

Domestic Workers' Wages In Flux Amid New Laws, Proposals

By **Max Kutner**

Law360 (March 16, 2026, 3:51 PM EDT) -- Domestic workers and their employers could see changing wage and hour practices as state and federal lawmakers seek to grant them new protections, while the U.S. Department of Labor has proposed taking certain protections away.



Congressional Democrats have introduced legislation to extend minimum wage and overtime protections to home care workers, which lawmakers signaled was in response to a U.S. Department of Labor regulation proposed last summer that would remove such protections for certain domestic workers. (AP Photo/Elaine Thompson)

Democrats in the U.S. Senate and House introduced legislation Thursday to extend Fair Labor Standards Act minimum wage and overtime protections to home care workers, a move lawmakers signaled was in response to a pending DOL regulation that would end a carveout enabling such protections.

States have also acted on the issue, most recently in Washington, where Democratic Gov. Bob Ferguson **signed into law** on March 9 a "Domestic Workers Bill of Rights," and in Virginia, where such legislation passed in the Senate and House on Thursday.

About a dozen states and at least a few cities have such laws on the books, which generally cover not only live-in caregivers and home health aides but also housekeepers, cleaners, cooks, gardeners and household managers. New laws took effect in Washington, D.C. in 2023, New Jersey in 2024 and Philadelphia in May 2025, for example.

"It's definitely going to be a shifting landscape," said Angelo Spinola of management-side firm Polsinelli PC. "It can be

very challenging for a smaller provider, even a national provider, to keep up with all the changing laws and regulations."

In lawsuits, domestic workers tend to allege unpaid off-the-clock work and independent contractor misclassification, among other things. Workers' attorneys and advocates said employers take advantage of low-wage workers who are afraid to speak up, sometimes due to their immigration status, and that the fact that such workers are spread out keeps them from organizing and discussing issues with each other.

"They're working independently, so they're going into someone's home and they're not necessarily seeing their co-workers, they're not talking to people who are doing the same job," said Karla Walter, a senior fellow at the Center for American Progress.

Here, Law360 looks at three areas in which the issue is evolving.

DOL Rule

A DOL regulation is **pending** that would eliminate an Obama-era prohibition on using a carveout to FLSA protections for certain domestic workers.

Under the 1974 carveout, live-in domestic workers are not entitled to overtime pay, and those who provide companionship services for individuals unable to care for themselves are not entitled to minimum wage or overtime protections.

The Obama-era policy was "fixing a loophole that has been on the books for far too long," Walter said.

The DOL proposed ending the prohibition in July. The comment period **ended** in September and the DOL has not yet put forward a final version.

David Rodwin of Murphy Anderson PLLC, who represents workers and authored a public comment opposing the proposed rule, said workers will feel the consequences especially in states that don't have their own protections in place.

"The current federal administration's decision to take several steps backwards on home care worker rights specifically is really tragic and is going to set these workers back and have some pretty far-reaching consequences across the country," he said.

Federal Legislation

The Fair Wages for Home Care Workers Act, which Sen. Patty Murray, D-Wash., and Rep. Alexandria Ocasio-Cortez, D-N.Y., introduced, would amend the FLSA to guarantee minimum wage and overtime protections for home care workers.

The lawmakers' announcement cited the DOL's proposal to do away with the Obama-era protections. However, without Republican support, the legislation would be unlikely to advance.

Worker-side attorneys said such federal legislation is needed, given the DOL policy changes.

Another attorney who authored a public comment opposing the regulation, Matt Dunn of Getman Sweeney & Dunn PLLC, said amending the FLSA is necessary to enshrine protections and prevent presidential administrations from institutionalizing wage theft.

"It would be a step in the right direction," he said.

Rodwin, the other worker-side attorney, said he was glad to see the bills introduced.

"It shouldn't be that whoever happens to be in the White House can just constantly reinterpret what companionship means, and these workers' rights, their basic rights, are just subject to the whims of changing elections," he said.

State "Bill of Rights" Laws

Washington's House Bill 2355 mandates that domestic workers receive minimum wage and overtime pay and also get privacy protections and legal recourse for employer violations and job-related discrimination. The law takes effect in July 2027.

The law covers individuals classified as either independent contractors or employees who work in a private residence for at least four hours a month. The measure excludes pet sitters, dog walkers and house sitters who don't also perform domestic work.

In Virginia, House Bill 27 and Senate Bill 28, if signed by Democratic Gov. Abigail Spanberger, would expand domestic worker protections the state enacted in 2021 by guaranteeing overtime pay. The legislation went to the governor on

Saturday, and she has a month to sign it.

And in Oregon, Gov. Tina Kotek, a Democrat, signed into law on March 3 the Caregiver Wage Protection Act. The law guarantees certain domestic workers minimum wage and overtime pay.

"States are certainly stepping up more to make sure that their workers are protected as this administration and the federal government are proposing to roll back protections," Dunn said.

Rodwin said such laws are necessary but not entirely sufficient.

"In the absence of federal protections, it's even more important for states to do what's within their power to ensure that these workers have state law minimum wage and overtime protections," he said. "But that can't get you into federal court. It doesn't provide federal protections and everything that goes along with that."

The end of the Obama-era rule could result in even more movement at the state level, said Polsinelli's Spinola, who once represented a legal challenger to that rule.

"A lot of the states track the federal exemption," he said. "I think we are going to see legislation, or at least proposed legislation, to enact overtime requirements to counteract what the DOL is doing."

He said this would result in different requirements depending on the jurisdiction.

"It probably will lead to a hodgepodge, just like we see with other state employment laws," he said. "Providers need to be extraordinarily diligent in tracking what the requirements are in their jurisdictions and just staying on top of that."

--Additional reporting by Rachel Riley and Daniela Porat. Editing by Bruce Goldman and Nick Petrucio.

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