



House of Representatives

General Assembly

File No. 887

January Session, 2019

Substitute House Bill No. 6931

House of Representatives, May 16, 2019

The Committee on Appropriations reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DOMESTIC WORKERS.

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

1 Section 1. Section 31-71f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2020*):

3 (a) Each employer shall: (1) Advise his employees in writing, at the
4 time of hiring, of the rate of remuneration, hours of employment and
5 wage payment schedules, and (2) make available to his employees,
6 either in writing or through a posted notice maintained in a place
7 accessible to his employees, any employment practices and policies or
8 change therein with regard to wages, vacation pay, sick leave, health
9 and welfare benefits and comparable matters.

10 (b) Each employer employing a domestic worker, as defined in
11 section 3 of this act, shall advise the domestic worker in writing, at the
12 time of hiring, of: (1) The rate of remuneration, hours of employment
13 and wage payment schedules; (2) the job duties and responsibilities; (3)
14 the availability of sick leave, days of rest, vacation, personal days and

15 holidays, and whether such days are paid or unpaid, and the rate at
16 which such days accrue; (4) necessary or required modes of
17 transportation, and whether such transportation is provided, paid or
18 reimbursed; (5) the availability of health insurance, and whether it is
19 paid or reimbursed; (6) any applicable severance, yearly raises or other
20 forms of compensation; (7) whether the employer may charge any fees
21 or costs for board and lodging; and (8) any other rights afforded to
22 such domestic worker under the provisions of this section, section 53-
23 303e, as amended by this act, and sections 3 to 5, inclusive, of this act.

24 Sec. 2. Section 53-303e of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective January 1, 2020*):

26 (a) (1) No employer shall compel any employee (A) engaged in any
27 commercial occupation, [or] (B) engaged in the work of any industrial
28 process, or (C) employed as a domestic worker, as defined in section 3
29 of this act, to work more than six days in any calendar week. An
30 employee's refusal to work more than six days in any calendar week
31 shall not constitute grounds for his or her dismissal.

32 (2) Notwithstanding the provisions of subdivision (1) of this
33 subsection, a domestic worker may work seven days in any calendar
34 week, provided (A) the domestic worker and his or her employer
35 agree, in writing, to such schedule, and (B) the domestic worker is
36 compensated at the appropriate rate, including the overtime rate, if
37 applicable.

38 (b) Any employee, who believes that his or her discharge was in
39 violation of subsection (a) of this section may appeal such discharge to
40 the State Board of Mediation and Arbitration. If said board finds that
41 the employee was discharged in violation of said subsection (a), it may
42 order whatever remedy will make the employee whole, including but
43 not limited to, reinstatement to his or her former or a comparable
44 position.

45 (c) Any person who violates any provision of this section shall be
46 fined not more than two hundred dollars.

47 Sec. 3. (NEW) (*Effective January 1, 2020*) (a) For the purposes of this
48 section and sections 4 and 5 of this act:

49 (1) "Domestic worker" means any individual or employee who is
50 paid or who is told he or she will be paid to perform work of a
51 domestic nature in or about a private dwelling, including, but not
52 limited to, housekeeping, home management, child care, caretaking of
53 individuals, including sick, convalescing and elderly individuals,
54 laundering, meal preparation, home companion services and other
55 household services for occupants of the private dwelling or the guests
56 of such occupants. "Domestic worker" does not include (A) a babysitter
57 whose employment is irregular and intermittent or of a casual nature,
58 or (B) a personal care attendant providing services pursuant to a state-
59 funded program, including, but not limited to, (i) the program for
60 individuals with acquired brain injuries, established pursuant to
61 section 17b-260a of the general statutes, (ii) the personal care assistance
62 program, established pursuant to section 17b-605a of the general
63 statutes, (iii) the Connecticut home care program for the elderly,
64 established pursuant to section 17b-342 of the general statutes, (iv) the
65 pilot program to provide home care services to disabled persons,
66 established pursuant to section 17b-617 of the general statutes, (v) the
67 individual and family support waiver program administered by the
68 Department of Developmental Services, and (vi) the comprehensive
69 waiver program administered by the Department of Developmental
70 Services;

71 (2) "Employer" means any owner or any person, partnership,
72 corporation, limited liability company or association of persons acting
73 directly as, or on behalf of, or in the interest of an employer in relation
74 to a domestic worker and shall include for the purposes of chapter 567
75 of the general statutes a (A) homemaker-companion agency, as defined
76 in section 20-670 of the general statutes, (B) registry, as defined in
77 section 20-670 of the general statutes, or (C) homemaker-home health
78 aide agency, as defined in section 19a-490 of the general statutes, that
79 refers a domestic worker to a consumer to provide (i) homemaker
80 services, (ii) companion services, or (iii) homemaker-home health aide

