

2023 -- H 6142

LC002222

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- DOMESTIC WORKERS' BILL OF RIGHTS

Introduced By: Representatives Alzate, Diaz, Stewart, Cruz, Morales, Shanley, Speakman, and Henries

Date Introduced: March 08, 2023

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 60

4 DOMESTIC WORKERS' BILL OF RIGHTS

5 **28-60-1. Purpose and findings.**

6 Domestic workers play a critical role in Rhode Islands' economy, working to ensure the
7 health and prosperity of Rhode Island families and freeing others to participate in the workforce.
8 Despite the value of their work, domestic workers have historically been excluded from the
9 protections under state law extended to workers in other industries. Domestic workers are
10 predominantly women who labor to support families and children of their own and who receive
11 low pay and minimal or no benefits. Without clear standards governing their workplaces, and
12 working alone and behind closed doors, domestic workers are among the most isolated and
13 vulnerable workforce in the state. Workforce projections are one of growth for domestic workers,
14 but the lack of decent pay and other workplace protections undermines the likelihood of building
15 and maintaining a reliable and experienced workforce that is able to meet the needs of Rhode Island
16 families. Therefore, the general assembly finds that because domestic workers care for the most
17 important elements of Rhode Islanders' lives, our families and our homes, it is in the interest of
18 employees, employers, and the people of Rhode Island to ensure that the rights of domestic workers

1 are respected, protected, and enforced and that this chapter shall be interpreted liberally to aid this
2 purpose.

3 **28-60-2. Definitions.**

4 As used in this chapter:

5 (1) "Domestic work" means:

6 (i) Housekeeping;

7 (ii) House cleaning;

8 (iii) Home management;

9 (iv) Nanny services including childcare and child monitoring;

10 (v) Caregiving, personal care or home health services for elderly persons or persons with
11 an illness, injury, or disability who require assistance in caring for themselves;

12 (vi) Laundering;

13 (vii) Cooking;

14 (viii) Companion services;

15 (ix) Chauffeuring; or

16 (x) Other household services for members of households or their guests in or about a private
17 home or residence or any other location where the domestic work is performed.

18 (2) "Domestic worker" means a person employed to perform domestic work. "Domestic
19 worker" does not include:

20 (i) A person performing domestic work who is the employer's parent, spouse, child, or
21 other member of their immediate family, exclusive of individuals whose primary work duties are
22 caregiving, companion services, personal care or home health services for elderly persons or
23 persons with an illness, injury, or disability who require assistance in caring for themselves;

24 (ii) Child and day care home providers participating in the child care assistance program
25 pursuant to the provisions of § 40-5.2-20;

26 (iii) A person who is employed by one or more employers in or about a private home or
27 residence or any other location where the domestic work is performed for eight (8) hours or less in
28 the aggregate in any workweek on a regular basis, exclusive of individuals whose primary work
29 duties are caregiving, companion services, personal care or home health services for elderly persons
30 or persons with an illness, injury, or disability who require assistance in caring for themselves; or

31 (iv) A person who the employer establishes:

32 (A) Has been and shall continue to be free from control and direction over the performance
33 of domestic work by the domestic worker, both under a contract of service and in fact;

34 (B) Is engaged in an independently established trade, occupation, profession or business;

1 or

2 (C) Is deemed a legitimate sole proprietor or partnership. A sole proprietor or partnership
3 shall be deemed to be legitimate if the employer establishes that:

4 (I) The sole proprietor or partnership is performing the service free from the direction or
5 control over the means and manner of providing the service, subject only to the right of the
6 employer for whom the service is provided to specify the desired result;

7 (II) The sole proprietor or partnership is not subject to cancellation or destruction upon
8 severance of the relationship with the employer;

9 (III) The sole proprietor or partnership has a substantial investment of capital in the sole
10 proprietorship or partnership beyond ordinary tools and equipment and a personal vehicle;

11 (IV) The sole proprietor or partnership owns the capital goods and gains the profits and
12 bears the losses of the sole proprietorship or partnership;

13 (V) The sole proprietor or partnership makes its services available to the general public on
14 a continuing basis;

15 (VI) The sole proprietor or partnership includes services rendered on a federal income tax
16 schedule as an independent business or profession;

17 (VII) The sole proprietor or partnership performs services for the contractor under the sole
18 proprietorship's or partnership's name;

