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## HB 1015: Labor and Employment – Healthy Working Families Act – Seasonal Temporary Workers

Hearing before the House Economic Matters Committee, March 7, 2023

### Position: UNFAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. The PJC **opposes** HB 1015, which would undo compromises and weaken Maryland's earned sick and safe leave law just when the pandemic has proven once again the critical importance of workers' ability to stay home when sick.

**Sick leave laws typically have a probationary period of 90 days after hire during which workers cannot take leave; lengthening Maryland's from 106 to 120 would further weaken the Healthy Working Families Act.**

- Most states' sick leave laws either allow workers to use leave as soon as they earn it (NY, NM, and CO) or set a 90-day period following the hiring of a worker during which sick leave cannot be taken (MA, OR, AZ, WA, CT, CA, Washington, D.C., and Montgomery County, Maryland).
- Maryland's law provides that workers cannot take sick and safe leave within 106 days of hire – a number that is significantly worse for workers.
- The pandemic has proven the importance of *all* workers being able to take sick leave when they need it. Making it harder for Maryland workers to take sick leave would be a remarkable message to send to our state – and especially to our essential workers – as we emerge from a deadly pandemic that took the lives of so many workers.

**The 106-day probationary period was a compromise between workers and businesses – one of many compromises critical to the law's passage. Changing it now would be inappropriate.**

- The Maryland Healthy Working Families Act was debated at length for six years. These years of negotiations culminated in a compromise of a 106-day period after hire during which workers may not take any earned sick or safe leave under the Act. The compromise also included allowing employers to require verification from employees whenever an employee takes leave for three or more consecutive shifts – or *any* leave between 107 and 120 calendar days from the date of hire.
- There are many, many other employer-friendly compromises in the law. Some are visible in [the law as enacted](#), which shows provisions struck from the bill as introduced and added to the bill as passed. As just one example, the bill as introduced provided that workers could earn up to 56 hours of sick and safe leave per year; as passed, the law allows a worker to earn only up to 40 hours.
- Prior attempts to completely exclude seasonal workers were rejected, with good reason. As early as 2016, the General Assembly rejected amendments to deny leave to “seasonal” workers by expanding

the length of time they need to work before they can take earned leave and/or reducing their eligibility for leave reinstatement. These provisions were again rejected in 2018 (HB1421), 2019 (HB1300), and 2020, when [an identical bill](#), HB1021, received an unfavorable report from this Committee.

- Lengthening this period would undo the 106-day compromise and other compromises in the law. Given the public health emergency of the last three years, there is a common-sense argument for following the lead of states like New Mexico, New York, and California and eliminating the probationary period altogether – or, barring that, reducing the probationary period from 106 to 30 or 60 days.

#### **Seasonal workers, like all human beings, get sick sometimes. They should be able to take leave.**

- Many employees who work in tourism or retail during peak or holiday season are low-wage workers who cannot afford to take time off to care for themselves or their family when sick. Nor can they afford to seek protections from domestic violence absent the functioning of the Maryland Healthy Working Families Act. The General Assembly recognized as much when it repeatedly rejected the very same amendments now offered in the guise of HB 1015.
- Contrary to what some proponents of these efforts have suggested, the General Assembly did not intend to exclude *all* seasonal workers when it increased the waiting period from 90 to 106 days; rather, it reached a compromise that would exempt many but not all seasonal workers, and specifically not those that work a lengthy season of more than 106 days. Had it intended to exempt all seasonal workers, the General Assembly would have enacted the 120-day provision at the outset.

#### **Access to sick and safe leave helps create safe and healthy workplaces and communities.**

- The COVID-19 pandemic has made it clearer than ever that access to earned sick and safe leave is crucial to keeping communities safe and healthy.
- Workers without earned sick and safe leave are 1.5 times more likely to go to work with a contagious illness or viral infection. For example, nearly 60% of food services workers surveyed by the CDC reported working while sick, and nearly half of those said they worked when sick because they did not have paid sick days. Working while sick can reduce workers' physical capabilities and ability to focus, increasing the likelihood of being injured on the job and making worksites less safe.<sup>1</sup>

#### **Access to sick and safe leave provides economic stability for Maryland's workers and businesses.**

- Earned sick and safe leave provides economic security and mobility for working Marylanders. Without it, many sick workers face the terrible choice of going to work sick – putting coworkers, customers, or themselves at risk – or staying home and losing critically important income.
- On the other hand, guaranteeing sick and safe leave can reduce costs for both workers and businesses. Workers without paid sick days are more likely to incur high family medical expenses and are twice as likely as those with sick leave to seek emergency room care because they cannot take time away from work during normal business hours to seek routine medical and preventative care. For businesses, paid sick leave reduces the productivity loss from employees working while sick. Sick leave saves Maryland employers up to \$13 billion per year through improved productivity.<sup>2</sup>

For the foregoing reasons, the PJC **OPPOSES HB 1015** and urges an **UNFAVORABLE** report. Should you have any questions, please contact David Rodwin at [rodwind@publicjustice.org](mailto:rodwind@publicjustice.org) or 410-625-9409 ext. 249.

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<sup>1</sup> "Policy Brief: Earned Sick Leave," City Health, <https://www.cityhealth.org/our-policy-package/earned-sick-leave/>; "Paid Sick Days Improve Public Health," National Partnership for Women & Families, November 2022; "Paid Sick Days are Good for Business," National Partnership for Women & Families, October 2020.

<sup>2</sup> Andrew Green, Kai Fillion & Elise Gould, "The need for paid sick days," Economic Policy Institute, June 29, 2011, [https://www.epi.org/publication/the\\_need\\_for\\_paid\\_sick\\_days/#:~:text=For%20example%2C%20if%20one%20parent,entire%20transp%20ortation%20budget%20\(%24533\)](https://www.epi.org/publication/the_need_for_paid_sick_days/#:~:text=For%20example%2C%20if%20one%20parent,entire%20transp%20ortation%20budget%20(%24533);); "Paid Sick Days are Good for Business," National Partnership for Women & Families, October 2020. *The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.*