

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 vulnerable workforce in the State. Workforce projections are
18 one of growth for domestic workers, but the lack of decent pay
19 and other workplace protections undermines the likelihood of
20 building and maintaining a reliable and experienced workforce
21 that is able to meet the needs of Illinois families. Therefore,
22 the General Assembly finds that because domestic workers care
23 for the most important elements of Illinoisans' lives, our

1 families and our homes, it is in the interest of employees,
2 employers, and the people of Illinois to ensure that the rights
3 of domestic workers are respected, protected, and enforced and
4 that this Act shall be interpreted liberally to aid this
5 purpose.

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

7 "Domestic work" means:

8 (1) housekeeping;

9 (2) house cleaning;

10 (3) home management;

11 (4) nanny services including childcare and child
12 monitoring;

13 (5) caregiving, personal care or home health services
14 for elderly persons or persons with an illness, injury, or
15 disability who require assistance in caring for
16 themselves;

17 (6) laundering;

18 (7) cooking;

19 (8) companion services;

20 (9) chauffeuring; or

21 (10) other household services for members of
22 households or their guests in or about a private home or
23 residence or any other location where the domestic work is
24 performed.

25 "Domestic worker" means a person employed to perform

1 domestic work. "Domestic worker" does not include: (i) a person
2 performing domestic work who is the employer's parent, spouse,
3 child, or other member of his or her immediate family,
4 exclusive of individuals whose primary work duties are
5 caregiving, companion services, personal care or home health
6 services for elderly persons or persons with an illness,
7 injury, or disability who require assistance in caring for
8 themselves; (ii) child and day care home providers
9 participating in the child care assistance program under
10 Section 9A-11 of the Illinois Public Aid Code; (iii) a person
11 who is employed by one or more employers in or about a private
12 home or residence or any other location where the domestic work
13 is performed for 8 hours or less in the aggregate in any
14 workweek on a regular basis, exclusive of individuals whose
15 primary work duties are caregiving, companion services,
16 personal care or home health services for elderly persons or
17 persons with an illness, injury, or disability who require
18 assistance in caring for themselves; or (iv) a person who the
19 employer establishes: (A) has been and will continue to be free
20 from control and direction over the performance of his or her
21 work, both under a contract of service and in fact; (B) is
22 engaged in an independently established trade, occupation,
23 profession or business; or (C) is deemed a legitimate sole
24 proprietor or partnership. A sole proprietor or partnership
25 shall be deemed to be legitimate if the employer establishes
26 that:

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

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

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

13 (4) the sole proprietor or partnership owns the capital
14 goods and gains the profits and bears the losses of the
15 sole proprietorship or partnership;

16 (5) the sole proprietor or partnership makes its
17 services available to the general public on a continuing
18 basis;

19 (6) the sole proprietor or partnership includes
20 services rendered on a Federal Income Tax Schedule as an
21 independent business or profession;

22 (7) the sole proprietor or partnership performs
23 services for the contractor under the sole
24 proprietorship's or partnership's name;

25 (8) when the services being provided require a license
26 or permit, the sole proprietor or partnership obtains and

1 pays for the license or permit in the sole proprietorship's
2 or partnership's name;

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

5 (10) if necessary, the sole proprietor or partnership
6 hires its own employees without approval of the employer,
7 pays the employees without reimbursement from the employer
8 and reports the employees' income to the Internal Revenue
9 Service;

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

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

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

17 "Employee" means a domestic worker.

18 "Employer" means: any individual; partnership;
19 association; corporation; limited liability company; business
20 trust; employment and labor placement agency where wages are
21 made directly or indirectly by the agency or business for work
22 undertaken by employees under hire to a third party pursuant to
23 a contract between the business or agency with the third party;
24 the State of Illinois and local governments, or any political
25 subdivision of the State or local government, or State or local
26 government agency; for which one or more persons is gainfully

1 employed, express or implied, whether lawfully or unlawfully
2 employed, who employs a domestic worker or who exercises
3 control over the domestic worker's wage, remuneration, or other
4 compensation, hours of employment, place of employment, or
5 working conditions, or whose agent or any other person or group
6 of persons acting directly or indirectly in the interest of an
7 employer in relation to the employee exercises control over the
8 domestic worker's wage, remuneration or other compensation,
9 hours of employment, place of employment, or working
10 conditions.

11 Section 90. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 92. 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
21 remuneration within this State for an employer;

22 (b) An apprentice;

23 (c) An applicant for any apprenticeship.

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

5 (i) the employer is not committed to hiring the
6 person performing the work at the conclusion of the
7 intern's tenure;

8 (ii) the employer and the person performing the
9 work agree that the person is not entitled to wages for
10 the work performed; and

11 (iii) the work performed:

12 (I) supplements training given in an
13 educational environment that may enhance the
14 employability of the intern;

15 (II) provides experience for the benefit of
16 the person performing the work;

17 (III) does not displace regular employees;

18 (IV) is performed under the close supervision
19 of existing staff; and

20 (V) provides no immediate advantage to the
21 employer providing the training and may
22 occasionally impede the operations of the
23 employer.

24 (2) "Employee" does not include:

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

26 (b) Individuals employed by persons who are not

1 "employers" as defined by this Act;

2 (c) Elected public officials or the members of
3 their immediate personal staffs;

4 (d) Principal administrative officers of the State
5 or of any political subdivision, municipal corporation
6 or other governmental unit or agency;

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

11 (B) Employer.

