

Welcome

We'll get started shortly but, in the meantime . . .

Your voices will be muted throughout this webinar but you will have the ability to ask questions by typing them into the side bar.

There will be a Q and A taken from your typed questions at the end of this presentation.

New Legal Protections for Working Women in New York



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NY Women's Equality Agenda: A Brief History

Gov. Cuomo introduced a Women's Equality Agenda in January 2013, at the State of the State address, to break down legal barriers that cause gender discrimination and inequality in the workplace and society at large.

- Coalition of 850 groups in support
 - Steering Committee: along with ABB and NYCLU, American Association of University Women of New York State (AAUW-NYS), with 34 branches and 5,000 members statewide; the League of Women Voters NY with 60 local league chapters; Family Planning Advocates of New York which represents family planning providers statewide, including nine Planned Parenthood Affiliates; the New York State YWCA with 21 regional YW's; the New York State Coalition Against Domestic Violence; Planned Parenthood Advocates of New York; the NYS Anti-Trafficking Network with 140 member organizations including Sanctuary for Families; NOW-NYS, with 24 chapters representing over 40,000 members; and the PowHer New York Equal Pay Campaign with more than 60 partner organizations across the state.

Women's Equality Agenda

1. Secure **equal pay** for women in New York
2. Outlaw **sexual harassment** in all workplaces
3. Provide for **attorney's fees** for prevailing litigants in sex discrimination cases
4. End **family status discrimination** in employment
5. Move to end **housing discrimination for domestic violence victims** and those who receive public assistance
6. Expand access to **orders of protection** via new technology
7. Strengthen protections for survivors of **human trafficking**
8. Require employers to make **reasonable accommodations for pregnant women** in the workplace
9. End practice of **arresting DV victims** who need to be in contact with their abusers
10. Enact **reproductive health** protections

Why is this necessary?

- Women in New York earn 86 percent of what men earn, and that disparity is even more drastic for African American and Hispanic women.
- Inequality persists throughout the course of a woman's life, meaning a woman is twice as likely as a man to live out old age in poverty.
- Women who are pregnant or have children are less likely to be hired, promoted, or given raises.
- Women are five times more likely than men to be sexually harassed, and one in four women will experience intimate partner violence in her lifetime.

Equal Pay A.6075/S.1

Women in New York earn 86 percent of what men earn and jobs traditionally held by women pay significantly less than jobs predominantly employing men. Gaps even worse for women of color—64% for African American women and 56% for Latinas.

- The law tightens exceptions in the previous version of the labor law, which allowed employers to cite nearly any factor other than sex—legitimate or otherwise—to justify pay differentials.
- Promotes wage transparency: employers cannot prohibit employees from inquiring about, discussing, or disclosing wages or the wages of a co-worker at work.
- If you can prove your employer paid you differently in a “willful” violation of the law, then you can get up to three times the amount of money from your employer that you lost from being underpaid.

Nearly all employees in New York are covered by this law, with the exception of those who work for a government agency.

The law will go into effect 90 days from signing, provided certain administrative agencies take proper action.

Sexual Harassment A.5360/S.2

In 2011, women brought 75% of all sexual harassment complaints filed with the NYS Division of Human Rights. More than 60% of private employers in NYS have fewer than 4 employees, and were exempt from the law...until now.

- Formerly, New York law only protected workers from sexual harassment if their workplace had four or more employees. Now all workers are covered by the law.
- Sexual harassment is physical or verbal conduct of a sexual nature that *unreasonably interferes with your work* performance, affects your employment, or makes your workplace intimidating, hostile, or offensive.
 - This means it is likely illegal for someone at work, including a co-worker or customer, to:
 - Make unwanted sexual advances towards you
 - Make you feel uncomfortable through sexual words or actions
 - Request sexual favors from you
 - Engage in sexual conduct that is used as a basis for hiring or other employment decisions

The law goes into effect immediately upon signing.

Attorney's fees A.7189/S.3

Almost 80% of employment cases, and the majority of credit and lending discrimination cases, are filed by women. New York was one of only 9 states that did not allow women who proved discrimination at trial to recover attorney's fees.

