



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3696

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.866 new

775 ILCS 5/2-101

820 ILCS 105/3

820 ILCS 125/1

820 ILCS 140/2

from Ch. 68, par. 2-101

from Ch. 48, par. 1003

from Ch. 48, par. 198.1

from Ch. 48, par. 8b

Creates the Domestic Workers' Bill of Rights Act. Provides for regulation of the relationship between employers and domestic workers. Imposes responsibilities upon employers and establishes requirements regarding pay, meal periods, sleeping periods, and other conditions of work. Provides for administration and enforcement by the Department of Labor. Creates the Domestic Workers' Fund, a special fund in the State treasury, for deposit of moneys recovered under the Act. Authorizes civil penalties and other relief. Makes changes in the State Finance Act, Illinois Human Rights Act, Minimum Wage Law, Wages of Women and Minors Act, and One Day Rest in Seven Act. Effective immediately.

LRB099 09372 JLS 29578 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 "Department" means the Department of Labor.

8 "Director" means the Director of Labor and his or her  
9 authorized representatives.

10 "Domestic work" means:

11 (1) housekeeping;

12 (2) house cleaning;

13 (3) home management;

14 (4) nanny services including childcare and child  
15 monitoring;

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

20 (6) laundering;

21 (7) cooking;

22 (8) companion services;

23 (9) chauffeuring; or

24 (10) other household services for members of  
25 households or their guests in or about a private home or

1 residence or any other location where the domestic work is  
2 performed.

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

1 proprietor or partnership. A sole proprietor or partnership  
2 shall be deemed to be legitimate if the employer establishes  
3 that:

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

9 (2) the sole proprietor or partnership is not subject  
10 to cancellation or destruction upon severance of the  
11 relationship with the employer;

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

16 (4) the sole proprietor or partnership owns the capital  
17 goods and gains the profits and bears the losses of the  
18 sole proprietorship or partnership;

19 (5) the sole proprietor or partnership makes its  
20 services available to the general public on a continuing  
21 basis;

22 (6) the sole proprietor or partnership includes  
23 services rendered on a Federal Income Tax Schedule as an  
24 independent business or profession;

25 (7) the sole proprietor or partnership performs  
26 services for the contractor under the sole

1 proprietorship's or partnership's name;

2 (8) when the services being provided require a license  
3 or permit, the sole proprietor or partnership obtains and  
4 pays for the license or permit in the sole proprietorship's  
5 or partnership's name;

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

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

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

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

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

20 "Employee" means a domestic worker.

21 "Employer" means: any individual; partnership;  
22 association; corporation; limited liability company; business  
23 trust; employment and labor placement agencies where wages are  
24 made directly or indirectly by the agency or business for work  
25 undertaken by employees under hire to a third party pursuant to  
26 a contract between the business or agency with the third party;

1 the State of Illinois and local governments, or any political  
2 subdivision of the State or local government, or State or local  
3 government agency; for which one or more persons is gainfully  
4 employed, express or implied, whether lawfully or unlawfully  
5 employed, who employs a domestic worker or who exercises  
6 control over the domestic worker's wage, remuneration, or other  
7 compensation, hours of employment, place of employment, or  
8 working conditions, or whose agent or any other person or group  
9 of persons acting directly or indirectly in the interest of an  
10 employer in relation to the employee exercises control over the  
11 domestic worker's wage, remuneration or other compensation,  
12 hours of employment, place of employment, or working  
13 conditions.

14 "Live-in domestic worker" means a domestic worker residing  
15 on the employer's premises during the tenure of employment for  
16 5 days or more per week on a regular basis, whether or not the  
17 domestic worker maintains a separate residence.

18 "Work time" means the time during which a domestic worker  
19 is suffered or permitted to work, whether or not required to do  
20 so, and whether or not any physical or mental exertion is  
21 expended by the domestic worker.

22 Section 15. Work time.

23 (a) An employer shall pay the domestic worker for all work  
24 time.

25 (b) Only a period during which a domestic worker is

1 completely relieved from duty and which is long enough to  
2 enable him or her to use the time effectively for his or her  
3 own purposes (at least 30 minutes) is not work time, such as a  
4 30 minute meal period. Periods of shorter duration must be  
5 counted as work time.

