

RECENT EVENT

EMPLOYMENT LAW — DOMESTIC WORK — CALIFORNIA GOVERNOR VETOES BILL TO EXTEND OCCUPATIONAL HEALTH AND SAFETY PROTECTIONS TO DOMESTIC WORKERS. — LETTER FROM GAVIN NEWSOM, GOVERNOR OF CALIFORNIA, TO MEMBERS OF THE CALIFORNIA STATE SENATE (Sept. 30, 2023).

A swoop of the Governor’s pen upended long-awaited workplace protections for the nearly 350,000 domestic workers¹ in California. The overwhelming majority of these workers are women, mainly immigrants and women of color.² They face unique risks on the job³ and high rates of workplace injury.⁴ Despite these hazards, the California Occupational Safety and Health Act of 1973,⁵ which mandates employers provide certain health and safety conditions to workers, explicitly excludes domestic workers.⁶ Recently, California Governor Gavin Newsom vetoed Senate Bill 686 (SB 686),⁷ which would have extended workplace safety standards to domestic workers.⁸ In his veto message, Governor Newsom criticized the bill for treating private household employers like other businesses and for being too costly.⁹ But these reasons are unfounded, as the bill addressed these concerns. Rather, the veto reflects how employment law resists encroaching into the private sphere of the home, making regulation difficult. While this practice seems

¹ ASHA BANERJEE ET AL., ECON. POL’Y INST., DOMESTIC WORKERS CHARTBOOK 2022, at 47 (2022), <https://files.epi.org/uploads/256483.pdf> [<https://perma.cc/8AKE-FDNW>]. California Labor Code defines domestic workers as those who provide “services related to the care of persons in private households or maintenance of private households . . . includ[ing] childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids, and other household occupations.” CAL. LAB. CODE § 1451 (West, Westlaw through Ch. 1 of 2024 Reg. Sess.).

² BANERJEE ET AL., *supra* note 1, at 1.

³ S.B. 686, 2023–2024 Leg., Reg. Sess. § 1(d) (Cal. 2023) (highlighting domestic workers’ vulnerability during the California wildfires given their exclusion from state occupational health and safety protections).

⁴ *See, e.g.*, UCLA LAB. OCCUPATIONAL SAFETY & HEALTH PROGRAM ET AL., HIDDEN WORK, HIDDEN PAIN: INJURY EXPERIENCES OF DOMESTIC WORKERS IN CALIFORNIA 8 (2020) [hereinafter HIDDEN WORK], <https://losh.ucla.edu/wp-content/uploads/sites/37/2020/06/Hidden-Work-Hidden-Pain.-Domestic-Workers-Report.-UCLA-LOSH-June-2020-1.pdf> [<https://perma.cc/249V-RQZY>] (finding eighty-five percent of surveyed domestic workers experienced musculoskeletal injury).

⁵ CAL. LAB. CODE §§ 6300–6725 (West, Westlaw through Ch. 1 of 2024 Reg. Sess.).

⁶ *Id.* § 6303. California Labor Code’s defines employment as any “work for hire, *except household domestic service.*” *Id.* (emphasis added). The Federal Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, 84 Stat. 1590 (codified as amended in scattered sections of the U.S. Code) similarly excludes domestic workers. 29 C.F.R. § 1975.6.

⁷ Letter from Gavin Newsom, Governor of California, to Members of the California State Senate (Sept. 30, 2023) [hereinafter SB 686 Veto], <https://www.gov.ca.gov/wp-content/uploads/2023/09/SB-686-Veto-Message.pdf> [<https://perma.cc/6H2J-H7WD>].

⁸ S.B. 686, 2023–2024 Leg., Reg. Sess. (Cal. 2023).

⁹ SB 686 Veto, *supra* note 7.

entrenched, the anti-domestic violence movement pierced the privacy shield and may offer a strategy to advance domestic workers' rights.