- This bill will amend state law so that certain discrimination plaintiffs can recover attorney's fees:
 - All prevailing parties in housing discrimination cases
 - Prevailing parties in employment and credit discrimination cases where sex is a basis for the discrimination
- Helps ensure access to redress for discrimination:
 - If a victim of discrimination cannot afford to hire an attorney, she cannot seek redress.
 - Without recovery of fees, those who hire an attorney on a contingency fee arrangement are never "made whole" for their losses because they have to pay an attorney out of their recovery.

This law will go into effect 90 days after signing.

Family Status Discrimination A.7173/S.4

Women with children are less likely to be recommended for hire and promotion. Mothers earn 5% less per child than non-mothers, even when controlling for education, work experience and other variables.

- New law adds familial status as protected category for employment (not just housing). Applies to both mothers and fathers, as well as workers who are pregnant or in the process of securing legal custody of a child.
- Law makes it explicitly illegal for an employer to discriminate against workers with children:
 - Your boss cannot fire you because you are adopting kids and she thinks you will not be as dedicated to your work.
 - A company cannot refuse to hire you just because you are a single mother.

If you work for an employer in New York State who has four or more employees, or are applying to work for such an employer, you are covered by this law.

This law will go into effect 90 days after signing.

Domestic Violence

More than 1 in 3 women experience physical violence or stalking by an intimate partner in their lifetime.

Housing Discrimination A.6354B/S.5 (Effective 90 days after signing.)

- Amends NYS Human Rights Law to protect survivors of domestic violence from discrimination based on their status as DV survivors when they attempt to purchase, rent, lease or inhabit housing.
- Creates an eviction defense in housing court requiring judges to consider facts related to domestic violence in their decision-making.
- Creates a Task Force to study the problem of discrimination in the rental market against those who receive public assistance housing subsidies (e.g., Section 8).

Orders of Protection A.6262/S.6 (Takes effect April 1, 2016)

- Authorizes the creation of a pilot program to allow domestic violence victims to testify remotely when seeking a temporary order of protection.

Human Trafficking A.506/S.7

Because human trafficking is often committed behind closed doors, statistics are hard to come by. Whether trafficked into forced labor or prostitution, women and girls (who constitute the vast majority of victims) are profoundly harmed by this brutal crime.

The legislation offers better protection to survivors of human trafficking, especially minors, by treating survivors as victims and increasing penalties to punish offenders. Specifically, the bill:

- Creates an affirmative defense to a prostitution charge that the individual was a trafficking victim;
- Increases penalties for human trafficking and labor trafficking;
- Creates new offenses, in increasing degrees, of aggravated patronizing of a minor; and
- Creates a civil action for victims of trafficking against their perpetrators.

Some provisions of this act, which extend laws set to expire, go into effect immediately.

Pregnancy Discrimination A.4272/S.8

Pregnant women, especially in physically demanding jobs, frequently get pushed out of work or forced onto unpaid leave when they request a modest, temporary accommodation. Three quarters of women will be pregnant and employed in their lives, and families rely on their income—2/3 of families have a mother as a breadwinner.

- Employers must allow employees with pregnancy-related medical conditions to make changes to their work duties or schedule in order to stay healthy, unless it would be an “undue hardship” to do so.
- Examples:
 - Light duty, help with lifting, temporary transfer
 - Breaks to drink water or rest
 - Time off to recover from childbirth
 - Modified work schedule

If you work for an employer in New York State who has four or more employees, or are applying to work for such an employer, you are covered by this law.

This law goes into effect 90 days after signing.

Reproductive Health A.6221/S.4432

New York's abortion law was enacted in 1970, three years prior to *Roe v. Wade*, and lacks the important protections found in federal law. Under New York law, a woman's health is not protected in the rare and tragic situation that a serious complication jeopardizes her health later in pregnancy; New York law only provides protection if a woman's life is in danger.

The Senate refused to take up this final piece of the Women's Equality Agenda that would have:

- Codified in New York State law the 1973 Supreme Court decision in *Roe v. Wade*; and
- Ensured that a woman in New York can get an abortion within 24 weeks of pregnancy, or when necessary to protect her life or health.

