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
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)