

**SENATE . . . . . No. 2132**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Fourteen**  
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SENATE, May 8, 2014

The committee on Ways and Means, on the residue of the House Bill relative to workforce reform (House, No. 4026), reports, a “Bill establishing the domestic workers bill of rights” (Senate, No. 2132).

For the committee,  
Stephen M. Brewer

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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An Act establishing the domestic workers bill of rights.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 105D of chapter 149 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by striking out, in line 39, the words “one of chapter one  
3 hundred and fifty-one B” and inserting in place thereof the following words:- 1 of chapter 151B  
4 and section 190.

5           SECTION 2. Section 150 of said chapter 149, as so appearing, is hereby amended by  
6 striking out, in line 21, the words “or 159C”, and inserting in place thereof the following words:-  
7 , 159C or 190.

8           SECTION 3. Said chapter 149 is hereby further amended by adding the following 2  
9 sections:-

10           Section 190. (a) As used in this section and in section 191, the following words shall  
11 have the following meanings unless the context clearly requires otherwise:

12           “Domestic worker”, an individual or employee who is paid by an employer to perform  
13 work of a domestic nature within a household including, but not limited to: (i) housekeeping; (ii)  
14 house cleaning; (iii) home management; (iv) nanny services; (v) caretaking of individuals in the  
15 home, including sick, convalescing and elderly individuals; (vi) laundering; (vii) cooking; (viii)  
16 home companion services; and (ix) other household services for members of households or their  
17 guests in private homes; provided, however, that “domestic worker” shall not include a personal  
18 care attendant or an individual whose vocation is not childcare or an individual whose services  
19 for the employer primarily consist of childcare on a casual, intermittent and irregular basis for 1  
20 or more family or household members.

21           “Employer”, a person who employs a domestic worker to work within a household  
22 whether or not the person has an ownership interest in the household; provided, however, that an  
23 “employer” shall not include a staffing agency, employment agency or placement agency  
24 licensed or registered pursuant to chapter 140 or an individual to whom a personal care attendant  
25 provides services.

26           “Employ”, to suffer or permit to work.

27           “Forced services”, services performed or provided by a domestic worker as defined in  
28 section 49 of chapter 265.

29           “Person”, 1 or more individuals, partnerships, associations, corporations, legal  
30 representatives, trustees, trustees in bankruptcy or receivers.

31           “Personal care attendant”, an individual who provides personal care attendant services to  
32 persons with disabilities or seniors under the MassHealth personal care attendant program or any  
33 successor program under sections 70 to 75, inclusive, of chapter 118E.

34 “Rest” or “period of rest”, a period of time with complete freedom from all duties and  
35 during which a domestic worker may either leave the employer’s premises or stay on the  
36 employer’s premises for purely personal pursuits; provided, however, that paid days of rest shall  
37 be considered vacation time and pay under chapter 149.

38 “Working time”, compensable time that includes all time during which a domestic  
39 worker is required to be on the employer’s premises or to be on duty and any time worked before  
40 or beyond the end of the normal scheduled shift to complete work; provided, however, that  
41 “working time” shall include meal periods, rest periods and sleeping periods unless a domestic  
42 worker is free to leave the employer’s premises and use the time for the domestic worker’s sole  
43 use and benefit and is completely relieved of all work-related duties.

44 (b) An employer who employs a domestic worker for 40 hours a week or more shall  
45 provide a period of rest of at least 24 consecutive hours in each calendar week and at least 48  
46 consecutive hours during each calendar month and, where possible, this time shall allow time for  
47 religious worship. The domestic worker may voluntarily agree to work on a day of rest;  
48 provided, however, that the agreement is in writing and the domestic worker is compensated at  
49 the overtime rate for all hours worked on that day pursuant to section 1A of chapter 151. Days  
50 or periods of rest, whether paid or unpaid, shall be job-protected leave from employment.

51 (c) When a domestic worker who does not reside on the employer’s premises is on duty  
52 for less than 24 consecutive hours, the employer shall pay the domestic worker for all hours as  
53 working time under chapter 151 and regulations promulgated under said chapter 151.