6 (c) When a domestic worker who is not a live-in domestic  
7 worker is on duty for a period of 24 consecutive hours or more  
8 on a regular basis, the employer and the domestic worker may  
9 agree in writing prior to performance of the work to exclude a  
10 regularly scheduled sleeping period of no more than 8 hours  
11 from work time for each 24-hour period. The written consent  
12 shall be part of a written contract if such contract is  
13 required under Section 45. The employer shall provide sleeping  
14 quarters that are adequate, decent, safe, and sanitary.

15 (d) If the sleeping time is interrupted by a call to duty,  
16 the interruption must be counted as work time. All meal, rest,  
17 and sleeping periods shall constitute work time unless  
18 otherwise agreed to in writing.

19 (e) All live-in domestic workers shall be provided a  
20 sleeping period of no more than 8 hours. If the sleeping period  
21 is interrupted by a call to duty, the interruption must be  
22 counted as work time. If the period is interrupted to such an  
23 extent that the employee cannot get at least 5 continuous hours  
24 of sleep during the scheduled period on a regular basis the  
25 entire time is work time.

26 (f) All wages must be paid within 30 days from the date of



1 any work time.

2 Section 20. Sleeping facilities, food and beverages, and  
3 costs.

4 (a) An employer shall not charge a domestic worker for the  
5 cost of lodging, food and beverages, equipment, uniforms,  
6 transportation, or other costs related to his or her employment  
7 unless the domestic worker voluntarily and freely accepts,  
8 desires, and actually uses such lodging, transportation,  
9 equipment, uniforms, or other costs related to his or her  
10 employment, or if such food and beverages are voluntarily and  
11 freely chosen and consumed by the domestic worker. The amount  
12 of these charges shall not individually nor in the aggregate  
13 result in the domestic worker earning or receiving less than  
14 the minimum wage for any work hour. Limited exceptions to  
15 earning or receiving less than the minimum wage may include the  
16 cost of benefits offered by the employer such as health  
17 insurance where the domestic worker has agreed in writing to  
18 contribute to a portion of the cost of the insurance premium.

19 (b) All live-in domestic workers shall be provided private  
20 quarters for sleeping and dressing typically used for that  
21 purpose, with reasonable access to bathroom, kitchen, and  
22 laundry facilities. No domestic worker shall be required to  
23 share a bed.

24 (c) Lodging under this Section must be in a condition that  
25 is safe, healthful, and fit for occupancy and in compliance

1 with terms of a lease, if any, and with the requirements of  
2 federal, State, and local law.

3 (d) Termination of a domestic worker's lodging with his or  
4 her employer is subject to a minimum of 14 days' notice to  
5 vacate. If such notice is not provided, the employer shall pay  
6 the domestic worker 14 days of pay at the regular rate on the  
7 date the domestic worker must vacate the lodging with his or  
8 her employer, in addition to any severance pay that is due the  
9 worker. Such notice need not be given nor payment made if an  
10 employer makes contributions on behalf of the domestic worker  
11 for unemployment insurance benefits as required under the  
12 Unemployment Insurance Act and, if such employer terminates or  
13 reduces the hours of the domestic worker, the domestic worker  
14 is eligible for and receives such benefits upon termination or  
15 reduction in hours. In addition, such notice need not be given  
16 nor payment made under limited and extraordinary  
17 circumstances, such as when there is probable cause the  
18 domestic worker has engaged in child or elder abuse as defined  
19 by Illinois law.

20 (e) An employer shall not employ a domestic worker for work  
21 time of more than 5 hours per scheduled work period or shift  
22 without the opportunity to eat a meal, whether during work time  
23 or not. The opportunity to eat a meal shall be provided no less  
24 than once in every 8 hours of consecutive work hours.

25 Section 25. Show-up time, scheduled work time, and

1 termination.

2 (a) Two hours of pay at the regular rate shall be paid to  
3 any domestic worker who reports to work but is not utilized for  
4 a minimum of 2 hours and has not received at least 2 hours  
5 prior notice to not report for work.

