker's wages if the worker voluntarily and freely chooses the food and beverages. An employer cannot make the deduction unless the worker can easily bring or prepare meals on the premises.

An employer may deduct for lodging if (1) the worker voluntarily and freely accepts, desires, and actually uses the lodging and (2) it meets the state's legal standards for adequate, decent, and sanitary lodging. An employer cannot deduct for lodging if the employer requires the worker to reside on the employer's premises or in a particular location.

No deductions for meals or lodging can be made without the worker's prior written consent.

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[HB 5527](#) allows a domestic worker's wages to include the reasonable value of room and board if the worker received notice about it under the bill's notice requirement and voluntarily accepts the conditions, in writing, at the time of hiring. Unlike the Massachusetts act, the bill does not have provisions that link room and board charges to a worker's ability to bring or prepare their own meals or whether they must live on the employer's premises.

PRIVACY

The act specifies that domestic workers have a right to privacy under the Massachusetts law that grants people a right against unreasonable, substantial, or serious interference with their privacy. It prohibits an employer from (1) restricting or interfering with a domestic worker's means of private communication, (2) monitoring their private communications, (3) taking their personal documents or other personal effects, or (4) engaging in any conduct that constitutes forced services or human trafficking (which are both crimes under the state's laws regardless of whether a victim is a domestic worker).

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The bill similarly prohibits employers from (1) restricting or interfering with a domestic worker's private communications; (2) seizing, searching, or inspecting a worker's personal belongings; or (3) violating the state's human trafficking law.

While the Massachusetts act prohibits employers from monitoring a domestic worker's private communications, the Connecticut bill prohibits them from monitoring any of their activities or communications by any means other than direct observation, unless the worker provides voluntary and informed consent. However, the bill also allows employers, without consent, to monitor a worker with certain devices (e.g., computers, cameras, and radios) if the worker is performing care-giving tasks such as babysitting; child care; or caring for sick, convalescing, or elderly people.

Unlike the Massachusetts act, the bill also prohibits employers of live-in domestic workers from entering the worker's designated living area without the worker's informed consent. The bill allows an employer to enter a worker's living area without consent to perform emergency repairs if (1) securing consent within a reasonable time is not feasible and (2) the employer notifies the worker that the employer entered the living area within a reasonable time after doing so.

JOB EVALUATIONS

The act allows domestic workers to request an annual written evaluation of their work performance after three months of employment; however it does not require employers to comply with the request. The worker can inspect and dispute the evaluation under the state's personnel records law.

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[HB 5527](#) does not have any provisions regarding written evaluations for domestic workers. The state's personnel records law, among other things, requires employers to provide employees (including domestic workers) with a copy of their personnel file upon request and allows employees to include a written statement disputing any information contained in the file ([CGS § 31-128a et seq.](#)).

TERMINATION NOTICE AND SEVERANCE PAY

For live-in domestic workers who are terminated without cause, the act requires employers to provide written notice and either (1) at least 30 days of lodging, either on site or in comparable off-site conditions, or (2) severance pay equal to the worker's average earnings for two weeks. The notice and severance pay requirements do not apply if there are good faith allegations in writing, with

reasonable basis and belief, and without reckless disregard or willful ignorance of the truth, that the terminated worker abused, neglected, or caused any other harmful conduct against the employer.

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[HB 5527](#) also contains provisions regarding termination notices and severance pay, although their application is much broader. The bill requires employers to provide all domestic workers (not just live-ins) with a termination notice at least seven days in advance and, if the worker is ineligible for unemployment benefits, severance pay equal to the worker's average weekly pay in the most recent complete calendar quarter. Upon terminating any domestic worker, an employer must also take all reasonable steps to prevent the worker's homelessness.

Similar to the Massachusetts act, these provisions do not apply if the worker is terminated for willful misconduct.

MINIMUM BENEFITS AND RIGHTS

The act specifies that it does not affect any employer policies or practices that provide greater, additional, or more generous wages, benefits, or working conditions for domestic workers.

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The bill does not contain a similar provision.

ENFORCEMENT

The act requires the attorney general to enforce the above provisions and obtain injunctive or declaratory relief necessary for enforcement. It also requires the attorney general to promulgate rules and regulations needed for enforcement. (The pending proposed regulations can be found [here](#).)

The act also allows a domestic worker aggrieved by a violation of its provisions to bring a civil suit for injunctive relief, damages, and any lost wages and benefits. The worker cannot bring the suit until 90 days after he or she filed a complaint with the attorney general, unless the attorney general assents in writing. The suit must be brought within three years after the alleged violation. A worker who prevails in the suit must be awarded triple damages, as liquidated damages, for any lost wages and benefits, plus costs and attorney's fees.

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The bill requires the labor commissioner, rather than the attorney general, to enforce most of its provisions. It allows a domestic worker to file a complaint with the labor commissioner alleging a violation of the above provisions. It requires her to investigate and allows her to hold a hearing. It requires her to (1) levy up to a \$500 civil penalty against an employer for a first-time violation and \$1,000 for each subsequent violation and (2) award all appropriate relief including, rehiring, back wages, compensation for denied leave, reestablishment of benefits, and any other appropriate remedies. The commissioner can ask the attorney general to bring a Superior Court action to recover penalties. Any party aggrieved by the commissioner's decision can appeal to the Superior Court.

