



THE DOMESTIC WORKERS BILL OF RIGHTS Chapter 148 of the Acts of 2014

Lead House Sponsor
Rep. Michael J. Moran
H.# 4026, 4029, S. 2132 passed
Enacted June 19, 2014

Lead Senate Sponsor
Sen. Anthony W. Petrucci
S.# 2132 passed 39:0
Signed into law June 26, 2014

MA Coalition for Domestic Workers (MCDW)
Brazilian Immigrant Center, Dominican Development Center, MataHari: Eye of the Day, Vida Verde Co-
op/Brazilian Women's Group, Women's Institute for Leadership Development

Domestic workers keep the Massachusetts economy going by making other work possible. Nannies, caregivers, and housekeepers in the state ensure the health and prosperity of Massachusetts families and free others to participate in the workforce. **But because there are few state and federal guidelines and no industry standards, domestic workers are extremely vulnerable to exploitation and abuse.**

THE PROBLEM:

- × Historic exclusion from basic state and federal labor rights
- × Long hours, low pay, and no benefits
- × Vulnerability to abuse and mistreatment and isolation from the workforce
- × A workplace without protections against unsafe working conditions, discrimination, and sexual harassment

Domestic workers have been viewed as outside of the traditional workforce, largely because most domestic workers are women, often immigrants, doing the work historically done by housewives and servants. Due to the nature of domestic work, they are isolated from the rest of the workforce and subjected to round-the-clock physically demanding labor, with little or no separation between work and personal time. Due to the lack of state and federal regulation, domestic workers are often taken advantage of by their employers and are in dire need of protection.

THE SOLUTION: THE DOMESTIC WORKERS' BILL OF RIGHTS!

- ✓ **For Workers:** Establishes labor standards that protect domestic workers' basic workplace rights, including, clarity on what constitutes working time, and freedom from discrimination, sexual harassment, the abuses of trafficking and from retaliation for asserting wage violations.
- ✓ **For Employers:** Ensures that employers receive the highest quality of care for their families and homes by affording domestic workers dignity and respect. Reduces turnover by providing greater stability for workers, and improves the health and safety of employers and their families by protecting domestic workers' health.
- ✓ **For the Commonwealth:** Provides domestic workers with safe and dignified work environments and employers with clear guidelines on their responsibilities that will bring domestic workers out of the shadows. Protecting domestic workers also protects the safety of our communities, ensures the health and well-being of the families of domestic workers, and strengthens the state economy by freeing up more individuals to participate in the paid workforce.

The Domestic Workers' Bill of Rights amends Massachusetts state law to guarantee basic work standards and protections: 24 hours off per 7-day calendar week; 48 hours off per month; parental leave; protection from discrimination, sexual harassment, illegal charges for food and lodging, eviction without notice of termination and retaliation for asserting wage violations; and a means of enforcing these standards. Domestic employers under the bill do not include state regulated staffing or placement agencies or the employers of those who work as casual babysitters.

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The Domestic Workers' Bill of Rights has been co-sponsored by over eighty legislators and has received endorsements from:

Mayor Martin Walsh and Boston & Somerville City Councils

Employer Organizations

Boston Center for Independent Living
Boston Nanny Center, Inc.
Independent Living Center of the North Shore and Cape Ann
Metrowest Center for Independent Living
Multi-Cultural Independent Living Center of Boston

Labor

American Federation of Teachers of MA
Berkshire Central Labor Council
Central MA Labor Council
Greater Boston Central Labor Council
Greater Southeastern Central Labor Council
Hampshire/Franklin Labor Council
IBEW Local 103
Insulators & Asbestos Workers Local 6
International Union of Painters and Allied Trades 35
Ironworkers Local 7
Massachusetts AFL-CIO
Massachusetts Building Trades Council
Merrimack Valley Central Labor Council
National Domestic Workers Alliance
Norfolk Central Labor Council
Northshore Labor Council
Pioneer Valley AFL-CIO
Plymouth-Bristol CLC
SEIU Local 32BJ (MA)
SEIU Local 615 (MA)
SEIU Local 1199 (MA)
SEIU Local 888 (MA)
UAW Mass CAP Council
UAW Region 9A
UAW 2320
UFCW 328
UFCW 1445
UNITE HERE New England Joint Board
UNITE HERE Local 26

