

# NATIONAL DOMESTIC WORKERS ALLIANCE

## NEW JERSEY DOMESTIC WORKER BILL OF RIGHTS (S723/A822)

Sponsored by Senator Richard J. Codey and Assemblywoman Britnee N. Timberlake

It is time for New Jersey to support the Domestic Worker Bill of Rights, to guarantee and promote the rights of our essential workforce of domestic workers!

### BILL SUMMARY

#### Who is covered by the New Jersey Domestic Worker Bill of Rights?

“Domestic workers” work in a private residences, they may be caregivers to children, aging adults or persons with disabilities, and/or perform household duties such as cleaning, cooking, laundry, etc. There are approximately 50,000 domestic workers in New Jersey. These include around *10,550 house cleaners, 6,630 nannies, and 33,500 home care workers* (both working through and without agencies).

*-(Economic Policy Institute, Domestic workers chartbook).*

A domestic worker may: work for 1 or more employers, earn hourly or salaried wages; be an employee or independent contractor; work on a part-time, full-time or temporary basis.

Domestic workers do not include:

- *Family members, (i.e. spouse, child, parent,) related by blood, marriage, or adoption;*
- *Workers primarily engaged in house sitting, pet sitting, or dog walking;*
- *Individual working at a business operated primarily out of the residence, such as a home daycare business;*
- *Workers who primarily perform household repair or maintenance, (i.e. roofer, plumber);*
- *An individual less than 18 years of age.*
- *A home health care worker while paid through public funds (Medicaid/Medicare);*
- *An individual established as a kinship legal guardian, or who participates in the Kinship Navigator Program, as authorized by the Department of Children and Families,*

Hiring entities of domestic workers are responsible for compliance with this bill. These include employers who are persons or businesses, referral and employment agencies, or internet online platforms that directly or indirectly provide compensation to a domestic worker and/or act in the interest of the employer in relation to the domestic worker.

## STRIKING EXCLUSIONS

The New Jersey Domestic Worker Bill of Rights strikes necessary exclusions in multiple areas of laws to put them on par with other workers in New Jersey, including guaranteeing them protections from discrimination, unsafe working conditions and retaliation for asserting their rights.

- New Jersey Law Against Discrimination & Equal Pay Act - Strikes the exclusion of domestic workers from the definition of employee from Section f of the New Jersey Law Against Discrimination of NJ Rev Stat § 10:5-5 (Definitions) and from Section a of the Equal Pay Act, NJ Rev Stat § 34:11-56.1 (Definitions)
- Minimum Wage Act - Ensures that all hiring entities of domestic workers are required to adhere to the minimum wage act and strikes exclusion of part-time domestic workers engaged in child care in Section 5a of [NJ Rev Stat § 34:11-56a4](#) (Minimum wage rate, exemptions).
- Worker Health and Safety Act - Strikes this exemption of domestic workers from NJ Rev Stat § 34:6A-22 (Exemptions) to ensure coverage for health and safety protections. It delineates unique investigation procedures to enforce the rights of domestic workers under NJ Rev Stat § 34:6A-6 (Enforcement of act; entry and inspection) in order to protect the privacy interests of employers of domestic workers with regards to inspections of their homes.
- The New Jersey Workers' Compensation Act - Adds requirements to all hiring entities of domestic workers, and redefines casual employment to ensure part-time household cleaners are not excluded from protections (NJ Rev Stat § 34:15-36). It harmonizes the Workers' Compensation Act to use the ABC test for evaluating whether a worker is an employee or independent contractor which is already in place for the Unemployment Insurance (NJ Rev Stat § 43:21-19(i)(6)(A)(B)(C)) and Wage & Hour laws (N.J. Admin. Code § 12:56-16.1). Removes exemption of employers of domestic workers from penalties for failure to have workers' compensation insurance and requires them to provide written notice of coverage and cancellation of policies as employers of all other workers would. NJ Rev Stat [§ 34:15-92](#) ( Domestic help excepted)
- The New Jersey Unemployment Compensation Law - Removes unique definition for coverage of domestic workers under unemployment insurance law by changing Section (h) of NJ Rev Stat § 43:21-19 (definitions) for domestic workers to be the same as the coverage definition for any "employee." beginning 2022 - that either the current or preceding calendar year they were paid remuneration for employment in the amount of \$1,000 or more.

## RAISING INDUSTRY STANDARDS

The New Jersey Domestic Worker Bill of Rights provides key protections that are now considered critical for the domestic workforce such as guaranteeing meal and rest breaks, a weekly day of rest, as well mandatory employment contracts that delineate information including working hours and rate of pay.

