

September 9, 2010

Employment of Domestic Workers

On August 31, 2010, Governor Paterson signed a bill concerning the employment of domestic workers. Under the bill, it is an unlawful discriminatory practice for an employer of a domestic worker to: (1) engage in unwelcome sexual advances, requests for sexual favors, or other verbal or physical sexual conduct where (a) submission to such advances is a term or condition of employment, (b) submission or rejection of such advances is a basis for employment decisions, or (c) such conduct unreasonably interferes with the individual's work performance by creating an intimidating, hostile, or offensive work environment; or (2) subject a domestic worker to unwelcome harassment based on gender, race, religion, or national origin, where such harassment unreasonably interferes with an individual's work performance by creating an intimidating, hostile, or offensive working environment.

The bill also prohibits employers from requiring domestic workers to work more than forty hours in a week, or more than forty-four hours in a week if the domestic worker resides in the home of his or her employer, unless the domestic worker receives overtime compensation at the rate of at least time and one-half their hourly wage. Furthermore, domestic workers shall be allowed at least twenty-four consecutive hours of rest in each calendar week. A domestic worker may, however, consent to working on his or her day of rest so long as he or she receives overtime compensation on that day. The bill encourages employers to schedule the day of rest on a day of religious worship observed by the domestic worker.

An employer is also required to provide domestic workers with at least three days of paid vacation after the domestic worker has been employed with the employer for one year.

A domestic worker is defined as a person employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, for housekeeping, or for any other domestic service purpose. A domestic worker does not include any individual: (1) working on a casual basis; (2) who is engaged in providing companionship services and who is employed by an employer or agency other than the family or household using his or her services; or (3) who is a relative through blood, marriage, or adoption of the employer or the person for whom the domestic worker is delivering services under a federal, state, or local government program. An employer does not include any employer with fewer than four persons in his or her employ.

On November 1, 2010, the Commissioner of Labor will report to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate on the feasibility and practicality of permitting domestic workers to organize and collectively bargain.

If you have any questions regarding the employment of domestic workers, please contact [Adam Harris](#) at (212) 758-7724.

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