State of Connecticut
GENERAL ASSEMBLY
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

January 13, 2016

TO: Chairs and Ranking Members of the Labor and Public Employees Committee

FROM: Senator Ed Gomes & Representative Peter Tercyak, Chairmen of the Task Force on Domestic Workers

RE: Task Force on Domestic Workers Report

In accordance with **Special Act 14-17**, we hereby submit to the Labor and Public Employees Committee the report and recommendations of the Task Force on Domestic Workers. The Task Force hopes the committee will give these recommendations strong consideration as a basis for legislation in the 2016 Legislative Session.

CC: Garey E. Coleman, Clerk of the Senate
Martin J. Dunleavy, Clerk of the House of Representatives
Governor Dannel P. Malloy
Joint Committee on Legislative Management
Labor and Public Employees Committee
Office of Legislative Research
Legislative Library
State Library

Task Force Report Prepared By:
Danielle Palladino
House Democrats
Connecticut General Assembly

TASK FORCE MEMBERS

State Senator Ed Gomes of the 23rd Senate District and State Representative Peter Tercyak of the 26th Assembly District served as co-chairmen for the Task Force. Members included:

- Attorney James Bhandary-Alexander, *New Haven Legal Assistance Association*
- Attorney Robert Clark, *Attorney General's Office*
- Attorney David Denver, *General Counsel for Companions and Homemakers*
- Mr. Mark LeClair, *Professor Economics at Fairfield University*
- Commissioner Sharon Palmer, *Department of Labor*
- Ms. Carolyn Treiss, *Executive Director of the Permanent Commission on the State of Women*
- Ms. Maria Lima Rodriguez, *Domestic Worker*
- State Representative Hilda Santiago, *84th Assembly District*
- Ms. Natalicia Tracy, *Director of the Brazilian Immigrant Center*

BACKGROUND ON DOMESTIC WORKERS IN CONNECTICUT

Domestic workers primarily work in homes caring for children, the elderly, disabled individuals, or for the home itself. There are approximately 42,000 domestic workers in the State of Connecticut. Presently, there are few federal and state regulations on their working conditions. Only in recent years have states including California, Connecticut, Hawaii, Massachusetts, and New York taken action to introduce and establish a bill of rights for these workers. Efforts in each of these states have varied from advocates seeking basic protections to calls for complete overhauls in the terms and conditions defining the domestic work industry.

During the Connecticut General Assembly's 2014 Legislative Session, the Labor and Public Employees Committee proposed a comprehensive bill of rights for domestic workers. Among other things, this legislation extended to domestic workers the minimum wage and workers compensation protections granted to traditional employees and the antidiscrimination and harassment protections provide by the Commission on Human Rights and Opportunities (CHRO). The legislation did not pass as written, but was instead amended to create a task force to study the issue of domestic workers and their employment conditions in Connecticut.

In the 2015 Legislative Session, the Labor and Public Employees introduced a bill that focused more exclusively on domestic workers' rights under CHRO. This bill passed with several amendments.

TASK FORCE CHARGE

Section 1 of Special Act 14-17 required the task force to study issues involving domestic workers in the state and make recommendations for legislative initiatives to provide outreach and education services to domestic workers and their employers.

The task force was required to submit a report on its findings and recommendations to the Governor, the Joint Committee on Legislative Management, and the Labor and Public Employees Committee by October 1, 2015.

TASK FORCE MEETINGS AND PRESENTATIONS

The Task Force met nine times, in addition to holding a public hearing in November of 2014.

> *Please see Appendix A for a list of meeting dates and corresponding agendas*
> *Meeting minutes can be found at the following link:*
> *https://www.cga.ct.gov/lab/taskforce.asp?TF=20140912_Domestic%20Workers%20Task%20Force*
>
> *Please see Appendix B for copies of the testimony*
>
> *Please see Appendix C for copies of the recommendation submissions*

Commissioner Sharon Palmer was also provided a statement during the submission process as follows:

> *"Thank you for the opportunity to participate in the Task Force on Domestic Workers. The Department of Labor was pleased to be part of such an important discussion and the Task Force's recommendations will provide the General Assembly with the necessary background in order to further expand upon PA 15-249: AAC Domestic Service and the Commission on Human Rights and Opportunities during the 2016 Legislative Session. The issue of Domestic Worker Rights is worthy of further review and analysis given the great benefit that it would provide for many Connecticut workers. In addition, I look forward to working*

with policy makers towards the development of any proposed legislation that the Department of Labor can support as it moves forward in the 2016 Legislative Session."

FINAL RECOMMENDATIONS
At the final meeting, the following recommendations were accepted by a majority vote.

Minimum Wage and Overtime

- Amend the definition of "employees" covered by state minimum wage and overtime laws to eliminate the exemption for domestic workers (except for casual babysitters) and its related tie to federal regulations. This will:

  (1) entitle all domestic worker employees to the minimum wage regardless of their employer (e.g., private consumer employers, third-party agencies, and joint employer state-funded Medicaid programs);
  (2) eliminate the "companionship exemption" and "live-in exemption" for all employers; and
  (3) remove any uncertainty created by the new federal regulations and its related lawsuit.

- Amend state overtime requirements to:
  (1) expand current law's "sleep time exemption" from "hours worked" to include all live-in domestic workers, regardless of whether they are employed by third-party employers or providing "companionship services;"
  (2) eliminate the sleep time exemption law's tie to the effective date of federal regulations; and
  (3) specify that a live-in domestic worker's "hours worked" does not include times when the worker is on the premises but relieved of all work duties. This should comport in full with federal labor standards for meals, sleep, and periods of full relief from employment.

Workers' Compensation

- The threshold for determining when an employer must provide workers' compensation coverage for a domestic worker should be the same threshold used for determining when a domestic worker is covered by the state's unemployment law. In general, this would require an employer to provide workers' compensation coverage to any domestic worker employee to whom it pays at least $1,000 in a calendar quarter. Current law requires employers to provide workers' compensation coverage to domestic workers who work at least 26 hours per week.

Registries

- For purposes of providing workers compensation coverage and paying unemployment taxes, registries that provide domestic workers to consumers

should be deemed the worker's joint employer with the worker's consumer employer.

Paid Time Off

- The legislature should expand the state's paid sick leave law to include domestic workers, regardless of the size of their employer. (Current law applies only to employers with at least 50 employees and employees in specified job categories.) In general, this would allow workers to accrue one hour of paid sick time for every 40 hours worked, and up to 40 hours of paid leave per calendar year. They would not be able to use the leave until they have worked at least 680 hours for the employer.

Reporting Time Pay

- The legislature should enact legislation that would entitle all employees, including domestic workers, to compensation when they report to work as required by their employer, but are either not put to work or required to work for less than their scheduled work period. Such legislation could include exceptions for emergencies or other circumstances that are not reasonably foreseeable by the employer.

Termination Notice and Severance Pay

- Employers should be required to provide domestic workers with either a one week termination notice or one week's severance pay, with exceptions for cases involving good faith allegations of abuse, neglect, or other harmful conduct or certain unforeseeable circumstances (e.g., a consumer's death, hospitalization, or placement in a care facility).

Day of Rest

- Employers who employ a domestic worker for at least 40 hours per week should be prohibited from requiring that worker to work on more than six consecutive days, unless the worker agrees in writing to work for a seventh consecutive day (by law such a worker would have to be compensated for that time under the state's overtime pay requirements).

CHRO/ Discrimination/ Harassment

- The CHRO statutes should be amended to expand the discrimination and harassment protections provided by PA 15-249 to all domestic workers, regardless of the size of their employer. (Current law only provides the protections to employees who work for employers with at least three employees.)

Notices

- In addition to notices required for all employees under current law (CGS § 31-71f), employers should provide their domestic workers with written notice at the time of hire of the
  (1) terms, conditions, and duration of employment;
  (2) job duties;
  (3) deductions for food and lodging, if applicable;

(4) any restrictions or requirements for live-in worker's personal food and meal preparation, if applicable; (5) required cleaning products and restrictions on cleaning product options, if applicable; and (6) notice of the worker's employment-related legal rights under state and federal law.

- The department of labor (DOL) should be required to prepare and make available on its website (1) a notice of domestic workers' employment-related legal rights under state and federal law which employers can provide to their domestic workers and (2) information for employers regarding their legal obligations when employing domestic workers.

Privacy

- Live-in domestic workers should be guaranteed a right to privacy in their designated living space, private communications, and personal property. However, limited emergency circumstances in which a homeowner or consumer may violate these rights should also be allowed. In addition, homeowner/ consumers and live-in domestic workers may agree, in writing, to other conditions or circumstances under which the homeowner/ consumer can access the worker's designated living space, private communications, and personal property.

- Under current law, no employer may engage in any type of electronic monitoring without giving prior written notice to all employees who may be affected, informing them of the types of monitoring which may occur (CGS 31-48d). This law should be expanded to include homeowner/ consumers receiving services from domestic workers employed by third-party employers.

Room and Board

- The legislature should further investigate and specify a methodology for allowing employers of live-in domestic workers to deduct room and board expenses from minimum wage and overtime requirements. To the extent possible under federal law, the methodology should also allow third-party employers to deduct the room and board expenses incurred by the consumer in whose home the live-in worker resides.

- Live-in domestic workers should be allowed to prepare their own foods and meals of their own choosing, subject to their consumer's or homeowner's religious restrictions, health requirements, or other limitations provided and agreed to in writing at the time of hire.

Enforcement

- Violations of any new rights or requirements created by the above recommendations, including employer retaliation for a worker's exercise of his or her rights, should be investigated and enforced by DOL. Maximum penalties should be sufficient to deter willful violations, while also providing DOL with discretion to adjust penalties based on a violation's severity.

- The legislature should provide the department of labor with sufficient resources to effectively investigate domestic worker complaints and enforce the related laws.

MINORITY REPORT

WITH THE CONSENT of the distinguished Chairs of the Task Force on Domestic Workers, the undersigned member of the Task Force on Domestic Workers (in his capacity as a representative of employers of domestic workers in Connecticut) submits a minority report (hereinafter the 'Minority') that dissents and concurs, in part, from the final recommendations of the Task Force (hereinafter the 'Report') dated November 23, 2015.

THE TASK FORCE CHARGE

The Report notes the charge of S.A. 14-17, establishing the Task Force: "Such task force shall study issues involving domestic workers in the state *and make recommendations for legislative initiatives to provide outreach and education services* to domestic workers and employers of domestic workers in the state." (emphasis added)

The Report contains twelve itemized recommendations: Minimum Wage and Overtime, Workers' Compensation, Registries, Paid Time Off, Reporting Time Pay, Termination Notice and Severance Pay, Day of Rest, CHRO-Discrimination-Harassment, Notices, Privacy, Room and Board, and Enforcement.

Only one of the twelve, 'Notices' (requiring that domestic worker employers provide notice to their workers as to certain employment conditions) proposes action consistent with the charge of S.A. 14-17: recommendations for legislative initiatives to provide outreach and education. For this reason, the Minority recommends only the 'Notices' provision within the Report be given consideration. All other recommendations of the Report exceed the charge of the General Assembly.

THE RECOMMENDATIONS WITHIN THE REPORT

1. **Minimum Wage and Overtime**

   Minimum Wage: MINORITY CONCURS, AND DISSENTS

   The Report recommends amending Connecticut's longstanding definition of the word 'employee', something likely to impact many industries that have not had the benefit of Taskforce study. Reasons for this recommendation included assuring that all domestic worker employers pay minimum wage. The Minority does not oppose payment of minimum wage for all domestic workers but opposes re-writing a longstanding definition for the purpose of affecting one industry.

   Moreover, domestic worker wages bring focus to a dichotomous domestic worker labor force, identified by employer, not worker. Testimony to the Taskforce was uniform that domestic worker labor abuses, when they occur, are limited to homeowner (a/k/a 'self-directed') employers working outside of regulatory

oversight. Testimony was similarly uniform – with not one item of contradictory evidence – that third party agency employers comply with all applicable wage and hour laws and present no labor abuses.

This dichotomy underlies all Minority recommendations: domestic workers will not benefit from statutory change or further regulation of third party employers. Rather, recommendations should target the home-by-home employers that exploit labor behind closed doors.

Exemptions from Wage and Hour Laws: MINORITY CONCURS
The Report recommends elimination of the 'Companionship' and 'Live-in' Exemption for all employers (i.e., third party employers, and individual, self-directed employers). The Minority concurs only that domestic workers reap the greatest benefit when all domestic worker employers are treated equally. The Minority concurs that federal and state law should contain identical provisions regarding exemptions under all circumstances; including, reversion to permissive use of all exemptions by all employers if federal law allows.

Overtime: MINORITY CONCURS, AND DISSENTS
The Report recommends, and the Minority concurs, amendment of Connecticut law to adopt the federal sleep time deductions, meal time deductions, and 'free' time deductions (when a worker is relieved of all work duties) from 'hours worked'. This includes permitting use of the deduction for all domestic work, not just companion services, and incorporating the federal 'free time' standards.

The report recommends that all domestic services be subject to uniform overtime laws. The Minority opposes overtime payment for live-in domestic workers.

Live-in domestic workers are not engaged in work each and every moment. There is considerable 'down time' attending to the worker's own personal needs (such as grooming, computer use, or leisure time while a client eats, sleeps, reads, etc.) and repetitive periods of respite (of different length) when the worker is on site, but not working. This down time is considerable and common in elder care, where there is one (or more) domestic worker providing care for one (often mobility restricted) client, in the client's home. A live in domestic worker (by choice) resides at the workplace. They select the unique live in work environment for the unique benefits it offers; wages, a place of residence, and an absence of transportation expense and commuting time. Under this employment model – where the worker both lives and works at the same location – forty hours (or more) of time 'clocked' reflects more than just work time; it is time comprised of both labor and time (in short or long intervals) where the worker, disengaged from labor, simply remains 'home'.

Requiring payment of overtime for live-in assignments ignores the reality of homecare. The domestic worker, receiving minimum wage or higher for the first forty hours of work, receives the further hourly (financial) benefit of paid housing. A live in domestic worker on site for seven days (subtracting for eight hours of sleep each day) would be compensated for 112 hours: 72 hours of overtime and 40 hours of regular wages (and

room and board). The result is excessive compensation and an unworkable economic model: few homeowners can afford to pay regular wages and 72 hours of overtime. Moreover, few domestic workers can, or want, to work 112 hours per week; yet, mandatory overtime for live in domestic workers is inexplicably premised upon that unsustainable presumption: that a live in worker should labor 16 hours per day, seven days per week.