12 (1) "Employer" includes:

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

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

22 (c) The State and any political subdivision,
23 municipal corporation or other governmental unit or
24 agency, without regard to the number of employees;

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

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

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

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

19 (D) Labor Organization. "Labor Organization" includes any
20 organization, labor union, craft union, or any voluntary
21 unincorporated association designed to further the cause of the
22 rights of union labor which is constituted for the purpose, in
23 whole or in part, of collective bargaining or of dealing with
24 employers concerning grievances, terms or conditions of
25 employment, or apprenticeships or applications for
26 apprenticeships, or of other mutual aid or protection in

1 connection with employment, including apprenticeships or
2 applications for apprenticeships.

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

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

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

22 (H) Public Employee. "Public employee" means an employee of
23 the State, agency or department thereof, unit of local
24 government, school district, instrumentality or political
25 subdivision. "Public employee" does not include public
26 officers or employees of the General Assembly or agencies

1 thereof.

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

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

19 (K) Citizenship Status. "Citizenship status" means the
20 status of being:

21 (1) a born U.S. citizen;

22 (2) a naturalized U.S. citizen;

23 (3) a U.S. national; or

24 (4) a person born outside the United States and not a
25 U.S. citizen who is not an unauthorized alien and who is
26 protected from discrimination under the provisions of

1 Section 1324b of Title 8 of the United States Code, as now
2 or hereafter amended.

3 (Source: P.A. 97-877, eff. 8-2-12; 98-1037, eff. 1-1-15;
4 98-1050, eff. 1-1-15; revised 10-3-14.)

5 Section 93. The Minimum Wage Law is amended by changing
6 Section 3 as follows:

7 (820 ILCS 105/3) (from Ch. 48, par. 1003)

8 Sec. 3. As used in this Act:

9 (a) "Director" means the Director of the Department of
10 Labor, and "Department" means the Department of Labor.

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

16 (c) "Employer" includes any individual, partnership,
17 association, corporation, limited liability company, business
18 trust, governmental or quasi-governmental body, or any person
19 or group of persons acting directly or indirectly in the
20 interest of an employer in relation to an employee, for which
21 one or more persons are gainfully employed on some day within a
22 calendar year. An employer is subject to this Act in a calendar
23 year on and after the first day in such calendar year in which
24 he employs one or more persons, and for the following calendar

1 year.

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

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

11 (2) As an employee employed in agriculture or
12 aquaculture (A) if such employee is employed by an employer
13 who did not, during any calendar quarter during the
14 preceding calendar year, use more than 500 man-days of
15 agricultural or aquacultural labor, (B) if such employee is
16 the parent, spouse or child, or other member of the
17 employer's immediate family, (C) if such employee (i) is
18 employed as a hand harvest laborer and is paid on a piece
19 rate basis in an operation which has been, and is
20 customarily and generally recognized as having been, paid
21 on a piece rate basis in the region of employment, (ii)
22 commutes daily from his permanent residence to the farm on
23 which he is so employed, and (iii) has been employed in
24 agriculture less than 13 weeks during the preceding
25 calendar year, (D) if such employee (other than an employee
26 described in clause (C) of this subparagraph): (i) is 16

1 years of age or under and is employed as a hand harvest
2 laborer, is paid on a piece rate basis in an operation
3 which has been, and is customarily and generally recognized
4 as having been, paid on a piece rate basis in the region of
5 employment, (ii) is employed on the same farm as his parent
6 or person standing in the place of his parent, and (iii) is
7 paid at the same piece rate as employees over 16 are paid
8 on the same farm.

9 (3) (Blank). ~~In domestic service in or about a private~~
10 ~~home.~~

11 (4) As an outside salesman.

12 (5) As a member of a religious corporation or
13 organization.

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

19 (7) For a motor carrier and with respect to whom the
20 U.S. Secretary of Transportation has the power to establish
21 qualifications and maximum hours of service under the
22 provisions of Title 49 U.S.C. or the State of Illinois
23 under Section 18b-105 (Title 92 of the Illinois
24 Administrative Code, Part 395 - Hours of Service of
25 Drivers) of the Illinois Vehicle Code.

26 The above exclusions from the term "employee" may be

1 further defined by regulations of the Director.

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

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

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

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

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

20 Section 94. The Wages of Women and Minors Act is amended by
21 changing Section 1 as follows:

22 (820 ILCS 125/1) (from Ch. 48, par. 198.1)

23 Sec. 1. As used in this Act:

24 "Department" means the Department of Labor.

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

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

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

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

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

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

13 "A fair wage" means a wage fairly and reasonably
14 commensurate with the value of the services or class of service
15 rendered. In establishing a minimum fair wage for any service
16 or class of service under this Act the Department and the wage
17 board without being bound by any technical rules of evidence or
18 procedure (1) may take into account all relevant circumstances
19 affecting the value of the service or class of service
20 rendered, and (2) may be guided by like considerations as would
21 guide a court in a suit for the reasonable value of services
22 rendered where services are rendered at the request of an
23 employer without contract as to the amount of the wage to be
24 paid, and (3) may consider the wages paid in the State for work
25 of like or comparable character by employers who voluntarily
26 maintain minimum fair wage standards.

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

3 "A mandatory order" means an order the violation of which
4 is subject to the penalties prescribed in paragraph 2 of
5 Section 15 of this Act.

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

7 Section 95. The One Day Rest In Seven Act is amended by
8 changing Section 2 as follows:

9 (820 ILCS 140/2) (from Ch. 48, par. 8b)

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

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

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

1 (b) Subsection (a) ~~This Section~~ does not apply to the
2 following:

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

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

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

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

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

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

26 (7) Employees who are employed as crew members of any

1 uninspected towing vessel, as defined by Section 2101(40)
2 of Title 46 of the United States Code, operating in any
3 navigable waters in or along the boundaries of the State of
4 Illinois.

5 (Source: P.A. 92-623, eff. 7-11-02.)

6 Section 99. Effective date. This Act takes effect January
7 1, 2017.