

## WILD Organizers' Training

# Domestic Workers' Bill of Rights



April 2, 2014



**Women's Institute for Leadership Development**

150 Mt. Vernon Street, 2<sup>nd</sup> floor  
Dorchester, MA 02125

# WILD Organizers' Training

## Domestic Workers' Bill of Rights

### Participants' Outline

<b>Welcome and Introductions</b>	<b>20 min</b>
<ul style="list-style-type: none"><li>• Who are we, and what brings us here?</li></ul>	
<b>Warm-up: Our Experience</b>	<b>10 min</b>
<b>Introduction to the workshop</b>	<b>15 min</b>
<ul style="list-style-type: none"><li>• What we are planning to do today: review objectives, agenda and materials</li></ul>	
<b>Who are Domestic Workers</b>	<b>30 min</b>
<ul style="list-style-type: none"><li>• Brainstorm: What jobs work do domestic workers do?</li><li>• Definition of Domestic Worker in the BoR: who's included &amp; who isn't</li></ul>	
<b>What Problems do Domestic Workers Face?</b>	<b>30 min</b>
<ul style="list-style-type: none"><li>• What are the major problems domestic workers currently face in their jobs?</li><li>• How do domestic workers and their allies try to address these problems now?</li></ul>	
<b>Review of Domestic Workers' Rights under Current Law</b>	<b>30 min</b>
<ul style="list-style-type: none"><li>• Rights under current Mass law</li><li>• What more is needed</li></ul>	
<b>What Would the Bill of Rights Do?</b>	<b>40 min</b>
<ul style="list-style-type: none"><li>• What new rights would the new law provide?</li><li>• How will the law be enforced?</li></ul>	
<b>How will we make use of the new law?</b>	<b>30 min</b>
<ul style="list-style-type: none"><li>• Practice using the law on the problems identified above</li></ul>	
<b>Evaluation &amp; next steps</b>	<b>10 min</b>
<ul style="list-style-type: none"><li>• What additional training would be helpful for you?</li><li>• Please fill out evaluation form</li></ul>	

## WILD Organizers' Training

# Domestic Workers' Bill of Rights

### Objectives

*By the end of this workshop, participants will have:*

- Identified major issues domestic workers (DW) face on their jobs
- Reviewed the rights DW currently have under Mass laws
- Examined the new rights afforded by the DW Bill of Rights
- Practiced using the Bill of Rights to resolve a workplace problem

# Who is a Domestic Worker?

## Definition in Domestic Workers Bill of Rights

“**Domestic worker**”, any individual or employee who is paid by a household, family or any person to perform work of a domestic nature, including, but not limited to, housekeeping, house cleaning, home management, nanny services including childcare and child monitoring, caretaking of individuals in the home including sick, convalescing and elderly individuals, laundering, cooking, home companion services and other household services for members of households or their guests in private homes; provided that the term “domestic worker” shall not include an individual whose vocation is not childcare and whose services for the employer primarily consist of childcare on a casual, intermittent and irregular basis for one or more family or household members, and shall not include a personal care attendant (except for limited reasons)<sup>1</sup>.

“**Employer**”, any person who suffers or permits a domestic worker to work within a household whether or not the person has an ownership interest in the household. An employer shall not include a staffing agency licensed or registered under chapter 140 and shall not include an individual to whom a personal care attendant provides personal care attendant services (except for limited reasons).

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<sup>1</sup> Personal Care Attendants are covered under the bill for purposes of pursuing a sexual harassment case before the Massachusetts Commission Against Discrimination (MCAD).

## Who Does the Domestic Workers Bill of Rights Cover?

### 1. The bill covers domestic workers and their employers

- **Domestic workers** include individuals who work in private homes:
  - Housekeepers
  - House cleaners
  - Home managers
  - Nannies, including people who do childcare and child monitoring
  - Caregivers, including those who care for the sick, convalescing, and elderly
  - Providers of household services like laundry, cooking, and home companion services
- **Employers** include
  - Private employers who hire domestic workers
  - Unlicensed agencies, including unregulated “schedulers”

### 2. The bill does not cover:

- casual babysitters,
- individuals who work for private families but not inside the home
- state/federally funded personal care attendants (except in limited situation)
- licensed/registered placement or staffing agencies

## Rights Domestic Workers Currently Have in Massachusetts

- Right to **minimum wage** and **overtime**
  - These rights are enforced by the Attorney General
  - Domestic Worker can also bring a private lawsuit with triple damages and attorney's fees
  - Law protects Domestic Workers who work 16 hours or more for their employer from retaliation for asserting these rights
  
- Right to collect **unemployment** insurance if:
  - Domestic Worker earned at least \$3,500 in the past year, and worked approximately 15 weeks during the prior year;
  - Lost job through “no fault”, and;
  - Able and available for work (must have work authorization)
  
- Right to collect **worker's compensation** if:
  - Domestic Worker worked for employer for 16 hours or more
  - Right to collect workers' compensation exists regardless of immigration status
  
- Right to be free from **sexual harassment**
  - Not covered by MCAD. Domestic Worker and Personal Care Attendant has to bring a private lawsuit in court.
  