Ironically, recent changes in federal law mandating such overtime has resulted in use by many domestic worker employers of heretofore unused room and board wage deductions, offsetting, in part, a portion of domestic worker wage gains attributable to overtime. For more on room and board deductions, see section 11, *infra*.

2. Worker's Compensation MINORITY CONCURS

Current Connecticut law does not require employer-maintained workers' compensation insurance for domestic workers employed less than 26 hours per week. The Report recommends uniform application of Connecticut's workers' compensation laws so that domestic workers are treated no differently from other industries. The Minority concurs.

This issue again illustrates the two differing domestic worker employment models. Agency employers already provide workers' compensation; the home-based (self-directed) employer, hiring directly or utilizing the services of a domestic worker registry, avoids providing workers' compensation by offering employment outside of regulatory oversight, or offering limited employment (less than 26 hours). The result is a domestic worker with lesser pay and no protection from work related injury other than a civil lawsuit; and, a homeowner at risk of losing their home to civil judgment for injuries sustained by an injured domestic worker.

The Minority believes domestic workers benefit when all domestic worker employment models provide identical benefits to domestic workers. In this regard, all domestic worker employers should operate under identical workers' compensation requirements.

3. Registries MINORITY CONCURS

The Report recommends that domestic worker Registries be considered joint employers for purposes of workers' compensation and unemployment insurance taxes. The Minority concurs and further recommends additional amendment to regulations affecting the Registry model of domestic worker employment. That model promotes – for a fee paid to the Registry – self-directed domestic worker employment, the employment model where domestic worker abuse has been found. Further **regulation holding Registries to the same employment compliance standards required of Agency employers of domestic workers (such as proper payroll withholding, unemployment and workers' compensation coverage, applicable FMLA, CHRO, Affordable Care Act and other benefits) would significantly reduce domestic worker abuse.** If all domestic worker employer models are held to equal standards, all domestic workers will receive equal protections.

4. Paid Time Off MINORITY DISSENTS

The Report recommends expanding sick leave laws to domestic workers regardless of the size of the employer. The Minority does not support expansion.

The Report recommends several initiatives that, if adopted, would require employers to provide benefits to domestic workers that would exceed other industries. Current sick leave laws apply to larger employers and specialized job categories. Expansion to include all domestic workers, with no regard to the size of the employer, would be unique to that workforce.

Domestic employment, often involving the care of a person in their home, is uniquely unsuited for paid sick leave. Retail, foodservice and manufacturing can function when an employee calls out. A homeowner, dependent upon the assistance of a domestic worker for daily nutrition, toileting, medication, etc., cannot function without that assistance. When a worker 'calls out' that employer must immediately pay another worker to perform the needed tasks. For work assignments on such short notice, employers must often pay substantial bonuses to the substitute worker. Expansion of paid sick time to homecare jeopardizes the safety of homebound clients and unduly burdens employers in a manner unique to the industry.

5. Reporting Time Pay MINORITY DISSENTS

The initial comments of the Minority (see 'Task Force Charge') remark that recommendations in the Report exceed the legislative charge. This provision, Reporting Time Pay, further illustrates that point.

The Report recommends legislation entitling "all employees, including domestic workers" to compensation when they report to work but are not put to work, or work less than their scheduled time. The Minority opposes such action.

Undisputedly, the Task Force was not called upon to propose recommendations for "all" employees; and for this reason the Minority recommends this section (Reporting Time Pay) receive no action. It is a recommendation far beyond the charge to the Task Force.

It is also a proposal that ignores the concept of domestic work, which is often task determinative, rather than time determinative. Domestic worker employers do not have work to be performed once the worker has completed their assigned tasks. Domestic care for seniors often involves unexpected schedule changes due to illness or hospitalization of the homeowner. And, it is clearly not possible to quantify when a 'live in' domestic worker has completed their work assignment; daily needs may be unscheduled, and in the course of any day, more work may be required than others. Such is the nature of domestic work.

The Report's proposal in this regard is inconsistent with Connecticut's longstanding policy of employment at will. And, when coupled with the Report's proposal for paid sick time, presents an inequitable employer/employee relationship, proposing that domestic workers may unexpectedly terminate scheduled work without penalty (and will receive paid sick time when doing so), but employers unexpectedly terminating scheduled work must provide wages for the entire shift.

6. Termination Notice and Severance Pay MINORITY DISSENTS

State and Federal law do not, in any industry or circumstance, recognize mandatory severance pay or advance notice of termination. The Report recommends both, with exceptions for worker discharge due to abuse, neglect, or homeowner illness, hospitalization or death. The Minority opposes both notice and severance pay.

The Report does not limit notice or severance pay to 'live-in' domestic workers. As such, the proposals would require – in an employment at will state – that domestic worker employers provide notice or pay severance to each hourly worker, with no regard to hours worked, length of employment, employment history, or job performance. The proposal would afford domestic workers a protected status found in no other job or industry. No Task Force testimony suggested that untimely termination of domestic workers is a problem needing resolution.

Larger issues of state and national employment policy and employment at will notwithstanding, advance notice of termination and severance pay are uniquely unsuited for domestic work; it is work performed in a person's home, encompassing individual performance standards (as to cooking, cleaning, etc.). Homecare, alone, is uniquely susceptible to an employer/employee relationship subject to intangible employment standards, making notice requirements unworkable.

7. Day of Rest MINORITY DISSENTS

The Report recommends that employers 'requiring' a domestic worker (that works forty or more hours per week) to work seven consecutive days obtain written employee consent to work the seventh day. The recommendation, in such broad form, again misses its intended target.

Agency employers of domestic workers – undisputed as employing the significant majority of the state's domestic workers – neither offer nor require mandatory work assignments. Agency domestic workers are offered per diem assignments to accept or reject. Agency domestic workers selecting work a seventh consecutive day demonstrate, by accepting the assignment, consent to work. Domestic worker labor abuses as to seven (or more) days of work are only found in the homeowner / self-directed employer model. Such workers, laboring with no regulatory oversight, may require protections affording them seventh day 'choice'. Most domestic workers (Agency employees) already possess and express their choice.

Similarly, live in domestic workers accept assignment knowing the 'live in' employment opportunity arises from their employer's need for daily services. Live in workers have the reasonable expectation of providing daily services, and demonstrate consent to that schedule by choosing live in work.

8. CHRO / Discrimination / Harassment MINORITY CONDITIONALLY CONCURS

Current CHRO regulation applies to employers with three or more employees. The Report recommends that CHRO procedures and protections apply to domestic workers irrespective of the size of the employer. The Minority conditionally concurs.

Agency employers of domestic workers have no control over the conduct of the homeowner (or their family, or guests) where their workers perform assignments. Such employers should be answerable for the employer's (Agency) acts, but not any action of the homeowner, their family, their guests, etc., that occurs in the home where the work is performed.

9. Notices: MINORITY CONCURS, AND DISSENTS

The Report recommends that domestic worker employers provide specific notices as to work assignments and conditions, job duties, duration of employment, cleaning products to be used, etc. The Minority concurs that such notices should be required for individual, self-directed employers, but cannot support such notice for Agency employers.

The Agency employer has no ability to regulate or monitor daily or hour-by-hour requests of a homeowner as to work duties; or the cleaning products the homeowner possesses or provides. The Agency employer has no control over the duration of employment or when the homeowner will terminate services. No control over what food and lodging conditions the homeowner will provide and maintain. Such worker has the ability and authority to reject an assignment where cleaning products or living arrangements are unsuitable; and, be given a replacement assignment by the Agency (under penalty to the Agency in the form of an unemployment claim).

The Report recommends that the state DOL provide notices, for domestic workers and domestic worker employers, of the workers' rights and employers' obligations. The Minority concurs.

10. Privacy MINORITY DISSENTS

The Report recommends privacy protections for live in domestic workers, and marks the first distinction within the Report between live in and hourly (non-live in) domestic workers. Specifically, the Report recommends that live in workers be assured private communication and an undefined right to privacy in the 'living space' of the worker.

Connecticut law currently provides, and the Report recognizes, that Connecticut employers may monitor employees and their electronic communication (subject to advance notice). The Report neither recognizes nor comments upon established Connecticut workplace law: employees have no privacy rights upon their employers' premises (with exception for certain common areas, which must be free from monitoring). Under authority of law a homeowner may grant consent to police authorities to search the room of any person living (not renting) in their home. The broad concept of a domestic worker's 'living space' notwithstanding, complete privacy in such space leaves a homeowner vulnerable to criminal indictment, prosecution and property seizure if any person in their home (including a domestic worker) engages in illicit conduct.

Moreover, Agency employers have no ability to monitor or regulate the conduct of persons in a home with a domestic worker. Such employers cannot guarantee or enforce privacy measures or prevent the homeowner, or their agent, from invading such privacy.

11. Room and Board MINORITY CONCURS

The Report recommends domestic worker protections extend to their ability to prepare foods of their choosing, subject to reasonable homeowner limits for health (e.g., allergies) or religious restriction. The Report further recommends legislative action authorizing domestic worker employer use of room and board deductions (consistent with federal law). Such authorization is needed, particularly in instances where a party other than the homeowner (e.g., Agency, or state entity) is the employer of record, or joint employer. In this regard, the Minority concurs.

12. Enforcement MINORITY CONCURS

The Report recommends enforcement of 'any new rights or requirements created' by the Report's recommendations. The Minority concurs, and closes with the following comment and recommendation.

Most domestic workers in this state work for employers *other than* the individual, self-directed homeowner. Most work as company employees, protected by workers' compensation coverage, unemployment insurance, OSHA and DOL oversight, wage withholding and other benefits (such as health insurance and unpaid family medical leave, where applicable). State and federal law, alone or in combination, already require that domestic worker employers pay minimum wage and overtime and record hours worked. Existing law contains numerous criminal penalties and civil causes of action for discrimination, assault, abuse, failure to pay wages, failure to withhold (wages) for taxes, FICA and Medicare, failure to report, failure to document work eligibility, etc. Those laws effectively regulate other industries where 'marginalized' labor is present, and those laws – when enforced – already protect domestic workers.

Passage of new domestic worker laws should be conditioned on effectiveness, not intent. The common denominator for domestic worker abuse is not the employer, the worker, their gender or whether they are a documented worker; the common factor is the outlaw employer that chooses to exploit the worker. If such employers disregard current labor law, how will new law promote compliance?

Our state has enough clear and effective labor protections for domestic workers. What will benefit such workers most is enforcement directed to locating abuse and promoting legal compliance. The most effective step in that direction – as stated in the charge to the Task Force – is education and outreach to domestic workers and their employers; and, enforcement that recognizes and targets the employment model where abuses are actually found. Only then will effective reform occur in the domestic worker labor market.

-David Denvir

APPENDIX A: Meeting and Public Hearing Dates

- **MEETING** on September 12, 2014 at 1:00 PM in Room 2B of the LOB

I. Convene meeting
II. Introduction of Task Force Members
III. Discussion of Task Force Goals
IV. Discussion of a working definition of *domestic worker*
V. Announcement of Next Meeting
VI. Adjournment

- **MEETING** on October 17, 2014 at 2:00 PM in Room 2B of the LOB

I. Convene Meeting
II. Define *Domestic Worker*
    a. Do domestic workers have the right to minimum wage?
    b. What are the overtime rules and regulations for those who are not PCAs in Connecticut?
    c. Do domestic workers have the right to meal breaks?
    d. Do domestic workers have the right to rest breaks?
    e. Can workers be charged for meals and lodging, if provided by the employer?
    f. What are the record keeping requirements for domestic workers?
    g. What are other questions we can ask to help formulate a definition of *domestic worker*?
III. Subcommittee of the Task Force
    a. Employer Relations
    b. Other subcommittees
IV. Tentative Public Hearings
    a. November 2014
    b. February 2015
V. Announcement of Next Meeting
VI. Adjournment

- **PUBLIC HEARING** on November 21, 2014 at 11:00 AM in Room 2D of the LOB

I. Items for Review
    a. Raised Bill 5527 An Act Concerning A Domestic Workers Bill of Rights (2014 Legislative Session

- **MEETING** on November 21, 2014 Following the Public Hearing in room 2D of the LOB

I. Review of Public Hearing
II. Other Business
III. Announcement of Next Meeting

- **MEETING** on February 20, 2015 at 2:00 PM in Room 1B of the LOB

I. Convene Meeting
II. Discussion with Um Ai-Jen Poo of the Domestic Workers Alliance
III. Discussion of the Definition of Domestic Worker
IV. Announcement of the Next Meeting
V. Adjournment

- **MEETING** on April 24, 2014 at 2:00 PM in Room 1D of the LOB

I. Convene Meeting
II. Discussion of Senate Bill 446 and potential amendment
III. Announcement of Next Meeting
IV. Adjournment

- **MEETING** on May 1, 2015 at 2:00 PM in Room 1D of the LOB

I. Convene Meeting
II. Discussion of Working Draft of Senate Bill 446
III. Announcement of Next Meeting
IV. Adjournment

- **MEETING** on August 18, 2015 at 2:00 PM in Room 1D of the LOB

I. Convene Meeting
II. Recap of the 2015 Legislative Session and Senate Bill 446
III. Examination of Connecticut's Proposed 2014 Domestic Workers Related Legislation and the Massachusetts' Domestic Workers Bill of Rights
IV. Discussion on Formalizing Recommendations
    a. Compensation and Wages
    b. Legal Status of Domestic Workers
    c. Working Conditions
    d. Summaries of Testimony
V. Announcement of Next Meeting
VI. Adjournment

- **MEETING** on September 17, 2015 at 2:00 PM in Room 1C of the LOB

I. Convene Meeting
II. Review and Discussion of Recommendations
III. Other Business
IV. Announcement of Next Meeting
V. Adjournment

- **MEETING** on October 5, 2015 at 2:00 PM in Room 1D of the LOB

I. Convene Meeting
II. Discussion of Recommendations
III. Vote on Recommendations
IV. Adjournment

APPENDIX B: Testimony Submitted for the Public Hearing

iiconn
international institute of connecticut inc.
Serving and Empowering New Americans since 1918

Main Office
670 Clinton Avenue
Bridgeport, CT 06605
Tel. (203) 336-0141
Fax. (203) 339-4400
www.iiconn.org

Stamford
34 Woodland Ave.
Stamford, CT 06902
Tel. (203) 965-7190
Fax. (203) 339-4400

Hartford
175 Main St., 2nd Floor
Hartford, CT 06106
Tel. (860) 692-3085
Fax. (860) 692-3089

November 19, 2014

Domestic Workers Rights Task Force
Legislative Office Building
Hartford, CT 06106

RE: Testimony in Support of the Connecticut Domestic Workers Rights Bill

Dear Members of the Domestic Workers Rights Task Force,

My name is Alicia Kinsman and I am here today in support of the Connecticut Domestic Workers Rights Bill. I am an immigration attorney and manager of the legal services program at the International Institute of Connecticut, Inc., a statewide nonprofit organization dedicated to the needs of immigrants, refugees, and foreign born victims of serious crimes. Collectively, its programs aim to help low income families become self-sufficient and integrated, and include refugee resettlement, language services, job assistance, educational programming, and legal immigration assistance.