California has made several attempts to strengthen legal protections for domestic workers. In 2013, California guaranteed overtime pay by enacting the Domestic Worker Bill of Rights.¹⁰ This was followed by the Domestic Worker and Employer Outreach and Education Program (DWEOP) in 2019, which was created “to promote awareness of[] and compliance with[] labor protections” for domestic workers.¹¹ However, there have also been setbacks. In 2020, Governor Newsom vetoed a bill similar to SB 686 that would have ended the exclusion of domestic workers under the jurisdiction of the California Division of Occupational Safety and Health (Cal/OSHA) and developed guidelines to regulate workplace hazards in the domestic service industry.¹²

Nevertheless, domestic workers and advocates continued to push for legislative change. In 2021, California passed Senate Bill 321 (SB 321),¹³ groundbreaking legislation that created an advisory committee to develop voluntary guidelines and policy recommendations for domestic workers' health and safety.¹⁴ The committee published its findings in December 2022,¹⁵ making California the first state with safety guidance for domestic workers.¹⁶ Stressing household employers must take legal responsibility for domestic workers' working conditions, the committee recommended removing Cal/OSHA's exclusion of domestic workers.¹⁷

Subsequently, in February 2023, State Senator María Elena Durazo introduced SB 686.¹⁸ The bill recognized the importance of protecting domestic workers because they care for the “most important elements of their employers' lives, families, and homes.”¹⁹ Based on the advisory

¹⁰ Ch. 374 (A.B. 241), 2013 Cal. Legis. Serv. (West) (codified at CAL. LAB. CODE §§ 1450–1473 (West, Westlaw through Ch. 1 of 2024 Reg. Sess.)); LAB. § 1454.

¹¹ Appropriations — Workers Compensation, ch. 24 (S.B. 83), § 33, 2019 Cal. Legis. Serv. (West) (codified at LAB. § 1455). The program currently focuses on domestic workers' rights to minimum wage, overtime, and sick leave. LAB. § 1455.

¹² S.B. 1257, 2019–2020 Leg., Reg. Sess. (Cal. 2020); Letter from Gavin Newsom, Governor of California, to Members of the California State Senate (Sept. 29, 2020) [hereinafter SB 1257 Veto], <https://www.gov.ca.gov/wp-content/uploads/2020/09/SB-1257.pdf> [<https://perma.cc/4M32-UHBA>].

¹³ Act of Sept. 27, 2021, ch. 332 (S.B. 321), 2021 Cal. Legis. Serv. (West) (codified at CAL. LAB. CODE § 6305.1 (West, Westlaw through Ch. 1 of 2024 Reg. Sess.)).

¹⁴ *Id.*

¹⁵ SB321 ADVISORY COMMITTEE, SB321 COMMITTEE POLICY RECOMMENDATIONS TO PROTECT THE HEALTH AND SAFETY OF HOUSEHOLD DOMESTIC SERVICES EMPLOYEES 3 (2022) [hereinafter SB321 POLICY RECOMMENDATIONS], <https://www.dir.ca.gov/dosh/documents/Policy-Recommendations-SB-321.pdf> [<https://perma.cc/6HA5-J9MC>].

¹⁶ Carolyn Said, *California Just Created the Country's First Health and Safety Guidelines for Domestic Workers*, S.F. CHRON. (Jan. 23, 2023, 1:18 AM), <https://www.sfchronicle.com/bayarea/article/california-just-created-the-country-s-first-17731235.php> [<https://perma.cc/JU9U-NHSV>].

¹⁷ SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 6.

¹⁸ SB-686 Domestic Workers: Occupational Safety Text, CAL. LEG. INFO. (Sept. 25, 2023, 2:00 PM), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=20230240SB686 [<https://perma.cc/KVT7-BAV3>].

¹⁹ S.B. 686, 2022–2023 Leg., Reg. Sess. § 1(f) (Cal. 2023).

committee's recommendations, SB 686 first amended section 1455 of the labor code to expand DWEOP to cover occupational safety.²⁰ It tasked community-based organizations, in consultation with Cal/OSHA, to develop materials on health and safety standards, including on "specific issues that affect the domestic work industry differently."²¹ Second, SB 686 amended section 6303 to remove the exclusion of household domestic service under Cal/OSHA's employment definition.²² Finally, SB 686 required Cal/OSHA to adopt guidance for employers of domestic workers to comply with applicable legal requirements.²³ The guidance would align with the advisory committee's voluntary guidelines,²⁴ which identified and adapted existing Cal/OSHA regulations to domestic workers' needs.²⁵ These guidelines would have been adopted by January 1, 2025, by which domestic service employers would also have to comply.²⁶

Throughout the legislative process, SB 686 received positive comments. The California Senate Committee on Labor, Public Employment and Retirement Analysis acknowledged following the advisory committee's findings "ma[de] sense."²⁷ The bill also received support from numerous civil rights and workers' rights organizations,²⁸ while no opposition was filed.²⁹ The California Senate passed the bill on May 26, 2023.³⁰ The California Assembly then passed it on September 13, 2023³¹ with an amendment to remove a proposed program to support low-resourced employers, after it was not funded during appro-

²⁰ *Id.* §§ 1(s), 2(a)(1).