54 (d) When a domestic worker is required to be on duty for a period of 24 consecutive  
55 hours or more, the employer and the domestic worker may agree, under terms that comply with

56 chapter 151 and regulations promulgated under said chapter 151, to exclude a regularly  
57 scheduled sleeping period of not more than 8 hours from working time for each 24-hour period.

58 (e) When a domestic worker is required to be on duty for a period of 24 consecutive  
59 hours or more and unless a prior written agreement is made, all meal periods, rest periods and  
60 sleeping periods shall constitute working time.

61 (f) An employer may deduct from the wages of a domestic worker an amount for food  
62 and beverages if the food and beverages are voluntarily and freely chosen by the domestic  
63 worker. If a domestic worker cannot easily bring or prepare meals on premises, the employer  
64 shall not deduct an amount from the wages of a domestic worker for food or beverages. An  
65 employer shall not deduct from the wages of a domestic worker an amount for food and  
66 beverages that exceeds the amounts permitted pursuant to chapter 151 and regulations  
67 promulgated under said chapter 151.

68 (g) An employer may deduct from the wages of a domestic worker an amount for  
69 lodging if the domestic worker voluntarily and freely accepts, desires and actually uses the  
70 lodging and the lodging meets the standards for adequate, decent and sanitary lodging pursuant  
71 to chapters 111 and 151 and the regulations promulgated under said chapters 111 and 151. An  
72 employer shall not deduct an amount from the wages of a domestic worker for lodging that  
73 exceeds the amounts permitted pursuant to chapter 151 and the regulations promulgated under  
74 said chapter 151. An employer shall not deduct from the wages of a domestic worker an amount  
75 for lodging if the employer requires that a domestic worker reside on the employer's premises or  
76 in a particular location.

77 (h) No deductions for meals or lodging shall be made from a domestic worker's wages  
78 without the domestic worker's prior written consent. No other deductions shall be made from a  
79 domestic worker's wages other than for specifically named and identified purposes, goods or  
80 services required or expressly allowed by law.

81 (i) A domestic worker shall have a right to privacy under section 1B of chapter 214. An  
82 employer shall not restrict or interfere with a domestic worker's means of private  
83 communication, monitor a domestic worker's private communications, take any of the domestic  
84 worker's documents or other personal effects or engage in any conduct which constitutes forced  
85 services or trafficking of a person in violation of sections 50 and 51 of chapter 265.

86 (j) A domestic worker may request a written evaluation of work performance from an  
87 employer after 3 months of employment and annually thereafter. A domestic worker may  
88 inspect and dispute the written evaluation under section 52C.

89 (k) If a domestic worker resides in the employer's household and the employer  
90 terminates employment without cause, the employer shall provide written notice and at least 30  
91 days of lodging, either on-site or in comparable off-site conditions, or severance pay in an  
92 amount equivalent to the domestic worker's average earnings during 2 weeks of employment.  
93 Neither notice nor a severance payment shall be required in cases involving good faith  
94 allegations that are made in writing with reasonable basis and belief and without reckless  
95 disregard or willful ignorance of the truth that the domestic worker has abused, neglected or  
96 caused any other harmful conduct against the employer, members of the employer's family or  
97 individuals residing in the employer's home.

98           (l) An employer who employs a domestic worker shall keep a record of wages and hours  
99 pursuant to section 15 of chapter 151. In addition to the information required pursuant to said  
100 section 15 of said chapter 151, an employer who employs a domestic worker for 16 hours or  
101 more a week shall provide the following information: (i) the rate of pay, including overtime and  
102 additional compensation for added duties or multilingual skills; (ii) working hours, including  
103 meal breaks and other time off; (iii) if applicable, the provisions for days of rest, sick days,  
104 vacation days, personal days, holidays, transportation, health insurance, severance, yearly raises  
105 and, whether or not earned, vacation days, personal days, holidays, severance, transportation  
106 costs and if health insurance costs are paid or reimbursed; (iv) any fees or other costs, including  
107 costs for meals and lodging; (v) the responsibilities associated with the job; (vi) the process for  
108 raising and addressing grievances and additional compensation if new duties are added; (vii) the  
109 right to collect workers' compensation if injured; (viii) the circumstances under which the  
110 employer will enter the domestic worker's designated living space on the employer's premises;  
111 (ix) the required notice of employment termination by either party; and (x) any other rights or  
112 benefits afforded to the domestic worker. Failure to comply with this paragraph shall constitute  
113 a violation of paragraph (3) of section 19 of chapter 151.