Since 2006, the Institute has assisted survivors of trafficking residing in the state of Connecticut through a federally funded aftercare program named Project Rescue. Project Rescue provides a unique array of culturally competent and trauma-informed services. These services include assistance with immigration needs, reuniting families, providing safe, confidential shelter and other basic necessities, and providing general victim advocacy with law enforcement and the criminal justice system. Additionally, Project Rescue works with partners around the state to raise awareness of human trafficking among social service agencies, law enforcement, first responders, and the general public. The program holds an appointed position with the state Trafficking in Persons Council and in 2013 received a national award by the FBI for its work in combating trafficking.

Our clients are survivors. They defy expectations. They are resilient and brave. They thrive in the face of adversity. But the number of clients we've served has increased exponentially since the beginning of our program. And many of these clients have been victims of domestic servitude. Domestic work becomes domestic servitude, a form of trafficking, when the employer uses force, fraud and/or coercion to maintain control over the worker, causing the worker to believe that he or she has no other reasonable choice but to continue working. In 2013, of the 54 trafficking survivors that Project Rescue served, 11 came from domestic servitude, 10 females and 1 male.

Victims of domestic servitude in the United States, and based on our experience, here in Connecticut, are often immigrant women. Immigrant women are particularly vulnerable to exploitation in these circumstances for a variety of reasons, including unfamiliarity with the laws, low levels of English proficiency, and fear of law enforcement. But the very nature of the job also makes domestic workers inherently susceptible to exploitation and abuse.

Domestic workers often live in the home of the employer, isolated from the public and outside of the purview of federal labor laws. They commonly work 10 to 16 hours a day for more, 6 to 7 days a week, for little to no pay.

To be clear, not all domestic workers are trafficked. But if the home remains a place where labor laws do not apply, domestic workers will continue to be exploited, with little legal protection. The Institute supports a Domestic Workers Bill of Rights to change that; one that will establish labor standards and address some of the most common employment areas that put domestic workers at risk for severe exploitation, including job safety, wage and hour requirements, and protections against discrimination and sexual harassment. It will be an important step toward transforming the vulnerability of this workforce, and fighting human trafficking in our state.

On behalf of the International Institute and the individuals we serve each year, I thank you for your time and for your efforts in this matter.

Alicia R. Kinsman

Alicia R. Kinsman
Managing Attorney

Connecticut Working Families Organization
30 Arbor Street, Hartford, CT 06106
Workingfamilies.org/Connecticut
(860) 523-1699

November 20, 2014

Dear Members of the Task Force on Domestic Workers,

My name is Ana María Rivera-Forastieri and I am the Political Director of the Connecticut Working Families Organization. Working Families organizes on behalf of working and middle class families on social and economic justice issues. We have historically advocated for laws and policies that improve the quality of life of workers and their families—good wages, affordable healthcare, workplace protections and the right to collectively bargain.

This is why we are troubled by the fact that domestic workers, who play a critical role in Connecticut's economy, have been excluded from important labor protections that have been guaranteed to most of Connecticut's workforce.

There are approximately 40,000 domestic workers in the state of Connecticut. These workers are providing essential services to individuals and their families. Some of these include caregiving for children and elderly dependents, cleaning and house maintenance. The majority of these workers are immigrant women who work in private households in order to provide for their own families. The immigrant community is already in a disadvantageous position when it comes to labor and employment protections because individuals fear that complaining about workplace abuses can result in retaliatory actions by the employer.

But these women and workers make up the most vulnerable workforce in our state because they have been excluded from major federal and state employment and labor laws.

While Connecticut has been ahead of the game on a multitude of economic justice issues, we have been unable to guarantee many of these victories to domestic workers. For example, the Connecticut Minimum Wage Act has excluded some domestic workers by narrowing the definition of employees that are covered by the state minimum wage. Our Workers Compensation law rarely covers domestic workers because it requires that they work over 26 hours a week be covered—this limitation does not apply to other workers in the state. The CT Paid Sick Days law does not cover domestic workers either, because it only applies to businesses with 50 or more employees. Lamentably, these are just some of the instances in which our laws have failed domestic workers.

This taskforce has an obligation to make recommendations that will not only protect but will provide dignity to these workers. The taskforce should establish fair industry standards by recommending legislation that will amend current Connecticut law to include these workers in its minimum wage and overtime laws, it should extent Workers Compensation to include more domestic workers and it should provide benefits like paid sick days and time off. Legislation should be in the form of a Domestic

Workers Bill of Rights, which will address many of the aforementioned issues in a comprehensive manner.

I urge you to issue recommendations that will set a fair standard and provide protections to a workforce that has been silenced for a long time. I must also urge you to dedicate resources for outreach and education for both the workers and the employers. Domestic workers usually work in individual homes so it is challenging for them to learn about their rights in collective setting.

Thank you for your time and consideration. We look forward to seeing the recommendations offered by this taskforce and hope that Connecticut can finally address the plight of domestic workers.

Carla Goyes
47 Cos Cob Avenue,
Cos Cob, CT 06807
(914)295-4943
cgoyes@gmail.com

Via Email: LABTestimony@cga.ct.gov

November 20, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Labor and Public Employees Committee
Room 3800, Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

Dear Sen. Winfield, Rep. Tercyak, and Members of the Taskforce:

Many people may consider the care provider field as an informal career since it is a type of job that may have odd hours and requirements, even the work environment itself is informal. Many workers and employers had that view since it is a domestic job, at least that is the way I felt when I decided to be a child care provider.

In the world of nannies and sitters I have encountered different types of family philosophies, people I can trust and be trusted by since I'm taking a big responsibility by caring for their kids, but not every employer shares the importance of what a child provider is, since it goes beyond keeping the child safe while the parents are gone.

I believe that caring for someone a child or an elder is not just a job but a contribution to the world, is a way of influencing people by bonding, building a close relationship. But in the end it is a job. There are rules for both sides that have to be clear, there are boundaries that help to keep a free and honest relationship.

At my last job as a full-time nanny, I encountered many difficulties with the employer, which in previous jobs I never experienced any, since there weren't clear boundaries. There are many aspects of a job description that are revealed when the family and the provider are in an interview, but not every detail can be clear out, sometimes there are details that appear along the way. In this particular experience the job duties were changed inappropriately over time, but they were going way beyond that of a childcare job.

More than a year ago I agreed to a nanny position that included long hours (55 hours a week and on occasion more) with responsibilities to care for an infant, meaning responsibilities that are directly related to the baby, and a small pay, that was fair for the job demands. Within time, as the baby grew, and the baby needs changed more responsibilities were added, some related to the baby and some were not. Until there was a moment where the verbal contract was being forgotten and the demands were growing to a point that the boundaries were broken, since the demands were so much that the job was being changed from a nanny job to a combination of personal assistant, chef,

housekeeper, personal driver, even dry cleaning service. As my view of this job was changing, I was feeling taking advantage of.

I decided it was time to take action, I started to inform myself about what are the requirements for a nanny job, what does an employer expect and what are the duties. I asked other nannies in the area and researched on the web, and came to a simple conclusion, the best way I can solve this issue and feel that I can keep on trusting my employers, was by adding a written contract, a simple way to clarify the boundaries, as I was feeling I wasn't being respected. Five months into the job I approached my employers and requested a written contract. They didn't feel sure about it so nothing happened, and I let it go. Four months later, the additional work unrelated to the child continued. It got to the point that I was requested to drive the family for one hour each way to the airport, I didn't feel comfortable with the request and I explained to the family but they insisted. I felt at the moment the abusive requests were not stopping at any time, so I requested to have a meeting. At this meeting I did emphasize that the extra demands were not part of the job description, that it would be necessary to have a written contract. The family's response wasn't positive since this time I showed them all the information I had found on the web, even I shared the Bill of Rights for domestic workers.

After having a numerous meetings with the family, and reviewing the documentation they agreed to create a written contract. For this purpose they requested for me to create a job responsibility list. When I finished with it and they reviewed it, they didn't like it and decided to let me go.

At this point I had the impression that they had a plan that wasn't clear to me and never was discussed. My performance as a nanny was always my best, and they agreed I created a strong bond with their baby. I even sacrificed precious time with my daughter and partner for this job's extra-long hours. The bond was so strong that the baby called me "mama" because I cared for him for so many hours in the day. But in the end, this was only a job for the parents, it didn't matter the care, time, and love that the baby and I had invested.

Now I am jobless but with more experience and more knowledge. Most importantly, I got to understand how important it is to bring a simple and legal agreement to the job, not matter how informal this job can be perceived. A written contract at the beginning of this job would have allowed me to stay in this job for more years to come and would have ensured a clear and respectful relationship between the employer and the nanny.

There is a Spanish saying that applies to my experience, it says "con cuentas claras, amistades largas" meaning "long friendships comes with clear agreements."

I urge the taskforce to reintroduce a Domestic Workers Bill of Rights in Connecticut.

Sincerely,

Carla Goyes
Cos Cob, CT

CBIA CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

Testimony of Eric W. Gjede
Assistant Counsel, CBIA
Before the Task Force On Domestic Workers
Hartford, CT
November 21, 2014

Testifying on the Creation of a Domestic Workers Bill of Rights

Good afternoon Senator Holder-Winfield, Representative Tercyak, and members of the domestic workers task force. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA), which represents more than 10,000 large and small companies throughout the state of Connecticut.

While I know the task force is in the process of finalizing its recommendations, it is my understanding that the basis for such recommendations will be raised bill 5527, LCO 2297, from the 2014 legislative session. I am submitting this testimony to identify several substantive problems with the proposal and to communicate the business community's opposition to adding additional layers of legal and administrative requirements for a particular industry when provisions in current civil and criminal law already provide sufficient protection. It is our belief that this proposal, if enacted as is, would serve to eliminate employment opportunities for domestic workers in Connecticut, rather than provide them with any benefit.

Section 2 of the 2014 bill deems an individual that pays a domestic worker $1,000 in a calendar quarter to be an employer under the workers' compensation statutes. Thus, at $10 per hour, an individual that employs a domestic worker just over eight hours a week for three months would be required to purchase a workers' compensation insurance policy.

These policies are prohibitively expensive for most people. Although I believe your goal is to protect domestic workers, this requirement in reality will reduce the number of people who can afford to hire them.

Section 3 of the 2014 bill treats employers of domestic workers differently than any other employer in the state. Under the bill, employers of a single domestic worker would fall under the jurisdiction of CHRO, whereas every other employer in the state needs at least three employees to fall under CHRO's jurisdiction. It is unclear why these workers need to fall under CHRO's jurisdiction, or whether CHRO even has the resources to handle this potentially increased workload.

Sections 4, 6, and 7 of the 2014 bill would also impose a multitude of new requirements on employers of domestic workers that are not required of employers in any other industry. For example, the 2014 bill mandates employers provide a minimum amount of paid leave for both

full and part time domestic workers. Under the bill, a domestic worker with a year of service that only works part-time one or two days a week can earn up to seven paid vacation days per year. Presumably, employers of domestic workers would employ the domestic worker for a greater number of hours each week if they could afford it. This bill, however, makes them pay for that domestic worker even when they are providing no service at all.

Section 10 prevents the employer from entering the portion of their property occupied by a domestic worker, or monitoring any communication of the domestic worker. Ultimately, this strips the employer from his or her ability to prevent criminal activity from occurring in their home, leaving the employer open to possible property seizure by law enforcement officials in the event criminal activity is occurring. Employers in every other industry are allowed to monitor employee work areas and communications--why should this industry be any different?

Section 11 of the 2014 bill requires the domestic worker to be given seven days notice of termination, which is unusual for any industry employing at-will employees. Furthermore, the bill requires the employer to provide severance pay to the domestic worker in the event he or she is terminated for anything other than abuse, assault or "other harmful or destructive conduct" that is deliberate in nature, as well as take reasonable steps to ensure the domestic worker isn't homeless after being terminated. This section ignores the possibility that a domestic worker could be terminated for a host of other unintentional acts--such as the injury or death of a child under their care as a result of negligence. In the event of such a situation, it seems unreasonably burdensome to ask the former employer to provide seven days notice of termination, provide severance pay, and look for a new home for the domestic worker.

While I have noted a few of the problematic aspects of the bill from the 2014 session, I recognize the extremely important service domestic workers provide, as well as the importance of the industry as a whole. However, existing law already provides adequate legal protections for when problems arise. The additional legal requirements provided in the 2014 bill are far more likely to make the employment of domestic workers too costly and administratively burdensome for most people—which as a result will mean far fewer job opportunities for the individuals engaged in this industry.

Hand in Hand

THE DOMESTIC EMPLOYERS NETWORK

Domestic work is the labor that makes all other work possible.

Hand in Hand strongly supports the Connecticut Domestic Worker Bill of Rights (CT DWBOR). We believe that the standards and labor protections offered by the CT DWBOR are an important step towards creating mutually beneficial working environments in the home.

The CT DWBOR is deeply connected to all Connecticut residents. Domestic work touches all of our lives. At some point, all of us have engaged in or benefitted from domestic work-- we have cleaned, cared for family and friends, received or provided childcare. Many Connecticut residents are paid domestic workers, and many are domestic employers. Hand in Hand members nationally represent diverse employer communities that include mothers, members of faith communities, peoples with disabilities, seniors, working families, and employers committed to the collective good.

The CT DWBOR recognizes that domestic workers are invaluable. Domestic workers care for and support their employers' homes, children, relatives, and bodies. Connecticut would come to a halt without its estimated 40,000 domestic workers, who make it possible for their employers to work to support their families, communities, and the entire economy of the state.

