



Rep. Elizabeth Hernandez

**Filed: 4/8/2015**

09900HB1286ham001

LRB099 05154 JLS 33470 a

1 AMENDMENT TO HOUSE BILL 1286

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1286 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Domestic Workers' Bill of Rights Act.

6 Section 5. Purpose and findings. Domestic workers play a  
7 critical role in Illinois' economy, working to ensure the  
8 health and prosperity of Illinois families and freeing others  
9 to participate in the workforce. Despite the value of their  
10 work, domestic workers have historically been excluded from the  
11 protections under State law extended to workers in other  
12 industries. Domestic workers are predominantly women who labor  
13 to support families and children of their own and who receive  
14 low pay and minimal or no benefits. Without clear standards  
15 governing their workplaces, and working alone and behind closed  
16 doors, domestic workers are among the most isolated and

1 vulnerable workforce in the State. Workforce projections are  
2 one of growth for domestic workers, but the lack of decent pay  
3 and other workplace protections undermines the likelihood of  
4 building and maintaining a reliable and experienced workforce  
5 that is able to meet the needs of Illinois families. Therefore,  
6 the General Assembly finds that because domestic workers care  
7 for the most important elements of Illinoisans' lives, our  
8 families and our homes, it is in the interest of employees,  
9 employers, and the people of Illinois to ensure that the rights  
10 of domestic workers are respected, protected, and enforced and  
11 that this Act shall be interpreted liberally to aid this  
12 purpose.

13 Section 10. Definitions. As used in this Act:

14 "Department" means the Department of Labor.

15 "Director" means the Director of Labor and his or her  
16 authorized representatives.

17 "Domestic work" means:

18 (1) housekeeping;

19 (2) house cleaning;

20 (3) home management;

21 (4) nanny services including childcare and child  
22 monitoring;

23 (5) caregiving, personal care or home health services  
24 for elderly persons or persons with an illness, injury, or  
25 disability who require assistance in caring for

1 themselves;

2 (6) laundering;

3 (7) cooking;

4 (8) companion services;

5 (9) chauffeuring; or

6 (10) other household services for members of  
7 households or their guests in or about a private home or  
8 residence or any other location where the domestic work is  
9 performed.

10 "Domestic worker" means a person employed to perform  
11 domestic work. "Domestic worker" does not include: (i) a person  
12 performing domestic work who is the employer's parent, spouse,  
13 child, or other member of his or her immediate family,  
14 exclusive of individuals whose primary work duties are  
15 caregiving, companion services, personal care or home health  
16 services for elderly persons or persons with an illness,  
17 injury, or disability who require assistance in caring for  
18 themselves; (ii) child and day care home providers  
19 participating in the child care assistance program under  
20 Section 9A-11 of the Illinois Public Aid Code; (iii) a person  
21 who is employed by one or more employers in or about a private  
22 home or residence or any other location where the domestic work  
23 is performed for 8 hours or less in the aggregate in any  
24 workweek on a regular basis, exclusive of individuals whose  
25 primary work duties are caregiving, companion services,  
26 personal care or home health services for elderly persons or

1 persons with an illness, injury, or disability who require  
2 assistance in caring for themselves; or (iv) a person who the  
3 employer establishes: (A) has been and will continue to be free  
4 from control and direction over the performance of his or her  
5 work, both under a contract of service and in fact; (B) is  
6 engaged in an independently established trade, occupation,  
7 profession or business; or (C) is deemed a legitimate sole  
8 proprietor or partnership. A sole proprietor or partnership  
9 shall be deemed to be legitimate if the employer establishes  
10 that:

11 (1) the sole proprietor or partnership is performing  
12 the service free from the direction or control over the  
13 means and manner of providing the service, subject only to  
14 the right of the employer for whom the service is provided  
15 to specify the desired result;

16 (2) the sole proprietor or partnership is not subject  
17 to cancellation or destruction upon severance of the  
18 relationship with the employer;

19 (3) the sole proprietor or partnership has a  
20 substantial investment of capital in the sole  
21 proprietorship or partnership beyond ordinary tools and  
22 equipment and a personal vehicle;

23 (4) the sole proprietor or partnership owns the capital  
24 goods and gains the profits and bears the losses of the  
25 sole proprietorship or partnership;

26 (5) the sole proprietor or partnership makes its

1 services available to the general public on a continuing  
2 basis;

3 (6) the sole proprietor or partnership includes  
4 services rendered on a Federal Income Tax Schedule as an  
5 independent business or profession;

6 (7) the sole proprietor or partnership performs  
7 services for the contractor under the sole  
8 proprietorship's or partnership's name;

9 (8) when the services being provided require a license  
10 or permit, the sole proprietor or partnership obtains and  
11 pays for the license or permit in the sole proprietorship's  
12 or partnership's name;

13 (9) the sole proprietor or partnership furnishes the  
14 tools and equipment necessary to provide the service;

15 (10) if necessary, the sole proprietor or partnership  
16 hires its own employees without approval of the employer,  
17 pays the employees without reimbursement from the employer  
18 and reports the employees' income to the Internal Revenue  
19 Service;

20 (11) the employer does not represent the sole  
21 proprietorship or partnership as an employee of the  
22 employer to the public; and

23 (12) the sole proprietor or partnership has the right  
24 to perform similar services for others on whatever basis  
25 and whenever it chooses.

