

**HB1226: Maryland Predictable Scheduling Act**

Hearing of the House Economic Matters Committee, March 6, 2024

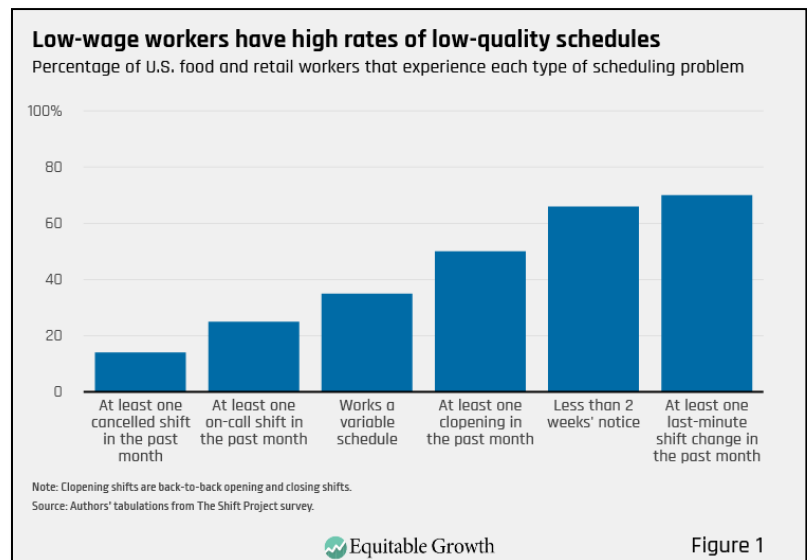
**Position: FAVORABLE**

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 supports HB1226**, which would combat unfair scheduling practices that hurt working Marylanders, their families, and Maryland communities.

**Summary:** For the many thousands of Marylanders employed by large employers in food service, hospitality, and retail—mostly women and disproportionately people of color—the Maryland Predictable Scheduling Act creates the stability workers need to plan their lives and get ahead through protections including (1) two weeks’ notice of shift schedules, (2) a right to decline last-minute additions or changes to scheduled shifts, (3) partial pay when shifts are cancelled or cut last minute, and (4) 1.5 times the regular rate of pay for “clopening” hours worked within 11 hours of the end of a previous shift.

**Problem:** Unpredictable work schedules—common in low-wage jobs in food service, hospitality, and retail—make it harder for workers to ensure their wages meet their expenses, arrange childcare, plan transportation, address healthcare needs, hold down an additional job, and take classes to advance their career opportunities.

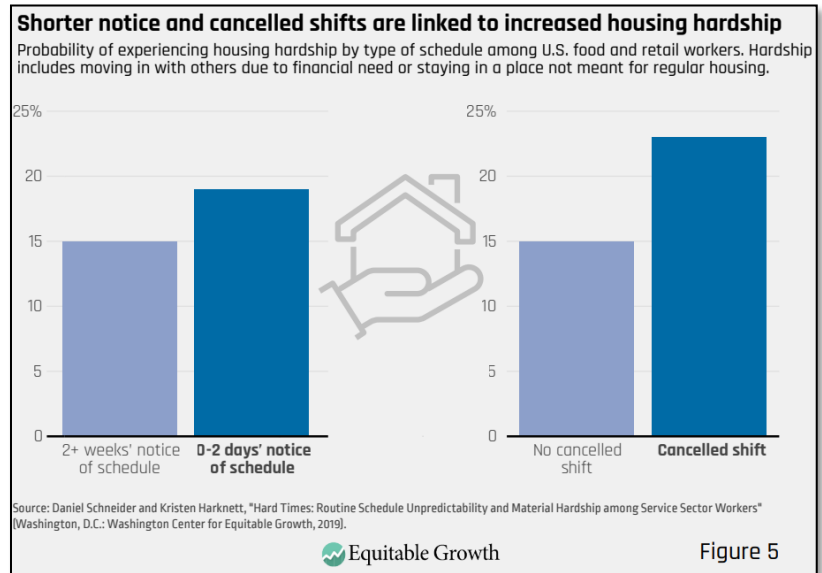
- The chart to the right, from Harvard’s Shift Project, shows that more than 60% of low-wage workers get less than two weeks’ notice of their schedules—while 70% have had at least one last-minute shift change.<sup>1</sup>
- While unpredictable schedules affect workers across races and genders, Black and Latine