- Right to be free from **discrimination on the basis of sex or race**
  - Not covered by MCAD. Domestic Worker has to bring a private lawsuit in court.
  
- Right to **unionize** and enter into collective bargaining agreements
  
- If employer has 6 or more employees:
  - Right to 8 weeks **unpaid maternity leave** if:
    - have worked beyond the probation period, or;
    - if no probation period, they have worked full time for 3 months

## New Rights under the Bill of Rights

- Right to be **paid for all working time** which includes:
  - Any time Domestic Worker is required to be on employer's premises or on duty
  - Meal periods, rest periods, and sleeping time unless:
    - Domestic Worker can leave the premises, and;
    - Use time for her sole use and benefit, and;
    - Is completely relieved of all work duties, and;
    - There is a written agreement not to be paid
  - Employer doesn't have to pay for sleep time if:
    - Domestic Worker works 24 hours or more, and;
    - There is an agreement in writing between Domestic Worker and employer, and;
    - Domestic Worker's sleeping time is not interrupted by work, and;
    - Employer provides adequate sleeping quarters, and;
    - Unpaid sleeping time does not exceed 8 hours in a 24 hour period
- Right to **days of rest**
  - If Domestic Worker works at least 40 hours a week, employer must provide at least 24 consecutive hours of rest per week and 48 hours of consecutive rest per month (to coincide with religious worship, when possible)
  - If Domestic Worker voluntarily works over 40 hours per week or during a day or rest, employer must pay overtime for each excess hour worked
- Right to **maternity leave**
  - Domestic workers have the right to take up to 8 weeks of maternity leave for the birth or adoption of a child
  - This right is enforced by MCAD
  - All other workers must work for an employer of 6 or more workers, but Domestic Workers have this right even if they are the only employee
- Right to bring a private lawsuit if Domestic Worker is **injured on the job** by a fellow employee
- **Food**: Domestic Worker does not have to pay for food and beverages unless:
  - Food/beverages is voluntarily and freely chosen and consumed, and;
  - There is a written agreement between employer and Domestic Worker stating cost of food, and;

- Domestic Worker has ability to easily bring or prepare own food if she wanted to, and;
- Price accurately reflects cost of food and cannot exceed \$1.50 for breakfast, \$2.25 for lunch, and \$2.25 for dinner

- **Lodging:** Domestic Worker does not have to pay for lodging unless:

- Lodging is voluntarily and freely accepted, and;
- Domestic Worker actually desires and uses the lodging, and;
- There is a written agreement between Domestic Worker and employer, and;
- Lodging meets safe and sanitary housing legal standards, and;
- Price does not result In Domestic Worker making less than minimum wage, and
- Price is reasonable, which means:
  - It does not exceed \$35.00 per week for a room used by one person, \$30.00 per week for a room occupied by 2 people, \$25.00 per week for a room occupied by 3 or more persons

- **Right to privacy**

- Domestic Workers are explicitly include under the protections of the state’s privacy law which means that domestic workers have the right to expect privacy (which includes right to privacy in the bathroom)
- Employer cannot restrict, interfere with or monitor Domestic Worker’s private communication
- Employer cannot take any of the domestic worker’s documents or other personal effects,
- Employer cannot search domestic worker’s personal belongings

- **Right to protection against trafficking**

- Employer cannot engage in sex trafficking of domestic workers or labor trafficking called “forced services”
- Forced services includes threatening serious harm, physically restraining an individual, destroying, hiding or taking any immigration documents, engaging in extortion, or causing or threatening to cause financial harm.

