

FACT SHEET:

THE DOMESTIC WORKERS' BILL OF RIGHTS

On November 29, 2010, the New York Domestic Workers' Bill of Rights went into effect, impacting families across the state that employ nannies, housekeepers and others in their home. The Bill of Rights amends state labor, discrimination and disability laws to provide protections for domestic workers and establishes new standards for employers.

Who is covered by this law?

The law covers nannies, housekeepers, eldercare providers, companions for the sick and any other individuals engaged in domestic service in a home. Part-time workers who work for the same employer each week, even if it is only for one or two days, are covered. The law excludes people working on a “casual basis”, which means those whose work is intermittent or irregular. Also excluded are caregivers related to the employer by blood, marriage or adoption, and those who provide companionship services **and** are employed by someone outside the family.

New labor protections

Under the bill of rights, domestic workers are entitled to:

- At least **one full day of rest each week** (i.e. twenty-four hours),
- At least **three (3) paid days off each year**, after one year of work with the same employer,
- Guaranteed pay of at least **state minimum wage (\$ 7.25/hr)**, with eight hours considered a legal day's work,
- **Overtime pay** at one and one-half the regular hourly rate after forty (40) hours of work a week, or after forty-four (44) hours of work a week for live-in employees. Employers must also pay overtime rates if an employee chooses to work on her day of rest, whether or not she worked the required number of weekly hours. Check the New York State Department of Labor website for specific examples (forthcoming).

Disability benefits

The new law requires employers to provide temporary disability benefits to domestic workers who work over 40 hours a week (and may require them, pending legislative revision, to do so for part-time workers as well). Employers should check with their insurance carriers or with the New York State Workers' Compensation Board to make sure they have the proper coverage available for their employees in the event of off-the-job injury or illness (which includes pregnancy).

Protection from harassment

The bill of rights protects workers from harassment based on gender, race, religion, or national origin. In addition, employers may not “engage in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature” to a domestic worker or create an intimidating or hostile work environment or explicitly or implicitly condition her employment on her submission to such behavior. Employers also may not retaliate against workers for complaining about such harassment.



the work and family legal center

80 Maiden Lane, Suite 606, New York, NY 10038 | t: 212.430.5982 | f: 212.430.5983 | info@abetterbalance.org | abetterbalance.org

What does the law exclude?

The Domestic Workers' Bill of Rights excludes a number of provisions that were proposed in the original bill, and which advocates may push for in the future. These include:

- Paid sick days/vacation days/personal days,
- Advance notice of termination or severance pay in lieu of notice,
- Workers' compensation insurance for part-time workers, and
- The right of domestic workers to organize/bargain collectively with employers.
- Protection against discrimination in hiring and termination

Although employers are not required to provide severance pay or paid time off beyond the three days required by law, they do represent best practices and families are encouraged to adopt these policies if possible.

Where can I go for help complying with the law?

For general information about the Bill of Rights, visit the New York State Department of Labor at <http://www.labor.ny.gov/legal/domestic-workers-bill-of-rights.shtm>, where you can find fact sheets for employers and employees.

For information about taxes and payroll for your domestic workers, visit www.parkslopeparents.com, which has step-by-step instructions and Internet links for paying your employees on the books.

For information about temporary disability benefits, visit the New York State Insurance Fund at <http://ww3.nysif.com/DisabilityBenefits.aspx> to request a quote and complete an application for insurance coverage. Or call the New York State Workers' Compensation Board at 1-800-353-3092.