

One Minute Memo®



Massachusetts Passes Sweeping Protections for Domestic Workers

By Beth Gobeille Foley

Governor Deval Patrick has signed into law the Massachusetts Domestic Workers' Protection Act ("DWPA"). It is a sweeping piece of legislation that not only seeks to "protect" domestic workers, but in many respects provides them with rights and entitlements that well exceed those enjoyed by other employees in the Commonwealth. The provisions of the DWPA described below will take effect on April 1, 2015.

The DWPA defines a "domestic worker" as an individual who is "paid by an employer to perform work of a domestic nature within a household," including but not limited to house cleaning, home management, nanny services, caretaking of sick or elderly individuals, laundering, cooking, and home companion services. The statute excludes those personal care attendants and babysitters "whose vocation is not childcare" and who work "on a casual, intermittent and irregular basis." For purposes of the DWPA, an "employer" includes anyone who "employs a domestic worker to work within a household whether or not the person has an ownership interest in the household," but the statute excludes staffing agencies registered or licensed under M.G.L. ch. 140, which pertains to innkeeping. Senior citizens or disabled individuals to whom personal care attendants provide service are also excluded from the definition of "employer" under the DWPA.

Individuals protected by the DWPA enjoy some rights and entitlements that are offered only at employers' discretion to Massachusetts employees in other professions. For example, live-in domestic workers terminated without cause must receive 30 days' notice and lodging, or two weeks' severance pay, but this requirement does not apply if the employer has a good-faith belief that the domestic worker has abused or neglected a member of the household. In addition, domestic workers who work more than 16 hours per week must also receive extensive written information detailing the terms and conditions of their employment at the time of hire. They may also request written evaluations of their work performance after three months of employment and annually thereafter.

In addition to the requirements listed above, all of which will be enforced by the Massachusetts Attorney General, employers of domestic workers are barred from monitoring their private communications or from taking any of the domestic worker's documents or other personal effects. The DWPA also restricts an employer's ability to charge domestic workers fees for food, beverage, and lodging, and in some circumstances it requires pay for sleep time.

Importantly, the DWPA extends the anti-harassment and discrimination protections of M.G.L. ch. 151B to domestic workers and brings such workers within the jurisdiction of the Massachusetts Commission Against Discrimination. In addition, it entitles domestic workers to leave for the birth or adoption of a child pursuant to the Massachusetts Maternity Leave Act.

Within a year, the state government will commence multi-lingual outreach programs to educate domestic workers about their rights under the DWPA. In the meantime, any individual or business who employs domestic workers (excepting those licensed or registered pursuant to M.G.L. ch. 140) should review their practices for compliance with the DWPA before it becomes effective on April 1, 2015.

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