<sup>1</sup> Schneider and Harknett, *It's About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality*, October 2019, <https://shift.hks.harvard.edu/its-about-time-how-work-schedule-instability-matters-for-workers-families-and-racial-inequality/>. All references in this testimony to Harvard’s Shift Project refer to this citation.

workers and women are over-represented in food service, hospitality, and retail, and are especially likely to face schedule instability.

- In addition to hurting workers, studies show that children of parents with unpredictable schedules are much more likely to exhibit anxiety, guilt, or sadness than children of parents with stable schedules.<sup>2</sup>
- As the chart to the right from Harvard's Shift Project shows, the chance of experiencing housing hardship—staying with other people because of housing problems and/or staying in a shelter, abandoned building, or other non-regular housing—increases dramatically when workers have unstable, unpredictable schedules. Research also shows that short notice of work schedules increases the likelihood that a worker—and their family—will experience hunger.
- In short, the research is clear: unpredictable schedules cause income volatility that make it harder for Maryland's working families to plan for the future and get ahead.



**Solution:** Follow the lead of states and cities across the country to require predictable scheduling for employees of large employers in food service, hospitality, and retail. For covered employees, this bill will provide:

1. **Two weeks' notice of shift schedules (section 3-1803(b)).** Advance notice of schedules—which many employers already provide—allows working people to have a schedule they can count on and manage, even if their schedule varies from week to week.
2. **Employee consent for last-minute shift changes or additions and one extra hour of pay for such changes (sections 3-1803(c) and 1804(a)).** If an employee chooses to accommodate the employer's last-minute request for more or different hours, the employer must pay one additional hour of pay. This protection helps workers take care of everything the need to take care of during their off hours—medical appointments, child care, and even another job.
3. **Half pay for when scheduled hours are cut last minute (section 3-1804(b)).** This gives employers an incentive to plan ahead and employees partial compensation for lost worktime they were relying on.
4. **A right to rest between shifts and "clopening" protections (section 3-1805).** Employers must provide at least 11 hours between shifts so workers can sleep. Employees who agree to work another shift within 11 hours of their last shift must be paid 1.5 times their regular rate for such "clopening" shifts where workers both close out at the end of a business day and open the business the following day.

<sup>2</sup> Schneider and Harknett, *Parental Exposure to Routine Work Schedule Uncertainty and Child Behavior*, Washington Center for Equitable Growth, October 2019, <https://equitablegrowth.org/working-papers/parental-exposure-to-routine-work-schedule-uncertainty-and-child-behavior/>.

5. **Notice of rights (section 3-1806).** Notice of rights under the Maryland Predictable Scheduling Act helps ensure that both employers and employees understand their rights and obligations.
6. **Modest recordkeeping requirements (sections 3-1807 and 3-1808).** Employers will record shift schedules, shift changes, and wages paid as a result of their obligations under the Maryland Predictable Scheduling Act.
7. **Retaliation protections (section 3-1809).** To ensure that employees are free to exercise their rights, the bill provides a short, streamlined section barring employers from retaliating against employees for asserting their rights.
8. **An administrative complaint procedure and a right of action with modest penalties (sections 3-1810 and 3-1811).** Enforcement is critically important to make the above rights real and ensure that they do not exist only on paper.

**Many jurisdictions offer similar protections and businesses have managed them just fine.**

- Attached to this testimony is a chart from a September 2023 report by the National Women’s Law Center comparing predictable scheduling protections around the country.<sup>3</sup>
- Businesses have done fine in Oregon, Philadelphia, Seattle, Emeryville, Chicago, New York City, and the many other jurisdictions that offer similar protections. Businesses in these jurisdictions have not faced hardship due to predictable scheduling protections.