6 (b) Notwithstanding subsection (a), if an employer does not  
7 require the domestic worker to report to work for 2 or more  
8 consecutive scheduled work periods on a temporary basis for any  
9 reason, such as the employer's vacation, or any other change in  
10 the work time schedule on a temporary or permanent basis, the  
11 employer shall provide to the domestic worker notice at least 7  
12 days in advance of the first day the worker is not required to  
13 report to work or there is a change in schedule. If such notice  
14 is not provided, and the change in work hours results in fewer  
15 work hours, the domestic worker shall be paid the hours  
16 scheduled to work or 4 hours, whichever is greater, at the  
17 regular rate of pay and shall be paid for each subsequent day  
18 of involuntary time off if no notice is provided. In  
19 circumstances where the change in the work time schedule is not  
20 foreseeable by the employer, making advance notice impossible,  
21 notice shall be given as soon as practicable, but not longer  
22 than 24 hours after the worker was first scheduled for work but  
23 was not put to work. In that circumstance, the domestic worker  
24 shall be paid in accordance with subsection (a).

25 (c) If an employer terminates a domestic worker, the  
26 employer shall provide to the domestic worker notice of

1 termination at least 14 days in advance of the first day the  
2 worker is not required to report to work. If such notice is not  
3 provided to domestic workers who work 20 or more hours in any  
4 workweek on a regular basis for the terminating employer, the  
5 employer shall pay the domestic worker 14 days of severance pay  
6 at the regular rate of pay from the date of termination, to be  
7 paid no later than the day of termination. If such notice is  
8 not provided to domestic workers who work more than 8 hours and  
9 less than 20 hours in any workweek on a regular basis for the  
10 terminating employer, the employer shall pay the domestic  
11 worker 7 days of severance pay at the regular rate of pay from  
12 the date of termination, to be paid no later than the date of  
13 termination. The amount of severance pay shall be based upon  
14 the number of work hours per day and days per workweek the  
15 domestic worker works on a regular basis. Such notice need not  
16 be given nor severance payment made if an employer makes  
17 contributions on behalf of the domestic worker for unemployment  
18 insurance benefits as required under the Unemployment  
19 Insurance Act and, if such employer terminates or reduces the  
20 hours of the domestic worker, the domestic worker is eligible  
21 for and receives such benefits upon termination or reduction in  
22 hours. Furthermore, such notice need not be given nor is  
23 severance pay required under limited and extraordinary  
24 circumstances, such as when there is probable cause the  
25 domestic worker has engaged in child or elder abuse as defined  
26 by Illinois law.

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

3           Section 30. Paid time off.

4           (a) If a domestic worker works for one employer more than 8  
5 hours in any workweek on a regular basis, the employer shall  
6 provide paid time off.

7           (b) Paid time off shall accrue at the rate of one hour of  
8 paid time off for every 40 hours of work time for one employer  
9 up to the maximum of 40 hours paid time off. Paid time off  
10 shall be accrued from the first day of employment, but may not  
11 be used until 6 months from the first day of employment, unless  
12 the employer agrees. Once the employee has worked for 6 months,  
13 paid time off may be used as accrued, or be loaned by the  
14 employer, at its discretion, to the employee in advance of such  
15 accrual. If an employer has loaned paid time off in advance of  
16 accrual, an employer shall not require a domestic worker to  
17 reimburse it for any unearned paid time off. Paid time off  
18 shall be permitted to be used in hourly increments. It is up to  
19 the domestic worker to determine when and how much accrued paid  
20 time off to take under this Act. However, paid time off shall  
21 not be used for more than 3 consecutive weeks if it results in  
22 a complete absence from employment from the employer subject to  
23 the paid time off, unless the employer agrees. Paid time off  
24 shall be provided upon the oral request of the domestic worker  
25 and for any purpose of the domestic worker's choosing. If the

1 necessity for paid time off is foreseeable, the domestic worker  
2 shall provide the employer with not less than 7 days' oral  
3 notice before the date the leave is to begin. If the necessity  
4 for leave is not foreseeable, the domestic worker shall provide  
5 such notice as soon as is practical after the domestic worker  
6 is aware of the necessity of such leave. The employer may not  
7 require, as a condition of providing paid time off under this  
8 Act, that the domestic worker search for or find a replacement  
9 worker to cover the hours during which the domestic worker is  
10 on paid time off leave.