The bill also specifies that it does not prohibit a domestic worker from filing a civil suit against an employer.

Unlike the Massachusetts act, the bill prohibits employers from taking certain retaliatory employment actions against domestic workers for (1) complaining to an employer, (2) filing a complaint with the labor commissioner or testifying at a labor department proceeding, or (3) exercising any rights provided by the bill.

SEXUAL HARASSMENT AND DISCRIMINATION

The act makes it an unlawful discriminatory practice for a domestic worker's employer to:

1. engage in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature to a domestic worker if (a) submission to the conduct is either explicitly or implicitly a term or condition of employment, (b) submission to or rejection of the conduct is used as a basis for employment decisions, or (c) the conduct unreasonably interferes with the worker's work performance by creating an intimidating, hostile, or offensive work environment;
2. subject a domestic worker to unwelcome harassment based on sex, sexual orientation, gender identity, race, color, age, religion, national origin, or disability if the harassment unreasonably interferes with the worker's work performance by creating an intimidating, hostile, or offensive working environment; or
3. refuse job-protected maternity leave for the domestic worker.

The act also brings domestic workers and their employers under the state's anti-discrimination laws, which generally prohibit employers from discriminating against employees based on race, color, religion, national origin, gender identity, sexual orientation, genetic information, ancestry, age, or disability.

The act's sexual harassment and discrimination provisions also cover PCAs.

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The bill brings domestic workers under the employment-related antidiscrimination laws administered by the Commission on Human Rights and Opportunities (CHRO). These provisions are substantially similar to those under the Massachusetts act.

[PA 15-249](#) brings domestic workers who work for employers with at least three employees under the CHRO laws.

MINIMUM WAGE WHISTLEBLOWER PROTECTION

The act extends minimum wage-related whistleblower protections to domestic workers who work less than 16 hours per week. Prior law only protected domestic worker whistleblowers who worked at least 16 hours per week.

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[HB 5527](#) does not have a similar provision, although its extension of minimum wage requirements (see below) to all domestic workers also extends whistleblower protections to them.

LAWSUITS FOR PERSONAL INJURIES CAUSED BY CO-EMPLOYEES

The act allows domestic workers to bring lawsuits for personal injuries caused by co-employees under certain circumstances.

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The bill does not have a similar provision. Connecticut workers' compensation law generally prohibits an injured employee from suing a co-employee for an injury for which the employee receives workers' compensation benefits. However, such suits are allowed if the injury was caused by the co-employee's willful or malicious action or negligent operation of a motor vehicle ([CGS § 31-293a](#)).

OUTREACH PROGRAM

The act requires the state's Executive Office of Labor and Workforce Development, in consultation with the attorney general, to develop and implement a multilingual outreach program to inform domestic workers and their employers about their

rights and responsibilities. The program must distribute “know your rights” information, model employment agreements, model written work evaluation forms, and educational materials on employers’ human resources duties, including information on benefits and tax and insurance laws.

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The bill creates the Domestic Workers Task Force to study issues involving domestic workers and recommend legislative initiatives to provide outreach and education services to domestic workers and their employers. ([SA 14-17](#), subsequently created this task force.)

REGULATIONS

Massachusetts

The act requires the attorney general to promulgate regulations.

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The bill does not authorize or require any regulations.

OTHER PROVISIONS IN HB 5527

[HB 5527](#), has the following provisions which are not in the Massachusetts Domestic Workers Bill of Rights.

Paid Leave

The bill requires employers to provide their full-time domestic workers with up to 88 hours of paid leave per year. Part-time workers qualify for the leave after one year of working for their employer. Workers accrue one hour of paid leave for every 40 hours worked, up to 56 hours per year. Once a domestic worker completes one year of full-time employment with an employer, the employer must provide an additional eight hours of paid leave for each calendar quarter of full-time work (thus, such a worker could accrue up to 88 hours of paid leave per year). The bill allows workers to carry over up to 56 hours of unused accrued hours of paid leave each calendar year, but they are not entitled to use more than 56 hours of leave in any calendar year.

A worker’s pay for the leave must be his or her normal hourly wage. If a worker’s hourly wage varies, the normal hourly wage is the average hourly wage in the pay period prior to the leave.

Minimum and Overtime Wage Requirements

The bill extends the state's minimum and overtime wage requirements to all domestic workers. Current law only covers domestic workers who are required to be paid the minimum wage under federal law.

Massachusetts' wage law covered all domestic workers prior to the bill of rights' enactment.

Workers' Compensation

The bill lowers the threshold for when an employer must provide a domestic worker with workers' compensation coverage. Under current law, employers must provide coverage for any domestic worker who works more than 26 hours per week for them. Under the bill, the coverage must be provided if the private dwelling's owner or occupier paid the domestic worker at least \$1,000 in any calendar quarter in the current or preceding calendar year.

Under Massachusetts law, employers must provide domestic workers with workers' compensation coverage if the worker works at least 16 hours per week for the employer. The act did not change this requirement.

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