²¹ *Id.* § 2(f).

²² *Id.* § 3(b)(2)(A). Publicly funded household domestic service and family daycare homes would have remained excluded. *Id.* § 3(b)(2)(B)(i)–(ii).

²³ *Id.* § 4(a).

²⁴ *Id.*

²⁵ SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 7. Many existing Cal/OSHA regulations, such as those for janitors, hotel housekeepers, and child daycare providers, cover the same types of hazards domestic workers commonly face. *Id.* at 7, 20. The voluntary guidelines adapted these regulations to the home setting, providing "concrete and practical guidance" for domestic service employers. *Id.* at 11. For example, employers could provide domestic workers who use chemicals with safer cleaning solutions or protective gear like gloves. SB321 ADVISORY COMMITTEE, VOLUNTARY INDUSTRY GUIDELINES TO PROTECT THE HEALTH AND SAFETY OF DOMESTIC WORKERS AND DAY LABORERS 10–12 (2022) [hereinafter SB321 VOLUNTARY GUIDELINES], [www.dir.ca.gov/dosh/documents/Voluntary-Industry-Guidelines-SB-321.pdf](https://perma.cc/MHC3-V3PX) [https://perma.cc/MHC3-V3PX].

²⁶ Cal. S.B. 686 § 4(a)–(b).

²⁷ S. Comm. on Lab., Pub. Emp. & Ret., Domestic Workers: Occupational Safety, 2023–2024 Reg. Sess., at 8 (Cal. 2023).

²⁸ *Id.* at 9–11.

²⁹ See S. Rules Comm., Off. of S. Floor Analyses, Domestic Workers: Occupational Safety, 2023–2024 Reg. Sess., at 9 (Cal. 2023).

³⁰ SB-686 Domestic Workers: Occupational Safety Votes, CAL. LEGIS. INFO., https://leginfo.ca.gov/faces/billVotesClient.xhtml?bill_id=202320240SB686 [https://perma.cc/BN29-CULH]. The bill passed with a vote of 24 ayes, 8 noes, and 8 no votes record. *Id.*

³¹ *Id.* The bill passed with a vote of 65–2–13. *Id.*

priations.³² The California Senate approved the amended bill on September 14, 2023.³³

Despite SB 686's widespread support, Governor Newsom vetoed it on September 30, 2023.³⁴ In his veto message, he expressed support for the "spirit" of the bill.³⁵ However, he emphasized "private households and families cannot be regulated in the exact same manner as traditional businesses."³⁶ He identified several specific issues justifying his veto. First, he argued the existing penalty scheme was "meant for businesses and not private individuals."³⁷ Second, he critiqued SB 686 for not proposing specific standards or an enforcement system tailored to domestic workers.³⁸ Finally, he argued the bill posed equity concerns by imposing "severe costs burdens and penalties" on low- and middle-income households, since nearly half of households employing domestic workers are low income.³⁹ Likewise, the bill may have disproportionately impacted households with older Californians that have greater care needs.⁴⁰

But Governor Newsom's stated reasons for vetoing SB 686 seem unfounded, as the bill addressed his major concerns. First, the bill recognized the unique nature of private household employers by mandating Cal/OSHA develop regulations specifically tailored to the domestic service industry.⁴¹ Second, it included measures to reduce costs.⁴² Thus, the veto is better understood as illustrative of a broader legal, political, and ideological commitment to maintaining the home as part of the private sphere and beyond state intervention. As such, domestic workers are excluded from the same protections afforded to workers outside the home, many of whom do similar, if not identical, work. Yet, as demonstrated by the development of anti-domestic violence laws, the home is not always beyond the scope of state regulation, suggesting stronger legal protections for domestic workers, like SB 686, are possible.

The first flaw of the veto message was its failure to recognize SB 686 was tailored to the domestic service industry. The bill developed directly from recommendations by the SB 321 advisory committee, established with explicit focus on the industry.⁴³ Additionally, by

³² See *SB-686 Domestic Workers: Occupational Safety Compare Versions*, CAL. LEGIS. INFO., https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=202320240SB686 [<https://perma.cc/V9GV-B9A6>]; S. Rules Comm., *supra* note 29, at 6.