11 (c) Paid time off shall carry over annually to the extent  
12 not used by the domestic worker; however, nothing in this Act  
13 shall be construed to require an employer to allow a worker to  
14 use more than 40 hours of paid time off in a year unless an  
15 employer agrees to do so.

16 (d) Upon oral request, an employer shall provide to a  
17 domestic worker an annual statement in writing indicating the  
18 amount and periods of accrued paid time off, unless the  
19 employer requires the employee to maintain such records as  
20 provided in Section 40 of this Act.

21 (e) During any period a domestic worker takes leave under  
22 this Act, the employer shall maintain coverage for the domestic  
23 worker and any family member under any group health plan for  
24 the duration of such leave at at least the level and conditions  
25 of coverage that would have been provided if the domestic  
26 worker had not taken the leave.

1           Section 35. Privacy. An employer is not permitted to  
2 videotape or otherwise record the domestic worker in any of the  
3 bathrooms, the area where the sleeping accommodations are  
4 provided while the domestic worker is sleeping, or, in the case  
5 of a live-in domestic worker, the domestic worker's living  
6 area. An employer shall not unreasonably restrict or interfere  
7 with a domestic worker's means of private communication,  
8 monitor a domestic worker's private communications, or take any  
9 of the domestic worker's documents or other personal effects.

10           Section 40. Recordkeeping requirements.

11           (a) An employer subject to any provision of this Act shall  
12 make and preserve records that document the name and address of  
13 each employee, whether or not the employee was a live-in  
14 domestic worker, the work hours each day in each workweek, the  
15 rates of pay, the amount paid each pay period, all deductions  
16 made from wages or final compensation, the number of paid time  
17 off hours earned each year and the dates on which paid time off  
18 hours were taken and paid, a copy of a written contract, if  
19 applicable, any charges or deduction from wages for any reason,  
20 and any other information the Director may by rule deem  
21 necessary and appropriate for enforcement of this Act. The  
22 employer may use an accountant or payroll or similar service to  
23 make and preserve records on the employer's behalf required  
24 under this Section.

1           (b) The employer is required to maintain the records  
2 specified in subsection (a). However, the employer may require  
3 the employee to record hours worked and paid time off  
4 information and submit such records to the employer. Where  
5 there is a reasonable agreement, as indicated in subsection (c)  
6 of Section 45, the written contract may be used to establish  
7 the employee's hours of work in lieu of maintaining precise  
8 records of the hours actually worked. The employer shall keep a  
9 copy of the contract and indicate that the employee's work time  
10 generally coincides with the contract. If there is significant  
11 deviation from the initial contract, a separate record shall be  
12 kept for that period or a new contract shall be reached that  
13 reflects actual facts.

14           (c) An employer subject to any provision of this Act shall  
15 preserve the records for a period of not less than 3 years,  
16 unless the records relate to an ongoing investigation or  
17 enforcement action under this Act, in which case the records  
18 must be maintained until there is an exhaustion of remedies.

19           (d) An employer shall, upon the oral request of a current  
20 or former employee or his or her representative, make the  
21 records available for inspection and copying by a current or  
22 former employee or his or her representative at an agreed upon  
23 location and time within 7 calendar days after such a request.  
24 If, however, the employer can reasonably show such deadline  
25 cannot be met, the employer shall have an additional 7 days to  
26 comply. An employer may charge a fee for providing a copy of



1 such information. The fee shall be limited to the actual cost  
2 of duplicating the information.

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

17 Section 45. Notice and written contract.

18 (a) The Department shall create a sample written notice and  
19 a sample written contract in English, Spanish, and Polish, and  
20 shall make the documents available for retrieval at no charge  
21 from the Department's website. No notice or written contract  
22 shall limit or diminish the scope of this Act or any rights,  
23 privileges, or remedies of a domestic worker provided under  
24 this Act, or under any other local, State, or federal law or  
25 relevant collective bargaining agreement.

