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Republic Act No. 10361

S. No. 78
H. No. 6144

**Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session**

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

[REPUBLIC ACT NO. 10361]

**AN ACT INSTITUTING POLICIES FOR THE PROTECTION
AND WELFARE OF DOMESTIC WORKERS**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Domestic Workers Act” or “Batas Kasambahay”.

SEC. 2. *Declaration of Policies.* – It is hereby declared that:

(a) The State strongly affirms labor as a primary social force and is committed to respect, promote, protect and realize the fundamental principles and rights at work including, but not limited to, abolition of child labor, elimination of all forms of forced labor, discrimination in employment and occupation, and trafficking in persons, especially women and children;

(b) The State adheres to internationally accepted working conditions for workers in general, and establishes labor standards for domestic workers in particular, towards decent employment and income, enhanced coverage of social protection, respect for human rights and strengthened social dialogue;

(c) The State recognizes the need to protect the rights of domestic workers against abuse, harassment, violence, economic exploitation and performance of work that is hazardous to their physical and mental health; and

(d) The State, in protecting domestic workers and recognizing their special needs to ensure safe and healthful working conditions, promotes gender-sensitive measures in the formulation and implementation of policies and programs affecting the local domestic work.

SEC. 3. *Coverage.* – This Act applies to all domestic workers employed and working within the country.

SEC. 4. *Definition of Terms.* – As used in this Act, the term:

(a) *Debt bondage* refers to the rendering of service by the domestic worker as security or payment for a debt where the length and nature of service is not clearly defined or when the value of the service is not reasonably applied in the payment of the debt.

(b) *Deployment expenses* refers to expenses that are directly used for the transfer of the domestic worker from place of origin to the place of work covering the cost of transportation. Advances or loans by the domestic worker are not included in the definition of deployment expenses.

(c) *Domestic work* refers to work performed in or for a household or households.

(d) *Domestic worker* or “Kasambahay” refers to any person engaged in domestic work within an employment relationship such as, but not limited to, the following: general househelp, nursemaid or “yaya”, cook, gardener, or laundry person, but shall exclude any person who performs domestic work only occasionally or sporadically and not on an occupational basis.

The term shall not include children who are under foster family arrangement, and are provided access to education and given an allowance incidental to education, i.e. “baon”, transportation, school projects and school activities.

(e) *Employer* refers to any person who engages and controls the services of a domestic worker and is party to the employment contract.

(f) *Household* refers to the immediate members of the family or the occupants of the house that are directly provided services by the domestic worker.

(g) *Private Employment Agency (PEA)* refers to any individual, legitimate partnership, corporation or entity licensed to engage in the recruitment and placement of domestic workers for local employment.

(h) *Working children*, as used under this Act, refers to domestic workers who are fifteen (15) years old and above but below eighteen (18) years old.

ARTICLE II

RIGHTS AND PRIVILEGES

SEC. 5. *Standard of Treatment.* – The employer or any member of the household shall not subject a domestic worker or “kasambahay” to any kind of abuse nor inflict any form of physical violence or harassment or any act tending to degrade the dignity of a domestic worker.

SEC. 6. *Board, Lodging and Medical Attendance.* – The employer shall provide for the basic necessities of the domestic worker to include at least three (3) adequate meals a day and humane sleeping arrangements that ensure safety.

The employer shall provide appropriate rest and assistance to the domestic worker in case of illnesses and injuries sustained during service without loss of benefits.

At no instance shall the employer withdraw or hold in abeyance the provision of these basic necessities as punishment or disciplinary action to the domestic worker.

SEC. 7. *Guarantee of Privacy.* – Respect for the privacy of the domestic worker shall be guaranteed at all times and shall extend to all forms of communication and personal effects. This guarantee equally recognizes that the domestic worker is obliged to render satisfactory service at all times.

SEC. 8. *Access to Outside Communication.* – The employer shall grant the domestic worker access to outside communication during free time: *Provided*, That in case of emergency, access to communication shall be granted even during work time. Should the domestic worker make use of the employer’s telephone or other communication facilities, the costs shall be borne by the domestic worker, unless such charges are

waived by the employer.