³³ *SB-686 Domestic Workers: Occupational Safety Votes*, *supra* note 30. The bill passed with a vote of 27–8–5. *Id.*

³⁴ SB 686 Veto, *supra* note 7.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ S.B. 686, 2023–2024 Leg., Reg. Sess. § 4 (Cal. 2023).

⁴² See *SB-686 Domestic Workers: Occupational Safety Compare Versions*, *supra* note 32; SB321 POLICY RECOMMENDATION, *supra* note 15, at 10.

⁴³ Cal. S.B. 686 § 1(k).

requiring Cal/OSHA's industry guidance be "consistent" with the committee's voluntary guidelines on workplace safety for domestic workers, SB 686 implicitly adopted tailored standards.⁴⁴ Domestic service employers would only have had to comply with "applicable" regulations, further suggesting a more limited regulatory scope.⁴⁵ And, if necessary, SB 686 would have also required Cal/OSHA to develop additional industry-specific standards within a year after the initial guidance would have been issued.⁴⁶ Thus, contrary to the veto message, both the legislative history and the statute "as written" demonstrate SB 686 would have regulated domestic service employers differently than other businesses.⁴⁷

Second, the veto message exaggerated cost concerns. While Governor Newsom cited penalties of up to \$15,000,⁴⁸ such penalties would have been highly unlikely. While SB 686 mentions no penalty structure, the advisory committee recommended maintaining the existing civil monetary one.⁴⁹ But it also stressed the "importance of providing employers . . . with support and the opportunity to correct violations and avoid citations if possible."⁵⁰ Currently, small businesses can often reduce the penalty by forty percent after correcting violations.⁵¹ Additionally, SB 686 intended to address cost burdens for low-income households by offering a technical and financial assistance program.⁵² However, Governor Newsom did not allocate funding for it in the annual state budget before SB 686 passed both chambers,⁵³ resulting in the program being removed.⁵⁴ SB 686 may have even been cost-saving for employers, who are already financially liable for domestic workers' workplace injuries through worker's compensation.⁵⁵ By mandating safer work environments, SB 686 would have reduced the risk of injury occurring in the first place, potentially saving employers money.

⁴⁴ *Id.* § 4(a); see SB321 VOLUNTARY GUIDELINES, *supra* note 25, at 1 ("The Guidelines include steps tailored for the home environment . . ."); see also SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 13 ("In developing these guidelines, the [Advisory Committee] . . . drew on their experience in the industry to identify concrete and practical guidance adapted for the home setting.")

⁴⁵ Cal. S.B. 686 § 4(b).

⁴⁶ *Id.* § 4(c).

⁴⁷ *Contra* SB 686 Veto, *supra* note 7.

⁴⁸ *Id.*

⁴⁹ SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 9.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See *SB-686 Domestic Workers: Occupational Safety Compare Versions*, *supra* note 32; SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 10.

⁵³ Eileen Boris & Jessica Lehman, Opinion, *Not in Our Names — Newsom Turns His Back on Domestic Workers*, DAVIS VANGUARD (Oct. 13, 2023), <https://www.davisvanguard.org/2023/10/guest-commentary-not-in-our-names-newsom-turns-his-back-on-domestic-workers> [<https://perma.cc/6SYG-63GW>].

⁵⁴ See S. Rules Comm., Off. of S. Floor Analyses, *supra* note 29, at 6.

⁵⁵ CAL. LAB. CODE § 3700 (West, Westlaw through Ch. 1 of 2024 Reg. Sess.).

Thus, given the tenuous critique of the bill itself,⁵⁶ the veto can and should be better understood as another example of how law and policy exclude the home as a site of paid labor. As such, the home is beyond the reach of government regulation. The veto of SB 686 is just one instance of a larger effort to curtail the expansion of rights for domestic workers. In 2020, Governor Newsom vetoed Senate Bill 1257, which also proposed to end Cal/OSHA's exclusion of domestic workers, citing the same rationale that "where people live cannot be treated in the exact same manner as a traditional workplace."⁵⁷ Yet both bills required Cal/OSHA to develop industry-specific guidelines, therefore distinguishing private households from other businesses.⁵⁸ SB 686 went even further, utilizing as a model the SB 321 advisory committee guidelines that already identified industry-specific measures.⁵⁹ Still, this was not enough to win the Governor's signature. If fixing these practical concerns remains insufficient for approval, another factor is likely at play.

