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TO: The Honorable Delores G. Kelley
        Chair, Finance Committee

FROM: Brian E. Frosh, Attorney General

RE: SB0486 – Labor and Employment – Employment Standards During an Emergency
        (Maryland Essential Workers' Protection Act) – **Support**

I write to enthusiastically support Senate Bill 486 and to urge the Finance Committee to favorably report the same. If enacted, SB 486 would (1) create a special enrollment period for uninsured essential workers to enroll in a group health benefit plan sponsored by their employers; (2) require employers to provide employees notice of any hazard pay earned during a pay period; (3) codify an Essential Workers' Protection Act to protect such workers, including contractors and subcontractors, during an emergency; (4) require the Maryland Emergency Management Agency to issue guidance to essential employers about complying with worker protections during the emergency; (5) require essential employers to provide working conditions that reduce physical harm and mental distress, ensure physical health and safety, provide personal protective equipment to employees at no cost, create and maintain written protocols to enforce necessary hygienic practices or disease mitigation measures at worksites, and provide other measures or requirements to ensure the general health and safety of essential workers; and (6) prohibit essential employers from retaliating against essential workers for witnessing an unsafe work environment, notifying the essential employer or a governmental agency of the unsafe work environment, or filing a formal or informal complaint.

Senate Bill 486 also requires the Commissioner to promptly notify essential employers of the content of any written complaint and require, in its discretion, that the employer meet to effectively and immediately remedy the unsafe work environment. The Commissioner is further empowered to seek civil monetary penalties of not more than $50 for each day that the condition causing the unsafe work environment is not remedied up to $1,000 per occurrence. The bill also lays out essential employer requirements with respect to: emergency preparedness plans (Section 3-1606), employee leave in the event of exposure to an infectious disease at a worksite (Section 3-1607), employee bereavement in the event of a family member's death (Section 3-1608),

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hazard pay during the emergency (Section 3-1609), misclassification (Section 3-1610), and essential worker complaint processing (Section 3-1611). Finally, although an emergency measure, the bill is to be construed to apply only prospectively and may not be applied or interpreted to require hazard pay for essential workers prior to passage of the Act.

The workers essential to our well-being have suffered disproportionately, with too little done to protect them. They bear personal risk caring for the elderly and sick, harvesting crops, collecting trash, carrying mail, checking out groceries, cleaning hospitals, and making deliveries to people's homes.

The Attorney General's COVID-19 Access to Justice Task Force ("Task Force") issued a Report with a series of findings and recommendations that include the following:

- Essential workers – first responders and health care, food, transportation, and delivery workers who are lower-income and disproportionately people of color and women – have been hit hardest by the virus. Many have been forced to continue working despite lacking personal protective equipment and other recommended safeguards. These workers have also struggled to get critical legal information and advice about their rights, worker safety and protections, and retaliatory terminations.[1]
- Neither the Federal nor State government has instituted standards adequate to ensure that front-line workers are protected from workplace hazards. The Task Force found also that the pandemic put vulnerable people at greater risk of abuse and brought to light weaknesses in the State's policies designed to protect them. The State has also failed generally to incorporate increased needs for civil legal aid in its response planning for pandemics and other public health emergencies.[2]

These findings led to recommendations that are immediately pertinent to SB 486 and that support its prompt passage and implementation:

Protect workers and their families more effectively from COVID-19 and other infectious diseases.

Priority actions include:

- Require the Commissioner to develop and adopt regulations under the Maryland Occupational Safety and Health Act related to Aerosol Transmissible Diseases (ATD) to provide a range of protections to workers. This includes establishing ATD standards for the health care industry and emergency response employers that protect workers in these industries from the increased risk of contracting known airborne

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[1] *See* MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS 7 (Jan. 2021), https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf.
[2] *See id*. at 13.

pathogens and other diseases and requiring employers to provide paid leave to workers who must self-quarantine due to workplace exposure to an ATD.
- Amend Maryland's Healthy Working Families Act to: (1) remove the exemptions from required paid sick leave for underage workers, agricultural workers, and temporary or part-time staffing workers; and (2) add eligibility to use paid sick leave during a declared public health emergency.[3]

Senate Bill 486 is a thoughtful and comprehensive measure to protect essential workers during a public health emergency. It codifies essential worker protections in a thoughtful and targeted manner.

For all the foregoing reasons, I urge a favorable report on SB 486.

cc: Committee Members

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[3] *See id.*