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**SB 119 -Labor and Employment – Wage Payment and Collection – Order to Pay Wages
Hearing before the Senate Finance Committee, January 23, 2020**

Position: SUPPORT

The Wage Theft Epidemic Robs Low Wage Workers of an Honest Day’s Pay. Wage theft – when a business fails to pay its employees all their earned wages – is a serious epidemic. Recent estimates suggest that workers lose more than \$50 billion to wage theft each year nationally.¹ Making matters worse, wage theft primarily hurts those who can least afford it: low wage workers who are already struggling to make ends meet.² Women, Black workers, Latinx workers, and workers with less education are particularly hard hit.³ Too often, these workers are nickel-and-dimed by businesses that steal relatively modest amounts, such as refusing to pay for time spent prepping a work station or cleaning cart before clocking in, or time spent working instead of a meal break, or travel time between work sites during the workday. However, for a minimum wage worker, this theft hurts: shaving just thirty minutes a day may rob them of nearly ten percent of their annual earnings.⁴ In fact, a recent study focused solely on failures to pay minimum wage found that some 17% of low wage workers lost an average of \$64 per week to wage theft, representing a whopping 25% of their annual wages.⁵ Similarly, the U.S. Department of Labor found that wage theft decreases the weekly income of a minimum wage worker by an average of 39-47%.⁶

Wage Theft Impoverishes Families, Undermines Fair Competition, and Burdens State Coffers. Even workers who are properly paid Maryland’s current minimum wage of \$11 per hour often seek overtime or are forced to work several jobs because the cost of living in many areas of the state requires a wage

¹ Brady Meixell & Ross Eisenbrey, *An Epidemic of Wage Theft is Costing Workers Hundreds of Millions of Dollars a Year*, ECONOMIC POLICY INST. (Sept. 11, 2014), <https://www.epi.org/files/2014/wage-theft.pdf>.

² See David Cooper & Theresa Kroeger, *Employers Steal Billions from Workers’ Paychecks Each Year*, ECONOMIC POLICY INST. 8 (MAY 10, 2017) (“Victims of wage theft are already struggling to make ends meet,” citing research).

³ *Id.*

⁴ Meixell & Eisenbrey, *supra* n. 1.

⁵ Cooper & Kroeger, *supra* n. 2 at 9.

⁶ Eastern Research Group, *The Social and Economic Effects of Wage Violations Estimates for California and New York, Final Report*, U.S. DEP’T OF LABOR (2014), <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/WageViolationsReportDecember2014.pdf>.

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well above \$11. A living wage for a single individual in Calvert, Charles, and Prince Georges Counties, for example, is \$17.54 per hour, while Talbot and Wicomico County's living wage are \$12.01 and \$12.96 per hour respectively.⁷ Any form of wage theft – from denial of minimum wage or overtime, to off-the-clock work – “can mean the difference between making ends meet and falling into extreme poverty.”⁸ Further, when businesses profit by pocketing some of their workers' wages, they create downward pressure on other businesses to reduce their labor costs; wage theft creates a race to the bottom and undermines fair competition.⁹ Finally, wage theft “has second order effects such as increased spending on social programs, like food stamps, and possible adverse public health outcomes.”¹⁰

Low Wage Workers Rely on the Maryland Department of Labor (DOL) to Recover Wages. While low wage workers often suffer wage theft at amounts that, on first blush, may appear small, swift recovery of those amounts is critical given how little such workers earn in the first place. Litigation, while an effective enforcement tool in many cases, can take years and is often too time-consuming for individuals living paycheck to paycheck. Further, private attorneys frequently cannot afford to represent workers with small claims: although attorneys' fees are available when a worker prevails, courts' determinations of what constitutes a “reasonable fee” vary widely, and such uncertainty dissuades attorneys from taking even clear-cut small claims. Meanwhile, non-profit organizations like the Public Justice Center (PJC) have limited resources and cannot represent most individuals with valid claims. The PJC frequently refers victims of wage theft with smaller claims to the DOL.

Raising the Threshold for an Order to Pay Wages is Overdue and Will Enable More Low Wage Workers to Recover Promptly. The provision of the Wage Payment and Collection Law empowering the Commissioner to issue an Order to Pay Wages is critical to ensuring prompt recovery of lost wages for individuals with smaller claims; these individuals are the least able to withstand a loss of wages and have the most challenges in finding an attorney to represent them through private enforcement. Further, raising the threshold from \$3,000 to \$5,000 is long overdue: the current threshold is outdated, forcing those with claims just above \$3,000 to be ineligible for a relatively swift Order to Pay Wages. Indeed, many of the complaints that the PJC refers to DOL these days are for amounts above \$3,000. These individuals would also benefit from being eligible for a prompt Order to Pay Wages.

For the reasons indicated above, the Public Justice Center **SUPPORTS** SB 119 and requests a **FAVORABLE** report.

⁷ See MASSACHUSETTS INST. OF TECH, Living Wage Calculator for Counties and Metropolitan Statistical Areas in Maryland, <https://livingwage.mit.edu/counties/24009> (last visited Jan. 21, 2020).

⁸ Nicole Hallett, *The Problem of Wage Theft*, 37 YALE L. & POL'Y REV. 101, 93-152 (2019), <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1731&context=ylpr>.

⁹ Jennifer J. Lee & Annie Smith, *Regulating Wage Theft*, 94 WASH L. REV. 766, 759-822 (2019), <https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=5068&context=wlr>

¹⁰ *Id.* (citing research on increased reliance on social programs).

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