The CT DWBOR will support families to receive quality care and support. In this economic climate, domestic workers need fair labor standards, job security, and basic protections more than ever. At the same time, middle-class and working Connecticut residents deserve high-quality care in their homes, and are looking for a set of guidelines to help create caring homes and just workplaces. The Bill of Rights is an important step to value and protect domestic workers in government policy, and to provides employers with clear guidelines and standards for employing those who for what we value most: our homes, children, and families.

The CT DWBOR provides workers & employers with much needed guidelines. When individuals and families seek the support of nannies/childcare providers, housecleaners, or home attendants to support seniors or people with disabilities, we are often un-aware that we are becoming employers. We are left to muddle through the experience in the isolation of our homes. Domestic employment relationships need guidelines to help employers develop positive, mutually beneficial relationships with the workers who care for our homes, families and lives.

* * * * * *

Hand in Hand is a national network of employers of nannies, housecleaners and home attendants, our families and allies who are grounded in the conviction that dignified and respectful working conditions benefit worker and employer alike. We envision a future where people live in caring communities that recognize all of our interdependence. To get there, we support employers to improve their employment relationships, and to collaborate with workers to change cultural norms and public policies that bring dignity and respect to domestic workers and all of our communities.

www.domesticemployers.org
For more information, please contact Director Danielle Feris: info@domesticemployers.org.

November 19, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Domestic Workers Taskforce
Legislative Office Building
300 Capitol Avenue
Hartford, CT 06606

Dear Senator Winfield, Rep Tercyak, and Esteemed Members of the Domestic Worker Taskforce,

My name is Iame Manucci, and when I was 10 years old I moved to the United States with my parents. Though in Brazil she was an administrator for the board of education and a philosophy professor, my mother began to work as a house cleaner as soon as we arrived. She worked extremely hard and suffered many injustices.

We gradually witnessed her job duties being extended far beyond her pay. In addition to cleaning she found herself babysitting, cooking, and serving as a driver for the families she worked for. Because she didn't master the language and desperately needed to earn money, it was hard for her to impose boundaries and defend herself. We were undocumented at the time, and vulnerable as many new immigrants are. I distinctly remember one of my mother's employers, a well renowned lawyer, would pay her sporadically, purposely skipping payments and effectively withholding her wages. It amazed me to see the kind of exploitation that proliferated in American homes every day. So many times I helped my mother clean other people's homes. I watched her body decay after years of tough physical work and exposure to chemicals, and her spirit repeatedly crushed by the overwhelming injustice that comes with living in the margins of society, unprotected by the law. Some years later, my mother was diagnosed with Multiple Sclerosis, and it is hard not to attribute her diagnosis to the years of hard labor and stress she suffered as a domestic worker.

Today I am a college graduate and an American citizen, all because of the sacrifices my mother made. Because she humbled herself and worked hard for so many families, I was able to enjoy a life of opportunity. Is is imperative that domestic workers be fully protected under the law. The State of Connecticut must move toward the inclusion of Domestic Workers in labor laws that ensure they are paid fairly and are not abused on a daily basis.

Sincerely,

Iame S. Manucci
40 Patricia Road
Bridgeport, CT 06606
(475) 422-3745

Testimony of Jonathan Hunt to the Labor Committee Regarding Raised Bill No. 5527 Task Force on Domestic Workers and "An Act Concerning a Domestic Workers Bill of Rights."

November 21, 2014

Good morning Senator Holder-Winfield, Representative Tercyak, and members of the Domestic Workers Task Force.

My name is Jonathan Hunt, I reside in East Haven, and I am here to speak on behalf of Companions & Homemakers, Inc., in opposition to any efforts to revive the "Domestic Workers Bill of Rights."

I am a regional manager with Companions & Homemakers, Inc., a privately owned homemaker-companion agency with 11 offices throughout Connecticut. We are an agency registered with the Department of Consumer Protection, and we provide homecare services to seniors and disabled individuals through privately paid services, as well as through Medicaid funded waiver programs, such as the Connecticut Homecare Program for Elders.

Companions and Homemakers was founded in 1990, and employs over 3,000 caregiver employees within the state of Connecticut, or about 8% of Connecticut's total estimated 40,000 domestic workers. This bill attempts to establish certain requirements for the employment of Domestic Workers under the state employment law. Agencies like Companions & Homemakers are already providing much of what this bill would require.

Historically referenced as a "fringe benefit," paid vacation leave is not a mandatory right enforced in any other industry. For Connecticut, an at-will employment state, the "Domestic Workers Bill of Rights" offers these "protections" and benefits to the employee without consideration for the cost or administrative burden to the employer. Homecare workers have historically been viewed as per-diem workers, as their assignments may end at any time due to external forces not controlled by the employer or the employee, such as last minute hospitalizations, permanent placement in a facility, or the death of a client.

Companions & Homemakers does not dictate assignments to caregiver employees, but instead, offers choices of assignments. At any time, caregivers may choose which assignments work for them, and decline those that do not. Companions & Homemakers offers its caregiver employees the same benefits afforded to full-time office staff. Benefits such a company matched 401(k) and 80% company-paid health insurance have been offered since 1998, long before the *Affordable Care Act* made health insurance mandatory.

What is of most concern with the "Domestic Workers Bill of Rights" is the discriminatory nature in which these adopted benefits would be applied should this bill be adopted. Homemaker-companion caregivers would be afforded these benefits through clients who hire them privately, be it direct or

through an agency. However, the same employee, doing the same work who chooses to take an assignment with a client funded through a Medicaid program, as 40% of our clients are, would not be eligible for these benefits. This would not be fair or equitable. This can only have one outcome; it would disproportionately limit available caregivers willing to provide care to Medicaid clients. It would also cause the more rapid depletion of the funds of clients who can afford to pay privately, and in turn, this will lead to an increase in the number of applicants on these Medicaid waiver programs. It is as simple as supply and demand.

If the Advocates from the "National Domestic Workers Bill of Rights" are truly interested in better wages and working conditions, they might want to direct their energies to the numerous States that orchestrate self-directed waivers. These waivers purposely have workers only receive 25.5 hours per client per week to avoid workers' compensation and overtime. A caregiver can work 25.5 hours for three separate waiver program recipients for a total of 76.5 hours worked in a week, and receive no overtime or workers' compensation coverage. The State of Connecticut orchestrates this program and has been pushing for its future growth. This bill does nothing to protect them.

Thank you for your time.

Palladino, Danielle

From: Judy Kaplowe <judmk55@gmail.com>
Sent: Friday, November 21, 2014 1:09 AM
To: LABTestimony
Subject: Letter of testimony domestic worker taskforce hearing

I'm Judith Kaplowe, and have been employed as a caregiver to the elderly in both the public and private sectors since April, 2004. Frankly, it is appalling that we are not entitled to worker's compensation or paid sick leave. Further, protections regarding sexual harassment and other improprieties need to be addressed.

In my role as companion and homemaker, I work with elderly clients who are both lucid and who suffer from cognitive impairment. If a client suffering from Alzheimer's disease or any other form of dementia makes these overtures, it is unsettling, to be sure. But when it is the employer, it wreaks a whole host of anxiety and anger and fear. No one should ever be made to feel the angst that sexual inappropriateness exacts.

I am assuming that members of this taskforce are thoroughly invested in bringing about change; that a cohesive and highly structured and affective policy, addressing all of the aforementioned items, will be carried out.

Thank you for caring about this monumental issue, and I look forward to a most favorable outcome.

Sincerely,
Judith Kaplowe

CONNECTICUT HOMEMAKER AND COMPANION ASSOCIATION

November 21, 2014

P.O. Box 310824 Newington, CT 06131 Phone 860-560-6013

Good morning Senator Holder-Winfield, Representative Tercyak, and the other distinguished members of the Task Force.

My name is Julianne Roth. I am here today as a board member of the CT Homemaker and Companion Association. I am also the founder and owner of a home care agency in West Hartford.

Home care is an essential service provided by over 300 companies in Connecticut. Home care allows individuals to remain in their own home by providing an extra pair of hands to assist with activities of daily living. Services are offered to clients with needs ranging from Companionship to Hospice care, and everything in between. Without these services, most of these individuals would be forced to move to a nursing home.

The Connecticut Homemaker and Companion Association supports the rights of our employees. As you know the elimination of the Companionship Exemption from the Fair Labor Standards Act takes effect on January 1, 2015. Domestic workers who are employed by third party agencies are required to be paid minimum wage and overtime. Our agencies comply with state and federal laws that include background checks, sleep time, workers compensation and other insurance, and payroll taxes. The additional requirements proposed in last session's Domestic Worker's Bill of Rights would significantly raise the cost to deliver home care, on top of increases that will become effective on January 1st. This will make home care cost prohibitive for many families. More individuals will be forced to move into nursing homes because they are unable to afford the services required for them to remain in their own homes. In turn, this will drive up state spending and cause the elimination of many jobs.

The domestic workers who ***would*** benefit from the proposed protections are in fact, not employed by agencies. It is those workers who are privately hired by families who are not mandated to have background checks, who are not entitled to minimum wage and overtime, and who may not receive regularly scheduled time off.

It is unreasonable to expect the segment of domestic workers who are paid by one of the State of Connecticut programs (such as the Connecticut Homecare Program for the Elders) to be excluded from the benefits described in the Bill of Rights versus their counterparts who are paid privately. The work is the same and a double standard is simply unfair.

We are not opposed to domestic workers rights. And we are not in favor of the Bill that was proposed in the last session. Our industry cannot afford to have our hands tied with additional regulations at this very complicated time in our industry. Regulations that could potentially hurt the fragile population we serve, and eliminate the jobs of those very individuals who you are trying to protect. Thank you for your time.

Kerryann Meggie
131 Little Deer Road
Bridgeport, Ct 06606
November 19, 2014

LABTestimony@cga.ct.gov

Senator Gary Winfield
Rep. Peter Tercyak
Legislative Building Office
380 Capitol Ave
Hartford, Ct 06106

Dear Sen. Winfield and Rep. Tercyak

I have been employed for many years providing childcare services to several families. My current employment which spans just over five years has been quite a pleasurable experience. Annually, an employer-employee contract is drawn up with the sole purpose of being fair, concise and clear. Our contract explicitly states what actions are required of me, the rate and sequence of my compensation as well a clear indication of paid holidays, sick days and vacations granted per year.

Despite the sensitive and non-traditional nature of my job I have found that having a valid contract is beneficial to not only me but also to my employer. The contract sets guidelines of what the job entails; it also serves as an outline during the initial interviewing process. This allows both parties to have a clear understanding and an agreement to the terms and condition.

I would recommend that the Domestic Workers' Taskforce consider employment contracts as a legislative initiative as part of the Domestic Workers' Bill of Rights.

Thank you for your time and consideration.

Sincerely

Kerryann Meggie

Kerryann Meggie

Via Email: LABTestimony@cga.ct.gov

November 19, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Labor and Public Employees Committee
Room 3800, Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

Dear Sen. Winfield, Rep. Tercyak, and Members of the Domestic Worker Taskforce:

My name is Lorna Barrows. I was born and raised in Jamaica. I came here to Bridgeport in 2000 and have worked as a nanny ever since. I have had three nanny jobs during this time. My first job was as a live-in nanny in Westport. I used to arrive on a Tuesday morning and was supposed to leave on Saturday. This never happened because the parents went out every Saturday and came back early Sunday morning. For this additional work I was never paid any overtime. At this particular time I was undocumented and did not think I had a voice to assert my rights.

I worked as a nanny in Westport for a different family until August of 2014. I took care of two children, a girl who is seven and a boy who is five. I loved these children because I had been taking care of them for five years. In my current position I have a written job description that explains my duties. It states that I am responsible for the well-being of these children from 8 to 6. The duties include taking the children to school and to their extracurricular activities. The job description contains a definition of light housework. Having a written job description keeps my employer and me on the same page.

As I mentioned above, I drove these children to and from their activities in Westport. Initially, I was not being compensated for the gas. The written job description did not specify if I would be reimbursed. This is where I feel I am abused in my current position. I told my employer that I needed to be paid for gas. He just gave me whatever he felt like giving me. After a while, every week I asked him for gas money. Then finally, he started to give me $20 every other week. This arrangement costs me more than I am being compensated for. It would have been helpful to have this arrangement spelled out in a contract when I first started.

Based on my experience, as a nanny, I believe there should be a guideline for employers and employees. Something that will make each person feel comfortable that they are not being exploited. I believe that all live-in domestic workers should be paid overtime. This is why I urge the taskforce to reintroduce a Domestic Worker Bill of Rights in Connecticut.

Sincerely,

Lorna Barrows
131 Little Deer
Bridgeport, CT 06606
labarrows@yahoo.com

November 19, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Domestic Workers Taskforce
Legislative Office Building
300 Capitol Avenue
Hartford, CT 06606

Dear Senator Winfield, Rep Tercyak, and Esteemed Members of the Domestic Worker Taskforce,

Good Morning Ladies and Gentlemen, my name is Maria Lima Rodriguez. I am a domestic worker. I worked as a house cleaning helper. In Brazil, I studied law for 4 years. I arrived in this country 8 years ago in search of better conditions for my professional training and that of my kids.

In my first week, I began working the only job that required nothing beyond physical labor. I cleaned people's homes. My employer, the other woman who cleaned with me, was what it called the "schedule owner". Many Brazilian women come here and have to buy houses, or buy a house schedule from other Brazilian women, sometimes for as much as three months worth of income.

I worked long years under exploitation, given no respect, and abused because of my language impairment. When I started cleaning, I would work 9 hours per day earning $3.33 per hour. I stopped working for that woman. I could not accept, and looked for another job thinking it would be different. I was naive. At my new job, I worked every week from 7:00 to 4:00, cleaning 3 to 4 houses, earning $5.67 per hour.

This was repeated throughout my experience as a domestic worker in this country, always changing jobs when my body could not take it anymore. On top of the exploitation of my wages I also suffered from being overworked. I found in the United States something I did not expect. Such a well respected country could not possibly allow for such deplorable work conditions for its domestic workers. I cried every night when I came home, my body ached, and I lacked the strength to get up and eat...going to sleep with the same hunger I felt through the day. At work, I was never even given water to drink.

Thank you for listening to my story. And thank you for supporting the rights of working men and women.

Sincerely,

Maria Lima Rodriguez
165 Madison Terrace
Bridgeport, CT 06606
(203) 763-9613
marialima_raydan@hotmail.com

Center for Youth Leadership

Why wait for someone else to make a difference?