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

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

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

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

7 (4) the kinds of domestic work for which the domestic  
8 worker may be employed;

9 (5) the hours per day, days per week, the days of the  
10 week that are work days, and period of employment,  
11 including any meal breaks and rest periods; where work  
12 hours are irregular from day to day or week to week by  
13 mutual agreement, an average monthly work schedule may  
14 satisfy this requirement;

15 (6) notice and leave policies for both paid and unpaid  
16 time off, including involuntary time off for the domestic  
17 worker;

18 (7) show up time, changes in scheduled work time,  
19 termination and severance pay policies;

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

22 (9) any other terms and conditions of employment,  
23 including any workplace hazards that may make the domestic  
24 worker vulnerable to illnesses and other physical  
25 problems;

26 (10) contact information for the employer and the

1 domestic worker to enable the best way to communicate,  
2 particularly in the event of an emergency or change in  
3 schedule;

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

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

8 (c) If the domestic worker works for one employer more than  
9 8 hours in any workweek on a regular basis, the employer shall  
10 provide a written contract. The contract shall be presented to  
11 the domestic worker no later than the first day of employment  
12 and shall be signed by both the employer and the domestic  
13 worker within 10 calendar days after the first day of  
14 employment. A new contract shall be signed when there is a  
15 material change in the terms of employment. The contract shall  
16 include:

17 (1) the name of the domestic worker and the name of the  
18 employer;

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

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

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

23 (5) the hours per day, days per week, days of the week  
24 that are work days, and where applicable, meal breaks and  
25 rest periods, paid and unpaid time off, vacations and  
26 holidays, and any foreseeable changes in work schedule,

1           such as a reduction or increase in hours per week or weeks  
2           per month;

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

6           (7) a description of the living accommodations  
7           provided by the employer and policies on vacating the  
8           premises;

9           (8) the kinds of domestic work for which the domestic  
10          worker may be employed;

11          (9) the process for addressing increasing wages and the  
12          process for addressing grievances;

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

15          (11) show up time, changes in scheduled work time, and  
16          termination and severance pay policies;

17          (12) the contract period;

18          (13) the policies for reimbursement for work-related  
19          expenses;

20          (14) any other terms and conditions of employment  
21          including workplace hazards that may make the domestic  
22          worker vulnerable to illnesses and other physical  
23          problems;

24          (15) any other rights or benefits afforded to the  
25          domestic worker, including State and federal employment  
26          taxes paid or to be paid by the employer related to the

1 domestic worker's employment and notice of employment  
2 rights in State law;

3 (16) contact information for the employer and the  
4 domestic worker to enable the best way to communicate,  
5 particularly in the event of an emergency or change in  
6 schedule;

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

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

11 If a valid written contract that complies with this Section  
12 is entered into by an individual domestic worker and an  
13 employer, the written contract may include an alternative  
14 reasonable agreement as to certain provisions of this Act, as  
15 indicated in those Sections, as long as the domestic worker is  
16 compensated for all work time.

17 Section 50. Prohibited acts.

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

23 (1) exercises rights or attempts to exercise rights  
24 under this Act;

25 (2) opposes practices such employee believes to be in

1 violation of this Act; or

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

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

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

7 (2) providing or preparing to provide any information  
8 in connection with any inquiry or proceeding relating to  
9 any right provided under this Act;

10 (3) testifying or preparing to testify in any inquiry  
11 or proceeding relating to any right provided under this  
12 Act, in a public hearing, or to a community organization;  
13 or

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

17 (c) An agreement by an employee to waive his or her rights  
18 under this Act is void as against public policy. The benefits  
19 provided to employees under this Act may not be diminished by a  
20 collective bargaining agreement or an employment benefit  
21 program or plan entered into or renewed after the effective  
22 date of this Act.

23 (d) It is unlawful for an employer to interfere with,  
24 restrain, or deny the exercise of or the attempt to exercise  
25 any right provided under or in connection with this Act  
26 including using the taking of paid time off as a negative

1 factor in an employment action such as hiring, termination,  
2 evaluation, promotion, discipline, or counting the paid time  
3 off under a no-fault attendance policy.