26 "Employ" includes to suffer or permit to work.

1 "Employee" means a domestic worker.

2 "Employer" means: any individual; partnership;  
3 association; corporation; limited liability company; business  
4 trust; employment and labor placement agency where wages are  
5 made directly or indirectly by the agency or business for work  
6 undertaken by employees under hire to a third party pursuant to  
7 a contract between the business or agency with the third party;  
8 the State of Illinois and local governments, or any political  
9 subdivision of the State or local government, or State or local  
10 government agency; for which one or more persons is gainfully  
11 employed, express or implied, whether lawfully or unlawfully  
12 employed, who employs a domestic worker or who exercises  
13 control over the domestic worker's wage, remuneration, or other  
14 compensation, hours of employment, place of employment, or  
15 working conditions, or whose agent or any other person or group  
16 of persons acting directly or indirectly in the interest of an  
17 employer in relation to the employee exercises control over the  
18 domestic worker's wage, remuneration or other compensation,  
19 hours of employment, place of employment, or working  
20 conditions.

21 "Live-in domestic worker" means a domestic worker residing  
22 on the employer's premises during the tenure of employment for  
23 5 days or more per week on a regular basis, whether or not the  
24 domestic worker maintains a separate residence.

25 "Work time" means the time during which a domestic worker  
26 is suffered or permitted to work, whether or not required to do

1 so, and whether or not any physical or mental exertion is  
2 expended by the domestic worker.

3 Section 15. Work time.

4 (a) An employer shall pay the domestic worker for all work  
5 time.

6 (b) Only a period during which a domestic worker is  
7 completely relieved from duty and which is long enough to  
8 enable him or her to use the time effectively for his or her  
9 own purposes (at least 30 minutes) is not work time, such as a  
10 30 minute meal period. Periods of shorter duration must be  
11 counted as work time.

12 (c) 29 CFR 785, Subpart C, the federal regulations  
13 implementing the Fair Labor Standards Act of 1938, as amended,  
14 209 U.S.C. 201, et seq., or successor rule, shall govern work  
15 time as it applies to rest and meal periods, sleep and travel  
16 time, and the other issues covered by Subpart C. In addition,  
17 interruptions of periods of free time for live-in domestic  
18 workers are governed by 29 CFR 552.102, or successor rule.

19 (d) All wages must be paid within 30 days from the date of  
20 any work time.

21 Section 20. Sleeping facilities; costs.

22 (a) Employers may take appropriate credit for the  
23 reasonable cost or fair value, as determined by the Department,  
24 for food, lodging, etc. furnished to the domestic worker. 29

1 CFR 552.100(b), and successor rules, shall govern the  
2 application of this provision, except that the amount of these  
3 charges shall not individually nor in the aggregate result in  
4 the domestic worker earning or receiving less than the minimum  
5 wage for any work hour.

6 (b) The employer shall provide sleeping quarters that are  
7 adequate, decent, safe, and sanitary to all domestic workers  
8 that have sleep time as part of their work schedule, whether or  
9 not it is counted as work time. All live-in domestic workers  
10 shall be provided private quarters for sleeping and dressing  
11 typically used for that purpose, with reasonable access to  
12 bathroom, kitchen, and laundry facilities. No domestic worker  
13 shall be required to share a bed.

14 (c) Lodging under this Section must be in a condition that  
15 is safe, healthful, and fit for occupancy and in compliance  
16 with terms of a lease, if any, and with the requirements of  
17 federal, State, and local law.

18 Section 25. Scheduled work time and termination.

19 (a) Employers shall provide at least 2 hours' notice on any  
20 day the worker is scheduled to work but not required to work.

21 (b) Notwithstanding subsection (a), if an employer does not  
22 require the domestic worker to report to work for 2 or more  
23 consecutive scheduled work periods on a temporary basis for any  
24 reason, such as the employer's vacation, or any other change in  
25 the work time schedule on a temporary or permanent basis, the



1 employer shall provide to the domestic worker notice at least 7  
2 days in advance of the first day the worker is not required to  
3 report to work or there is a change in schedule. In  
4 circumstances where the change in the work time schedule is not  
5 foreseeable by the employer, making advance notice impossible,  
6 notice shall be given as soon as practicable, but not longer  
7 than 24 hours after the worker was first scheduled for work but  
8 was not put to work.