81 services;

82 (3) "Consumer" means an individual receiving homemaker services,
83 companion services or homemaker-home health aide services from a
84 homemaker-companion agency, registry or homemaker-home health
85 aide agency;

86 (4) "Homemaker services" means homemaker services, as defined in
87 section 20-670 of the general statutes;

88 (5) "Companion services" means companion services, as defined in
89 section 20-670 of the general statutes;

90 (6) "Homemaker-home health aide services" means homemaker-
91 home health aide services, as defined in section 19a-490 of the general
92 statutes;

93 (7) "Live-in domestic worker" means a domestic worker who resides
94 in or about an employer's private dwelling for at least four consecutive
95 twenty-four-hour periods during at least two consecutive weeks
96 within one calendar year;

97 (8) "Full-time employment" means an average working period of
98 forty hours or more per week within the previous month; and

99 (9) "Part-time employment" means an average working period of
100 less than forty hours per week within the previous month.

101 (b) No employer shall (1) restrict or interfere with a domestic
102 worker's private communications that are made when the domestic
103 worker is not expected to be working, (2) seize, search or inspect the
104 domestic worker's personal belongings, or (3) engage in any conduct
105 against a domestic worker that violates subsection (a) of section 53a-
106 192a of the general statutes or any other section of the general statutes.

107 (c) No employer of a live-in domestic worker shall enter a live-in
108 domestic worker's designated living area in or about the employer's
109 private dwelling without such live-in domestic worker's informed and

110 voluntary consent, except that the employer may enter such
111 designated living area if emergency repairs are required, if (1) securing
112 such live-in domestic worker's consent within a reasonable time is not
113 feasible, and (2) the employer provides notice to the live-in domestic
114 worker that the employer entered the live-in domestic worker's
115 designated living area to conduct such emergency repairs within a
116 reasonable time after doing so.

117 (d) No employer of a domestic worker shall monitor a domestic
118 worker's activities or communications by any means other than direct
119 observation, including the use of a computer, telephone, wire, radio,
120 camera or electromagnetic, photoelectronic or photo-optical systems,
121 without such domestic worker's informed and voluntary consent,
122 except that an employer may use such devices to monitor a domestic
123 worker while he or she is performing care-giving tasks, including, but
124 not limited to, babysitting, child care and caretaking of sick,
125 convalescing or elderly individuals.

126 (e) A domestic worker who is required to utilize cleaning products
127 as part of his or her employment shall have the right to (1) alert his or
128 her employer to health hazards and allergies that the domestic worker
129 believes to be related to these cleaning products, (2) negotiate with his
130 or her employer regarding the substitution of alternative cleaning
131 products, and (3) substitute cleaning products he or she believes to be
132 less harmful to his or her health, or to the health of others, except
133 where the employer can demonstrate medical necessity for the use of a
134 particular cleaning product.

135 (f) (1) Except as otherwise provided in subdivision (2) of this
136 subsection, if a domestic worker has been employed by an employer
137 for a period of ninety days or longer, such employer shall provide the
138 domestic worker with written notice prior to the termination of
139 employment. Such notice shall be provided not less than seven days
140 prior to the effective date of such termination, except that, if such
141 domestic worker is a live-in domestic worker, such notice shall be
142 provided not less than fourteen days prior to the effective date of such

143 termination.

144 (2) If a domestic worker has been employed by an employer for a
145 period of ninety days or longer, such employer may terminate such
146 domestic worker's employment immediately and without written
147 notice, provided such employer compensates such domestic worker at
148 a rate not less than the amount the domestic worker would have
149 earned had the employer continued to employ such domestic worker
150 after providing notice of such termination pursuant to subdivision (1)
151 of this subsection.

152 (g) The provisions of subsection (f) of this section shall not apply to
153 any employer who terminates a domestic worker due to the domestic
154 worker's wilful misconduct in the course of his or her employment. For
155 the purposes of this subsection, "wilful misconduct" means deliberate
156 misconduct in wilful disregard of the employer's interest and includes
157 any abuse, assault or other harmful or destructive conduct committed
158 by the domestic worker against the employer, the employer's
159 possessions, members of the employer's family, guests or other
160 individuals residing in or about the employer's private dwelling.

161 (h) Compensation provided in lieu of notice of termination pursuant
162 to subdivision (2) of subsection (f) of this section shall be provided
163 upon termination of the domestic worker's employment. Such
164 compensation shall not release an employer from any obligation to
165 make payments as may be necessary to comply with chapter 567 of the
166 general statutes or any other applicable municipal, state or federal law.

