**Summary of Domestic Workers’ Bill of Rights**

**Chapter 148 of the Acts of 2014**

SECTION 1: Amends the MA Maternity Leave Act to cover Domestic Workers, guaranteeing 8 weeks of unpaid maternity leave for the birth or adoption of child for employees working for the same employer for 3 months.

SECTION 2: Expands the MA Wage & Hour law protections so that Domestic Workers have enforcement for the rights laid out in this bill by either making claims to the Attorney General’s office or through a private right of action in Court.

SECTION 3: Creates two new sections, §190 and §191 in c. 149.

 Section190 has the following 15 subsections:

a) Definitions for the following terms: Domestic Worker, Employer, Employ, Forced Services, Rest, Person, Personal Care Attendant (PCA), and Working Time. Of specific note is the definition for employers, which excludes staffing, employment or placement agencies already licensed or registered under the Employment Agency Law and employers of PCAs and casual babysitters. Employ is defined “to suffer or permit to work.” The definitions for Rest and Working Time are drafted to clarify that a Domestic Worker’s hourly wages are to be calculated and paid in the same manner as other employees in the Commonwealth.

b) Guarantees a job-protected weekly 24 hour rest period and a monthly 48 hour rest period for Domestic Workers who work 40 hours per week; if the Domestic Worker voluntarily agrees to work during this time, it must be compensated as overtime (i.e., time and a half).

c) Subsections (c) – (h) clarifies “working time” and wage and hour calculations. Minimum wage law and regulations govern wage deductions are cross-referenced and incorporated to clarify limits on deductions from Domestic Workers’ wages for food and lodging, only apply where food or lodging is freely chosen and desired, and requires that housing for live-in Domestic Workers must meet the state’s sanitary code. No deductions for meals, rest periods, lodging, sleeping periods may be made without written consent and no deductions not allowed by law.

i) Clarifies that Domestic Workers have a right to privacy under the state privacy law and includes protections against trafficking as defined under the MA Anti-Trafficking Law, prohibiting through civil enforcement monitoring private communications, taking Domestic Workers’ documents, and “forced services.”

j) Provides that Domestic Workers may request a written work evaluation after the first 3 months and annually thereafter under the Personnel Records Law.

k) Guarantees live-in Domestic Workers termination rights if terminated without cause, which include written notice and 30 days lodging either on site or in a comparable off-site location or severance pay representing 2 weeks average earnings, unless the employer has made a good faith allegation in writing of abuse, neglect, or harmful conduct on the part of the Domestic Worker.

l) Requires employers to keep written pay records required under existing minimum wage law. Also requires a written employment agreement, if a Domestic Worker works more than 16 hours a week that sets out employment rights and the benefits provided by the employer. Specifically, the written agreement must include the following::

 (i) rate of pay, including overtime and additional compensation for added duties or multilingual skills;

 (ii) working hours, including meal breaks and other time off;

 (iii) if applicable, the provisions for days of rest, sick days, vacation days, personal days, holidays, transportation, health insurance, severance, yearly raises and, whether or not earned, vacation days, personal days, holidays, severance, transportation costs and health insurance costs are paid or reimbursed;

 (iv) any fees or other costs, including costs for meals and lodging;

 (v) responsibilities associated with the job;

 (vi) process for raising and addressing grievances and additional compensation if new duties are added;

 (vii) right to collect workers’ compensation if injured;

 (viii) circumstances under which the employer will enter the domestic worker’s designated living space on the employer’s premises;

 (ix) required notice of employment termination by either party; and (x) any other rights or benefits afforded to the domestic worker.

Failure to comply with these requirements is a violation of the record-keeping law.

m) Requires employers to provide notice of all applicable state and federal laws that apply to the employment of Domestic Workers.

n) Clarifies that the Bill of Rights does not affect the practices of an employer with greater or more generous wages and benefits.

o) Requires that the Attorney General enforce §190, and post on its website all materials required under subsection (l) and (m).

 Section 191 brings Domestic Workers’ employers under the jurisdiction of the Massachusetts Commission Against Discrimination (MCAD) for claims of sexual or other harassment including rights under the Massachusetts Maternity Leave Act. It also specifies that PCAs may file sexual harassment claims at the MCAD.

SECTION 4: Amends the Minimum Wage Act, which currently expressly exempts Domestic Workers who work less than 16 hours a week for an employer from retaliation protection for making a wage complaint. SECTION 4 removes that exemption.

SECTION 5 and SECTION 6: Clarifies that Domestic Workers are covered under the MA Unemployment Insurance Law (right already exists but was drafted in a confusing manner).

SECTION 7 and SECTION 8: Amends the Massachusetts Commission Against Discrimination statute to take out the exclusion that applies to domestic workers (effective September 24, 2014) and covers all domestic workers, even where there is only one employee as of April 1, 2015.

SECTION 9: Amends the Wrongful Death in Employment Law, removing the exemption domestic employers have for liability for deaths caused by other Domestic Workers (effective September 24, 2014).

SECTION 10: Requires the Executive Office for Labor and Workforce Development and the Attorney General to develop a multilingual outreach program to inform Domestic Workers and their employers about their rights and responsibilities, and to distribute model materials to employers not later than April 1, 2015.

SECTION 11: Requires the Attorney General to promulgate regulations under section 190(o) by April 1, 2015.

SECTION 12: Provides that sections 1, 2, 3 and 4 take effect by April 1, 2015.

Note: As stated in sections 10 and 11, those provisions also take effect April 1, 2015. Sections 5 through 9 take effect 90 days after signing, or September 24, 2014.