9 (c) If an employer terminates a domestic worker, the  
10 employer shall provide to the domestic worker notice of  
11 termination at least 14 days in advance of the first day the  
12 worker is not required to report to work. If such notice is not  
13 provided to domestic workers who work 20 or more hours in any  
14 workweek on a regular basis for the terminating employer, the  
15 employer shall pay the domestic worker 14 days of severance pay  
16 at the regular rate of pay from the date of termination, to be  
17 paid no later than the day of termination. If such notice is  
18 not provided to domestic workers who work more than 8 hours and  
19 less than 20 hours in any workweek on a regular basis for the  
20 terminating employer, the employer shall pay the domestic  
21 worker 7 days of severance pay at the regular rate of pay from  
22 the date of termination, to be paid no later than the date of  
23 termination. The amount of severance pay shall be based upon  
24 the number of work hours per day and days per workweek the  
25 domestic worker works on a regular basis. Such notice need not  
26 be given nor severance payment made if an employer makes

1 contributions on behalf of the domestic worker for unemployment  
2 insurance benefits as required under the Unemployment  
3 Insurance Act and, if such employer terminates or reduces the  
4 hours of the domestic worker, the domestic worker is eligible  
5 for and receives such benefits upon termination or reduction in  
6 hours. Furthermore, such notice need not be given nor is  
7 severance pay required under limited and extraordinary  
8 circumstances, such as when there is probable cause the  
9 domestic worker has engaged in child or elder abuse as defined  
10 by Illinois law.

11 (d) Any provision included in a relevant collective  
12 bargaining agreement supersedes this Section, if applicable.

13 Section 35. Privacy. An employer is not permitted to  
14 videotape or otherwise record the domestic worker in any of the  
15 bathrooms, the area where the sleeping accommodations are  
16 provided while the domestic worker is sleeping, or, in the case  
17 of a live-in domestic worker, the area. An employer shall not  
18 unreasonably restrict or interfere with a domestic worker's  
19 means of private communication, monitor a domestic worker's  
20 private communications, or take any of the domestic worker's  
21 documents or other personal effects.

22 Section 40. Recordkeeping requirements.

23 (a) An employer subject to any provision of this Act shall  
24 make and preserve records in accordance with 29 CFR 516 and

1 552.110, and any successor rule.

2 (b) An employer shall, upon the oral request of a current  
3 or former employee or his or her representative, make the  
4 records available for inspection and copying by a current or  
5 former employee or his or her representative at an agreed upon  
6 location and time within 7 calendar days after such a request.  
7 If, however, the employer can reasonably show such deadline  
8 cannot be met, the employer shall have an additional 7 days to  
9 comply. An employer may charge a fee for providing a copy of  
10 such information. The fee shall be limited to the actual cost  
11 of duplicating the information.

12 (c) In the absence of employer records, a domestic worker  
13 may not be denied recovery of wages or final compensation on  
14 the basis that the domestic worker is unable to prove the  
15 precise extent of uncompensated work or final compensation. If  
16 an employer requires evidence of hours worked for other  
17 employers, a sworn statement by the employee stating that he or  
18 she has performed or is scheduled to perform domestic work for  
19 more than 8 hours in the aggregate for the relevant workweek  
20 shall satisfy any documentation requirements of hours worked  
21 under this Act. An employer that requires evidence of hours  
22 worked must give the domestic worker written notice of such  
23 request and allow no less than 10 days or until the next  
24 scheduled work day, whichever is greater, for the domestic  
25 worker to comply.

1 Section 45. Notice and written contract.

2 (a) The Department shall create a sample written notice and  
3 a sample written contract in English, Spanish, and Polish, and  
4 shall make the documents available for retrieval at no charge  
5 from the Department's website. No notice or written contract  
6 shall limit or diminish the scope of this Act or any rights,  
7 privileges, or remedies of a domestic worker provided under  
8 this Act, or under any other local, State, or federal law or  
9 relevant collective bargaining agreement.

10 (b) An employer shall notify all domestic workers and, upon  
11 oral request, disclose in writing, the following information,  
12 when an offer of employment is made to a domestic worker:

13 (1) the starting date, time, and place of employment;

14 (2) the wage rates to be paid, including overtime;

15 (3) the frequency of the payment of wages;

16 (4) the kinds of domestic work for which the domestic  
17 worker may be employed;

18 (5) the hours per day, days per week, days of the week  
19 that are work days, and period of employment, including any  
20 meal breaks and rest periods; where work hours are  
21 irregular from day to day or week to week by mutual  
22 agreement, an average monthly work schedule may satisfy  
23 this requirement;

24 (6) notice and leave policies for both paid and unpaid  
25 time off, including involuntary time off for the domestic  
26 worker;

1           (7) changes in scheduled work time, termination and  
2 severance pay policies;

3           (8) any employee benefit to be provided, and any costs  
4 to be charged for each benefit;

5           (9) any other terms and conditions of employment,  
6 including any workplace hazards that may make the domestic  
7 worker vulnerable to illnesses and other physical  
8 problems;

9           (10) contact information for the employer and the  
10 domestic worker to enable the best way to communicate,  
11 particularly in the event of an emergency or change in  
12 schedule;

13           (11) the employer's contact information, including his  
14 or her full name, mailing address, and phone numbers; and

15           (12) any provision included in a relevant collective  
16 bargaining agreement, if applicable.

