

# WILENTZ

—ATTORNEYS AT LAW—

WILENTZ, GOLDMAN & SPITZER, P.A.

## Household Employers Must Take Steps to Comply with New Jersey's Domestic Workers Bill of Rights

07/23/24

On July 1, 2024, the New Jersey Domestic Workers Bill of Rights went into effect, extending employee protections to more than 50,000 domestic workers throughout the state. Here is what household employers need to know.

### Who is Considered a “Domestic Worker”?

A “domestic worker” is an employee who works in a residence providing services such as childcare; companionship or caretaker for a sick, convalescing, elderly or disabled individual; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or any other domestic service purpose. Expressly excluded from the definition of domestic workers include those who care for their own family members, pet or house sitters, home day-care businesses, and household maintenance contractors. The Bill of Rights covers all domestic workers, regardless of immigration status.

### What Do Household Employers Need to Know?

Whether a worker is an independent contractor or an employee requires a fact-sensitive analysis under [New Jersey's “ABC” test](#). Household employers should know that most domestic workers **do not meet the test to be an Independent Contractor** and therefore, are employees. For the first time, domestic workers are now protected under the New Jersey Law Against Discrimination (NJLAD) and the New Jersey Wage and Hour Law. As a result, domestic workers are now protected from discrimination and are entitled to receive minimum wage and overtime.

Additionally, under the new (and preexisting) law, employers must:

- register as an employer and make tax contributions
- [notify domestic workers of their rights and protections under the law](#)
- provide appropriate paid rest and meal breaks
- [provide up to 40 hours of Earned Sick Leave](#)
- maintain records concerning employee's worked hours, pay rates, break schedule and earned/used leave time
- prepare a written contract for employees who work five (5) or more hours per month on a regular basis, in the employee's language
- maintain Workers' Compensation insurance
- provide notice of termination for reasons other than misconduct - two (2) weeks' notice to live-out domestic workers and four (4) weeks' notice to live-in domestic workers

These requirements are not an exhaustive list.

Moreover, household employers must provide domestic workers with 10 minute rest-periods for every four (4) hours worked, 30 minute paid lunch breaks after five (5) consecutive hours of work, and requiring that live-in domestic workers receive an unpaid 24 hour rest period after six (6) consecutive days of work.

Employees who work fewer than five (5) hours per month or whose work for the household employer is casual, irregular and different from paid work in which they normally undertake, are exempt from the new law.

Domestic workers can pursue claims through the Department of Labor, Division of Civil Rights, Equal Employment Opportunity Commission or through a lawsuit filed in a court of law.

### **What if a Domestic Worker Files A Report?**

Employers cannot punish employees for filing a complaint, reporting a violation or talking about their rights under the law. This means an employer of a domestic worker cannot cut their hours, make threats, fire them or take any action that would impact their employment because of the report or complaint. If an employee suffers any adverse action within 90 days of reporting a violation, filing a complaint or talking about their rights, it is presumed under the law to be retaliatory.

### **Are There Penalties for Violations?**

Fines can range from \$975 to \$13,653, half of which would be returned to the worker. Further, any domestic worker or person who believes the law has been violated may also bring a lawsuit. If the employee prevails, they may be entitled to: reinstatement of employment, back pay (including 200% in liquidated damages for non-payment of wages, including overtime), front pay (lost wages going forward) and injunctive relief, as well as an award of reasonable attorneys' fees and cost.

**Takeaway:** Domestic workers are now entitled to significant protections under the Domestic Workers Bill of Rights and employers must adhere to several new regulations. NJ Department of Labor has provided a [“model contract”](#) that can be used as a starting point for a household employer who would like to hire a Domestic Worker. If you have questions about whether your worker(s) are employees or independent contractors under New Jersey Law or about how the New Jersey Domestic Bill of Rights affects you contact a member of the Wilentz [Employment Law Team](#).

### **Attorney**

- Meghan Chrisner-Keefe

### **Practice**

- Employment Law