Connecticut Legislature:
Domestic Worker Task Force
Testimony in Support of a Bill of Rights

November 20, 2014

Maria Rivas and Camila Vallejo

On behalf of the 226 member of the Center for Youth Leadership at Brien McMahon High School in Norwalk, we are writing in support of a bill of rights for domestic workers. As you may know, members of the Center for Youth Leadership testified before the Labor and Public Employees Committee in March 2014 in support of HB 5527: *An Act Concerning a Domestic Workers Bill of Rights.* This testimony reaffirms that support.

The Center for Youth Leadership addresses several social issues, including the rights of immigrants. Twice a month for the past six years we have provided day laborers that gather on a bridge in South Norwalk with food, clothing and access to medical services and legal services. We have led classes about labor law and published reports about their lives and the exploitation they have experienced at the hands of contractors and homeowners.

We have worked with several organizations for several years to raise awareness of the plight of undocumented students. For example, we helped pass legislation in 2011 that allows undocumented students to pay in-state college tuition; we hosted a day-long DACA session at our school; and in March 2014 we were one of several groups that delivered a petition to the Connecticut Board of Regents in support of financial assistance for undocumented college students.

And in July of this year we started to work with unaccompanied minors from Guatemala and Honduras who resettled in Norwalk. For example, we led a bus tour of Norwalk for the students; we plan to complete a documentary of their lives by mid-January 2015; and just last week we convinced the Norwalk school district to provide the unaccompanied minors with trauma-informed counseling.

These issues are important to us because the fathers and uncles and brothers of some of our members are day laborers. We have hundreds of students at our school, including some of our members, who are undocumented. And many of the unaccompanied minors are in classes at Brien McMahon High School with members of the Center for Youth Leadership.

The same holds true for domestic workers. Many have sons, daughters, nieces and nephews that attend our school and are members of the Center for Youth Leadership. According to the Connecticut Brazilian Immigrant Center, they are among the estimated 40,000 domestic workers in the state.

We have heard countless stories of the work performed by these workers and the emotional and legal limbo they oftentimes find themselves in. The emotional limbo stems from the shame associated with what many people consider "illegitimate" work (believe us - housekeeping, caring for a child or a senior citizen - is more than legitimate work).

But there is a degree of legal limbo as well. One woman, the mother of one of graduates, talked at length about a broken kneecap she suffered at the home of an employer. The employer did nothing to help (not even a referral to a doctor) and the woman, fearful of losing her job, continued to report for work. Another woman, her hands raw from the chemicals she used to clean an employer's house, would take her high school aged daughter out of school for days so she could help her clean.

Absent a bill of rights, domestic workers are at the mercy of employers, some of who act with impunity when it comes to wage exploitation, workplace abuses, and sexual harassment. In fact, one of our partners - a domestic violence agency - has managed cases that include the harassment of domestic workers by employers. Many of these workers suffer in silence, on the outskirts of hope, because they need the job; because of their legal status; because they are unfamiliar with federal and state labor laws; and/or they do not have access to advocates.

Please do not get us wrong. The domestic workers we know are grateful for their jobs and the ability to provide for their families, live in nice communities and send their children to good schools. But their dignity - like yours and mine - is not negotiable. Yes, their personal dignity is intact but that's because of who they are as people. A bill of rights provides workers with the kind of respect and dignity accorded those who are protected under the law. That protection does not discriminate, which is why we urge you to establish a bill of rights.

Thank you very much for listening.

~ ~ ~

Center for Youth Leadership
300 Highland Avenue
Norwalk, Connecticut 06854
203.852.9488

TESTIMONY CONCERNING A DOMESTIC WORKERS BILL OF RIGHTS

My name is Mark Kosnoff and I am the Executive Director of United Action Connecticut, a faith based, social justice organization. I would like to express my support and the support of our organization for House Bill 5527 and for continued legislative initiatives that improve the job standards and working conditions of domestic workers in Connecticut.

As the voice of a faith based organization I view the current industry standards for domestic workers as morally unacceptable. Although I realize there are probably domestic workers who are satisfied with their current situation, we know that the majority of these workers, predominately women, are being taken advantage of and are not being properly compensated. The pay and working conditions that many of these individuals are subjected to would never be allowed in most other industries. In fact, there would be outrage if workers in other industries were subjected to similar conditions.

Besides the moral incorrectness of this situation there is simply the unfairness that domestic workers face. Why are domestic workers excluded from the same guidelines and standards of other workers? Is it because they are predominately women? Is it because they are often immigrants? Is it because this work is viewed as unskilled labor? Or is it that their job was once perceived as not worthy of the same benefits and protections as other jobs and thus have simply become the victims of an antiquated law? What ever the reason is, it would be viewed as discriminatory in any other industry in this day and age.

The United States was founded on the basis that all people have certain inalienable rights. We are a nation that stands up against human rights violations wherever they may arise. Should we not practice what we preach and there by grant domestic workers the same rights as all other workers. There is overwhelming evidence that the work that these individuals do is important and necessary to our economy and I can think of no reason why they should not enjoy the same rights as workers in other industries.

I ask the State legislature to correct this immoral and unfair situation. Let's ensure that domestic workers make at least minimum wage, are eligible for overtime pay, have the protection of workers compensation, have limits on the number of hours they can work in a day or a week and be protected from harassment and discrimination. We need to realize that domestic workers, like individuals in manufacturing, retail, medical and countless other service industries are an integral part of our economy and therefore should be treated no differently.

Mark Kosnoff, Executive Director
United Action Connecticut
19 South Canal Street
Plainville, CT 06062
860-595-2284

Boston, MA: 617-783-8001 ~ Cape Cod, MA: 774-470-2667 ~ Bridgeport, CT: 203-540-5444 ~ bic@braziliancenter.org

November 19, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Domestic Workers Taskforce
Legislative Office Building
300 Capitol Avenue
Hartford, CT 06606

Dear Senator Winfield, Rep Tercyak, and Esteemed Members of the Domestic Worker Taskforce:

I have had the pleasure of working with domestic workers in Connecticut for two years. Our membership in Bridgeport is comprised of Latina, Haitian, and West Indian women who work as housecleaners, nannies, and caregivers for the elderly.

Some of the women have struggled significantly in their work. One of our domestic workers was propositioned and sexually harassed by one of her clients in Fairfield County. Another has suffered humiliation by being told she is an "expensive babysitter" and loses her pay because she cannot take time off when her toddler son is sick or bring her child with her to work. Other times she has had to leave work late, leaving her own child in daycare with no one to pick him up. Several women have been exploited as housecleaning helpers, receiving well below the state's hourly minimum wage. Lack of clarity around work responsibilities often lead to more work, longer hours, and no additional pay.

Domestic work is undervalued in our society and the lack of dignity and respect for this profession is reflected in our state's laws. These hardworking, industrious women provide care and comfort for Connecticut's families, yet their work is so often debased. Domestic work and the men and women who perform this work enable Connecticut families to earn their livings, enable them to have leisure time that would otherwise be spent doing household tasks, and also affords them the ability to pay state income taxes. Our state's laws do not adequately protect the state's domestic workforce in the event of harassment, discrimination or injury on the job. Why should this work, which is so critical for the healthy functioning and well being of Connecticut's families, be excluded from basic protections?

A Connecticut Domestic Worker Bill of Rights is not only sound for the workforce but for the domestic worker employers. We urge you to consider reforms that will benefit both parties, the employers and the employees.

Thank you for your consideration.

Sincerely,

Meghan Vesel
Deputy Director
Brazilian Policy Center
1067 Park Avenue
Bridgeport, CT 06604
meghanvesel@global.t-bird.edu
(203) 540-5444

November 19, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Domestic Worker Taskforce
Room 3800, Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

My name is Mitsou Pun, and I am a long time resident of Connecticut. I was Certified Nurses Assistant (C.N.A.) for four years and half in a nursing home in Pennsylvania. This is physically demanding work-- taking care of the elderly. One day I carried and placed an elderly patient in her bed. She moved her body in the opposite direction and created extra stress and strain on my body. In order to protect her from falling, I absorbed this extra stress on my back and suffered an injury. As a result, it injured my spine and caused a pinch nerve and sciatica. I had to stop working and had to go to doctors, acupuncturists, chiropractors and other medical practitioners to restore my health I was on disability for two years and have sustained a permanent injury to body as a result of this work. My work as a CNA is very similar to that of a caregiver for the elderly working in a private home.

I know that most domestic workers do not have right to disability and would not be able to have the medical care that I received. Caring for the elderly is very demanding and strenuous, and it requires care for the person but also can cause bodily injury to the caregiver.

I just wanted to share my story so that you could be aware of the need for greater labor protections for domestic workers in Connecticut, including the right to workers compensation if they are injured on the job. Most domestic workers work out of a sense of care, duty and love for their clients/consumers.

Thank you for considering my story.

Sincerely,

Mitsou Pun

Mitsou Pun
36 Rose Street
Bridgeport, CT 06610
(203) 722-1460
mitsoumitch@netzero.net

Brazilian Immigrant Center for All
Domestic Workers Project of Connecticut
1067 Park Avenue
Bridgeport, Connecticut 06604

Via Email: LABTestimony@cga.ct.gov

November 17, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Labor and Public Employees Committee
Room 3800, Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

To Dear Sen. Winfield and Rep. Tercyak:

My name is Natalicia Tracy. I am a Sociology PhD Candidate at Boston University and the Executive Director of the Brazilian Immigrant Center, here in Bridgeport, Connecticut. *I speak on behalf of the Brazilian Immigrant Center members, of whom many are domestic workers, as I was myself for 15 years.* We thank you for raising the bill. We also thank the more than 30 organizations that have joined us from labor, faith communities, employers, legal groups and other allies -- all in support of this bill.

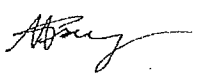
You have heard from other workers and I support their voices being heard, as I too was victimized because of the historic exclusion of domestic workers from key rights. When I was a teenager, only 17, I got a proposal from a nice family to come with them to the United States as a nanny for their children. They promised me many opportunities, and said that because I would be here alone, they would even be my family...but instead: once here in Boston I found myself working 80 to 90 hours a week, doing all the cooking, cleaning, and laundry, taking care of the children and sleeping on a glassed-in three season porch with a bare concrete floor. They paid me $25 dollars a week. After one year, they gave me a raise to $35 dollars. They wouldn't let me receive mail, use the telephone, or contact my family. For a long time they kept my passport. Finally, two years later when the family decided to leave Boston, I was able to be free from their abuse....but during *all the time that I was with them*, I had no recourse to any protective laws.

I am not alone in having been treated this way. Domestic service is the one of the highest occupations that is subjected to exploitation such as illegal deductions from their pay, no pay at all, or long working hours with no clarity about when work begins and ends, or what the job duties really are. This bill addresses many workers' rights issues, and will provide civil remedies to address these unfair

conditions that have their roots in a long history of labor exploitation in our country going back to the days of slavery and Jim Crow.

All domestic workers seeking, as I did, dignity, respect and protection from abuse, are grateful for the opportunity to explore the issues and working conditions facing domestic workers in Connecticut. I want to thank you so much for establishing the domestic workers task force and I urge the taskforce to reintroduce a Domestic Worker Bill of Rights in Connecticut.

Yours sincerely,



Natalicia Tracy

Executive Director

Petra Morales
1292 Norman Street,
Bridgeport, CT 06604
(203)727-2575

Via Email: LABTestimony@cga.ct.gov

November 19, 2014

Sen. Gary Winfield
Rep. Peter Tercyak
Domestic Worker Taskforce
Room 3800, Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

Dear Sen. Winfield, Rep.Tercyak, and members of the Domestic Worker Taskforce:

My name is Petra Morales. I am Mexican. I came to this country in 1999. After 2 months, I met a Brazilian woman and I offered to work with her cleaning houses. I left every Monday at 7:30 in the morning and returned at 3:30. I got paid $25 per day. Every week they gave me $125. I had the need to work with her to pay off the debt of having come to this country with my children.

I worked late for this woman for two months and I had to resign because I could not tolerate the chemicals in the cleaning products. I got an allergy in my throat. Then I realized it wasn't fair how much I was getting paid. Later, the same Brazilian woman came back to talk to me and offered me $200 per week. I told her she should pay me $250. She told me that he could not. I told her no, that I could not work for her.

After, I worked for two years in a factory. Now, I work cleaning houses on my own. Thank God that I have been fortunate to have good clients. Even though they know I do not know English, they are fair with me. I have been recommended to other people.

I urge the taskforce to reintroduce a Domestic Worker Bill of Rights in Connecticut.

Sincerely,

Petra Morales

Petra Morales

AMERICAN INSTITUTE
FOR FOREIGN STUDY

We bring the world together.

Comments to

The Domestic Workers Task Force

Submitted by AIFS, Au Pair in America-Stamford, Connecticut

September 1, 2015

As the task force works to report its findings and recommendations we appreciate the opportunity to comment on au pairs in the State of Connecticut. Specifically we ask that the task force recognize that au pairs: 1) ARE already regulated by the U.S. Department of State's Visitor Exchange Program and thus 2) ARE NOT in the United States primarily to get or keep a childcare job 3) ARE NOT here for an extended period of time 4) SHOULD BE EXEMPT from the definition of domestic worker, *excluding any individual participating in an au pair program subject to regulations under the United States Department of State's Exchange Visitor Program, 22 C.F.R. 62.31.*

There are currently 700 au pairs in Connecticut of whom just over 300 are sponsored by Au Pair in America. Our organization's national office is in Stamford, Connecticut where we employ 170 people.

The au pair program is one of the U.S. Department of State's Exchange Visitor Programs (CFR62.31) that furthers foreign policy interests of the United States by increasing the mutual understanding between people of the U.S. and people of other countries. The Department of State designates, monitors, and partners with AIFS and other organizations to administer the au pair program. The Au Pair in America program, designated as P-3-05214, and its participants, are audited annually to ensure compliance to regulations.

Au pairs are not here to get and keep a U.S. childcare job: Au pairs come from all around the globe with a high percentage from Western Europe; they are students and young people aged 18-26 years old who typically are not interested in choosing childcare as a lifetime vocation,. Their motivations for experiencing a cultural exchange in the U.S. are to learn about American culture and customs, attend educational courses, and to improve their English language skills. Au pairs experience a new culture, gain life skills and independence, preparing them for further education and improved employment opportunities when they return to their home countries.