17           (c) If the domestic worker works for one employer more than  
18 8 hours in any workweek on a regular basis, the employer shall  
19 provide a written contract. The contract shall be presented to  
20 the domestic worker no later than the first day of employment  
21 and shall be signed by both the employer and the domestic  
22 worker within 10 calendar days after the first day of  
23 employment. A new contract shall be signed when there is a  
24 material change in the terms of employment. The contract shall  
25 include:

26           (1) the name of the domestic worker and the name of the

1 employer;

2 (2) the starting date, time, and place of employment;

3 (3) the rate of pay including overtime and additional  
4 compensation for added duties or multilingual skills;

5 (4) the frequency of the payment of wages;

6 (5) the hours per day, days per week, days of the week  
7 that are work days, and where applicable, meal breaks and  
8 rest periods, paid and unpaid time off, vacations and  
9 holidays, and any foreseeable changes in work schedule,  
10 such as a reduction or increase in hours per week or weeks  
11 per month;

12 (6) any benefits the employer provides and any costs  
13 the domestic worker is expected to pay associated with  
14 those benefits such as health insurance, if any;

15 (7) a description of the living accommodations  
16 provided by the employer and policies on vacating the  
17 premises;

18 (8) the kinds of domestic work for which the domestic  
19 worker may be employed;

20 (9) the process for addressing increasing wages and the  
21 process for addressing grievances;

22 (10) the right to privacy as required under Section 35  
23 of this Act;

24 (11) changes in scheduled work time, and termination  
25 and severance pay policies;

26 (12) the contract period;

1           (13) the policies for reimbursement for work-related  
2 expenses;

3           (14) any other terms and conditions of employment  
4 including workplace hazards that may make the domestic  
5 worker vulnerable to illnesses and other physical  
6 problems;

7           (15) any other rights or benefits afforded to the  
8 domestic worker, including State and federal employment  
9 taxes paid or to be paid by the employer related to the  
10 domestic worker's employment and notice of employment  
11 rights in State law;

12           (16) contact information for the employer and the  
13 domestic worker to enable the best way to communicate,  
14 particularly in the event of an emergency or change in  
15 schedule;

16           (17) the employer's contact information, including his  
17 or her full name, mailing address, and phone numbers; and

18           (18) any provision included in a relevant collective  
19 bargaining agreement, if applicable.

20           If a valid written contract that complies with this Section  
21 is entered into by an individual domestic worker and an  
22 employer, the written contract may include an alternative  
23 reasonable agreement as to certain provisions of this Act, as  
24 indicated in those Sections, as long as the domestic worker is  
25 compensated for all work time.

1 Section 50. Prohibited acts.

2 (a) It is unlawful and a violation of this Act for any  
3 employer or any other person to discharge, threaten, penalize,  
4 or in any other manner discriminate, retaliate, or take any  
5 adverse action against an employee, because the employee or a  
6 person or organization acting on the employee's behalf:

7 (1) exercises rights or attempts to exercise rights  
8 under this Act;

9 (2) opposes practices such employee believes to be in  
10 violation of this Act; or

11 (3) supports the exercise of rights under this Act.

12 (b) Exercising rights, opposing practices, or supporting  
13 the exercise of rights under this Act includes:

14 (1) filing an action or instituting or causing to be  
15 instituted any proceeding under or related to this Act;

16 (2) providing or preparing to provide any information  
17 in connection with any inquiry or proceeding relating to  
18 any right provided under this Act;

19 (3) testifying or preparing to testify in any inquiry  
20 or proceeding relating to any right provided under this  
21 Act, in a public hearing, or to a community organization;  
22 or

23 (4) informing any other person that his or her employer  
24 engages in conduct that the employee reasonably and in good  
25 faith believes violates any provisions of this Act.

26 (c) An agreement by an employee to waive his or her rights



1 under this Act is void as against public policy. The benefits  
2 provided to employees under this Act may not be diminished by a  
3 collective bargaining agreement or an employment benefit  
4 program or plan entered into or renewed after the effective  
5 date of this Act.

6 (d) It is unlawful for an employer to interfere with,  
7 restrain, or deny the exercise of or the attempt to exercise  
8 any right provided under or in connection with this Act  
9 including using the taking of paid time off as a negative  
10 factor in an employment action such as hiring, termination,  
11 evaluation, promotion, discipline, or counting the paid time  
12 off under a no-fault attendance policy.

13 Section 55. Enforcement.

14 (a) A domestic worker aggrieved by a violation of this Act  
15 or any rule adopted under this Act shall be entitled to recover  
16 any appropriate damages or other relief set forth in subsection  
17 (b) of this Section in a civil action or through a claim filed  
18 with the Department. Actions may be brought by one or more  
19 domestic workers for and on behalf of themselves and other  
20 domestic workers similarly situated. Any such action shall be  
21 brought no more than 3 years after the date of the last event  
22 that constitutes an alleged violation for which the action is  
23 brought.