### EMPLOYER DUTIES

- **Mandatory Written Agreement**
  - Must provide a written contract with information such as: list of job duties; hourly wage and overtime wage; weekly schedule including number of hours per week; the manner and frequency of payment; breaks for rest and meals; paid or unpaid leave including sick time; paid holidays; value of housing if provided; sleeping period and personal time for live-in workers; and the term of the contract.
- **Meal & Rest Breaks**
  - Must provide uninterrupted paid rest-period of not less than ten minutes for each four consecutive hours worked and an uninterrupted 30-minute meal break after more than five consecutive hours worked. If a worker is unable to take a full break, employers must pay for the time at the domestic worker's regular rate of pay.
- **Notice of Termination**
  - Must provide a minimum two-week notification period before termination of employment, and for live-in domestic workers a minimum four-week notification period.
- **Ensure Right to Privacy**
  - May not keep or hold the original copies of any personal documents of a domestic worker; monitor or record a domestic worker in the bathroom, in dedicated living quarters or while dressing/changing, or in their private communications.
- **Prohibition on retaliation**
  - May not retaliate in response to a domestic worker exercising their rights – and specifically may not state or imply they will contact a government agency to report them or any of their family members' immigration status.
- **Day of Rest for Live-in workers**
  - May not require a "live-in" domestic worker to work more than 6 consecutive days without a 24-hour period of rest.

# DOMESTIC WORK ENFORCEMENT PROGRAM

The New Jersey Domestic Worker Bill of Rights ensures funding and resources are dedicated to community organizations for worker education about their rights in the workplace and assistance to enforce their rights when violated. Given the disaggregated nature of the domestic workforce, and the resource-intensive nature of reaching workers and employers for a sector that is based within private homes, community-based organizations are uniquely positioned to ensure that domestic workers and employers understand their rights and responsibilities under New Jersey Law.

## Domestic Work Enforcement Program

The NJDWBOR requires the New Jersey Department of Labor and Workforce Development (DOL) to establish a Domestic Work Enforcement Program and issue a competitive request to community-based organizations (CBOs) to work together with the agency to provide education and outreach services to support the enforcement of the NJ Domestic Worker Bill of Rights. In order to be qualified for funds, a CBO would need a minimum of five (5) years of experience working with domestic work employees or employers/hiring entities.

CBOS would:

- Develop core education and outreach materials and training curriculum in coordination with the DOL to address: rights and responsibilities concerning minimum wage; overtime; sick leave; recordkeeping; wage adjudication,; and retaliation, along with new rights in NJ Domestic Worker Bill of Rights
- Train domestic worker leaders to provide peer-to-peer support and wraparound service referrals to domestic work employees who have elected to file wage claims or take other actions seeking remedy from employers/hiring entities;

The Department of Labor and Workforce Development would:

- Provide technical and legal assistance to domestic work employees through a Statewide telephone help line and promote the helpline to domestic worker
- Develop of an online resource hub to provide information for hiring entities on State labor laws and guidelines on fair employment.

There is precedent in NJ for this type of approach and program. In 2019, ten years after the passage of NJ Paid Family Leave and Temporary Disability Benefits in 2009, the NJ Legislature recognized the need for dedicated funding for the DOL in partnership with CBOs for outreach and education and appropriated, \$1.2 million - \$600,000 for contracts with CBOs (A3975, February 19, 2019). It is in that spirit that we wish for the funds to be part and parcel of the NJ Domestic Worker Bill of Rights upon its passage to ensure outreach and education and meaningful implementation of the law.

# DOMESTIC WORKERS STANDARDS AND IMPLEMENTATION BOARD

Establishes a standards board to continue to evaluate the needs of domestic workers and propose effective solutions through the input of a wide spectrum of stakeholders, including representation of employers and domestic workers.

## Domestic Workers Standards and Implementation Board

The bill would require the New Jersey DOL to establish a “Domestic Workers Standards and Implementation Board” (Board), which shall be established to provide a forum for hiring entities, domestic workers, worker organizations, and the public to consider analyze, and make recommendations to the State on the legal protections, benefits, and working conditions for domestic worker industry standards.

- The board will consist of 13 members composed of experts in labor standards, wage theft, law, and policy; and domestic worker industry and be comprised of various stakeholders from the private, non-profit sectors, domestic workers, hiring entities, the Department of Labor and Workforce Development and the Governor’s office;
- The board will meet at least quarterly, and all meetings shall be open to the public. Members of the board shall serve *without compensation* but shall be reimbursed for the reasonable travel and other out-of-pocket expenses incurred in the performance of their duties.
- The board, in consultation with the department and other State agencies, will submit a two-year work plan to the Governor, and Legislature six months after establishment, identifying the topics the board will address. The board’s will regularly submit formal recommendations to the Governor and Legislature for consideration.

## NDWA urges the New Jersey Legislature to vote in favor of S723/A822 the New Jersey Domestic Worker Bill of Rights!

### Contact us

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*Founded in 2007, the National Domestic Workers Alliance (NDWA) is the nation’s leading voice for the approximate 2.2 million domestic workers in the United States. Domestic workers are essential to our economy and society. They are the nannies that take care of our children, the housecleaners that maintain our homes, and the care workers that allow our loved ones to live independently and with dignity.*