Once in the U.S., au pairs live in suburban communities, often travel with their host families on vacations, and live in their own private room in the family home. They take part in their host family's daily life, from meals to sports to entertainment and social activities. They celebrate American holidays and invariably share their own cultures, customs, and celebrations with their host families. They have a well-rounded experience participating in the life of the American household.

Au pairs are not isolated and do have a support network: Au pairs are only placed in communities where the program sponsor has a local representative who remains in regular monthly contact and other assessment contacts are conducted as stipulated by federal rule. The three layers of support include contact with AIFS' local representative, 24/7 access to AIFS' office, and 24/7 access to the Department of State hotline.

Au pairs participate in community events and attend local education institutions. They are only placed with families who have been screened and the private room and home is inspected. The nature of their duties is limited to the care of their host children-playing, dressing and bathing children, preparing meals for the children, light housekeeping related to children, driving children to school and appointments. They are not to run the household, serve as household cleaner or family cook. Responsibility for the welfare of the children always remains with the parents. Arrangements are made for the immediate removal of the au pair from the host's home if the au pair is uncomfortable or mistreated in any way.

Au pairs are in America for an initial one year period. This initial period can, if the au pair wishes, be extended by the State Department for an additional length of time up to a second full year. Such time frames are determined by the State Department under provision of the J-1 visa program as are hours of work, compensation and sick and vacation time.

We, AIFS/Au Pair in America, are supportive of regulations that protect the safety and welfare of all participants. We believe that au pairs are a category that is not domestic workers who are isolated from the rest of the community with little protections.

We feel very strongly that the au pair's rights are of utmost importance. We have always strived to provide a program that gives them a rewarding cultural experience while forging strong relationships with American children and families.

We respectfully request that the task force recognize that au pairs are vastly different from domestic workers and should not be included under the task force recommendations concerning domestic workers.

Thank you for your consideration

Respectfully submitted:
Ruth Ferry
Sr. Vice President and Director
American Institute For Foreign Study, Au Pair in America
1 High Ridge Park
Stamford, CT
(203) 399-5025

NELP

National Employment Law Project

TESTIMONY

OF

SARAH LEBERSTEIN

NATIONAL EMPLOYMENT LAW PROJECT

ON

CONDITIONS FOR DOMESTIC WORKERS IN CONNECTICUT

AND

THE CONNECTICUT DOMESTIC WORKERS BILL OF RIGHTS

NOVEMBER 21, 2014

HARTFORD, CONNECTICUT

National Office
National Employment Law Project
75 Maiden Lane, Suite 601
New York, NY 10038
212.285.3025

Washington, D.C. Office
National Employment Law Project
1620 Eye Street, N.W., Suite 210
Washington, DC 20006
202.887.8202

To the members of the Connecticut Task Force on Domestic Workers:

The National Employment Law Project is a non-profit, non-partisan research and advocacy organization specializing in employment policy. We are based in New York with offices across the country, and we partner with federal, state and local lawmakers on a wide range of workforce issues.

Across the country, our staff is recognized as policy experts in areas such as unemployment insurance, wage and hour enforcement, minimum wages, and workplace protections for low-wage workers. This latter work has included a special focus on improving conditions for domestic workers, including work to pass Domestic Worker Bills of Rights in several states and to extend federal minimum wage and overtime rights to home care workers.

NELP was a strong supporter of House Bill 5527, the Connecticut Domestic Worker Bill of Rights, which we helped to draft. Introduced in the General Assembly's last session, HB 5527 would close exemptions for domestic workers in the state's workplace laws and establish new crucial and sensible industry-specific protections. With a workforce of approximately 40,000 in Connecticut, improving standards in this fast-growing sector will not only better the lives of thousands of workers and their families, it will boost the economy and improve the quality of care that families and individuals enjoy. We strongly recommend that the taskforce support a Connecticut Domestic Worker Bill of Rights based on HB 5527.

Poor Working Conditions for Domestic Workers

Domestic workers are subject to numerous exemptions from state and federal workplace protections and suffer high rates of violations of the laws that do cover them.[1]

Domestic workers are excluded from several core Connecticut workplace laws:

- The Connecticut Minimum Wage Act (CMWA) exempts some domestic workers from the state minimum wage and overtime laws. The CMWA, at Conn. Gen. Statutes § 31-58(e), defines "employee" as "any individual employed or permitted to work by any employer but **shall not include any individual .... employed in domestic service in or**

[1] The definition of "domestic worker" is not uniform across all laws workplace laws, and some workplace laws do not contain an explicit exemption for "domestic worker" but instead exempt workers employed in private dwellings, which has the effect of excluding domestic workers, or exempt most domestic workers on a de facto basis because they apply only to employers with more than a certain number of employees. Domestic worker is almost always defined to include nannies and babysitters as well as housekeepers. Depending on the law, the term domestic worker may also include caregivers to seniors and people with disabilities, although some laws only consider caregivers employed by the individual receiving care or his or her family, as opposed to those employed by third parties.

about a private home, except any individual in domestic service employment as defined in the regulations of the Fair Labor Standards Act, or . . . any individual engaged in babysitting . . . ." This exclusion of certain federally-exempt workers has meant that home care workers, who are currently exempted from the federal Fair Labor Standards Act, are also shut out of the higher Connecticut Minimum Wage. The US Department of Labor has issued revised regulations that, when they go into effect on January 1, 2015,[2] will significantly narrow the federal exemption of home care workers and, simultaneously, the exemption of home care workers from the Connecticut minimum wage. This language, however, creates needless confusing about the scope of the law. Additionally, the CMWA's exclusion for "babysitters," which we believe is not meant to encompass nannies, nevertheless also adds confusion to the scope of coverage for workers providing childcare services.

- Connecticut's Workers Compensation Law exempts a significant portion of the domestic worker workforce. The Workers Compensation law provides that "Employee" **does not include "any person engaged in any type of service in or about a private dwelling provided** he is not regularly employed by the owner or occupier over twenty-six hours per week."[3] Conn. Gen. Stat. § 31-327(9)(A). This restriction does not apply to other workers in the state.

- Connecticut's Human Rights Statute, which includes protections against discrimination and sexual harassment, excludes domestic workers. The law **excludes from its definition of "employee" "any individual employed... in the domestic service** of any person. Conn. Gen. Stat. § 46a-51(9). The statute also exempts virtually all domestic workers on a *de facto* basis because it defines "employer" as "any person or employer with three or more persons in such person's or employer's employ". Conn. Gen. Stat. § 46a-51(10).

- Connecticut's sick days law applies only to businesses with 50 or more employees, therefore exempting most domestic workers on a de facto basis. Conn. Gen. Stat. 31-57r(f).

[2] The US DOL's revised companionship rules will significantly narrow the scope of the Fair Labor Standards Act's companionship services exemption, which currently encompasses virtually all home care workers, including those employed by agencies. When the rules go into effect on January 1, 2015, only a small group of home care workers will remain exempt: those workers who are both solely employed by an individual or household and who primarily provide fellowship and protection. All other home care workers will be entitled to wage protections. See the National Employment Law Project's fact sheet on the companionship regulations at http://www.nelp.org/page/content/state_chart_companionship.

[3] Conn. Gen. Stat. § 31-327(9)(A). In assessing whether worker is "regularly" employed over 26 hours per week, the Workers Compensation Board looks to the twenty-six week period preceding the injury. *Smith v. Yurkovsky*, 2001 Conn. Wrk. Comp. LEXIS 110 (December 12, 2001). Case No. 4324 CRB-3-00.

These state-level exemptions are compounded by domestic workers' exclusion from important federal workplace protections:

- The Fair Labor Standards Act (FLSA), which sets a federal minimum wage rate, maximum hours, and overtime for employees of certain occupations, excludes "casual" employees such as babysitters and "companions" for the sick or elderly. Live-in domestic workers are exempt from FLSA's overtime protections. And while the federal exemption will close in January 2015, decades of exclusion has meant that home care workers have not received minimum wage and overtime protections.

- The National Labor Relations Act (NLRA), which guarantees employees the right to organize, **excludes domestic workers from the definition of "employee".** The NLRA would be of little practical help to domestic workers even if did not exclude them, however, because the law is predicated on workers organizing collectively to negotiate with a common employer. (Home care workers employed by agencies are covered by the NLRA, although their NLRA rights are difficult to enforce in practice. Personal care attendants employed through state-funded programs in Connecticut have organizing and bargaining rights through a state law.)

- **Domestic workers are also exempt** from the Occupational Safety and Health Act (OSHA); Title VII (protections from discrimination on the basis of race, color, religion, sex, or national origin, applies only to employers with 15 or more employees); the Americans with Disabilities Act (applies only to employers with 15 or more employees), and the Age Discrimination in Employment Act (applies only to employers with 20 or more employees).

Domestic workers experience high rates of minimum wage and overtime violations

Domestic workers' exclusion from key workplace laws is compounded by their physical isolation in private homes, which makes them less likely to be able to exercise the few rights they do enjoy or negotiate for decent standards, and placing them at unique risk of abuse. The impact of exclusions and workers' isolation is made clear by the results of NELP's 2009 landmark study of employment practices in low-wage industries in the U.S.'s three largest cities—New York City, Chicago, and Los Angeles—*Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in American Cities*. The study revealed systemic and severe violations of employment and labor laws across core sectors of the economy, with domestic work standing out among the most unregulated and prone to violations.

Domestic workers are routinely subject to minimum wage and overtime violations, especially when paid flat weekly or monthly amounts for very long work days. The NELP report found that workers in the domestic service industry experienced the following:

- Minimum wage violations: 41.5% of domestic workers were paid less than the minimum wage in the week preceding the survey;

- Overtime pay violations: 88.6% of domestic workers were not paid the required weekly overtime pay at the time of the survey;

- "Off-the-clock" work: 82.6% of domestic workers who worked before or after their shift were not paid for that part of their working time;

- Meal break violations: 83.6% of domestic workers who worked enough hours to qualify for a meal break had their breaks denied, shortened, or interrupted.

- Workers' complaints about these abuses frequently lead to immigration threats, to threats of firing, or to actual firing.

In addition to these violations, domestic workers are often subject to illegal deductions from pay for food and lodging or travel costs. They rarely receive paid sick days, vacation days or employer-provided health insurance. And the work is often physically exhausting and draining.

Summary of HB 5527

In the context of the exemptions and violations described above, Connecticut has a unique obligation to step in and help to establish a framework of core workplace standards for the industry. The Connecticut Domestic Worker Bill of Rights introduced last session would have done exactly that. I will briefly summarize its provisions. We support the inclusion of these provisions in future legislative efforts.

Closing Domestic Worker Exemptions in Workplace Laws

- Close exemptions in the Connecticut Minimum Wage Act at Conn. Gen. Stat. § 31-58(e) through two changes: (1) removing the exemption for "any individual . . . employed in domestic service in or about a private home, except any individual in domestic service employment as defined in the regulations of the Fair Labor Standards Act" and (2) narrowing the exemption for "any individual engaged in babysitting" to "any individual engaged in babysitting of an irregular and intermittent or of a casual nature."

- Narrow the exemption in the Workers Compensation Act by replacing the provision at Conn. Gen. Stat. § 31-275(9)(B)(iv), which exempts from coverage "Any person engaged in any type of service in or about a private dwelling provided he is not regularly employed by the owner or occupier over twenty-six hours per week" with the following provision: "Any person engaged in domestic service in a private home, unless that home or household paid cash

remuneration to individuals employed in such domestic service equal to one thousand dollars or more in any calendar quarter in the current or preceding calendar year." The language we propose is derived from the Connecticut Unemployment Insurance law.[4] By aligning the two statutes we would make it easier for employers to understand their obligations to workers. Several states' workers compensation statutes use similar language, including the following: CA, DE, DC, HI, IO, KS, MD, MN, OH, and OK.[5]

- Amend the Connecticut Fair Employment Practices Act to eliminate the exemption for domestic workers at Conn. Gen. Stat. § 46a-51(9). Amend § 46a-51(10) to provide that domestic workers are protected by the Statute notwithstanding language limiting coverage to employers with three or more employees. One key benefit of this reform would be to extend protections from sexual harassment to domestic workers.

Establish industry-specific workplace protections.

HB 5527 provided for the establishment of baseline standards and for greater protections from abuses that are common in the domestic work industry. As drafted, these protections would have only applied to domestic workers as defined in a new section of the Labor Law, and would have included individuals employed to perform work of a domestic nature in or about a private home, 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 private homes. The term would have excluded babysitters employed on a casual basis and personal care attendants employed through state-funded programs. The new protections included:

---

[4] Conn. Gen. Stat. §31-222(a)(1)(J) uses nearly identical language.

[5] CA domestic workers are eligible for workers compensation if they have worked more than 52 hours during and earned more than $100 in the 90 days prior to the injury, Cal. Lab. Code §3352(h); DE domestic workers in private homes are covered if they earn at least $750 in any 3-month period from a single household, Del. Code. Ann. Tit 19, § 2307; D.C.'s workers compensation statute covers employers of domestic workers who in a calendar quarter employed one or more domestic workers for at least 240 hours; D.C. Code Ann § 32-1501(9)(E); under HI's workers compensation statute, "excluded employment" includes domestic workers earning less than $225 (cash) per calendar quarter and domestic workers of public welfare recipients. An employer can elect to provide coverage, Haw. Rev. Stat. §§ 386-1; IO's workers compensation statute covers employees engaged in service in or about a private home who earn at least $1,500 from their employer during the 12 consecutive months before the injury, Iowa Code Ann. § 85.1(1); KS's workers compensation law applies to employers who had a total gross annual payroll for the preceding calendar year of not more than $20,000 for all employees, Kan. Stat. Ann. § 44-505(a)(2); MD's workers compensation law covers domestic workers in private home who are paid at least $1,000 by their employer in a calendar quarter. Md. Code Ann. LE § 9-209; MN's workers compensation law covers household workers paid at least $1,000 by their employer in a 3-month period in the preceding year, Minn. Stat. Ann. §176.041(n); OH's workers compensation law covers household workers who earn at least $160 in any calendar quarter from a single household, and casual workers who earn at least $160 in any calendar quarter from a single employer, Ohio Rev. Code Ann. § 4123.01(A)(1)(b); OK's workers' Compensation Act does not apply to . . . [a]ny person who is employed as a domestic servant or as a casual worker in and about a private home or household, which private home or household had a gross annual payroll in the preceding calendar year of less than Ten Thousand Dollars ($10,000.00) for such workers." Okla. St. Ann. tit. 85, § 2.1(1).