Coalitions

Caring Across Generations
Community-Labor United
Immigrant Worker Center Collaborative
Jobs with Justice, Massachusetts
The Massachusetts Immigrant and Refugee Advocacy Coalition
The National Alliance of Latin American and Caribbean Communities

Civil Rights Organizations

American Civil Liberties Union, MA
Jewish Alliance for Law and Social Action
Lawyers Committee for Civil Rights

Faith Groups

Boston New Sanctuary Movement
Interfaith Worker Justice
Jewish Labor Committee
Labor Guild of the Boston Archdiocese
Massachusetts Communities Action Network
The Workmen's Circle, Boston

Legal Organizations

Community Legal Aid
Disability Law Center
Greater Boston Legal Services
Justice at Work
Massachusetts Bar Association
MA Employment Lawyers Association (MELA)
MA Employment Rights Coalition (ERC)
Massachusetts Law Reform Institute
National Employment Law Project
National Lawyers Guild, MA Chapter
The Southeast Asian Bar Association
Women's Bar Association

Affinity & Community Organizations

Centro Comunitario de Trabajadores
Centro Presente
Chelsea Collaborative
Chinese Progressive Association
Eastern MA Older Women's League
Gay and Lesbian Labor Activists Network
Irish International Immigrant Center
Lawrence Community Connections
MA Association for Portuguese Speakers
MA Commission on the Status of Women
MassCOSH
Merrimack Valley Project
MetroWest Immigrant Worker Center

Academic Groups

Boston University Latin American Law Students Association
Harvard Immigration Project
Harvard Labor Employment Action Project
Harvard Student Labor Action Movement

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DOMESTIC WORKERS' BILL OF RIGHTS:

“What’s in it for me?”



- 1) - For the first time as a domestic worker* you can file a discrimination claim with the Massachusetts Commission Against Discrimination (MCAD) for discrimination on the basis of (list all the reasons) and for harassment for race, gender, sexuality, gender identity, and pregnancy discrimination. If you are a Personal Care Attendant you will have the right to file a sexual harassment claim at the MCAD.
- 2) – For the first time if you work less than 16 hours a week you will have protection against retaliation for filing a wage claims (this right currently exists for those who work 16 hours or more).
- 3) You will have the RIGHT to know all workplace rights under state and federal laws and your employer must give you a list of *all* of your workplace rights at the beginning of the job.
- 4) – You may request an evaluation after your first three months and an annual evaluation thereafter. If an evaluation is done, you can challenge what is put in your evaluation.
- 5) - If you work more than 16 hours a week you will have the right to a written agreement. The agreement must explain everything up front, including: what your job is, how much you will be paid, if food or housing will be provided, what rest days, vacation days, and sick leave you will get, what fees you may be charged (and these charges require your written agreement) and any other important issue.
- 6) – If you are a live-in domestic worker you will have the right to **written notice and 30 days of housing on site or off site OR two weeks severance pay** but only if you are terminated without cause (i.e., the employer has not made a good faith allegation that you have abused or neglected or caused other harm to any individual in the employer’s family or household).
- 7) –You will be able to go to the attorney general if you are being forced to work against you will. You will have the right to keep your documents (including your passport and visa) and must be told by employer you have that right.
- 8) You will have the right to privacy. This means the employer cannot interfere with or monitor your private communication and you will be protected against unreasonable, substantial or serious interference with your privacy even if you live in the home.
- 9) –You will have the right to a continuous 24 hours of rest each week and 48 hours a month if you are a full time domestic worker (meaning you work 40 hours or more per week). If you agree to work during your rest times, you are to be paid time-and-a-half.
- 10) You and your employer will have new resources available online, designed by the state that include sample written agreements, sample list of your rights. These resources will be available in several languages.

That's a LOT to get in one piece of legislation!