24 (b) A domestic worker aggrieved by a violation of this Act  
25 or any rule adopted under this Act shall be entitled to

1 recover:

2 (1) all actual and compensatory damages including the  
3 amount of any wages, compensation, or benefits owed or  
4 other compensation denied or lost to the person by reason  
5 of the violation, with interest at the prevailing rate as  
6 is necessary to remedy violations of this Act, as well as  
7 punitive damages;

8 (2) any equitable relief as may be appropriate; and

9 (3) reasonable attorney's fees, reasonable expert  
10 witness fees, and other costs of the action.

11 (c) Any employer that the Department or a court finds by a  
12 preponderance of the evidence to have knowingly, repeatedly, or  
13 with reckless disregard violated any provision of this Act or  
14 any rule adopted under this Act is subject to civil money  
15 penalty of (1) up to \$250 for each separate offense if the  
16 other relief imposed under subsection (b) is \$1,000 or less or  
17 (2) a minimum of \$250 and up to \$3,000 for each separate  
18 offense if the damages or other relief imposed under subsection  
19 (b) is more than \$1,000. In determining the amount of the  
20 penalty, the gravity of the violation shall be considered. Any  
21 assessed penalties are payable to the domestic worker and shall  
22 include interest at the prevailing rate necessary to remedy  
23 violations of this Act.

24 (d) Claims filed in circuit court shall be filed in the  
25 county where the alleged violation occurred or where any  
26 domestic worker who is a party to this action resides, without

1 regard to exhaustion of remedies provided in this Act.

2 (e) Claims filed under this Act with the Department shall  
3 be subject to the administrative procedures set forth herein  
4 and by rule for the enforcement of this Act. For claims brought  
5 at the same time before the Department under this Act and the  
6 Minimum Wage Law or the One Day Rest in Seven Act, it shall be  
7 the decision of the domestic worker whether or not to proceed  
8 under the administrative enforcement procedures set forth in  
9 the Minimum Wage Law or the One Day Rest in Seven Act or to  
10 proceed under the administrative procedures set forth herein  
11 and by rule for the enforcement of this Act.

12 (f) The Department shall have the power to conduct  
13 investigations in connection with the administration and  
14 enforcement of this Act. The Director or his or her  
15 representative may compel by subpoena, the attendance and  
16 testimony of witnesses and the production of books, payrolls,  
17 records, papers, and other evidence in any investigation and  
18 may administer oaths to witnesses. If, upon investigation, the  
19 Department finds cause to believe that this Act has been  
20 violated, the Department shall notify the parties, in writing,  
21 and the matter shall be referred to an Administrative Law Judge  
22 to schedule a formal hearing in accordance with hearing  
23 procedures established by rule.

24 Where the Department has found that an employer has failed  
25 to pay wages or overtime to an employee as required by the  
26 Minimum Wage Law, the employee shall be entitled to receive the

1 penalties provided under the Minimum Wage Law.

2 Any employer who has been ordered to pay wages, benefits,  
3 and other compensation or other relief due under this Act or  
4 under the Minimum Wage Law or the One Day Rest in Seven Act,  
5 when the administrative procedures of those Acts have been  
6 waived as provided in subsection (e), and who fails to seek  
7 timely review of such an order as provided under this Act and  
8 who fails to comply within 15 calendar days after such demand  
9 or within 35 days of an administrative or court order is  
10 entered shall also be liable to pay a penalty to the Department  
11 of 20% of the amount found owing. All moneys recovered as fees  
12 and penalties by the Department under this Act, except those  
13 owing to the affected employee, shall be deposited into the  
14 Domestic Workers' Fund, a special fund created in the State  
15 treasury. Money in the Fund shall be used by the Department for  
16 administration, investigation, and other expenses incurred in  
17 carrying out its duties under this Act.

18 A final decision of an Administrative Law Judge issued  
19 pursuant to this Section is subject to the provisions of the  
20 Administrative Review Law and shall be enforceable in an action  
21 brought in the name of the people of the State of Illinois by  
22 the Attorney General.

23 Section 60. Administrative authority. The Department shall  
24 administer and enforce this Act. The Director shall adopt rules  
25 necessary to administer and enforce this Act in accordance with

1 the Illinois Administrative Procedure Act.

2 Section 65. Construction. Nothing in this Act shall be  
3 construed to affect any policies or practices of an employer  
4 that provides greater, additional or more generous wages,  
5 benefits or working conditions to a domestic worker than those  
6 required under this Act.

7 Section 97. Severability. The provisions of this Act are  
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 135. The State Finance Act is amended by adding  
10 Section 5.866 as follows:

11 (30 ILCS 105/5.866 new)

12 Sec. 5.866. The Domestic Workers' Fund.

13 Section 140. The Illinois Human Rights Act is amended by  
14 changing Section 2-101 as follows:

15 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)

16 Sec. 2-101. Definitions. The following definitions are  
17 applicable strictly in the context of this Article.

18 (A) Employee.

19 (1) "Employee" includes:

20 (a) Any individual performing services for

1 remuneration within this State for an employer;

2 (b) An apprentice;

3 (c) An applicant for any apprenticeship.

