

Labor and Public Employees Committee
Taskforce on Domestic Workers

MEETING MINUTES

Friday, February 20th, 2015

2:00 PM in Room 1B of the LOB

The meeting was called to order at 2:12 PM by Chairman Gary Winfield,

The following committee members were present:

Senator Gary Winfield, Rep. Peter Tercyak, *Robert Clark*,
David Denvir, Mark, LeClair, , Cmmr. Sharon Palmer,
Carolyn Treiss Maria Lima Rodriguez, Natalicia Tracy

Those absent included: *James Bhandary-Alexander, Anika Lemar, Petra Morales,*
and Rep. Hilda Santiago were absent.

Chairman Senator Gary Winfield opened the meeting by inviting Chairman Representative Peter Tercyak to make remarks.

Chairman Tercyak shared with the Task Force that fellow member Anika Lemar submitted a letter of resignation from the Task Force as the law firm that she works for now represents the Brazilian Immigrant Center as a client. As the Brazilian Immigrant Center has been a strong proponent of domestic worker legislation in Connecticut and also has direct representation on the Task Force, Lemar felt that this was a conflict. Lemar had fulfilled a position on the Task Force that was designated as *employer of domestic workers* and had been appointed by the Chairmen.

Winfield then addressed the second item on the agenda. He explained that item number two appeared incorrectly on the agenda due to a miscommunication with the staff of the Task Force.

Item number two stated that a discussion would take place with Ai-jen Poo of the National Domestic Workers Alliance. Winfield stated that this would be a separate event that would take place on March 2nd, from 10:00 AM to 12:00 PM in Room 1D of the Legislative Office Building. He said that Ai-jen has been a long time activists for domestic workers and he hoped that a presentation and discussion with her would give the Task Force a greater perspective on the issue. He encouraged all members to attend.

Winfield also asked Natalicia Tracy to provide some background information on Ai-jen Poo. Tracy explained that Poo is the Executive Director of the National Domestic Workers Alliance and that she has been working to organize domestic workers since

1987. She said that the Alliance as is comprised of 46 affiliates, 26 cities, and 18 states which are all working toward the goal of space where care givers and care receivers have respect and dignity. Tracy added that Poo just recently wrote a book called *Aging With Dignity*.

Winfield then moved to item number three on the agenda which was to continue the discussion of defining domestic worker. Winfield acknowledged that this discussion has been ongoing since the inception of the Task Force and he further expressed that he was hoping to reach a resolution soon.

Winfield stated that a public hearing of the Labor and Public Employees Committee had occurred on February 17th and proposed bill senate bill 446 An Act Concerning the Definition of the Term "Domestic Worker". He stated that this bill was the current proposed bill which matched what the Task Force was attempting to accomplish.

Winfield explained that his sense of urgency to have a report of the Task Force completed before the October 2015 deadline was rooted in the notion that workers are not being treated fairly in the work environment and action should be taken sooner rather than later. He would hope to have something come out of this session. He would suspect that other share a similar sense of urgency.

Winfield then asked to begin the discussion of defining domestic worker. He stated that it would be appropriate for Tracy to begin the discussion as she had working documents.

Tracy said that she was going to suggest that David Denvir begin the conversation as they both had a conversation following the December meeting. Tracy stated that she did have a draft on hand that was a working document. She also said that the working group had also federal exclusion definition as it became effective on January 1st of 2015.

Denvir asked about Tracy's last point about the companionship exemption and asked if she was referencing the 80-20 rule.

Tracy replied by saying that the federal government has a definition for domestic workers and it might be really significant to look at this definition. She stated that it went into effect on January 1st.

Tracy acknowledged know that there is litigation pending behind, but it is still a good definition.

Denvir asked her to share the definition. He said that my understanding the issue that is presently be appealed by the US DOL was not the definition of domestic worker, but rather a re-characterization of companionship services and the labor composite that can comprise companionship services.

Tracy agreed to share the definition and read it aloud. She said that she would have this distributed to the Task Force.

Tercyak asked which jobs and responsibilities made someone not a domestic worker

Tracy said that those including jobs such as landscapers or those working for a resort business such as hotel. She said that the qualifier is that the worker works in the private home. Tracy stated that she felt that Connecticut is strict about misclassification of workers and felt that this wouldn't be a concern.

