

New Expansive Protections for New Jersey's Domestic Workers, by Karol Corbin Walker, Esq. and Nicholas J. Falcone, Esq., 3-12-2024

New Jersey Governor Phil Murphy recently signed into law the New Jersey Domestic Workers Bill of Rights Act (the "Act"), which greatly expands the rights and legal protections of an estimated 50,000 domestic workers. With the bill's passage, New Jersey became the 11th state to adopt a Domestic Workers Bill of Rights, joining states like New York and California.

Notably, the legislation (S-723/A-822), which goes into effect July 2024, removes the exclusion of domestic workers from the New Jersey Law Against Discrimination and the New Jersey State Wage and Hour Law.

Under the Act:

"Domestic services" means services of a household nature and performed by an individual in or about a private home on a permanent or temporary basis, and includes services performed by a domestic worker.

The term "Domestic Worker," which is to be narrowly construed, means hourly and salaried employees, full-time and part-time individuals, and temporary individuals who work in residence for the purposes of providing any of the following services:

- caring for a child
- serving as a companion or caretaker for a sick, convalescing, or elderly person, or a person with a disability;
- housekeeping or house cleaning;
- cooking;
- providing food or butler service;
- parking cars;
- cleaning laundry;
- gardening;
- personal organizing; or
- for any other domestic service purpose.

The Act removed "independent contractor" from the definition of Domestic Worker.

The term Domestic Worker does not include:

- Extended Family members;
- Those primarily engaged in house sitting, pet sitting, dog walking;
- Employees of the State or United States;
- Individual who is a kinship legal guardian established under the authorization of the Department of Children and Families; and

- An individual under 18 years of age.

The Act also excludes individuals working at a business operated primarily out of the residence such as a home day-care business, and individuals whose primary work involves household repair or maintenance such as a roofer, plumber or painter.

Domestic Workers are entitled to minimum wage, including overtime, along with other protections including meal and rest breaks, anti-discrimination and anti-harassment rights and health and safety protections. The bill also provides privacy rights to Domestic Workers and requires the employer to enter into a written contract with them, the extensive requirements of which include, but are not limited to, outlining job duties, manner and frequency of payment. The law also requires employers to give advance notice to domestic workers prior to termination. The contract may not contain a non-disclosure, non-competition, or non-disparagement agreements. There is a separate list of restrictions that apply to live-in domestic workers.

The bill establishes penalties for violations of its provisions, and includes penalties for hazardous conditions, retaliation by the employer, and requires employers to provide notice to domestic workers about their rights. Given these expansive new requirements, employers must ensure that they are in compliance with this new law to avoid fines from the New Jersey Department of Labor and Workforce Development.

Kaufman Dolowich Can Help

If you have questions about this pending legislation or other employment-related legal matters, Kaufman Dolowich's skilled labor and employment attorneys can assist with navigating the ever-changing business and regulatory environment.