More questions? Please contact Lydia Simas at the Brazilian Women’s Group at 617-202-5775 or lydia@verdeamarelo.org or Lydia Edwards Campaign Coordinator for the Massachusetts Coalition for Domestic Workers. at lydia@massdomesticworkers.org or 617

Domestic workers” are defined in the bill as individuals who work in private homes: Housekeepers, House cleaners, home managers, nannies (including people who do childcare and child monitoring), caregivers (including those who provide services for the sick, convalescing and elderly), Providers of household services like laundry, cooking, and home companion services. The bill does not cover casual babysitters, licensed/registered staffing agencies, or state/federally funded personal does cover unlicensed agencies, including unregulated “schedulers



DOMESTIC WORKERS RIGHTS: “What rights do I already have?”

1. You have the right to get paid every week or every other week.
2. You must be paid at least \$8.00 an hour, and you must receive overtime pay (“time-and-a half”) for all hours worked over 40 hours in one week.
3. All employers, including homeowners, must keep a record of the hours that their employees work. You should keep your own record of your hours, as well. A court will consider your records of your hours if you have not been paid properly.
4. If you hurt yourself while working you have the right to receive workers’ compensation benefits (unless, as a domestic worker, you work less than 16 hours per week). Workers’ compensation will pay your medical bills and compensate you for lost work time.
5. No one has the right to touch you sexually, make sexual jokes, or to make you feel uncomfortable with unwanted sexual advances in your workplace.
6. If you live in the home, your employer must provide adequate, decent and sanitary lodging, including heat, potable water, and light. If you are earning the minimum wage, the employer can deduct a maximum of \$35.00 a week from your wages! Even if you make more than the minimum wage, for lodging deductions to be made, you must agree and the housing arrangement must be for your benefit.
7. Your employer can deduct meal costs from your wages only if you want and benefit from the meals. If you are earning the minimum wage, the employer must get your written permission, and can deduct a maximum of \$1.50 for breakfast, \$2.25 for lunch, and \$2.25 for dinner. If you make more than the minimum wage, get a contract that explains the deductions and costs.
8. House cleaners, if you are required to travel between homes for cleaning, you are still on the clock and your travel time counts as working time. Travel between work and home, however, is not paid time.
9. An employer cannot fire you, refuse to hire you, or pay you less because of your race, sex, national origin, or because you’re pregnant.
10. You have the right to unemployment benefits if you have earned \$3,500 in the prior year and meet other requirements including having work authorization.

More questions? Please contact Lydia Simas at the Brazilian Women’s Group at 617-202-5775 or lydia@verdeamarelo.org or Lydia Edwards of the Massachusetts Coalition for Domestic Workers at Lydia@massdomesticworkers.org or 617 981 4790.

**Summary of Domestic Workers' Bill of Rights
Chapter 148 of the Acts of 2014**

SECTION 1: Amends the MA Maternity Leave Act to cover Domestic Workers, guaranteeing 8 weeks of unpaid maternity leave for the birth or adoption of child for employees working for the same employer for 3 months.

SECTION 2: Expands the MA Wage & Hour law protections so that Domestic Workers have enforcement for the rights laid out in this bill by either making claims to the Attorney General's office or through a private right of action in Court.

SECTION 3: Creates two new sections, §190 and §191 in c. 149.

Section 190 has the following 15 subsections:

- a) Definitions for the following terms: Domestic Worker, Employer, Employ, Forced Services, Rest, Person, Personal Care Attendant (PCA), and Working Time. Of specific note is the definition for employers, which excludes staffing, employment or placement agencies already licensed or registered under the Employment Agency Law and employers of PCAs and casual babysitters. Employ is defined "to suffer or permit to work." The definitions for Rest and Working Time are drafted to clarify that a Domestic Worker's hourly wages are to be calculated and paid in the same manner as other employees in the Commonwealth.
- b) Guarantees a job-protected weekly 24 hour rest period and a monthly 48 hour rest period for Domestic Workers who work 40 hours per week; if the Domestic Worker voluntarily agrees to work during this time, it must be compensated as overtime (i.e., time and a half).
- c) Subsections (c) – (h) clarifies "working time" and wage and hour calculations. Minimum wage law and regulations govern wage deductions are cross-referenced and incorporated to clarify limits on deductions from Domestic Workers' wages for food and lodging, only apply where food or lodging is freely chosen and desired, and requires that housing for live-in Domestic Workers must meet the state's sanitary code. No deductions for meals, rest periods, lodging, sleeping periods may be made without written consent and no deductions not allowed by law.
- i) Clarifies that Domestic Workers have a right to privacy under the state privacy law and includes protections against trafficking as defined under the MA Anti-Trafficking Law, prohibiting through civil enforcement monitoring private communications, taking Domestic Workers' documents, and "forced services."