4 For purposes of subsection (D) of Section 2-102 of this  
5 Act, "employee" also includes an unpaid intern. An unpaid  
6 intern is a person who performs work for an employer under  
7 the following circumstances:

8 (i) the employer is not committed to hiring the  
9 person performing the work at the conclusion of the  
10 intern's tenure;

11 (ii) the employer and the person performing the  
12 work agree that the person is not entitled to wages for  
13 the work performed; and

14 (iii) the work performed:

15 (I) supplements training given in an  
16 educational environment that may enhance the  
17 employability of the intern;

18 (II) provides experience for the benefit of  
19 the person performing the work;

20 (III) does not displace regular employees;

21 (IV) is performed under the close supervision  
22 of existing staff; and

23 (V) provides no immediate advantage to the  
24 employer providing the training and may  
25 occasionally impede the operations of the  
26 employer.

1 (2) "Employee" does not include:

2 (a) (Blank); ~~Domestic servants in private homes;~~

3 (b) Individuals employed by persons who are not  
4 "employers" as defined by this Act;

5 (c) Elected public officials or the members of  
6 their immediate personal staffs;

7 (d) Principal administrative officers of the State  
8 or of any political subdivision, municipal corporation  
9 or other governmental unit or agency;

10 (e) A person in a vocational rehabilitation  
11 facility certified under federal law who has been  
12 designated an evaluatee, trainee, or work activity  
13 client.

14 (B) Employer.

15 (1) "Employer" includes:

16 (a) Any person employing 15 or more employees  
17 within Illinois during 20 or more calendar weeks within  
18 the calendar year of or preceding the alleged  
19 violation;

20 (b) Any person employing one or more employees when  
21 a complainant alleges civil rights violation due to  
22 unlawful discrimination based upon his or her physical  
23 or mental disability unrelated to ability, pregnancy,  
24 or sexual harassment;

25 (c) The State and any political subdivision,  
26 municipal corporation or other governmental unit or

1 agency, without regard to the number of employees;

2 (d) Any party to a public contract without regard  
3 to the number of employees;

4 (e) A joint apprenticeship or training committee  
5 without regard to the number of employees.

6 (2) "Employer" does not include any religious  
7 corporation, association, educational institution,  
8 society, or non-profit nursing institution conducted by  
9 and for those who rely upon treatment by prayer through  
10 spiritual means in accordance with the tenets of a  
11 recognized church or religious denomination with respect  
12 to the employment of individuals of a particular religion  
13 to perform work connected with the carrying on by such  
14 corporation, association, educational institution, society  
15 or non-profit nursing institution of its activities.

16 (C) Employment Agency. "Employment Agency" includes both  
17 public and private employment agencies and any person, labor  
18 organization, or labor union having a hiring hall or hiring  
19 office regularly undertaking, with or without compensation, to  
20 procure opportunities to work, or to procure, recruit, refer or  
21 place employees.

22 (D) Labor Organization. "Labor Organization" includes any  
23 organization, labor union, craft union, or any voluntary  
24 unincorporated association designed to further the cause of the  
25 rights of union labor which is constituted for the purpose, in  
26 whole or in part, of collective bargaining or of dealing with



1 employers concerning grievances, terms or conditions of  
2 employment, or apprenticeships or applications for  
3 apprenticeships, or of other mutual aid or protection in  
4 connection with employment, including apprenticeships or  
5 applications for apprenticeships.

6 (E) Sexual Harassment. "Sexual harassment" means any  
7 unwelcome sexual advances or requests for sexual favors or any  
8 conduct of a sexual nature when (1) submission to such conduct  
9 is made either explicitly or implicitly a term or condition of  
10 an individual's employment, (2) submission to or rejection of  
11 such conduct by an individual is used as the basis for  
12 employment decisions affecting such individual, or (3) such  
13 conduct has the purpose or effect of substantially interfering  
14 with an individual's work performance or creating an  
15 intimidating, hostile or offensive working environment.

16 (F) Religion. "Religion" with respect to employers  
17 includes all aspects of religious observance and practice, as  
18 well as belief, unless an employer demonstrates that he is  
19 unable to reasonably accommodate an employee's or prospective  
20 employee's religious observance or practice without undue  
21 hardship on the conduct of the employer's business.

22 (G) Public Employer. "Public employer" means the State, an  
23 agency or department thereof, unit of local government, school  
24 district, instrumentality or political subdivision.

25 (H) Public Employee. "Public employee" means an employee of  
26 the State, agency or department thereof, unit of local

1 government, school district, instrumentality or political  
2 subdivision. "Public employee" does not include public  
3 officers or employees of the General Assembly or agencies  
4 thereof.

5 (I) Public Officer. "Public officer" means a person who is  
6 elected to office pursuant to the Constitution or a statute or  
7 ordinance, or who is appointed to an office which is  
8 established, and the qualifications and duties of which are  
9 prescribed, by the Constitution or a statute or ordinance, to  
10 discharge a public duty for the State, agency or department  
11 thereof, unit of local government, school district,  
12 instrumentality or political subdivision.