19 (VIII) When the services being provided require a license or permit, the sole proprietor or
20 partnership obtains and pays for the license or permit in the sole proprietorship's or partnership's
21 name;

22 (IX) The sole proprietor or partnership furnishes the tools and equipment necessary to
23 provide the service;

24 (X) If necessary, the sole proprietor or partnership hires its own employees without
25 approval of the employer, pays the employees without reimbursement from the employer and
26 reports the employees' income to the Internal Revenue Service;

27 (XI) The employer does not represent the sole proprietorship or partnership as an employee
28 of the employer to the public; and

29 (XII) The sole proprietor or partnership has the right to perform similar services for others
30 on whatever basis and whenever it chooses.

31 (3) "Employ" includes to suffer or permit to work.

32 (4) "Employee" means a domestic worker.

33 (5) "Employer" means a person who employs a domestic worker within a household
34 whether or not the person has an ownership interest in the household; provided, however, an

1 "employer" shall not include a staffing agency, employment agency or placement agency.

2 (6) "Working time" means compensable time that includes all time during which a
3 domestic worker is required to be the employer's premises or to be on duty and any time worked
4 before or beyond the end of the normal scheduled shift to complete work; provided, however, that
5 "working time" shall, except as otherwise provided in this chapter, include meal periods, rest
6 periods and sleeping periods unless a domestic worker is free to leave the employer's premises and
7 use the time for the domestic worker's sole use and benefit and is completely relieved of all work-
8 related duties.

9 **28-60-3. Hours of employment for domestic workers.**

10 No person or corporation employing a domestic worker as defined in § 28-60-2 shall
11 require any domestic worker to work more than forty (40) hours in a week unless the domestic
12 worker receives compensation for overtime work at a rate which is at least one and one-half (1½)
13 times the worker's normal wage rate.

14 **28-60-4. Benefits for domestic workers.**

15 Every person employed as a domestic worker as defined in § 28-60-2 of this chapter, shall
16 be allowed at least twenty-four (24) consecutive hours of rest in each and every calendar week. No
17 provision of this subsection shall prohibit a domestic worker from voluntarily agreeing to work on
18 a day of rest required by this subsection; provided that, the worker is compensated at the overtime
19 rate for all hours worked on the day of rest. The day of rest authorized under this subsection should,
20 whenever possible, coincide with the traditional day reserved by the domestic worker for religious
21 worship. In addition, after one year of work with the same employer a domestic worker shall be
22 entitled to at least three (3) paid days of rest in each calendar year at the regular rate of
23 compensation.

24 **28-60-5. Conditions of employment.**

25 (a) Except as provided in § 28-60-4, an employer who employs a domestic worker for forty
26 (40) hours a week or more shall provide a period of rest of at least twenty-four (24) consecutive
27 hours in each calendar week and at least a period of forty-eight (48) consecutive hours during each
28 calendar month and, where possible, this time shall allow time for religious worship. Pursuant to §
29 28-6-4, the domestic worker may voluntarily agree to work on a day of rest; provided, however,
30 the agreement is in writing and the domestic worker is compensated at the overtime rate for all
31 hours worked on that day.

32 (b) When a domestic worker who does not reside on the employer's premises is on duty for
33 less than twenty-four (24) consecutive hours, the employer shall pay the domestic worker for all
34 hours on the employer's premises as working time.

1 (c) When a domestic worker is required to be on duty for a period of twenty-four (24)
2 consecutive hours or more, the employer and the domestic worker may agree, under terms that
3 comply with this chapter to exclude a regularly scheduled sleeping period of not more than (8)
4 hours from working time for each twenty-four (24) hour period.

5 (d) When a domestic worker is required to be on duty for a period of twenty-four (24)
6 consecutive hours or more and unless a prior written agreement is made, all meal periods, rest
7 periods and sleeping periods shall constitute working time.

8 (e) An employer may deduct from the wages of a domestic worker an amount for food and
9 beverages if the food and beverages are voluntarily and freely chosen by the domestic worker. If a
10 domestic worker cannot easily bring or prepare meals on premises, the employer shall not deduct
11 an amount from the wages of a domestic worker for food or beverages. An employer shall not
12 deduct from the wages of a domestic worker an amount for food and beverages that exceeds the
13 actual retail cost of the food.