- j) Provides that Domestic Workers may request a written work evaluation after the first 3 months and annually thereafter under the Personnel Records Law.
- k) Guarantees live-in Domestic Workers termination rights if terminated without cause, which include written notice and 30 days lodging either on site or in a comparable off-site location or severance pay representing 2 weeks average earnings, unless the employer has made a good faith allegation in writing of abuse, neglect, or harmful conduct on the part of the Domestic Worker.
- l) Requires employers to keep written pay records required under existing minimum wage law. Also requires a written employment agreement, if a Domestic Worker works more than 16 hours a week that sets out employment rights and the benefits provided by the employer. Specifically, the written agreement must include the following::
- (i) rate of pay, including overtime and additional compensation for added duties or multilingual skills;
 - (ii) working hours, including meal breaks and other time off;
 - (iii) if applicable, the provisions for days of rest, sick days, vacation days, personal days, holidays, transportation, health insurance, severance, yearly raises and, whether or not earned, vacation days, personal days, holidays, severance, transportation costs and health insurance costs are paid or reimbursed;
 - (iv) any fees or other costs, including costs for meals and lodging;
 - (v) responsibilities associated with the job;
 - (vi) process for raising and addressing grievances and additional compensation if new duties are added;
 - (vii) right to collect workers' compensation if injured;
 - (viii) circumstances under which the employer will enter the domestic worker's designated living space on the employer's premises;
 - (ix) required notice of employment termination by either party; and (x) any other rights or benefits afforded to the domestic worker.

Failure to comply with these requirements is a violation of the record-keeping law.

- m) Requires employers to provide notice of all applicable state and federal laws that apply to the employment of Domestic Workers.
- n) Clarifies that the Bill of Rights does not affect the practices of an employer with greater or more generous wages and benefits.

- o) Requires that the Attorney General enforce §190, and post on its website all materials required under subsection (l) and (m).

Section 191 brings Domestic Workers' employers under the jurisdiction of the Massachusetts Commission Against Discrimination (MCAD) for claims of sexual or other harassment including rights under the Massachusetts Maternity Leave Act. It also specifies that PCAs may file sexual harassment claims at the MCAD.

SECTION 4: Amends the Minimum Wage Act, which currently expressly exempts Domestic Workers who work less than 16 hours a week for an employer from retaliation protection for making a wage complaint. SECTION 4 removes that exemption.

SECTION 5 and SECTION 6: Clarifies that Domestic Workers are covered under the MA Unemployment Insurance Law (right already exists but was drafted in a confusing manner).

SECTION 7 and SECTION 8: Amends the Massachusetts Commission Against Discrimination statute to take out the exclusion that applies to domestic workers (effective July 26, 2014) and covers all domestic workers, even where there is only one employee as of April 1, 2015.

SECTION 9: Amends the Wrongful Death in Employment Law, removing the exemption domestic employers have for liability for deaths caused by other Domestic Workers (effective September 24, 2014).

SECTION 10: Requires the Executive Office for Labor and Workforce Development and the Attorney General to develop a multilingual outreach program to inform Domestic Workers and their employers about their rights and responsibilities, and to distribute model materials to employers not later than April 1, 2015.

SECTION 11: Requires the Attorney General to promulgate regulations under section 190(o) by April 1, 2015.

SECTION 12: Provides that sections 1, 2, 3 and 4 take effect by April 1, 2015.

Note: As stated in sections 10 and 11, those provisions also take effect April 1, 2015. Sections 5 through 9 take effect 30 days after signing. The bill was signed on June 26, 2014.