4 Section 55. Enforcement.

5 (a) A domestic worker aggrieved by a violation of this Act  
6 or any rule adopted under this Act shall be entitled to recover  
7 any appropriate damages or other relief set forth in subsection  
8 (b) of this Section in a civil action or through a claim filed  
9 with the Department. Actions may be brought by one or more  
10 domestic workers for and on behalf of themselves and other  
11 domestic workers similarly situated. Any such action shall be  
12 brought no more than 3 years after the date of the last event  
13 that constitutes an alleged violation for which the action is  
14 brought.

15 (b) A domestic worker aggrieved by a violation of this Act  
16 or any rule adopted under this Act shall be entitled to  
17 recover:

18 (1) all actual and compensatory damages including the  
19 amount of any wages, compensation, or benefits owed or  
20 other compensation denied or lost to the person by reason  
21 of the violation, with interest at the prevailing rate as  
22 is necessary to remedy violations of this Act, as well as  
23 punitive damages;

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

25 (3) reasonable attorney's fees, reasonable expert

1 witness fees, and other costs of the action.

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

15 (d) Claims filed in circuit court shall be filed in the  
16 county where the alleged violation occurred or where any  
17 domestic worker who is a party to this action resides, without  
18 regard to exhaustion of remedies provided in this Act.

19 (e) Claims filed under this Act with the Department shall  
20 be subject to the administrative procedures set forth herein  
21 and by rule for the enforcement of this Act. For claims brought  
22 at the same time before the Department under this Act and the  
23 Minimum Wage Law or the One Day Rest in Seven Act, it shall be  
24 the decision of the domestic worker whether or not to proceed  
25 under the administrative enforcement procedures set forth in  
26 the Minimum Wage Law or the One Day Rest in Seven Act or to



1 proceed under the administrative procedures set forth herein  
2 and by rule for the enforcement of this Act.

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

15 Where the Department has found that an employer has failed  
16 to pay wages or overtime to an employee as required by the  
17 Minimum Wage Law, the employee shall be entitled to receive the  
18 penalties provided under the Minimum Wage Law.

19 Any employer who has been ordered to pay wages, benefits,  
20 and other compensation or other relief due under this Act or  
21 under the Minimum Wage Law or One Day Rest in Seven Act, when  
22 the administrative procedures of those Acts have been waived as  
23 provided in subsection (e), and who fails to seek timely review  
24 of such an order as provided under this Act and who fails to  
25 comply within 15 calendar days after such demand or within 35  
26 days of an administrative or court order is entered shall also

1 be liable to pay a penalty to the Department of 20% of the  
2 amount found owing. All moneys recovered as fees and penalties  
3 by the Department under this Act, except those owing to the  
4 affected employee, shall be deposited into the Domestic  
5 Workers' Fund, a special fund created in the State treasury.  
6 Money in the Fund shall be used by the Department for  
7 administration, investigation, and other expenses incurred in  
8 carrying out its duties under this Act.

9 A final decision of an Administrative Law Judge issued  
10 pursuant to this Section is subject to the provisions of the  
11 Administrative Review Law and shall be enforceable in an action  
12 brought in the name of the people of the State of Illinois by  
13 the Attorney General.

14 Section 60. Administrative authority. The Department shall  
15 administer and enforce this Act. The Director shall adopt rules  
16 necessary to administer and enforce this Act in accordance with  
17 the Illinois Administrative Procedure Act.

18 Section 65. Construction. Nothing in this Act shall be  
19 construed to affect any policies or practices of an employer  
20 that provides greater, additional or more generous wages,  
21 benefits or working conditions to a domestic worker than those  
22 required under this Act.

23 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

2 Section 135. The State Finance Act is amended by adding  
3 Section 5.866 as follows:

4 (30 ILCS 105/5.866 new)

5 Sec. 5.866. The Domestic Workers' Fund.

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

8 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)

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

11 (A) Employee.