167 Sec. 4. (NEW) (*Effective January 1, 2020*) No employer shall
168 discharge, discipline, penalize, retaliate against or in any manner
169 discriminate against a domestic worker because such domestic worker
170 has (1) complained to the employer, an authorized representative of
171 the domestic worker or any other person, (2) filed a complaint or
172 instituted or caused to be instituted any proceeding, (3) testified or
173 intends to testify in any such proceeding, or (4) exercised any right
174 afforded to him or her by any provision of sections 31-58, 31-71f, 46a-
175 51 and 53-303e of the general statutes, as amended by this act, or

176 sections 3 to 5, inclusive, of this act.

177 Sec. 5. (NEW) (*Effective January 1, 2020*) A domestic worker or
178 terminated domestic worker may bring an action in Superior Court
179 against an employer to recover any appropriate relief, including
180 rehiring or reinstatement to his or her previous job, payment of back
181 wages and any interest due on such wages, compensation for the
182 denial of days of leave, reestablishment of employee benefits or any
183 other remedies that the court deems appropriate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2020</i>	31-71f
Sec. 2	<i>January 1, 2020</i>	53-303e
Sec. 3	<i>January 1, 2020</i>	New section
Sec. 4	<i>January 1, 2020</i>	New section
Sec. 5	<i>January 1, 2020</i>	New section

APP *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which establishes various employment protections for domestic works and allows workers to bring an action in Superior Court over alleged violations, does not result in any fiscal impact to the state or municipalities. The court system disposes of over 400,000 cases annually and the number of cases is not anticipated to be great enough to need additional resources.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis

sHB 6931

AN ACT CONCERNING DOMESTIC WORKERS.

SUMMARY

This bill establishes various employment protections for domestic workers, generally defined as individuals or employees who are paid or told they will be paid to perform work of a domestic nature in or about a private dwelling. The bill specifies that domestic workers are not (1) personal care attendants (PCAs) providing services under a state-funded program (e.g., the Connecticut Home Care Program for Elders) or (2) irregular, intermittent, or casual babysitters.

The bill generally:

1. requires employers to provide these domestic workers with certain work-related written information when they hire them, such as their job duties and the rights provided by the bill;
2. prohibits employers from requiring them to work more than six days a week;
3. establishes certain privacy protections, such as prohibiting employers from interfering with a domestic worker's private communications when the worker is not expected to be working;
4. establishes termination notice requirements and requires employers to give severance pay to domestic workers terminated in violation of them; and
5. establishes protections against employer retaliation and allows the domestic workers to bring an action in Superior Court.

EFFECTIVE DATE: January 1, 2020

“DOMESTIC WORKERS” AND “EMPLOYERS” DEFINED

The bill’s provisions apply only to certain domestic workers. Under the bill, these are individuals or employees who are paid or told they will be paid to perform work of a domestic nature in or about a private dwelling. This work includes housekeeping; home management; child care; laundering; meal preparation; home companion services; caretaking of sick, convalescing, or elderly individuals; and other household services for the dwelling's occupants or their guests. They do not include (1) irregular, intermittent, or casual babysitters or (2) PCAs providing home care to consumers in state-funded programs, including the acquired brain injury Medicaid waiver program, personal care assistance Medicaid waiver program, Connecticut Home Care Program for the Elderly, pilot program to provide home care services to disabled persons, and Department of Developmental Services' individual and family support waiver program and comprehensive waiver program.

The bill also specifies that for purposes of the state’s unemployment law, an employer includes a homemaker-companion agency, registry, or homemaker-home health aide agency that refers a domestic worker to a consumer to provide homemaker services, companion services, or homemaker-home health aide services. (It is unclear if this provision has any legal effect, as these entities already may be considered a domestic worker’s employer under the unemployment law, depending on the nature of their employment relationship with the worker.)

§ 1 — NOTICE REQUIREMENTS

The bill requires domestic workers' employers to advise them in writing at the time of hire about:

1. their pay rate, work hours, and pay schedules (this is already required by existing law);
2. their job duties and responsibilities;
3. the availability of sick leave, days off, vacation, personal days, and holidays; whether these days are paid or unpaid; and the

- rate at which they accrue;
4. necessary or required transportation modes and whether they are provided, paid, or reimbursed;
 5. the availability of health insurance and whether it is paid or reimbursed;
 6. any applicable severance pay, yearly raises, or other compensation types;
 7. whether the employer may charge for room and board; and
 8. the rights provided by the bill's provisions on a six-day workweek, privacy, termination notices, and severance pay, and retaliation protections and enforcement.

§ 2 — SIX-DAY WORKWEEK LIMIT

Current law prohibits employers from requiring employees in commercial occupations or industrial processes to work more than six days in any calendar week. The bill generally extends this prohibition to include domestic workers, but it explicitly allows domestic workers to work seven days in a calendar week if (1) the workers and their employers agree in writing and (2) the workers are paid at the appropriate rate, including any applicable overtime pay.