SEC. 9. *Right to Education and Training.* – The employer shall afford the domestic worker the opportunity to finish basic education and may allow access to alternative learning systems and, as far as practicable, higher education or technical and vocational training. The employer shall adjust the work schedule of the domestic worker to allow such access to education or training without hampering the services required by the employer.

SEC. 10. *Prohibition Against Privileged Information.* – All communication and information pertaining to the employer or members of the household shall be treated as privileged and confidential, and shall not be publicly disclosed by the domestic worker during and after employment. Such privileged information shall be inadmissible in evidence except when the suit involves the employer or any member of the household in a crime against persons, property, personal liberty and security, and chastity.

ARTICLE III

PRE-EMPLOYMENT

SEC. 11. *Employment Contract.* – An employment contract shall be executed by and between the domestic worker and the employer before the commencement of the service in a language or dialect understood by both the domestic worker and the employer. The domestic worker shall be provided a copy of the duly signed employment contract which must include the following:

- (a) Duties and responsibilities of the domestic worker;
- (b) Period of employment;
- (c) Compensation;
- (d) Authorized deductions;
- (e) Hours of work and proportionate additional payment;
- (f) Rest days and allowable leaves;
- (g) Board, lodging and medical attention;
- (h) Agreements on deployment expenses, if any;
- (i) Loan agreement;
- (j) Termination of employment; and
- (k) Any other lawful condition agreed upon by both parties.

The Department of Labor and Employment (DOLE) shall develop a model employment contract for domestic workers which shall, at all times, be made available free of charge to domestic workers, employers, representative organizations and the general public. The DOLE shall widely disseminate information to domestic workers and employers on the use of such model employment contract.

In cases where the employment of the domestic worker is facilitated through a private employment agency, the PEA shall keep a copy of all employment contracts of domestic workers and shall be made available for verification and inspection by the DOLE.

SEC. 12. *Pre-Employment Requirement.* – Prior to the execution of the employment contract, the employer may require the following from the domestic worker:

- (a) Medical certificate or a health certificate issued by a local government health officer;

(b) Barangay and police clearance;

(c) National Bureau of Investigation (NBI) clearance; and

(d) Duly authenticated birth certificate or if not available, any other document showing the age of the domestic worker such as voter's identification card, baptismal record or passport.

However, Section 12(a), (b), (c) and (d) shall be standard requirements when the employment of the domestic worker is facilitated through the PEA.

The cost of the foregoing shall be borne by the prospective employer or agency, as the case may be.

SEC. 13. *Recruitment and Finder's Fees.* – Regardless of whether the domestic worker was hired through a private employment agency or a third party, no share in the recruitment or finder's fees shall be charged against the domestic worker by the said private employment agency or third party.

SEC. 14. *Deposits for Loss or Damage.* – It shall be unlawful for the employer or any other person to require a domestic worker to make deposits from which deductions shall be made for the reimbursement of loss or damage to tools, materials, furniture and equipment in the household.

SEC. 15. *Prohibition on Debt Bondage.* – It shall be unlawful for the employer or any person acting on behalf of the employer to place the domestic worker under debt bondage.

SEC. 16. *Employment Age of Domestic Workers.* – It shall be unlawful to employ any person below fifteen (15) years of age as a domestic worker. Employment of working children, as defined under this Act, shall be subject to the provisions of Section 10(A), paragraph 2 of Section 12-A, paragraph 4 of Section 12-D, and Section 13 of Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act".

Working children shall be entitled to minimum wage, and all benefits provided under this Act.

Any employer who has been sentenced by a court of law of any offense against a working child under this Act shall be meted out with a penalty one degree higher and shall be prohibited from hiring a working child.

SEC. 17. *Employer's Reportorial Duties.* – The employers shall register all domestic workers under their employment in the Registry of Domestic Workers in the barangay where the employer's residence is located. The Department of the Interior and Local Government (DILG) shall, in coordination with the DOLE, formulate a registration system for this purpose.

SEC. 18. *Skills Training, Assessment and Certification.* – To ensure productivity and assure quality services, the DOLE, through the Technical Education and Skills Development Authority (TESDA), shall facilitate access of domestic workers to efficient training, assessment and certification based on a duly promulgated training regulation.