12 (1) "Employee" includes:

13 (a) Any individual performing services for  
14 remuneration within this State for an employer;

15 (b) An apprentice;

16 (c) An applicant for any apprenticeship.

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

21 (i) the employer is not committed to hiring the  
22 person performing the work at the conclusion of the

1 intern's tenure;

2 (ii) the employer and the person performing the  
3 work agree that the person is not entitled to wages for  
4 the work performed; and

5 (iii) the work performed:

6 (I) supplements training given in an  
7 educational environment that may enhance the  
8 employability of the intern;

9 (II) provides experience for the benefit of  
10 the person performing the work;

11 (III) does not displace regular employees;

12 (IV) is performed under the close supervision  
13 of existing staff; and

14 (V) provides no immediate advantage to the  
15 employer providing the training and may  
16 occasionally impede the operations of the  
17 employer.

18 (2) "Employee" does not include:

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

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

22 (c) Elected public officials or the members of  
23 their immediate personal staffs;

24 (d) Principal administrative officers of the State  
25 or of any political subdivision, municipal corporation  
26 or other governmental unit or agency;

1           (e) A person in a vocational rehabilitation  
2 facility certified under federal law who has been  
3 designated an evaluatee, trainee, or work activity  
4 client.

5 (B) Employer.

6 (1) "Employer" includes:

7           (a) Any person employing 15 or more employees  
8 within Illinois during 20 or more calendar weeks within  
9 the calendar year of or preceding the alleged  
10 violation;

11           (b) Any person employing one or more employees when  
12 a complainant alleges civil rights violation due to  
13 unlawful discrimination based upon his or her physical  
14 or mental disability unrelated to ability, pregnancy,  
15 or sexual harassment;

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

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

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

23 (2) "Employer" does not include any religious  
24 corporation, association, educational institution,  
25 society, or non-profit nursing institution conducted by  
26 and for those who rely upon treatment by prayer through

1 spiritual means in accordance with the tenets of a  
2 recognized church or religious denomination with respect  
3 to the employment of individuals of a particular religion  
4 to perform work connected with the carrying on by such  
5 corporation, association, educational institution, society  
6 or non-profit nursing institution of its activities.

7 (C) Employment Agency. "Employment Agency" includes both  
8 public and private employment agencies and any person, labor  
9 organization, or labor union having a hiring hall or hiring  
10 office regularly undertaking, with or without compensation, to  
11 procure opportunities to work, or to procure, recruit, refer or  
12 place employees.

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

23 (E) Sexual Harassment. "Sexual harassment" means any  
24 unwelcome sexual advances or requests for sexual favors or any  
25 conduct of a sexual nature when (1) submission to such conduct  
26 is made either explicitly or implicitly a term or condition of

1 an individual's employment, (2) submission to or rejection of  
2 such conduct by an individual is used as the basis for  
3 employment decisions affecting such individual, or (3) such  
4 conduct has the purpose or effect of substantially interfering  
5 with an individual's work performance or creating an  
6 intimidating, hostile or offensive working environment.

7 (F) Religion. "Religion" with respect to employers  
8 includes all aspects of religious observance and practice, as  
9 well as belief, unless an employer demonstrates that he is  
10 unable to reasonably accommodate an employee's or prospective  
11 employee's religious observance or practice without undue  
12 hardship on the conduct of the employer's business.

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

16 (H) Public Employee. "Public employee" means an employee of  
17 the State, agency or department thereof, unit of local  
18 government, school district, instrumentality or political  
19 subdivision. "Public employee" does not include public  
20 officers or employees of the General Assembly or agencies  
21 thereof.

22 (I) Public Officer. "Public officer" means a person who is  
23 elected to office pursuant to the Constitution or a statute or  
24 ordinance, or who is appointed to an office which is  
25 established, and the qualifications and duties of which are  
26 prescribed, by the Constitution or a statute or ordinance, to

1 discharge a public duty for the State, agency or department  
2 thereof, unit of local government, school district,  
3 instrumentality or political subdivision.