As under current law, a worker's refusal to work more than six days cannot be grounds for his or her dismissal. A worker who believes that he or she was discharged in violation of the prohibition may appeal to the State Board of Mediation and Arbitration. If the board rules in the employee's favor, it may order whatever remedy will make the employee whole.

§ 3 — PRIVACY AND TERMINATIONS

“Employers” Defined

Under the bill's provisions about privacy, termination notices and severance pay, and retaliation protections and enforcement, a domestic worker's “employer” is any owner or person, partnership, corporation,

limited liability company , or association of people acting directly as, on behalf of, or in an employer's interest in relation to a domestic worker.

Privacy

The bill prohibits employers from (1) restricting or interfering with a domestic worker's private communications made when the worker is not expected to be working; (2) seizing, searching, or inspecting a domestic worker's personal belongings; or (3) engaging in any conduct against a domestic worker that violates any state law.

It also generally prohibits employers from monitoring a domestic worker's activities or communications by any means other than direct observation, including using computer, telephone, wire, radio, camera, electromagnetic, photo-electronic, or photo-optical systems without the worker's informed and voluntary consent. However, the bill allows an employer to use these devices without the worker's consent to monitor a worker performing care-giving tasks, including babysitting; child care; and caretaking of sick, convalescing, or elderly people.

Live-Ins. The bill generally prohibits employers from entering a live-in domestic worker's designated living area, in or about the employer's home, without the worker's informed and voluntary consent. However, employers may enter if emergency repairs are required and (1) securing the worker's consent within a reasonable time is not feasible and (2) the employer notifies the live-in worker within a reasonable time after entering the worker's living area.

Under the bill, a live-in domestic worker is one who resides in or about an employer's private dwelling for at least four consecutive 24-hour periods during at least two consecutive weeks in a calendar year.

Cleaning Products. The bill gives domestic workers who must use cleaning products as part of their employment the right to (1) alert their employers about the health hazards and allergies that they believe are related to the cleaning products; (2) negotiate using alternative cleaning products; and (3) substitute cleaning products they

believe are less harmful unless the employer can demonstrate medical necessity for using a particular cleaning product.

Termination Notice and Severance Pay

Subject to certain exceptions, the bill requires employers to provide domestic workers who they have employed for at least 90 days with either advance written termination notice or severance pay. Employers must give regular domestic workers at least seven days' advance notice and live-in domestic workers at least 14 days' advance notice.

The bill requires employers who terminate a domestic worker immediately and without the required notice to pay the worker the amount that he or she would have received if the employer had provided proper notice (i.e., seven days' pay for regular domestic workers and two weeks' pay for live-ins). Employers must provide this pay upon the worker's termination, and the bill specifies that it does not release the employer from any obligations to make payments under the state's unemployment law or any other applicable municipal, state, or federal law.

The bill allows an employer to immediately terminate a domestic worker without notice or severance pay for willful misconduct in the course of his or her employment. Under the bill, "willful misconduct" is deliberate misconduct in willful disregard of the employer's interest, including any abuse, assault, or other harmful or destructive conduct committed against the employer or the employer's possessions, family members, guests, or other people living in or about the employer's dwelling.

§§ 4 & 5 — RETALIATION PROTECTIONS AND ENFORCEMENT

The bill prohibits employers from discharging, disciplining, penalizing, or retaliating or discriminating against a domestic worker because the worker (1) complained to the employer, the worker's authorized representative, or anyone else; (2) filed a complaint or started a proceeding; (3) testified or will testify in any such proceeding; or (4) exercised any right provided by the bill or under the state's

human rights and opportunities statutes (if applicable).

The bill allows a domestic worker or terminated domestic worker to bring an action in Superior Court (presumably, alleging a violation of the bill) against an employer to recover all appropriate relief, including rehiring or reinstatement to his or her previous job, payment of back wages with interest, compensation for denied days of leave, reestablishment of employee benefits, or any other remedies the court deems appropriate.

BACKGROUND

Legislative History

The House referred the bill (File 410) to the Appropriations Committee, which reported a substitute that eliminates provisions in the prior bill that would have (1) expanded the state’s minimum wage and overtime laws to include all domestic workers except irregular, intermittent, and casual babysitters and (2) covered more domestic workers under the employment-related anti-discrimination and anti-harassment laws enforced by the Commission on Human Rights and Opportunities.

Related Bills

HB 7316 (File 303), reported favorably by the Labor and Public Employees Committee, establishes a task force to study labor-related rights that could be provided to workers treated as independent contractors when providing services in a private home.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable
Yea 9 Nay 5 (03/19/2019)

Appropriations Committee

Joint Favorable Substitute
Yea 33 Nay 15 (05/02/2019)