14 (f) An employer may deduct from the wages of a domestic worker an amount for lodging
15 if the domestic worker voluntarily and freely accepts, desires and actually uses the lodging and the
16 lodging meets the standards for adequate, decent and sanitary lodging. An employer shall not
17 deduct from the wages of a domestic worker an amount for lodging if the employer requires that a
18 domestic worker reside on the employer's premises or in a particular location.

19 (g) No deductions for meals or lodging shall be made from a domestic worker's wages
20 without the domestic worker's prior written consent. No other deductions shall be made from a
21 domestic worker's wages other than for specifically named and identified purposes, goods or
22 services required or expressly authorized by the provisions of this chapter or other state or federal
23 law.

24 (h) A domestic worker shall have a right to privacy. An employer shall not restrict or
25 interfere with a domestic worker's means of private communication, monitor a domestic worker's
26 private communications, take any of the domestic worker's documents or other personal effects or
27 engage in any conduct which constitutes services or trafficking of a person in violation of state or
28 federal law.

29 (i) A domestic worker may request a written evaluation of work performance from an
30 employer after three (3) months of employment and annually thereafter. A domestic worker may
31 inspect and dispute the written evaluation. If the domestic worker disputes the evaluation, any
32 documentation evidencing the basis of this dispute shall be appended to the evaluation.

33 (j) If a domestic worker resides in the employer's household, and the employer terminates
34 employment without cause, the employer shall provide written notice and at least thirty (30) days

1 of lodging, either on-site or in comparable off-site location, or severance pay in an amount
2 equivalent to the domestic worker's average earnings during two (2) weeks of employment. Neither
3 notice nor a severance payment shall be required in cases involving good faith allegations that are
4 made in writing with reasonable basis and belief and without reckless disregard or willful ignorance
5 of the truth that the domestic worker has abused, neglected or caused any other harmful conduct
6 against the employer, members of the employer's family or individuals residing in the employer's
7 home.

8 (k) An employer who employs a domestic worker shall keep a record of wages and hours.
9 An employer who employs a domestic worker for sixteen (16) hours or more a week shall provide
10 the following information:

11 (1) The rate of pay, including overtime and additional compensation for added duties or
12 multilingual skills;

13 (2) Working hours, including meal breaks and other time off;

14 (3) If applicable, the provisions for days of rest, sick days, vacation days, personal days,
15 holidays, transportation, health insurance, severance and yearly raises and whether or not earned
16 vacation days, personal days, holidays, severance, transportation and health insurance are paid or
17 reimbursed;

18 (4) Any fees or other costs, including costs for meals and lodging;

19 (5) the responsibilities associated with the job;

20 (6) The process for raising and addressing grievances and additional compensation if new
21 duties are added;

22 (7) The right to collect workers' compensation if injured;

23 (8) The circumstances under which the employer may enter the domestic worker's
24 designated living space on the employer's premises;

25 (9) The required notice of employment termination by either party; and

26 (10) Any other rights or benefits afforded to the domestic worker.

27 (l) An employer shall provide a domestic worker with a notice that contains all applicable
28 state and federal laws that apply to the employment of domestic workers.

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

32 **28-60-6. Rules, regulations and enforcement.**

33 The attorney general shall enforce this chapter. The director of the department of labor and
34 training shall promulgate rules and regulations to implement the provisions of this chapter. The

1 director of the department of labor and training shall post on its website a sample written record of
2 information required under § 28-60-5(k), a multilingual notice of employment rights under this
3 chapter and state and federal employment laws that apply to the employment of domestic workers.

4 **28-60-7. Severability.**

5 If any provision of this chapter or the application thereof to any person or circumstance is
6 held invalid, such invalidity shall not affect other provisions or applications of the chapter, which
7 can be given effect without the invalid provision or application, and to this end the provisions of
8 this chapter are declared to be severable.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- DOMESTIC WORKERS' BILL OF
RIGHTS

1 This act would establish a bill of rights for domestic workers and provide for a minimum
2 set of benefits relating to wages, overtime, working conditions, hours worked and time off from
3 work. This act would also provide that the director of the department of labor and training
4 promulgate rules and regulations to implement the provisions and that the attorney general enforce
5 the provisions of this chapter.

6 This act would take effect upon passage.

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