Fundamentally, Governor Newsom's demand that private households be treated differently from other workplaces fails to acknowledge domestic workers perform similar jobs, and thus face similar risks, as their non-domestic counterparts. The home setting does not radically transform the work that healthcare workers, hotel housekeepers, or janitorial staff perform.⁶⁰ As such, domestic workers face similar occupational risks such as heavy lifting, exposure to cleaning chemicals, and biological hazards.⁶¹ Recognition of these risks is important: historically, a belief that domestic work was not dangerous, or work at all, rationalized excluding domestic workers from labor protections.⁶² Domestic work was dangerous then as it is now.⁶³ Governor Newsom's veto does not engage with these commonalities.

Certainly, the domestic service industry has unique features, but these demand more worker protection, not less. Domestic workers are isolated within the privacy of the home, facing greater risk of exploitation.⁶⁴ Further, many domestic workers are undocumented immigrants and more vulnerable to employer abuse.⁶⁵ Additionally, domestic workers often enter into informal labor agreements with an individual, not a

⁵⁶ Others have raised similar critiques of the veto. *See, e.g.*, Boris & Lehman, *supra* note 53.

⁵⁷ SB 1257 Veto, *supra* note 12.

⁵⁸ S.B. 1257, 2019–2020 Leg., Reg. Sess. § 2 (Cal. 2020); S.B. 686, 2023–2024 Leg., Reg. Sess. § 4(a) (Cal. 2023).

⁵⁹ Cal. S.B. 686 § 4(a); SB321 VOLUNTARY GUIDELINES, *supra* note 25, at 1.

⁶⁰ *See* HIDDEN WORK, *supra* note 4, at 9–10.

⁶¹ *Id.* at 1.

⁶² Peggie R. Smith, *The Pitfalls of Home: Protecting the Health and Safety of Paid Domestic Workers*, 23 CAN. J. WOMEN & L. 309, 314 (2011).

⁶³ *See id.* at 316 (discussing risks in the early 1900s); HIDDEN WORK, *supra* note 4, at 1 (finding eighty-five percent of surveyed domestic workers in California experienced chronic pain from injuries, many of which could have been avoided through occupational safety regulations).

⁶⁴ Smith, *supra* note 62, at 311.

⁶⁵ *Id.*

company.⁶⁶ Both employers and employees are likely unaware of health and safety standards, partly because labor laws often do not apply.⁶⁷ But even if more regulations existed, private households may be ill-equipped to educate employees on these standards.⁶⁸ Yet, “precisely because of th[e]se differences,” labor standards should cover domestic workers.⁶⁹ These differences are not based solely in the nature of working in the home, but are also constructed by the legal exclusion of domestic work, a history rooted in the legacy of slavery.⁷⁰ Greater legal protections can help formalize the industry, strengthening domestic workers’ bargaining power to reject exploitative conditions. Laws like SB 686 are vital to ensure domestic work is not seen as so exceptional so as to exclude its workers from labor rights.⁷¹

Based on Governor Newsom’s logic, treating private households differently means minimal regulation, a view that has dominated employment law’s approach to regulating domestic work. And it is a view that transcends political parties: Governor Newsom is a Democratic governor in a deeply blue and worker-friendly state.⁷² His veto is another example of a widespread commitment to privacy in the home.⁷³ From the early development of labor laws in the 1930s, respecting privacy of the home meant largely excluding domestic workers from labor regulations.⁷⁴ This privacy argument remains prevalent.⁷⁵ At the same time, a strong commitment to privacy can frustrate attempts to secure stronger labor rights as well as to enforce gains.⁷⁶

⁶⁶ *Id.*

⁶⁷ See Peggie R. Smith, *Work Like Any Other, Work Like No Other: Establishing Decent Work for Domestic Workers*, 15 EMP. RTS. & EMP. POL’Y J. 159, 190–91 (2011).

⁶⁸ *Id.*

⁶⁹ *Id.* at 194.

⁷⁰ See Juan F. Perea, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act*, 72 OHIO ST. L.J. 95, 101, 104 (2011) (discussing the exclusion of Black domestic workers from New Deal-era labor protections).