Denvir commented he would appreciate a physical copy of the definition, He said that that testimony he previously provided at the public hearing on Senate Bill 446 expressed his concern of utilizing too broad of a definition. Denvir said not every domestic working experience is the same and the difference can be significant- there are some domestic workers are already protected similarly to employees of other industries. He said it is difficult for him to advance a broad definition that does not distinguish those two work force models. There are some that make a very good living and enjoy labor protections and there are others who do not work in favorable environment.

Winfield asked Denvir if he had considered how that language would work. Winfield stated that if Denvir could provide the group with a starting point for language it would be helpful.

Denvir stated that he did not have a specific definition suggestion presently, but he said that the bill presented in the 2014 Legislative Session skillfully distinguished domestic workers in a way whereby the bulk of the protections offered under this bill applied to the workers working in individual homes as opposed to a worker doing similar work and employed by an agency.

Tracy acknowledged that Robin Bumpen, had passed out the working definition she proposed. She said that this definition she provided did take into account both categories of workers Denvir addressed, but it also focused on workers completely excluded from labor protections. She reiterated that this was asking for the basics bottom line protections and that this is a just a draft.

Winfield stated that if this conversation continues, not much will be accomplished. He did agree to reading aloud what Tracy has passed out as follows: *For the purposes of this section, section 46a-51 of the general statutes, as amended by this act, section 31-71f of the general statutes, as amended by this act, and sections 6 to 14, inclusive of this act, "domestic worker" means any individual or employee who is paid by a household, family, or any person to perform the work of a domestic nature, including, but not limited to, housekeeping, house cleaning, home management, nanny services including childcare and child monitoring, caretaking of individuals in the home including sick, convalescing, and elderly individuals, laundering, cooking, home companion services and other household services for members of households or their guests in or about*

private homes. Domestic worker does not include (1) a babysitter whose employment is irregular and intermittent or of a causal nature, or (2) a personal care attendant providing services pursuant to a state-funded program, including, but not limited to, (A) the program for individuals with acquired brain injuries, established pursuant to section 17b-260a of the general statutes, (B) the personal care assistance program, established pursuant to section 17b-605a of the general statutes, (C) the Connecticut home care program for the elderly, established pursuant to section 17b-342 of the general statutes, (D) the pilot program to provide home care services to disabled persons, established pursuant to section 17b-617 of the general statutes, (E) the individual and family support waiver program administered by the Department of Developmental Services, and (F) the comprehensive waiver program administered by the Department of Developmental Services. "Employer" means any person who suffers or permits a domestic worker to work.

Winfield then invited others to give their reaction.

Mark LeClair stated that one of the things that might become problematic is the portion saying "not limited to" as somehow there has to be a way to exclude people doing work such as a painter, doing work inside the household.

Palmer we know that overtime there will be new job definitions and new job categories. There needs to be some kind of language that allows for those jobs to be added.

LeClair stated 'included but not limited to' all refers back to work of a domestic nature. Basically you are defining a worker by work of domestic nature.

Denvir again apologized that he did not have a definition to present today and again stressed that too broad of a definition can be problematic. His example as that this language would include someone assisting the elderly, unless they are working under the Connecticut home care program. He argued if the worker is working 20 hours in one category and 20 hours in another category, can they be a part time domestic worker?

Tercyak stated he understood the point and mentioned prorated benefits. Someone could be a part time worker and half benefits and protections at one job of their jobs. He would love to have the PCAs covered by workers' compensation.

Winfield asked for other input. Mark LeClair, stated that there are certain circumstances where family members are paid to help family members who are convalescing. He cited a recent court case in which the worker, a mother, who was taking care of a child would be allowed union protections.

Tracy stated that in MA if you are caring for a loved one if Medicare or Medicaid is paying for the care, then you do enjoy the rights of any other worker.

Winfield felt that the conversation was not reasonably progressing and decided that those who had suggestions for a definition of domestic worker could submit them to him prior to the event on March 2nd. He explained that if no submissions were received then he would craft a definition based on the prior bills and the discussion thus far.

The meeting was adjourned at 2:46 PM.

Danielle Palladino
Staff for the Task Force