

Labor and Public Employees Committee
Taskforce on Domestic Workers

MEETING MINUTES

Friday, December 19th, 2014

1:00 PM in Room 2B of the LOB

The meeting was called to order at 1:02 PM by Chairman Gary Winfield,

The following committee members were present:

Senator Gary Winfield, Rep. Peter Tercyak, James Bhandary-Alexander, David Denvir, Mark, LeClair, Anika Lemar, Cmmr. Sharon Palmer, Maria Lima Rodriguez, Rep. Hilda Santiago, Natalicia Tracy
Robert Clark, Petra Morales, and Carolyn Treiss were absent.*

Chairman Senator Gary Winfield opened the meeting by stating that there would be addition to the agenda. He would be inserting an item following the discussion on the definition of domestic worker. This item would be the discussion of subcommittees. Winfield referenced prior discussions that the Task Force has had in its opening meetings about creating subcommittees to tackle various tasks within the group's purview. He expressed that by adding this item to the agenda, he hoped that subcommittees could be firmed up today. He then asked his fellow Chairman for his remarks.

Chairman Peter Tercyak stated that he has recently noticed the topic of domestic workers has received traction in the press recently. He acknowledged everyone's hard work and encouraged the Task Force to continue pressing forward on the issue.

Winfield also reminded the group that the overall goal of the Task Force was to produce a bill for the 2015 Legislative Session. He stated that the Task Force should be placing forward their best attempt a policy recommendation. Furthermore, Winfield reminded the group that their recommendation could shift based on future public hearings and input from other legislators. Regardless, he encouraged the Task Force to recommend anything that they felt

Winfield then asked Natalicia Tracy to begin the discussion defining a *domestic worker*. He asked that she draw on the proposed legislation from the 2014 session, as well as discussions that this Task Force has had earlier in the year.

Tracy began by stating that the definition of a *domestic worker* is best kept simple. She stated that many states have adopted a definition in which is broad.

Tracy went on to define a *domestic worker* as an individual who works in a home maintaining the home itself or the young, disabled, or elderly inhabitants of that home. This individual can either live in the home or maintain a residence outside of the home in which they work. Tracy stated that the reason why a more generic definition is often utilized is because it is anticipated it would remove exemptions outlined in the Fair Labor Standards Act of 1938. Under this federal legislation job titles including caretakers for children and the elderly and domestic services workers have not been allowed to partake in fair labor standards among other benefits that most others enjoy.

Chairman Tercyak raised the issue of having too broad of a definition. Using the example of a landscaper, Tercyak commented that many job titles could creatively be placed under the category of domestic worker. Winfield seconded his comments by stating it is important to ensure that the definition created by the Task Force does not capture other classifications of workers unintentionally.

David Denvir raised the question about what current exemptions Tracy was referencing. Denvir stated that in 1974, the Connecticut Legislature had removed the exemptions for domestic workers.

Tracy deferred to James Bhandary-Alexander, who answered that Denvir was correct in regards to the Connecticut Legislature's actions in the 1970s. There were further categories of employees who were recently removed, yet still, the exact same type of exemptions by which domestic workers are denied basic work place rights exist in Connecticut's anti-discrimination and worker's compensation statues. Bhandary-Alexander stated that the elimination of these exemptions could be easily done; a simple adjustment of the statutory language would have to occur.

Denvir stated that he was uncomfortable with a broad definition as he felt that testimony from the Task Force's November hearing indicated that there are two types of domestic worker employers. The first being workers hired through an agency. The agency is already providing a multitude of protections because the nature of their employment model requires it as opposed to the other workers who singularly employed by the home owner. Denvir cited that there are significant differences between the two employment models and it would be unfair to use both of them in defining a *domestic worker*.

Bhandary-Alexander stated that it could be helpful to define employer as well in defining domestic worker.

Winfield attempted to redirect the conversation as the Task Force appeared to be having two different conversations that overall connected. He recognized that one of the conversations was attempting to define *domestic worker* while the other was attempting to address the adjustment of statutory language. He suggested that the definition of *domestic worker* could be approached with a subcommittee meeting of Bhandary-Alexander, Denvir, and Tracy.

Anika Singh Lemar, expressed that she appreciated the use of a subcommittee system, but questioned the need to define domestic worker if eventually the action of the Task Force would be to remove language exempting domestic workers from fair labor laws. Lemar stated that by adjusting current statutes, employment condition for domestic workers would be corrected.

Lemar further stated that if there are additional protections for domestic workers that the Task Force wishes to propose then it would be useful to then define domestic worker for those purposes. She stated that those additional protections have not been made apparent, so therefore she is unclear as to the necessity of defining domestic workers. She stated that it needs to be made clear as to what the Task Force needs to do as a matter of policy.

Winfield answered by stating that he agrees with Lemar in a sense that if statutory language is adjusted, then there is not a need to go the alternate route of defining domestic worker. He agreed that Lemar's approach to this Task Force does make sense.

For clarification, Mark LeClair stated that the definition the Task Force started with clearly stated that the employee works within the home. Therefore, the definition could not be in the style of a subcontractor arrangement.

Winfield stated that it would be best if the subcommittee worked on crafting this definition, confirming that Bhandary-Alexander, Denvir, and Tracy would all serve as members.

Denvir agreed to membership on the subcommittee, but stated that the Task Force overall should also try to keep in mind the policy recommendations they wish to make. He echoed points that Lemar had previously made.