⁷¹ Cf. Smith, *supra* note 67, at 194 (“For too long, the specificity of domestic service has been used to deny domestic workers basic labor rights extended to the general workforce.”).

⁷² See KAITLYN HENDERSON, OXFAM, *BEST AND WORST STATES TO WORK IN AMERICA* 2023, at 6 (2023), https://webassets.oxfamamerica.org/media/documents/BSWI_2023_Report.pdf [<https://perma.cc/GS8A-FVC8>].

⁷³ Privacy in this context refers to the distinction between the public sphere, where government regulation is appropriate, and the private sphere, namely the home, where it is not. See, e.g., Kimberly D. Bailey, *It’s Complicated: Privacy and Domestic Violence*, 49 AM. CRIM. L. REV. 1777, 1781 (2012) (attributing this conception to John Locke).

⁷⁴ Kristi L. Graunke, “Just Like One of the Family”: *Domestic Violence Paradigms and Combating On-The-Job Violence Against Household Workers in the United States*, 9 MICH. J. GENDER & L. 131, 148–49 (2002).

⁷⁵ See, e.g., SB 1257 Veto, *supra* note 12 (citing “privacy of an individual’s private residence” as consideration in a veto letter).

⁷⁶ See Robert F. Castro & George M. Dery III, *Emancipating Law and Liberating Lives: Making California’s Enforcement of AB 241 More Accessible and Muscular for Domestic Workers*, 17 HARV.

But the home is not completely off-limits from the law. The state's approach to domestic violence makes this clear — transforming from a legal regime that refused to intervene in private matters of the home to one that has increasingly mandated more state intervention.⁷⁷ Feminist scholars and activists reframed the narrative by critiquing traditional notions of privacy and advocating that the need for protections superseded privacy, eventually resulting in strong support for state intervention in domestic violence.⁷⁸ This approach may offer a path forward to advocate for domestic workers' rights given the relationship between the two. First, domestic workers are particularly vulnerable to domestic violence, especially those who are undocumented.⁷⁹ Furthermore, key *differences* between domestic violence and domestic work support loosening privacy considerations. Namely, employer-employee relationships — where an employer willingly invites a domestic worker into the home — likely trigger weaker privacy concerns.⁸⁰ Additionally, civil enforcement of domestic workers' rights is likely less invasive than existing criminal enforcement against domestic violence.⁸¹

With proposed regulations like SB 686 that are arguably less intrusive to the private sphere, domestic workers' rights advocates should embrace the strategy of the anti-domestic violence movement in challenging privacy itself. Efforts thus far have centered on balancing household employers' privacy rights with state regulation,⁸² such as limiting home visits by state inspectors.⁸³ Yet, if the home functions as a workplace, should it still retain the privacy protections of a home? Recognizing the home as a workplace demands reevaluating household privacy to afford domestic workers their necessary and owed labor protections. Contrary to Governor Newsom's veto message, private households can and *should* be regulated like any other business, as domestic work *is* like any other work.

LATINO L. REV. 91, 108 (2014) (discussing the difficulty of enforcing the Domestic Worker Bill of Rights because “[a]ny investigations . . . will have to account for this heightened protection offered [to] the homeowner employers of domestic workers”).

⁷⁷ Bailey, *supra* note 73, at 1778.

⁷⁸ *Id.* at 1781–85. State intervention is also complicated, with many arguing that the law has gone too far in using aggressive criminal prosecution policies like mandatory arrest that do not respect the privacy of domestic violence survivors who wish to not engage in the criminal legal system. *See, e.g., id.* at 1779.

⁷⁹ Graunke, *supra* note 74, at 154, 178.

⁸⁰ *See* Smith, *supra* note 62, at 332.

⁸¹ For example, SB 686 allowed for civil penalties whereas every state permits a warrantless arrest with probable cause of domestic abuse. Bailey, *supra* note 73, at 1785.

⁸² SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 6 (acknowledging employers' privacy rights but not placing “undue focus” on them); *see also* Smith, *supra* note 67, at 191 (“Such inspections may indeed represent a violation of the employer's privacy but household employers must appreciate that when they bring a worker into their home, they sacrifice some of their privacy. There needs to be a compromise between the privacy interests of household employers and the health and safety interests of workers.”).

⁸³ *See* SB321 POLICY RECOMMENDATIONS, *supra* note 15, at 7–8.