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

13 (K) Citizenship Status. "Citizenship status" means the  
14 status of being:

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

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

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

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

23 (Source: P.A. 97-877, eff. 8-2-12; 98-1037, eff. 1-1-15;  
24 98-1050, eff. 1-1-15; revised 10-3-14.)

25 Section 145. The Minimum Wage Law is amended by changing



1 Section 3 as follows:

2 (820 ILCS 105/3) (from Ch. 48, par. 1003)

3 Sec. 3. As used in this Act:

4 (a) "Director" means the Director of the Department of  
5 Labor, and "Department" means the Department of Labor.

6 (b) "Wages" means compensation due to an employee by reason  
7 of his employment, including allowances determined by the  
8 Director in accordance with the provisions of this Act for  
9 gratuities and, when furnished by the employer, for meals and  
10 lodging actually used by the employee.

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

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

1 work:

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

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

1           paid at the same piece rate as employees over 16 are paid  
2           on the same farm.

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

5           (4) As an outside salesman.

6           (5) As a member of a religious corporation or  
7           organization.

8           (6) At an accredited Illinois college or university  
9           employed by the college or university at which he is a  
10          student who is covered under the provisions of the Fair  
11          Labor Standards Act of 1938, as heretofore or hereafter  
12          amended.

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

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

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

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

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

5 (h) "Day camp" means a seasonal recreation program in  
6 operation for no more than 16 weeks intermittently throughout  
7 the calendar year, accommodating for profit or under  
8 philanthropic or charitable auspices, 5 or more children under  
9 18 years of age, not including overnight programs. The term  
10 "day camp" does not include a "day care agency", "child care  
11 facility" or "foster family home" as licensed by the Illinois  
12 Department of Children and Family Services.

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

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

16 (820 ILCS 125/1) (from Ch. 48, par. 198.1)

17 Sec. 1. As used in this Act:

18 "Department" means the Department of Labor.

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

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

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

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

23 "Occupation" means an industry, trade or business or branch  
24 thereof or class of work therein in which women or minors are

1 gainfully employed, but does not include ~~domestic service in~~  
2 ~~the home of the employer or~~ labor on a farm.

3 "An oppressive and unreasonable wage" means a wage which is  
4 both less than the fair and reasonable value of the services  
5 rendered and less than sufficient to meet the minimum cost of  
6 living necessary for health.

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

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

23 "A mandatory order" means an order the violation of which  
24 is subject to the penalties prescribed in paragraph 2 of  
25 Section 15 of this Act.

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

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

3 (820 ILCS 140/2) (from Ch. 48, par. 8b)

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

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

9 A person employed as a domestic worker, as defined in  
10 Section 10 of the Domestic Workers' Bill of Rights Act, shall  
11 be allowed at least 24 consecutive hours of rest in every  
12 calendar week. This subsection (a) does not prohibit a domestic  
13 worker from voluntarily agreeing to work on such day of rest  
14 required by this subsection (a) if the worker is compensated at  
15 the overtime rate for all hours worked on such day of rest. The  
16 day of rest authorized under this subsection (a) should,  
17 whenever possible, coincide with the traditional day reserved  
18 by the domestic worker for religious worship. The hours and  
19 days of rest allowed under this Act shall be in addition to any  
20 paid time off earned under Section 30 of the Domestic Workers'  
21 Bill of Rights Act.

22 (b) Subsection (a) ~~This Section~~ does not apply to the  
23 following:

24 (1) Part-time employees whose total work hours for one

1 employer during a calendar week do not exceed 20; and

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

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

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

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

13 (6) Employees who are employed in a bonafide executive,  
14 administrative, or professional capacity or in the capacity of  
15 an outside salesman, as defined in Section 12 (a) (1) of the  
16 federal Fair Labor Standards Act, as amended, and those  
17 employed as supervisors as defined in Section 2 (11) of the  
18 National Labor Relations Act, as amended; and

19 (7) Employees who are employed as crew members of any  
20 uninspected towing vessel, as defined by Section 2101(40) of  
21 Title 46 of the United States Code, operating in any navigable  
22 waters in or along the boundaries of the State of Illinois.

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

24 Section 999. Effective date. This Act takes effect upon  
25 becoming law.