ARTICLE IV

EMPLOYMENT – TERMS AND CONDITIONS

SEC. 19. *Health and Safety.* – The employer shall safeguard the health and safety of the domestic worker in accordance with laws, rules and regulations, with due consideration of the peculiar nature of domestic work.

SEC. 20. *Daily Rest Period.* – The domestic worker shall be entitled to an aggregate daily rest period of eight (8) hours per day.

SEC. 21. *Weekly Rest Period.* – The domestic worker shall be entitled to at least twenty-four (24) consecutive hours of rest in a week. The employer and the domestic worker shall agree in writing on the schedule of the weekly rest day of the domestic worker: *Provided*, That the employer shall respect the preference of the domestic worker as to the weekly rest day when such preference is based on religious

grounds. Nothing in this provision shall deprive the domestic worker and the employer from agreeing to the following:

- (a) Offsetting a day of absence with a particular rest day;
- (b) Waiving a particular rest day in return for an equivalent daily rate of pay;
- (c) Accumulating rest days not exceeding five (5) days; or
- (d) Other similar arrangements.

SEC. 22. *Assignment to Nonhousehold Work.* – No domestic worker shall be assigned to work in a commercial, industrial or agricultural enterprise at a wage rate lower than that provided for agricultural or nonagricultural workers. In such cases, the domestic worker shall be paid the applicable minimum wage.

SEC. 23. *Extent of Duty.* – The domestic worker and the employer may mutually agree for the former to temporarily perform a task that is outside the latter's household for the benefit of another household. However, any liability that will be incurred by the domestic worker on account of such arrangement shall be borne by the original employer. In addition, such work performed outside the household shall entitle the domestic worker to an additional payment of not less than the existing minimum wage rate of a domestic worker. It shall be unlawful for the original employer to charge any amount from the said household where the service of the domestic worker was temporarily performed.

SEC 24. *Minimum Wage.* – The minimum wage of domestic workers shall not be less than the following:

- (a) Two thousand five hundred pesos (P2,500.00) a month for those employed in the National Capital Region (NCR);
- (b) Two thousand pesos (P2,000.00) a month for those employed in chartered cities and first class municipalities; and
- (c) One thousand five hundred pesos (P1,500.00) a month for those employed in other municipalities.

After one (1) year from the effectivity of this Act, and periodically thereafter, the Regional Tripartite and Productivity Wage Boards (RTPWBs) shall review, and if proper, determine and adjust the minimum wage rates of domestic workers.

SEC 25. *Payment of Wages.* – Payment of wages shall be made on time directly to the domestic worker to whom they are due in cash at least once a month. The employer, unless allowed by the domestic worker through a written consent, shall make no deductions from the wages other than that which is mandated by law. No employer shall pay the wages of a domestic worker by means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object other than the cash wage as provided for under this Act.

The domestic worker is entitled to a thirteenth month pay as provided for by law.

SEC. 26. *Pay Slip.* – The employer shall at all times provide the domestic worker with a copy of the pay slip containing the amount paid in cash every pay day, and indicating all deductions made, if any. The copies of the pay slip shall be kept by the employer for a period of three (3) years.

SEC. 27. *Prohibition on Interference in the Disposal of Wages.* – It shall be unlawful for the employer to interfere with the freedom of any domestic worker to dispose of the latter's wages. The employer shall not force, compel or oblige the domestic worker to purchase merchandise, commodities or other properties from the employer or from any other person, or otherwise make use of any store or services of such employer or any other person.

SEC 28. *Prohibition Against Withholding of Wages.* – It shall be unlawful for an employer, directly or indirectly, to withhold the wages of the domestic worker. If the domestic worker leaves without any justifiable reason, any unpaid salary for a period not exceeding fifteen (15) days shall be forfeited. Likewise, the employer shall not induce the domestic worker to give up any part of the wages by force, stealth,

intimidation, threat or by any other means whatsoever.

SEC. 29. *Leave Benefits.* – A domestic worker who has rendered at least one (1) year of service shall be entitled to an annual service incentive leave of five (5) days with pay: *Provided*, That any unused portion of said annual leave shall not be cumulative or carried over to the succeeding years. Unused leaves shall not be convertible to cash.