13 (J) Eligible Bidder. "Eligible bidder" means a person who,  
14 prior to a bid opening, has filed with the Department a  
15 properly completed, sworn and currently valid employer report  
16 form, pursuant to the Department's regulations. The provisions  
17 of this Article relating to eligible bidders apply only to bids  
18 on contracts with the State and its departments, agencies,  
19 boards, and commissions, and the provisions do not apply to  
20 bids on contracts with units of local government or school  
21 districts.

22 (K) Citizenship Status. "Citizenship status" means the  
23 status of being:

- 24 (1) a born U.S. citizen;  
25 (2) a naturalized U.S. citizen;  
26 (3) a U.S. national; or

1           (4) a person born outside the United States and not a  
2           U.S. citizen who is not an unauthorized alien and who is  
3           protected from discrimination under the provisions of  
4           Section 1324b of Title 8 of the United States Code, as now  
5           or hereafter amended.

6           (Source: P.A. 97-877, eff. 8-2-12; 98-1037, eff. 1-1-15;  
7           98-1050, eff. 1-1-15; revised 10-3-14.)

8           Section 145. The Minimum Wage Law is amended by changing  
9           Section 3 as follows:

10           (820 ILCS 105/3) (from Ch. 48, par. 1003)

11           Sec. 3. As used in this Act:

12           (a) "Director" means the Director of the Department of  
13           Labor, and "Department" means the Department of Labor.

14           (b) "Wages" means compensation due to an employee by reason  
15           of his employment, including allowances determined by the  
16           Director in accordance with the provisions of this Act for  
17           gratuities and, when furnished by the employer, for meals and  
18           lodging actually used by the employee.

19           (c) "Employer" includes any individual, partnership,  
20           association, corporation, limited liability company, business  
21           trust, governmental or quasi-governmental body, or any person  
22           or group of persons acting directly or indirectly in the  
23           interest of an employer in relation to an employee, for which  
24           one or more persons are gainfully employed on some day within a

1 calendar year. An employer is subject to this Act in a calendar  
2 year on and after the first day in such calendar year in which  
3 he employs one or more persons, and for the following calendar  
4 year.

5 (d) "Employee" includes any individual permitted to work by  
6 an employer in an occupation, and includes, notwithstanding  
7 subdivision (1) of this subsection (d), one or more domestic  
8 workers as defined in Section 10 of the Domestic Workers' Bill  
9 of Rights Act, but does not include any individual permitted to  
10 work:

11 (1) For an employer employing fewer than 4 employees  
12 exclusive of the employer's parent, spouse or child or  
13 other members of his immediate family.

14 (2) As an employee employed in agriculture or  
15 aquaculture (A) if such employee is employed by an employer  
16 who did not, during any calendar quarter during the  
17 preceding calendar year, use more than 500 man-days of  
18 agricultural or aquacultural labor, (B) if such employee is  
19 the parent, spouse or child, or other member of the  
20 employer's immediate family, (C) if such employee (i) is  
21 employed as a hand harvest laborer and is paid on a piece  
22 rate basis in an operation which has been, and is  
23 customarily and generally recognized as having been, paid  
24 on a piece rate basis in the region of employment, (ii)  
25 commutes daily from his permanent residence to the farm on  
26 which he is so employed, and (iii) has been employed in

1 agriculture less than 13 weeks during the preceding  
2 calendar year, (D) if such employee (other than an employee  
3 described in clause (C) of this subparagraph): (i) is 16  
4 years of age or under and is employed as a hand harvest  
5 laborer, is paid on a piece rate basis in an operation  
6 which has been, and is customarily and generally recognized  
7 as having been, paid on a piece rate basis in the region of  
8 employment, (ii) is employed on the same farm as his parent  
9 or person standing in the place of his parent, and (iii) is  
10 paid at the same piece rate as employees over 16 are paid  
11 on the same farm.

12 (3) (Blank). ~~In domestic service in or about a private~~  
13 ~~home.~~

14 (4) As an outside salesman.

15 (5) As a member of a religious corporation or  
16 organization.

17 (6) At an accredited Illinois college or university  
18 employed by the college or university at which he is a  
19 student who is covered under the provisions of the Fair  
20 Labor Standards Act of 1938, as heretofore or hereafter  
21 amended.

22 (7) For a motor carrier and with respect to whom the  
23 U.S. Secretary of Transportation has the power to establish  
24 qualifications and maximum hours of service under the  
25 provisions of Title 49 U.S.C. or the State of Illinois  
26 under Section 18b-105 (Title 92 of the Illinois

1 Administrative Code, Part 395 - Hours of Service of  
2 Drivers) of the Illinois Vehicle Code.

3 The above exclusions from the term "employee" may be  
4 further defined by regulations of the Director.

5 (e) "Occupation" means an industry, trade, business or  
6 class of work in which employees are gainfully employed.

7 (f) "Gratuities" means voluntary monetary contributions to  
8 an employee from a guest, patron or customer in connection with  
9 services rendered.

10 (g) "Outside salesman" means an employee regularly engaged  
11 in making sales or obtaining orders or contracts for services  
12 where a major portion of such duties are performed away from  
13 his employer's place of business.