Advocates will continue to put pressure on lawmakers to adopt this important update to New York law in the future.

Reproductive Health

There were some positive legislative developments on reproductive health issues in 2015:

- A bill **expanding Access to Health Insurance for Pregnant Women (A.6780B/S.5972B)** passed both chambers and will be sent to the Governor for his signature. The bill would add “becoming pregnant” to the list of “qualifying events” so that a women who has no health insurance and finds out she’s pregnant can enroll in a health plan on the exchange even if the enrollment period has ended.
- **The Boss Bill (A.1142A/S.2709A)**, a bill that would prohibit employers from discriminating against an employee for his or her reproductive health choices (adverse employment action or failure to promote, for example, for using IVF treatments) passed the Assembly, but stalled in Senate Labor.
- **The Comprehensive Contraceptive Coverage Act (CCCA) (A.8135)**, was introduced as a program bill by the Attorney General and would have required insurance companies in New York to cover a wide range of contraception. Advocates found that the measure had significant bi-partisan support.

Breastfeeding Protections A.7202A/S.5183

80% of NY mothers have breastfed their babies at some point, but only 37% are still breastfeeding exclusively at 3 months postpartum. A mother returning to work is more than twice as likely to stop nursing as a mother who is not restarting work that month.

- New law requires health care providers to include information about workplace rights for nursing moms in packet of information called the “Breastfeeding Mothers Bill of Rights.”
 - **Time:** Your employer must give you time to express milk for your baby. This means you may use paid breaks to pump, or, if you don't get paid breaks, you are legally entitled to unpaid break time of 20 minutes (or 30 if you need extra time to get to the space where you can express milk) every 3 hours, or as needed.
 - **Space:** Your employer must give you a clean, private space, other than a bathroom, where you can pump with no interruption, unless doing so would cause your employer significant difficulty or expense.
 - **Support:** Your employer must give you written information about your rights. In addition, your employer may not discriminate against you in any way, or allow a work environment that is hostile to your rights, for choosing to express breast milk at work.

This expansion of the Breastfeeding Mothers' Bill of Rights is effective January 1, 2016.

Nail Salon Workers A.7630A/S.5966

NY Times coverage of working conditions highlighted dangers and abuses facing nail salon workers. New laws and regulations part of concerted government response.

- New laws and regulations require employers to provide safety equipment and proper ventilation.
 - Employer must provide a respirator mask, protective gloves, eye protection, and proper ventilation to ensure safety.
- The law creates a registration system for nail salon workers who have not yet been licensed. These “trainees” are eligible for the same protections as other workers.
 - Employers must pay at least minimum wage, grant meal breaks, and cannot take tips or wages (e.g., workers need not pay employer for training or as a punishment).
- The regulations require employers to have funds available to pay employees who bring lawsuits against them.

Campus Sexual Assault A.8244/S.5965

Sexual violence on college and university campuses is a serious and complex problem that has too often been addressed through dysfunctional campus disciplinary processes that fail to offer a just outcome for both accuser and accused.

The legislation passed this session, and signed by the Governor yesterday (July 7) would, among other things, create:

- A clear requirement that students engaging in sexual activity have obtained affirmative consent for such activity from their partners;
- A strong set of rights and resources for students who experience domestic violence, dating violence, stalking, and sexual assault;
- Requirements to assure a fair and impartial process to adjudicate allegations of misconduct;
- Strong confidentiality and privacy protections for those who report incidents of sexual violence.

What else?

Paid Family Leave (A.3970 /S.3004)

- U.S. is a global outlier—alone with Papua New Guinea in no paid maternity leave
- NY proposal would provide safety net to workers at critical moments—provide up to 12 weeks of job-protected paid leave to care for a new child or seriously ill family member.
- Women's equality measure—women with paid leave after birth more likely than those without to return to work 9 to 12 months later, impacting salaries, career advancement, long-term savings.
- Helping family caregivers stay attached to the workforce, PFL decreases reliance on public assistance, creating significant taxpayer savings.

Questions?



Call our free hotline with questions
about your workplace rights --
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