SEC. 30. *Social and Other Benefits.* – A domestic worker who has rendered at least one (1) month of service shall be covered by the Social Security System (SSS), the Philippine Health Insurance Corporation (PhilHealth), and the Home Development Mutual Fund or Pag-IBIG, and shall be entitled to all the benefits in accordance with the pertinent provisions provided by law.

Premium payments or contributions shall be shouldered by the employer. However, if the domestic worker is receiving a wage of Five thousand pesos (P5,000.00) and above per month, the domestic worker shall pay the proportionate share in the premium payments or contributions, as provided by law.

The domestic worker shall be entitled to all other benefits under existing laws.

SEC. 31. *Rescue and Rehabilitation of Abused Domestic Workers.* – Any abused or exploited domestic worker shall be immediately rescued by a municipal or city social welfare officer or a social welfare officer from the Department of Social Welfare and Development (DSWD) in coordination with the concerned barangay officials. The DSWD and the DILG shall develop a standard operating procedure for the rescue and rehabilitation of abused domestic workers, and in coordination with the DOLE, for possible subsequent job placement.

ARTICLE V

POST EMPLOYMENT

SEC. 32. *Termination of Service.* – Neither the domestic worker nor the employer may terminate the contract before the expiration of the term except for grounds provided for in Sections 33 and 34 of this Act. If the domestic worker is unjustly dismissed, the domestic worker shall be paid the compensation already earned plus the equivalent of fifteen (15) days work by way of indemnity. If the domestic worker leaves without justifiable reason, any unpaid salary due not exceeding the equivalent fifteen (15) days work shall be forfeited. In addition, the employer may recover from the domestic worker costs incurred related to the deployment expenses, if any: *Provided*, That the service has been terminated within six (6) months from the domestic worker's employment.

If the duration of the domestic service is not determined either in stipulation or by the nature of the service, the employer or the domestic worker may give notice to end the working relationship five (5) days before the intended termination of the service.

The domestic worker and the employer may mutually agree upon written notice to pre-terminate the contract of employment to end the employment relationship.

SEC. 33. *Termination Initiated by the Domestic Worker.* – The domestic worker may terminate the employment relationship at any time before the expiration of the contract for any of the following causes:

- (a) Verbal or emotional abuse of the domestic worker by the employer or any member of the household;
- (b) Inhuman treatment including physical abuse of the domestic worker by the employer or any member of the household;
- (c) Commission of a crime or offense against the domestic worker by the employer or any member of the household;
- (d) Violation by the employer of the terms and conditions of the employment contract and other standards set forth under this law;

(e) Any disease prejudicial to the health of the domestic worker, the employer, or member/s of the household; and

(f) Other causes analogous to the foregoing.

SEC. 34. *Termination Initiated by the Employer.* – An employer may terminate the services of the domestic worker at any time before the expiration of the contract, for any of the following causes:

(a) Misconduct or willful disobedience by the domestic worker of the lawful order of the employer in connection with the former's work;

(b) Gross or habitual neglect or inefficiency by the domestic worker in the performance of duties;

(c) Fraud or willful breach of the trust reposed by the employer on the domestic worker;

(d) Commission of a crime or offense by the domestic worker against the person of the employer or any immediate member of the employer's family;

(e) Violation by the domestic worker of the terms and conditions of the employment contract and other standards set forth under this law;

(f) Any disease prejudicial to the health of the domestic worker, the employer, or member/s of the household; and

(g) Other causes analogous to the foregoing.

SEC. 35. *Employment Certification.* – Upon the severance of the employment relationship, the employer shall issue the domestic worker within five (5) days from request a certificate of employment indicating the nature, duration of the service and work performance.

ARTICLE VI

PRIVATE EMPLOYMENT AGENCIES

SEC. 36. *Regulation of Private Employment Agencies (PEAs).* – The DOLE shall, through a system of licensing and regulation, ensure the protection of domestic workers hired through the PEAs.

The PEA shall be jointly and severally liable with the employer for all the wages, wage-related benefits, and other benefits due a domestic worker.