114           (m) An employer shall provide a domestic worker with a notice that contains all  
115 applicable state and federal laws that apply to the employment of domestic workers. This  
116 requirement shall be satisfied if the employer provides a notice as described in paragraph (o).

117           (n) Nothing in this section shall affect any policies or practices of an employer which  
118 provides for greater, additional or more generous wages, benefits or working conditions to a  
119 domestic worker than those required under this section.

120 (o) The attorney general shall enforce this section and shall promulgate rules and  
121 regulations necessary for enforcement. The attorney general may obtain injunctive or declaratory  
122 relief for this purpose. The attorney general shall post on its website a sample written record of  
123 information required under paragraph (l), a multilingual notice of employment rights under this  
124 section and state and federal employment laws that apply to the employment of domestic  
125 workers required under paragraph (m). A violation of this section shall be subject to paragraphs  
126 (1) and (2) of subsection (b) and subsection (c) of section 27C and section 150.

127 Section 191. (a) It shall be an unlawful discriminatory practice for an employer to: (i)  
128 engage in unwelcome sexual advances, requests for sexual favors or other verbal or physical  
129 conduct of a sexual nature to a domestic worker if submission to the conduct is made either  
130 explicitly or implicitly a term or condition of the domestic worker's employment, if submission  
131 to or rejection of the conduct by a domestic worker is used as the basis for employment decisions  
132 affecting the domestic worker or if the conduct has the purpose or effect of unreasonably  
133 interfering with a domestic worker's work performance by creating an intimidating, hostile or  
134 offensive working environment; (ii) subject a domestic worker to unwelcome harassment based  
135 on sex, sexual orientation, gender identity, race, color, age, religion, national origin or disability  
136 if the harassment has the purpose or effect of unreasonably interfering with a domestic worker's  
137 work performance by creating an intimidating, hostile or offensive working environment; or (iii)  
138 refuse job-protected leave for the birth or adoption of a child by the domestic worker or a spouse  
139 under section 105D.

140 (b) For the purposes of clause (i) of subsection (a), "domestic worker" shall include  
141 personal care attendants as defined in section 190.

142 (c) This section shall be enforced by the Massachusetts Commission Against  
143 Discrimination pursuant to chapter 151B.

144 SECTION 4. Section 19 of chapter 151 of the General Laws, as appearing in the 2012  
145 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words for not less than  
146 sixteen hours per week.

147 SECTION 5. Section 4A of chapter 151A of the General Laws, as so appearing, is  
148 hereby amended by inserting after the word “unit”, in line 23, the words:- or domestic service  
149 performed by 1 or more individuals.

150 SECTION 6. Section 6 of said chapter 151A, as so appearing, is hereby amended by  
151 striking out subsection (b).

152 SECTION 7. Section 1 of chapter 151B of the General Laws, as so appearing, is hereby  
153 amended by striking out, in line 18, the word “the” and inserting in place thereof the following  
154 words:- an employer of domestic workers including those covered under section 190 of chapter  
155 149, the.

156 SECTION 8. Said section 1 of said chapter 151B, as so appearing, is hereby further  
157 amended by striking out, in line 32, the words , or in the domestic service of any person.

158 SECTION 9. Section 1 of chapter 153 of the General Laws, as so appearing, is hereby  
159 amended by striking out, in line 33, the words “domestic servants or”.

160 SECTION 10. Not later than April 1, 2015, the executive office of labor and workforce  
161 development in consultation with the attorney general shall develop and implement a  
162 multilingual outreach program to inform domestic workers and employers about their rights and

163 responsibilities. This program shall include the distribution of know your rights information,  
164 model employment agreements, educational materials for employers on their human resources  
165 duties in employing domestic workers, including information on benefits, tax and insurance laws  
166 and a model written work evaluation form.

167           SECTION 11. The attorney general shall promulgate regulations under subsection (o) of  
168 section 190 of chapter 149 of the General Laws on or before April 1, 2015.

169           SECTION 12. Sections 1 to 4, inclusive, shall take effect on April 1, 2015.