- Annual paid leave time: accrues at the rate of one hour of leave for every 40 hours worked, up to 56 hours per year;

- One day off per 7-day calendar week - with premium pay of one-and-a-half times the worker's regular rate of pay if she voluntarily agrees to work on this day;

- Seven days advance notice of termination or severance pay for workers, excepting cases involving good faith allegations of abuse or neglect;

- Written disclosure at the time of hire of the worker's pay rate, work hours, wage payment schedule, job duties, availability of leave time, deductions, and of the rights provided under the Bill of Rights;

- Increased protection from impermissible deductions for food and lodging;

- Protection for sleep time for workers required to spend the night at their employer's home, and compensation for all hours worked when sleep is interrupted;

- A right to privacy in private living spaces and in a worker's private communications and protection from seizure of a worker's documents; and

- A private right of action and an administrative mechanism for enforcing the Bill of Rights provisions and protection from retaliation for enforcing these new rights.

Strengthen Mechanisms for Worker and Employer Education and Outreach

HB 5527 included a provision establishing a Domestic Workers Taskforce. This provision is obviously no longer needed, but we do strongly recommend the Taskforce explore policies to educate workers and employers of the law and to ensure robust enforcement of domestic workers' rights, for inclusion in the bill. Additional and valuable reforms might also include funding for worker training and for workers' organizations.

Several States and the Federal Government Have Recently Acted to Improve Protections for Domestic Workers.

The Connecticut Domestic Worker Bill of Rights is part of a larger trend towards increasing workplace protections for domestic workers.

In the past several years, coalitions of domestic workers rights groups, domestic employers, labor unions, and other supporters have run state-level campaigns to pass Domestic Worker

Bills of Rights. New York passed the first Domestic Worker Bill of Rights in 2010.[6] The NY law achieved minimum wage and overtime protections for some groups of domestic workers who had previously been excluded; established annual paid days off and a day of rest; and charged the New York State Department of Labor with studying the feasibility of unionization for domestic workers and with reporting on the agency's enforcement of the bill.

Hawaii[7] and California[8] followed suit, both passing Bills of Rights in 2013. Massachusetts is the latest state to have passed a Domestic Worker Bill of Rights.[9] Signed into law this July, the MA DWBOR is arguably the furthest-reaching so far, and its provisions generally consistent with those in the Connecticut bill.

Workers and advocates have also made great strides towards raising standards for the home care workforce, which is a sub-group of the overall domestic worker industry. The most significant success has been the closing of the federal companionship exemption, which has long excluded home care workers from basic federal wage and hour protections. On September 17, 2013, the U.S. Department of Labor issued final regulations, effective January 2015, that apply the federal minimum wage and overtime protections of the Fair Labor Standards Act to most of the two-million-plus home care workers in the United States. The new rules significantly narrow the exemption, correcting a decades-old injustice that has fueled poverty wages and destabilized an increasingly vital industry. Movement is now underway to ensure the smooth implementation of these new federal regulations.

Conclusion

Over 40,000 nannies, housekeepers and caregivers report to work at homes across Connecticut each day so other families can go to their own jobs. This vital workforce keeps Connecticut's economy moving, but domestic workers are not protected by some of the state's most basic workplace laws. They have little recourse when they're denied wages or forced into unpaid overtime, and no place to turn if injured on the job or sexually harassed. The Connecticut Domestic Workers' Bill of Rights addresses the longstanding, unfair exclusion of domestic workers from core labor protections, reflects the unique conditions and demands of the industry in which they work, and clarifies employers' obligations. We strongly urge you to support a CT DWBOR. Thank you very much.

* * *

For more information, please contact NELP Staff Attorney Sarah Leberstein at sleberstein@nelp.org or (212) 285-3025 x313.

[6] 2010 Sess. Law News of N.Y. Ch. 481 (A. 1470-B).
[7] HI HB 56.
[8] CA AB 241.
[9] For a summary of the bill's provisions, see http://www.domesticworkers.org/new-rights-under-the-massachusetts-domestic-workers-bill-of-rights.

APPENDIX C: Draft Recommendations

CONNECTICUT ASSOCIATION OF HOME CARE REGISTRIES

PROPOSALS TO TASK FORCE ON DOMESTIC WORKERS (8/31/15)

The CT Association of Home Care Registries ("CAHCR") is comprised of Homemaker-Companion Agencies that are registered with the DCP and operate as referral registries ("Registries"), to provide caregivers to CT's elderly and people with disabilities. CAHCR makes the following suggestions regarding the Final Report of the Task Force on Domestic Workers.

1) **CAHCR Supports a Domestic Workers Bill of Rights for All Domestic Workers.** CAHCR strongly supports an appropriate Domestic Worker's Bill of Rights that applies to all Domestic Workers.
2) **FLSA Regulations & D.C. Appellate Court Decision.** The Task Force has faced a dilemma over how to handle minimum wage and overtime issues since the D.C. Federal District Court, in December, 2014, declared invalid the revised Federal Fair Labor Standards Act (FLSA) Regulations that prevent third-party employers from taking advantage of minimum wage and overtime exemptions and significantly tightened the "Companionship Services" exemption. On August 21, 2015, the D.C. Federal Appeals Court reversed the District Court decision, and instructed the District Court to render judgment in favor of the Federal DOL, that the Regulations were valid. Although the Appellate decision likely will be appealed to the U.S. Supreme Court, there is a good chance that the Supreme Court will not accept the appeal, since the Appeals Court decision relied heavily on the 2007 unanimous Supreme Court Coke decision that upheld the DOL's authority to issue very similar FLSA Regulations. (See our position on these issues below)
3) **Definition of Domestic Workers.** A "Domestic Worker" is any individual, whether an employee or independent contractor, regardless of payor source, who provides any service of a domestic nature within a CT household, including housekeeping, cleaning, childcare, cooking, home management, or caring for the elderly or ill.
4) **Domestic Worker Rights.** Domestic Workers in CT should have the following rights:
   a) **Minimum Wage & Overtime.**
      i) All Domestic Workers who are properly classified as an "employee" under CT or Federal law:
         (1) Shall be entitled to receive CT minimum wage. This would override the FLSA "Companionship Services" exemption, which exempts caregivers providing Companionship Services from minimum wage protections.
         (2) Shall be required to be paid overtime only to the extent required by the FLSA.
      ii) Connecticut should adopt Federal FLSA regulations regarding calculation of hours, including break hours, rest hours, sleep time, and so forth, to avoid conflicts between Federal and State requirements.
      iii) A Domestic Worker that holds himself/herself out as, and is properly classified under CT or Federal law as, an "independent contractor", shall not entitled to the minimum wage and overtime benefits of this Section.

b) **Written Job Descriptions.** Each Domestic Worker should be provided written notice, before or at the time of hiring, stating: (1) whether such Domestic Worker is being engaged as an employee or an independent contractor (including any tax withholding or reporting and the availability of workers compensation and unemployment insurance coverage); (2) the rate of remuneration, hours of employment, and wage payment schedules; (3) the anticipated job duties and responsibilities; (4) the availability of sick leave, days of rest, vacation, personal days and holidays, and whether such days are paid or unpaid (and, if applicable, the rate at which such days accrue); (5) necessary or required modes of transportation, and whether such transportation is provided, paid or reimbursed; (6) the availability of health insurance, and whether it is paid or reimbursed; (7) any other forms of compensation; (8) whether the employer may charge any fees or costs for board and lodging.

c) **No Requirement to Work 7 Days.** No Domestic Worker should be required to work 7 days a week, but this would not prevent an offer of a live-in care assignment conditioned upon the caregiver working 7 days per week.

d) **Earning Unpaid Leave.** All Domestic Workers, who have worked for more than one year, shall be entitled to earn unpaid leave time on a pro rata basis (or paid, if the employer agrees). Full-time workers can earn at least 5 days of unpaid leave per year, and part-time workers can earn at least 3 days of unpaid leave.

e) **Privacy & Safety.** In order to protect Domestic Workers' privacy rights and safety:

   i) **Personal Belongings and Documentation.** Personal belongings of the Domestic Worker, including passports and other personal documentation, should not be seized, searched or inspected without consent.

   ii) **Communications, Monitoring & Inspections.** Communications on devices of the Domestic Worker should not be restricted, unless they interfere with job responsibilities. Sleeping and private living quarters, including restroom facilities, should not be monitored electronically or by other devices, and shall not be entered without consent, except to inspect and maintain the safety and condition of that portion of the premises.

   iii) **Cleaning Products.** The Domestic Worker may provide notice of potential health hazards of cleaning products and negotiate more appropriate products.

f) **Vacating Live-in Facilities Upon Termination.** Except upon termination for cause, any Domestic Worker, who has worked for at least 30 consecutive days and resides in the household where they provide services, shall be allowed up to 48 hours to find new living quarters and to remove their belongings, or shall be provided 48 hours of comparable lodging elsewhere.

g) **No Retaliation for Exercising Legal Rights.** Domestic Workers may not be penalized or retaliated against for exercising their legal rights as defined in this Act.

h) **Enforcement Provisions for Violation of Act.** Domestic Workers should be provided an appropriate forum for bringing grievances for violations of this Act.

5) **Registries Not Penalized.** Registries are an important and integral part of the delivery system of services for the elderly and disabled in CT. Nothing contained in the Domestic Workers Bill of Rights should discriminate against Registries.

THE CONNECTICUT DOMESTIC WORKER INDUSTRY TASKFORCE'S PROPOSED POLICY RECOMMENDATIONS (8.28.15)

DRAFT

TO: Connecticut (CT) Taskforce Members

FROM: Natalicia Tracy and James Bhandary-Alexander, Maria Lima Rodrigues, and Petra Morales, Taskforce Members

DATE: August 28, 2015

RE: **CT Domestic Worker Industry Taskforce Policy Recommendations**

Below is a list of proposed policy recommendations for the Connecticut (CT) Taskforce to evaluate, discuss, and ultimately decide which recommendations will be a part of the CT Taskforce Report (Report). We are charged with producing the Report, which must provide comprehensive analysis on CT's domestic workers' industry, as well as, produce concrete policy solutions that address the specific industry's needs. The Report's recommendations *may* become the basis for a future CT Domestic Worker Bill of Rights campaign (CT BOR's).

Background:

- The below protections would only apply to domestic workers as defined in a new section of the Labor Law, and would include individuals employed to perform work of a domestic nature in or about a private home, 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 private homes. The term would exclude babysitters employed on a "casual basis."

The Report would include the following:

1. MINIMUM WAGE AND OVERTIME:

- Based on the ruling of *Home Care Ass'n of Am v. Weil,* (USCA Case# 15-5018), which upheld the Department of Labor's (DOL's) revised definition of exempt companionship services under the Federal Labor Standards Act (FLSA), Connecticut, will now be required to provide federal minimum wage and overtime to home care workers.
- Because the Connecticut Minimum Wage Act (CT MWA) at Conn. Gen. Stat. § 31-58 (f) explicitly tracks (FLSA's) regulations, this means that CT MWA covers domestic workers to the same extent as the FLSA.
- The Bill would clarify the extent of coverage for "casual babysitting."

THE CONNECTICUT DOMESTIC WORKER INDUSTRY TASKFORCE'S PROPOSED POLICY RECOMMENDATIONS (8.28.15)

2. **WORKER'S COMPENSATION:**

- Amend the Connecticut Workers Compensation Act to align its eligibility requirement for domestic workers with the eligibility requirement in the Unemployment Insurance law.

- Specifically, replace the provision at Conn. Gen. Stat. § 31-275(9)(B)(iv) exempting from coverage "Any person engaged in any type of service in or about a private dwelling provided he is not regularly employed by the owner or occupier over twenty-six hours per week" with the following language, adapted from at Conn Gen Stat 31-22(a)(1)(J): "Any person engaged in domestic service in a private home, unless that home or household paid cash remuneration to individuals employed in such domestic service equal to one thousand dollars or more in any calendar quarter in the current or preceding calendar year. For purposes of this subparagraph, "domestic service" includes all service for a person in the operation and maintenance of a private household as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation."

3. **CHRO FIX:**

- While the Connecticut Human Rights Statute's exemption for domestic workers at Conn. Gen. Stat § 46a-51 (9) was eliminated in the 2014 legislative session, the next step should be to amend Conn. Gen. Stat § 46a-51 (10) to provide that domestic workers are protected by the Statute notwithstanding language limiting coverage to employers with three or more employees.

4. **ANTI-TRAFFICING PROTECTIONS:**

a. One day of rest in each and every calendar week. The domestic worker may voluntarily agree to work on a day of rest, provided that the agreement is in writing and the domestic worker is compensated at the overtime rate for all hours worked on that day.

b. A right to privacy in private living spaces and in a worker's private communications; protection from the seizure of worker's documents or other personal effects. These restrictions would not apply to any methods of observing a domestic worker while performing care- giving tasks.

c. Written notice from the employer at the time of hire of the worker's pay rate, terms, conditions and duration of employment, job duties, deductions for food and lodging, if any, and of the protections provided by the Bill of Rights (through an amendment to existing Conn. Gen. Stat. § 31-71(f)).

d. A provision specifying that an employer may make deductions from a worker's wages for food and lodging pursuant to Conn Agencies Regs. § 31-60-3 only if the employer has given the domestic worker prior written notice of such conditions and the domestic worker has accepted voluntarily and freely in writing at the time of hiring or change of classification as a usual condition of employment.

5. **INDUSTRY-SPECIFIC WORKPLACE PROTECTIONS:**

a. Annual 7 days of rest paid at the worker's regular rate of compensation, after a year of full-time employment. Domestic workers employed on a part-time basis will be entitled to annual days of rest on a pro-rated basis after a year of employment with an employer.

b. A requirement that an employer provide a domestic worker who is terminated with advance notice or severance pay in an amount equivalent to the average earnings during a week of employment. The provision would create an exception from the notice or severance pay requirement in certain cases involving good faith allegations that are made with reasonable basis and belief and without reckless disregard or willful ignorance of the truth that abuse, neglect or any other harmful conduct has been committed by the domestic worker against the employer or members of the employer's family or individuals residing in the employer's home.

c. Protection for sleep time for workers required to reside at the employer's home or to spend the night at their employer's home, and a requirement that workers be compensated for all hours worked if their sleep is interrupted by a call to duty.

d. A private right of action and an administrative mechanism for enforcing the Bill's provisions. Protection from retaliation for enforcing these new rights.

e. A right for live-in DW's to cook their own food, subject to reasonable restrictions on the religious or health needs of their employer.

f. Right to meal and rest breaks for domestic workers who work six or more hours in a day.

g. Health and safety protections for housecleaners that minimize their exposure to toxic cleaning products and other harmful hazards in the workplace.

h. Reporting Time Pay- domestic workers would be entitled to compensation for time they are required to report to work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee would be paid for half the usual or scheduled day's work.