The provision of Presidential Decree No. 442, as amended, otherwise known as the "Labor Code of the Philippines", on qualifications of the PEAs with regard to nationality, networth, owners and officers, office space and other requirements, as well as nontransferability of license and commission of prohibited practices, shall apply.

In addition, PEAs shall have the following responsibilities:

(a) Ensure that domestic workers are not charged or levied any recruitment or placement fees;

(b) Ensure that the employment agreement between the domestic worker and the employer stipulates the terms and conditions of employment and all the benefits prescribed by this Act;

(c) Provide a pre-employment orientation briefing to the domestic worker and the employer about their rights and responsibilities in accordance with this Act;

(d) Keep copies of employment contracts and agreements pertaining to recruited domestic workers which shall be made available during inspections or whenever required by the DOLE or local government officials;

- (e) Assist domestic workers with respect to complaints or grievances against their employers; and
- (f) Cooperate with government agencies in rescue operations involving abused or exploited domestic workers.

ARTICLE VII

SETTLEMENT OF DISPUTES

SEC. 37. *Mechanism for Settlement of Disputes.* – All labor-related disputes shall be elevated to the DOLE Regional Office having jurisdiction over the workplace without prejudice to the filing of a civil or criminal action in appropriate cases. The DOLE Regional Office shall exhaust all conciliation and mediation efforts before a decision shall be rendered.

Ordinary crimes or offenses committed under the Revised Penal Code and other special penal laws by either party shall be filed with the regular courts.

ARTICLE VIII

SPECIAL PROVISIONS

SEC. 38. *Information Program.* – The DOLE shall, in coordination with the DILG, the SSS, the PhilHealth and Pag-IBIG develop and implement a continuous information dissemination program on the provisions of this Act, both at the national and local level, immediately after the enactment of this law.

SEC. 39. “Araw Ng Mga Kasambahay”. – The date upon which the President shall approve this “Domestic Workers Act” shall be designated as the “Araw ng mga Kasambahay”.

ARTICLE IX

PENAL AND MISCELLANEOUS PROVISIONS

SEC. 40. *Penalty.* – Any violation of the provisions of this Act declared unlawful shall be punishable with a fine of not less than Ten thousand pesos (P10,000.00) but not more than Forty thousand pesos (P40,000.00) without prejudice to the filing of appropriate civil or criminal action by the aggrieved party.

SEC. 41. *Transitory Provision; Non-Diminution of Benefits.* – All existing arrangements between a domestic worker and the employer shall be adjusted to conform to the minimum standards set by this Act within a period of sixty (60) days after the effectivity of this Act: *Provided*, That adjustments pertaining to wages shall take effect immediately after the determination and issuance of the appropriate wage order by the RTWPBs: *Provided, further*, That nothing in this Act shall be construed to cause the diminution or substitution of any benefits and privileges currently enjoyed by the domestic worker hired directly or through an agency.

SEC. 42. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the Secretary of Labor and Employment, the Secretary of Social Welfare and Development, the Secretary of the Interior and Local Government, and the Director General of the Philippine National Police, in coordination with other concerned government agencies and accredited nongovernment organizations (NGOs) assisting domestic workers, shall promulgate the necessary rules and regulations for the effective implementation of this Act.

ARTICLE X

FINAL PROVISIONS

SEC. 43. *Separability Clause.* – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 44. *Repealing Clause.* – All articles or provisions of Chapter III (Employment of Househelpers) of

Presidential Decree No. 442, as amended and renumbered by Republic Act No. 10151 are hereby expressly repealed. All laws, decrees, executive orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 45. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

(Sgd.) **FELICIANO BELMONTE JR.**
*Speaker of the House
of Representatives*

(Sgd.) **JUAN PONCE ENRILE**
President of the Senate

This Act which is a consolidation of Senate Bill No. 78 and House Bill No. 6144 was finally passed by the Senate and the House of Representatives on November 27, 2012 and November 26, 2012, respectively.

(Sgd.) **MARILYN B. BARUA-YAP**
*Secretary General
House of Representatives*

(Sgd.) **EMMA LIRIO-REYES**
Secretary of the Senate

Approved: JAN 18 2013

(Sgd.) **BENIGNO S. AQUINO III**
President of the Philippines

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