14 (h) "Day camp" means a seasonal recreation program in  
15 operation for no more than 16 weeks intermittently throughout  
16 the calendar year, accommodating for profit or under  
17 philanthropic or charitable auspices, 5 or more children under  
18 18 years of age, not including overnight programs. The term  
19 "day camp" does not include a "day care agency", "child care  
20 facility" or "foster family home" as licensed by the Illinois  
21 Department of Children and Family Services.

22 (Source: P.A. 94-1025, eff. 7-14-06; 95-945, eff. 1-1-09.)

23 Section 150. The Wages of Women and Minors Act is amended  
24 by changing Section 1 as follows:

1 (820 ILCS 125/1) (from Ch. 48, par. 198.1)

2 Sec. 1. As used in this Act:

3 "Department" means the Department of Labor.

4 "Director" means the Director of the Department of Labor.

5 "Wage Board" means a board created as provided in this Act.

6 "Woman" means a female of 18 years or over.

7 "Minor" means a person under the age of 18 years.

8 "Occupation" means an industry, trade or business or branch  
9 thereof or class of work therein in which women or minors are  
10 gainfully employed, but does not include ~~domestic service in~~  
11 ~~the home of the employer or~~ labor on a farm.

12 "An oppressive and unreasonable wage" means a wage which is  
13 both less than the fair and reasonable value of the services  
14 rendered and less than sufficient to meet the minimum cost of  
15 living necessary for health.

16 "A fair wage" means a wage fairly and reasonably  
17 commensurate with the value of the services or class of service  
18 rendered. In establishing a minimum fair wage for any service  
19 or class of service under this Act the Department and the wage  
20 board without being bound by any technical rules of evidence or  
21 procedure (1) may take into account all relevant circumstances  
22 affecting the value of the service or class of service  
23 rendered, and (2) may be guided by like considerations as would  
24 guide a court in a suit for the reasonable value of services  
25 rendered where services are rendered at the request of an  
26 employer without contract as to the amount of the wage to be

1 paid, and (3) may consider the wages paid in the State for work  
2 of like or comparable character by employers who voluntarily  
3 maintain minimum fair wage standards.

4 "A directory order" means an order the nonobservance of  
5 which may be published as provided in Section 9 of this Act.

6 "A mandatory order" means an order the violation of which  
7 is subject to the penalties prescribed in paragraph 2 of  
8 Section 15 of this Act.

9 (Source: P.A. 91-357, eff. 7-29-99.)

10 Section 155. The One Day Rest In Seven Act is amended by  
11 changing Section 2 as follows:

12 (820 ILCS 140/2) (from Ch. 48, par. 8b)

13 Sec. 2. Hours and days of rest in every calendar week.

14 (a) Every employer shall allow every employee except those  
15 specified in this Section at least twenty-four consecutive  
16 hours of rest in every calendar week in addition to the regular  
17 period of rest allowed at the close of each working day.

18 A person employed as a domestic worker, as defined in  
19 Section 10 of the Domestic Workers' Bill of Rights Act, shall  
20 be allowed at least 24 consecutive hours of rest in every  
21 calendar week. This subsection (a) does not prohibit a domestic  
22 worker from voluntarily agreeing to work on such day of rest  
23 required by this subsection (a) if the worker is compensated at  
24 the overtime rate for all hours worked on such day of rest. The



1 day of rest authorized under this subsection (a) should,  
2 whenever possible, coincide with the traditional day reserved  
3 by the domestic worker for religious worship.

4 (b) Subsection (a) ~~This Section~~ does not apply to the  
5 following:

6 (1) Part-time employees whose total work hours for one  
7 employer during a calendar week do not exceed 20; and

8 (2) Employees needed in case of breakdown of machinery or  
9 equipment or other emergency requiring the immediate services  
10 of experienced and competent labor to prevent injury to person,  
11 damage to property, or suspension of necessary operation; and

12 (3) Employees employed in agriculture or coal mining; and

13 (4) Employees engaged in the occupation of canning and  
14 processing perishable agricultural products, if such employees  
15 are employed by an employer in such occupation on a seasonal  
16 basis and for not more than 20 weeks during any calendar year  
17 or 12 month period; and

18 (5) Employees employed as watchmen or security guards; and

19 (6) Employees who are employed in a bonafide executive,  
20 administrative, or professional capacity or in the capacity of  
21 an outside salesman, as defined in Section 12 (a) (1) of the  
22 federal Fair Labor Standards Act, as amended, and those  
23 employed as supervisors as defined in Section 2 (11) of the  
24 National Labor Relations Act, as amended; and

25 (7) Employees who are employed as crew members of any  
26 uninspected towing vessel, as defined by Section 2101(40) of

1 Title 46 of the United States Code, operating in any navigable  
2 waters in or along the boundaries of the State of Illinois.  
3 (Source: P.A. 92-623, eff. 7-11-02.)

4 Section 999. Effective date. This Act takes effect upon  
5 becoming law.".