- **Right to written evaluation**

- A Domestic Worker may request a written evaluation after 3 months and annually thereafter
- A Domestic Worker may dispute the evaluation under the state’s Personnel Records law



- Right to a **written employment agreement** at the start of the job if Domestic Worker works 16 hours or more per week. Agreement must include:
  - Rate of pay, including overtime
  - Whether additional pay is provided for added duties/multilingual skills
  - Working hours (including meal breaks and other time off)
  - Whether employer provides benefits (earned sick days, vacation days, personal days, health insurance, severance, transportation, etc.) and whether these benefits are paid or unpaid
  - Fees or costs, if any, for meals or lodging
  - Responsibilities of the job
  - Process for addressing grievances and additional pay for additional duties
  - Right to collect workers compensation
  - Required notice for termination by employer and, if required, by Domestic Worker
  
- Right to **document retention and notice of rights**
  - Employer must keep all notices and agreements for at least 2 years
  - Employer must provide notice containing Domestic Worker's rights under all applicable state and federal laws
  
- Right to **notice/lodging/severance before termination of live-in Domestic Worker without cause**
  - written notice and at least 30 days of lodging either on-site or in comparable off-site conditions or severance pay equivalent to average earnings of 2 weeks
  - Note: no right to notice or severance pay if employer makes good faith written allegation of abuse, neglect or other harmful conduct towards employer, employer's family, or individuals residing in employer's home
  
- Domestic Workers have right to take **sexual harassment** or other harassment claims to Massachusetts Commission Against Discrimination (MCAD)
  
- *Personal Care Attendants* have right to take **sexual harassment** claims to MCAD.

## Enforcement of the Bill

- The **Attorney General** (AG) will enforce the Bill, except the sections on discrimination, harassment, and parenting leave. The AG will also make rules and regulations necessary for its enforcement. By April 1, 2015, the Attorney General will publish regulations concerning these parts of the bill enforced by that office and those sections will go into effect.

### Contact Information

Website: [www.mass.gov/ago/](http://www.mass.gov/ago/)

#### **Boston Office:**

One Ashburton Place,  
Boston MA 02108

**Phone:** (617) 727-3465

#### **Southeastern Massachusetts Office**

105 William Street  
New Bedford, MA 02740-6257

**Phone:** (508) 990-9700

#### **Central Massachusetts Office**

10 Mechanic Street, Suite 301  
Worcester, MA 01608-2417

**Phone:** (508) 792-7600

#### **Western Massachusetts Office**

1350 Main Street, 4th Floor  
Springfield, MA 01103-1629

**Phone:** (413) 784-1240

- **Mass Commission Against Discrimination** (MCAD) will enforce the discrimination, harassment and parenting leave provisions

### Contact Information

Website: [www.mass.gov/mcad/](http://www.mass.gov/mcad/)

#### **Boston Office:**

One Ashburton Place,  
Sixth Floor, Room 601  
Boston, MA 02108

**Phone:** (617) 994-6000

#### **Springfield Office**

436 Dwight Street  
Second Floor, Room 220  
Springfield, MA 01103

**Phone:** (413) 739-2145

#### **New Bedford Office**

800 Purchase St., Rm 501  
New Bedford, MA 02740

**Phone:** (508) 990-2390

#### **Worcester Office**

Worcester City Hall  
455 Main Street, Room 101  
Worcester, MA 01608

**Phone:** (508) 799-8010

*(Offices close at 4:00 pm. Arrive earlier to file a complaint)*

## Additional Provisions of the Bill

*One year after enactment, the Executive Office of Labor and Workforce Development will:*

- Develop and implement a **multilingual outreach and training program** to inform Domestic Workers and their employers about their rights and responsibilities.

The program will include:

- Distribution of **“Know Your Rights”** information for Domestic Workers
- **Model employment agreements**
- **Educational materials for employers** regarding their human resources duties when employing Domestic Workers. These materials will include information about:
  - Benefits
  - Tax and insurance laws
  - Professional development training program for Domestic Workers on safe care-giving and housekeeping practices (including using non-toxic cleaning products and protection from injuries, illness, and disease)

## Bill of Rights Worksheet

Problem: \_\_\_\_\_

\_\_\_\_\_

What remedy does the Bill of Rights provide? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What agency would enforce it? \_\_\_\_\_

What would you do if this happened to you, or to a domestic worker who came to you for help?

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# Worksheet for Teaching Others

Who is your audience?

- Domestic workers
- Employers
- Both
- General public
- Others

How will you reach them? (For example, through churches or other organizations, one-by-one, through other domestic workers, etc.)

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How much time do you think you will need? How much time do you think you will have?

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What steps will you take to plan the training:

Who? \_\_\_\_\_

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Where? \_\_\_\_\_

When? \_\_\_\_\_

What help or resources will you need to carry out your plan?

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# WILD Organizers' Training

## Domestic Workers' Bill of Rights

### Evaluation

 Please rate the following:

	Excellent	Very Good	Good	Average	Poor
Subject matter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Materials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Instruction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Discussion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exercises	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Classroom(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Location	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1.) What is the most useful thing that you learned in this program? \_\_\_\_\_

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2.) What did you like best about today's program? \_\_\_\_\_

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3.) What would you change to make the program better? \_\_\_\_\_

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4.) What more would you like to learn about? \_\_\_\_\_

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 Thank you! 