Cultural Care
Au Pair

September 2, 2015

The Honorable Ed Gomes, Senate Co-Chair
Labor & Public Employees Committee

The Honorable Peter Tercyak, House Chairman
Labor & Public Employees Committee
Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

RE: TASK FORCE ON DOMESTIC WORKERS

Dear Senator Gomes and Representative Tercyak,

Cultural Care Au Pair is a Cambridge-based organization that has been committed to cultural exchange for over 25 years. As a selected program sponsor, our responsibility is to ensure the safety and well-being of the exchange visitors participating on this J-1 visa program administered by the U.S. Department of State. As the largest of fifteen total designated sponsors nationwide, we feel it is vitally important to reach out to the Task Force to provide an overview of our program and to make clear the distinction between au pairs and domestic workers.

The federal regulations (22 C.F.R. 62.31) which govern the au pair program contain provisions for every element of the program from participant screening and program sponsor support requirements to permissible activities, hours, payment and requirements for the educational component. These regulations ensure that au pairs are protected during their program term so that this program can achieve its important foreign diplomacy goals. These regulations provide a detailed mechanism for oversight of both the au pair and the host family. Au pairs are currently better protected than any domestic worker even after implementation of the CT domestic workers legislation. Cultural Care has placed over 100,000 au pairs in the homes of American host families over 25 years. This would simply not have been possible without the kind of structure and support that the federal regulations provide. The U.S. Department of State continues to evaluate the regulations and revises them in an ongoing effort to make sure that the au pairs choosing to spend their year in the U.S. are protected, safe and have the opportunity for a positive cultural exchange experience.

We recognize and applaud the efforts being made by the CT domestic workers legislation to provide protections to those workers who have otherwise been left vulnerable. However, au pair

Recommendations For The Final Report of the Taskforce on Domestic Workers

Submitted by the Representative of Large Employers of Domestic Workers
David L. Denvir

1. Testimony Received

The Connecticut Taskforce on Domestic Workers (hereinafter 'Taskforce') received oral and written testimony from individual domestic workers and third-party (as opposed to individual homeowner) domestic worker Agency employers (hereinafter Agencies). Testimony from workers was limited to traditional 'in-home' services; e.g., cleaning, childcare, etc. No testimony was received from providers of ancillary home services such as gardeners, chauffeurs, tradesman, etc., and these recommendations adopt the premise that ancillary services are provided by contract, or by unique circumstance no Taskforce should explore: shoveling a driveway or mowing a lawn should never be legislated.

Individual domestic workers shared their personal experiences of wage, hour and working condition abuse. The remarks suggested workplace abuse by individual homeowners was the rule, not the exception. Testimony of this nature was received from three or four individuals representing an organization (The Brazilian Immigrant Center) seeking to change workplace laws. Each witness testified as to their work for one family, only (as opposed to multiple employers, or an Agency). The testimony was forthright and presented workplace injustices suffered by the witness.

Testimony was notable for its omissions. No witness as to abuses presented objective, empirical data; no survey or study quantifying the frequency or nature of domestic worker abuse. No testimony was presented from any source as to whether or how increased enforcement of wage, hour and working condition laws by appropriate authorities, greater outreach and education targeting domestic workers, etc., might minimize abuse. No testimony as to whether the alleged abuses were suffered uniformly by maids, cooks, governesses, gardeners, etc.; or, were limited to one form of domestic work.

Significantly, there was no testimony demonstrating new domestic worker laws would provide protection in the workplace. The conclusion to be drawn from testimony was that abuses resulted from individual homeowners deliberately violating existing labor law, something best addressed by enforcement, not legislation.

No testimony over the course of twelve months suggested domestic workers engaged by Agency employers suffer abuse. Testimony was uniformly received from Agency employers of domestic workers that Agencies comply with all applicable labor laws,

contribute to the unemployment compensation insurance fund, provide worker's compensation insurance, and in some instances, provide healthcare coverage and defined contribution benefit plans.

Testimony was received regarding the Registry model of domestic service employment; that such Registries, for ongoing fees, direct domestic workers to individual homeowners, who subsequently directly employ the worker and provide no worker protections such as wage withholding, unemployment or workers' compensation insurance, or coverage under the PPACA (Affordable Care Act), etc. In short, the Registry model facilitates employment by the individual homeowner; the very employment model where testimony suggested abuse lies.

2. Recommendations

In view of the above testimony and Taskforce discussion, it is recommended that:

A. All Homecare Employers and Homecare Referral Businesses Should Be Required To Meet the Employment Standards of Agency Employers

Testimony received by the Taskforce was uniform that Agency employers are providing, and support, minimum wage for hourly (distinguished from live-in) domestic workers, uniformly incur customary expenses incidental to all employment such as appropriate insurances (unemployment and workers' compensation), conduct appropriate withholding functions, etc. Agencies are subject to OSHA inspections, posting of DOL labor and employment notices, CHRO and EEOC investigation and complaints; they register annually with the Conn. DPC, provide unpaid Family Medical Leave and health coverage under the PPACA (if required), and comply with applicable wage, hour and employment laws.

The Agency model of homecare provides domestic workers protections identical to other industries. A recommendation that all domestic homecare employers meet the Agency employer standard would go as far as possible in eliminating the labor abuses presented to the Taskforce through testimony.

B. Any New Regulatory Provisions Or Legislation Should Exempt Agencies

If the Taskforce does not adopt comment a., or recommends legislating additional domestic worker protections, domestic worker Agencies should be exempted from further regulation if they comply with existing labor standards. Those standards include:

i. Annual registration with the Department of Consumer Protection; remaining in good standing with that Department;

ii. Complying with applicable Conn. law regarding unemployment compensation insurance contributions;

iii. Complying with applicable Conn. law regarding worker's compensation insurance;
iv. Providing access to health benefit plans, FMLA, etc. (if the Agency is large enough to trigger compliance);
v. Assuring the employees are treated as such; i.e., not as 'contractors'.

States adopting domestic worker Bill(s) of Rights already embrace exemptions for select domestic workers: those providing services through government funded programs. Comment (not testimony) at the Taskforce level suggests those targeted exemptions reflect worker access to collective bargaining. The more probable reason for the exemptions is cost: state Medicaid funds are not equipped to absorb the increased cost of compliance with proposed domestic worker laws.

Since Agency employers provide protections that far exceed worker protections within government funded homecare programs, and those latter programs have been exempted due to cost, the reasonableness of exempting Agency employers is clear: Agencies already shoulder added costs to provide added worker protection. Increased (regulatory) Agency expense will shift domestic homecare employment from the Agency model to the less costly, 'contractor' or Medicaid funded model; the very models providing fewer worker protections.

The Taskforce should recognize that most non-medical domestic homecare administered within Connecticut's Medicaid waiver programs is provided by Agency employees. Credible testimony (or comment from this author) was presented (or easily verified) that Connecticut's Medicaid reimbursement rate for homecare has increased once (by 1%) in seven years. By comparison, as of January 1, 2016 Connecticut's minimum wage will have increased by 10% in two years. The expense of Agency compliance with the most well intentioned (additional) domestic worker protections will likely further lessen the number of Agency employers, producing the same result: increased homecare provided under employment models providing fewer worker protections.

While the cost of increased domestic worker regulations will mean fewer Agency jobs and fewer Agency employers, competition among domestic workers for remaining Agency jobs will intensify. Caregivers able to shift employment will make the obvious choice between Agency employment that provides workplace protection, and Medicaid-funded employment that is exempt from domestic worker regulation. The result will be a labor shift: the most skilled caregivers will be hired by Agencies, leaving the most unskilled workers to service state funded homecare.

This shift will be both employer and employee driven; employees will not want a work schedule containing employment protections on some jobs, but not others; and, Agencies will forego the added administrative expense of recording employee benefits and labor costs – same work, same employee – depending upon whether one employee worked privately or for a state funded homecare client. Employers and caregivers will chose one client base over the other. The result will be diminished care within state Medicaid programs.

As an incentive for third party providers of domestic services to adopt the Agency business model and offer those full protections, Agencies should receive an exemption from further burdens of compliance with additional domestic worker provisions. Granting an exemption to state programs, only, will create multi-layered labor difficulties; and, is simply unfair.

C. The Registry Model of Homecare Should Require Standard Labor Protections

Registries promote domestic worker employment in an area where worker protections do not exist or are not enforced. Through legislation, the registry model should be amended so that:

i. The Registry must submit quarterly records of all referrals to the Conn. Department of Labor and Commissioner of Revenue Services;
ii. The Registry must contribute to the unemployment compensation insurance fund in all instances where the individual employer, hiring a Registry-referred domestic worker, does not;
iii. The Registry must procure worker's compensation insurance for each domestic worker they refer, in all instances where the individual employer, hiring a Registry-referred domestic worker, does not;
iv. The Registry should be held to FMLA and PPACA requirements applicable to Employers, based upon the number of hired referrals

D. Enforcement of Wage and Hour Rules Should Be Increased

With the benefit of reports from Registries as to domestic worker referrals, labor and revenue agents should increase enforcement of applicable (existing) laws, extending protection of domestic workers in the work environment most likely to contain abuse: the individual homeowner employer.

E. Conn. Gen. Stats. 31-76 Should Be Amended

Connecticut law within section 76 of Title 31 establishes 'hours worked' in a manner that is ambiguous and inconsistent with Connecticut law; specifically concerning live-in employment. It cannot be disputed that a live-in worker is generally upon their employer's premises at all times, yet not each moment is 'working' time. C.G.S 31-

76 holds 'hours worked' to include all times an employee is required to be on the employer's premises, suggesting a live-in worker must be paid each hour of each day.

The law murkily exempts certain periods (sleep time and meal periods) as non-compensable, leaving the amount of non-compensable meal time undefined. Moreover, federal law takes a common sense approach and further exempts periods when worker are on premises, yet relieved of all work duties. The Taskforce should recommend amendment to this law to comport in full with federal labor standards for meals, sleep, and periods of full relief from employment.

F. Room and Board Deductions Under State And Federal Laws Should Be Clarified

The United States Circuit Court of Appeals has upheld new domestic worker rules requiring payment of minimum wage and overtime for domestic work. Though the issue may continue on for further judicial review, the immediate impact on consumers and employer providers of domestic services will be considerable. Even if existing sleep and meal time wage and hour exemptions are maximized, live-in domestic workers may now expect to receive forty hours of regular wages and seventy two hours of overtime weekly wages.

This will price domestic live-in care beyond the reach of most. The Connecticut Department of Social Services has recommended that Agency employers implement room and board deductions from the wages of domestic workers to offset increased costs.[1] However, existing Connecticut law does not permissibly articulate deductions by amount or methodology. Federal law permits room and board deductions only when the employer is incurring the room and board expenses. Agencies incur no room and board expense for domestic work performed in a client's home; and, cannot claim such deductions.

Without clarification as to legality and methodology of room and board deductions, many live-in employment opportunities for domestic workers will evaporate due to cost. The Taskforce should recommend clear action to clarify the extent and methodology employers may (if any) employ to calculate and apply deductions. Such recommendation must include consideration of federal and state labor laws; domestic worker employers are accountable to two sets of labor laws and regulations, and clarification of this issue on the state level is meaningless if inconsistent with federal labor rules.

[1] Though 'offsetting costs' imposed by a new wage rule upheld by the Court may seem offensive, the Taskforce should remember that the live-in domestic worker has not seen an increase in work; only a change imposed by the US Department of Labor that removes wage and hour exemptions for overtime passed into law by Congress more than forty years ago.

G. Wages Issues Should Remain Open Subject To Judicial And Congressional Action

In view of the uncertain judicial and legislative path of current US DOL overtime labor rules for domestic workers, the Taskforce should recommend withholding action until the United States Supreme Court or the United States Congress provides a conclusive end to the issue.

H. Severance Pay and Housing Rights Should Be Further Studied

Domestic worker rights to continued housing and/or severance pay upon termination of employment present multiple complexities and should not be the subject of Taskforce recommendation. Consider:

i. Live-in domestic work assignments often terminate unpredictably for reasons employers cannot control: client funds are depleted, clients are removed to hospitals or nursing homes, leave to reside with family members, die;
ii. There is no precedent in any industry for mandatory severance pay;
iii. Agency employers have no ownership, possessory interest or authority to grant or terminate a tenancy in a client's home; no ability to control the quality of lodging provided; no ability to control whether a client unreasonably enters the living quarters of a domestic worker;
iv. Regulation protecting domestic workers when live-in assignments end is uniquely unequal. Agencies and homeowners receive no compensation when domestic workers unexpectedly quit, denying a client care or causing the Agency to breach a contractual obligation to provide live-in care;
v. Summary process laws do not envision tenancy by means of a hired work assignment, leaving fundamental housing questions unanswered: must a domestic worker be evicted? May such workers file housing code complaints against their employer?
vi. Property owners are subject to prosecution and government seizure (of their home) for certain offenses a domestic worker may commit in their home. Homeowners must be afforded knowing assurance that live-in workers are not committing such offenses; assurance by knowing (through inspection of living quarters) what a worker-in-residence does in the home;
vii. In the occurrence of such offenses, the Agency employer may be responsible under theories of Respondeat Superior. Absent a homeowner's ability to inspect living quarters, the Agency has no protection.

These are some, not all, of the complex issues as arise when a paid work assignment requires residency in another's home. For the present time, these issues should receive further study, only.

3. Closing

There remarks are not intended to address all issues that warrant the attention of the Taskforce on Domestic Workers. The time remaining for the Taskforce to finalize a report is short and it is hoped that these remarks will be received and considered in the intended manner. Domestic workers in Connecticut receive considerable protection from Agency employers; workplace violations that were the subject of testimony result from limited enforcement, not limited laws. Recommendations should center upon education, enforcement, and curing the employment areas where exploitation may occur: individual homeowner employers, and Registry-referred employment. Recommendation that exceeds those venues further burdens Agency employers that have continually done their fair share to provide secure and protected employment for domestic workers.