Winfield stated that as chairman, he is to serve as the moderator and the task force should decide what it wants to do whether it be defining domestic worker and creating a bill of rights for that classification of worker or striking pre-existing statutory language to eliminate domestic workers' lack of inclusion on fair labor standards.

Tracy stated that her wishes would be that the bill proposed from the last session would be proposed again this year. She also stated states that have previously passed legislation could be used as models. She further stressed the importance of ensuring that there is connectivity between the Connecticut Department of Labor and this legislation.

Sharon Palmer stated that this has become a complicated matter and she emphasized that from an administrative stand point, it will be easier to use a broader definition. She stated that there are already ongoing discussions in terms of health care workers and their working conditions.

Bhandary-Alexander stated that the bill from the previous legislative session provides affirmative proposals which will be helpful to the Task Force's policy recommendations.

Lemar offered that the Task Force read through the bill proposed from the last legislative session only if the consensus of the group is that the bill emulates the policy goals of what the Task Force holds currently. She stated that taking that route could expedite the discussion.

Winfield stated that the bill from last session is indeed the starting place for the work of this Task Force. He said that it would be helpful for the subcommittee to meeting prior to the next full taskforce meeting, so that they have enough time to develop their definition of domestic workers. He stated that those asked and looking to serve on the subcommittee should contact Danielle Palladino, the staff person for the Task Force.

Winfield also added those who are interested in thinking through the policy implications of removing statutory language can meet with him and Bhandary-Alexander. He stated that he would also like to have this conversation prior to the next meeting.

Tercyak remarked that it would also be helpful to have a discussion on hiring through an agency versus registry and whether the Task Force's recommendations will deal with the employee and not with the relationship of who sends the employee to the worksite. He stated that this had been previously considered by the Human Services Committee. He reiterated that this is something that needs to be revisited.

Tercyak further remarked that other states who have defined domestic worker have included the number of hours worked in their definition. He cited differences across the board about how different states and employers have varied in their idea of what minimum hours and sleep hours should be.

Palmer stated that ongoing discussions with the healthcare workers have broached the topics of hours of sleep, meal pay, rent, and other factors which decide the net pay of an individual. She expressed her belief that these discussions would eventually be blended with the work of the Task Force.

Tercyak asked Palmer what the current law regarding including room and board as someone's base pay is.

Palmer stated that it currently can be deducted.

Tracy responded that a provision regarding negotiations on room and board deductions in Massachusetts was adopted as some employers were not paying proper wages. These employers felt that providing room and board to their employees could be automatically deducted.

Palmer stated that this type of issue is something that the Connecticut Department of Labor Wage and Hours handles.

Tercyak then stated that one group of domestic workers who is excluded in other states, are those who are employed by individuals with paying their wages with government funds. He shared that in Connecticut, when an individual pays for domestic services with those funds and if you work under twenty five hours, your employer does not need to provide worker's compensation insurance.

Palmer stated that all of that will need to change and it is something being currently reviewed.

Winfield then moved to the topic of subcommittees. He expressed the importance of reviewing policy recommendations with employers as soon as possible so that their concerns could be addressed. He stressed the counter productivity of not forming subcommittee on employer relations, explaining that issues arising later on the floor are not helpful. He explained that Task Force members are interested in serving on this subcommittee, they should contact Palladino to arrange a time to meet.

Tercyak added that registries should also be included in that list of employers.

Representative Hilda Santiago stated that it might be helpful to consider what is not considered a domestic worker. She cited that the other states have established who is not a domestic worker, while also establishing criteria which defines what one is.

Winfield agreed that in defining any term, you can certainly define an item as to what it is and what it is not.

Lemar posed the question of what benefits a domestic worker can retain under an individual employer and an agency employer. She stated that she feels that workers should have the same protections across the board.

In response, Tracy stated that workers can sometimes have no protections because the two categories of employers sometimes are not clear on what is acceptable and what is not.

Tercyak stated that he is not interested in making the rules more onerous for an individual than an agency. He said that he cannot imagine coming up with rules that are harder for an individual employer to comply with.

Denvir stated that he is enjoying the conversation, but is questioning the policy ideas to come from the Task Force. He feels that there are issues with the policy goals that the group has set as they are beyond the set parameters in the Public Act establishing this Task Force. He asked Winfield to provide some guidance.

Winfield acknowledged that the language of the Public Act gives the Task Force the floor. He stated that there will be a bill coming to the legislature in the next session and

that the Task Force is doing exactly what it should be craft wholesome policy recommendations. Tercyak echoed those sentiments.

Bhandary-Alexander presented remarks about the current situation of agencies, registries, and individual employers and what standards they are held to. He referenced the testimony presented at the public hearing from agencies as they stated that they follow labor laws and will always follow those laws. He recalled how the agencies shared their concern that the law would not apply to some entities using the example of the State of Connecticut. He continues to say, that if you are a domestic worker funded through Medicare or Medicaid, then you are not allowed certain benefits. The issue becomes that the state has exempted workers employed with their funds. He expressed that there is a benefit when each entity hiring domestic workers adhere to the same standards.

Winfield stated that if there were no further questions or comments, the meeting would be adjourned. He also stated that a time and date for the next meeting would be set soon.

The meeting was adjourned at 1:57 PM.

* It is also noted in these minutes that due to Natasha Pierre's change in job assignment, her position on the Task Force will be assumed by Carolyn Treiss, the Executive Director of the Permanent Commission on the Status of Women.

Danielle Palladino
Labor and Public Employees Committee Clerk