

Assembly Concurrent Resolution No. 163

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 163—Relative to domestic worker rights.

[Filed with Secretary of State September 7, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 163, V. Manuel Perez. Domestic worker rights.

This measure would encourage greater protections in federal and state law for domestic workers.

WHEREAS, California's domestic workers—comprised of housekeepers, nannies, and caregivers for children, persons with disabilities, and the elderly—work in private households to care for the health, safety, and well-being of the most important aspects of Californians' lives, their families and homes; and

WHEREAS, Domestic workers play a critical role in California's economy, working to ensure the health and prosperity of California families and freeing others to participate in the workforce, which is increasingly necessary in these difficult economic times; and

WHEREAS, Domestic workers across the state of California have joined together to form the California Domestic Workers' Coalition to achieve social and economic justice and secure much-needed protections for domestic workers under California's labor laws; and

WHEREAS, The National Domestic Workers Alliance is organizing domestic workers across the United States to end the exclusion of domestic workers from federal labor protections, and the International Domestic Workers Network, made up of domestic worker organizations across the world, has formed to fight exploitation and abuse by creating and advancing international standards in the industry; and

WHEREAS, The treatment of domestic service workers under federal and state laws has historically reflected stereotypical assumptions about the nature of domestic work, specifically that the relationship between employer and "servant" was "personal," rather than commercial, in character; that employment within a household was not "real" productive work; and that women did not work to support their families; and

WHEREAS, The Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), which Congress enacted to ensure a fair day's pay for a fair day's work, excluded domestic workers from its protection at a time when 60% of African American women workers were employed as domestic workers; and

WHEREAS, The vast majority of domestic workers are women of color and immigrants who, because of race and sex discrimination and fear of deportation, are particularly vulnerable to unlawful employment practices and abuses; and

WHEREAS, Domestic workers usually work alone, behind closed doors, and out of the public eye, leaving them isolated, vulnerable to abuse and exploitation, and unable to advocate collectively for better working conditions; and

WHEREAS, Domestic workers often labor under harsh conditions, work long hours for low wages without benefits or job security, and face termination without notice or severance pay, leaving many suddenly without both a job and a home; and

WHEREAS, Most domestic workers work to support families and children of their own and more than half are primary income earners, yet two-thirds of domestic workers earn low wages or wages below the poverty line; and

WHEREAS, Many live-in domestic workers are not permitted to make basic decisions regarding the food they eat or to cook or heat their meals; and

WHEREAS, In the worst cases, domestic workers are verbally and physically abused or sexually assaulted, forced to sleep in conditions unfit for human habitation, and stripped of their privacy and dignity; and

WHEREAS, Many employers desire to treat their caregivers and housekeepers fairly, but do not have the information to guide them in setting terms of employment, and may never develop a formal contract or clearly establish the rights and obligations each party owes to the other; and

WHEREAS, Domestic workers are still excluded from the most basic protections afforded the rest of the labor force under state and federal law, including the rights to fair wages, safe and healthy working conditions, workers' compensation, protection from discriminatory and abusive treatment, and to engage in collective bargaining; and

WHEREAS, Domestic workers are excluded under the National Labor Relations Act (29 U.S.C. Sec. 151 et seq.), leaving them unprotected when asking for respect of their basic rights and unable to collectively bargain for conditions allowing them to labor in dignity; and

WHEREAS, Domestic workers whose primary work is to care for children, the elderly, or persons with disabilities are excluded from overtime protections, meal and rest breaks, and reporting time pay under California law, and the federal Fair Labor Standards Act exempts live-in domestic workers from overtime provisions and exempts "companions" for the elderly and "casual" babysitters from federal minimum wage and overtime provisions; and

WHEREAS, Domestic workers are excluded from the protections of the California Occupational Safety and Health Act of 1973 and therefore do not have the right to work in a healthy and safe environment, leaving them exposed to dangerous and unhealthy working conditions on a regular basis; and

WHEREAS, Household employees who work less than 52 hours in the 90 days prior to sustaining an injury are excluded from California workers' compensation coverage, leaving many domestic workers without an adequate remedy for injuries suffered in the course of their employment; and

WHEREAS, Because state and federal antidiscrimination laws apply only to employers with certain minimum numbers of employees, domestic workers are often unprotected against discrimination based on race, color, religion, sex, national origin, age, and disability; and

WHEREAS, Because domestic workers do not have the right to a minimum number of consecutive hours of uninterrupted sleep, they are often woken up repeatedly throughout the night, leaving them sleep deprived, vulnerable to illness, and unable to provide proper care for those in their charge; and

WHEREAS, Because the vast majority of domestic workers receive no health benefits from their employers and have no right to paid sick days, many workers cannot take time off to deal with illness or medical emergencies, thereby endangering their own health and the health of the families they care for; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That coverage of domestic workers under state and federal labor law should be an expression of respect for their dignity and equality and the importance of the work they perform, and a rejection of antiquated and long-discredited stereotypes about domestic work; and be it further

Resolved, That the Legislature finds that domestic workers are entitled to industry-specific protections and labor standards that eliminate discriminatory provisions in the labor laws and guarantee domestic workers basic workplace rights to ensure that domestic workers are treated with the respect and dignity they so richly deserve; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.