**Peer-reviewed evaluation studies show that predictable scheduling legislation works as intended and improves workers’ lives.**

- Seattle passed similar legislation in 2017. A 2021 peer-reviewed paper shows both that “Seattle’s law not only increased schedule predictability but also improved [workers’] subjective well-being, sleep quality, and economic security.”<sup>4</sup>
- Emeryville, California also passed similar legislation in 2017. A 2022 peer-reviewed paper shows that “the Emeryville Fair Workweek Ordinance succeeded in reducing schedule unpredictability for workers with young children. In particular, it successfully lowered the frequency of changes in shift start times and end times and in surprise shifts that got added to workers’ schedules at the last minute. The regulatory success of the ordinance also resulted in health benefits for those workers in regulated jobs, notably improved sleep quality.”<sup>5</sup>

For these reasons, the PJC **SUPPORTS HB1226** and urges a **FAVORABLE** 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>3</sup> Jurisdictions that have passed similar laws include Oregon, Chicago, New York City, Philadelphia, Seattle, and elsewhere. See National Women’s Law Center, *State and Local Laws Advancing Fair Work Schedules: Fact Sheet*, September 2023, <https://nwlc.org/wp-content/uploads/2019/10/Fair-Work-Schedules-Factsheet-9.14.23v1.pdf>.

<sup>4</sup> Harknett, Schneider, and Irwin, *Improving health and economic security by reducing work schedule uncertainty*, PNAS, 2021, <https://www.pnas.org/doi/full/10.1073/pnas.2107828118>.

<sup>5</sup> Ananat, Gassman-Pines, and Fitz-Henley II, *The Effects of the Emeryville Fair Workweek Ordinance on the Daily Lives of Low-Wage Workers and their Families*, National Bureau of Economic Research, February 2022, [https://www.nber.org/system/files/working\\_papers/w29792/w29792.pdf](https://www.nber.org/system/files/working_papers/w29792/w29792.pdf).



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# State and Local Laws Advancing Fair Work Schedules

Millions of people—mostly women—work in retail, food service, hospitality, and other industries in which jobs often pay low wages and lack benefits. In many of these jobs, employees increasingly face “just-in-time” scheduling practices, including being given very little notice of their work schedules, being sent home early when work is slow without being paid for their scheduled shifts, and being assigned to “on-call” shifts that require them to call their employer or wait to be called by their employer to find out whether they will be required to report to work. Many employees have very little ability to make adjustments to their work schedules without penalty.<sup>1</sup> And many people who work part time are working fewer hours than they want and need to support their families.<sup>2</sup>

Employer practices that produce unstable and unpredictable work hours are problems that pre-date the pandemic and economic recession caused by COVID-19. But the harm of these workplace practices was exacerbated as millions of workers risked their own health and safety at jobs with few protections, volatile schedules, and inadequate hours in an effort to support themselves and their families.<sup>3</sup> These scheduling practices make it extremely challenging for working people to meet their responsibilities outside of their jobs, including caregiving, pursuing higher education, managing a health condition or disability, or holding down a second job. It can be particularly hard for parents with difficult work schedules to afford and access the high-quality child care that would provide needed stability for their children and help prepare them for school. And research shows that the stress caused by inadequate income and constantly fluctuating work hours is not only bad for workers, but also can undermine their children’s well-being.<sup>4</sup> Yet such practices are common in large sectors of our economy.

Fortunately, there is growing movement to improve workplace scheduling practices so that working people and their families can better plan their lives. This report provides an overview of the public policy solutions that have been adopted at the state and local levels to promote fair work schedules in the United States.

## APPENDIX A: SUMMARY OF FAIR WORK SCHEDULES LAWS

	Access to Hours	Advance Notice	Part-Time Parity	Predictability Pay	Private Right of Action	Reporting Pay	Right to Request	Right to Rest	Split-Shift Pay
<b>Berkeley, CA</b> Berkeley, Cal, Mun. Code. § 13.102	X	X		X			X	X	
<b>California</b> Cal. Code Regs. tit. 8, § 11040					X	X			X
<b>Connecticut</b> Conn. Agencies Regs. §§ 31-62-D2(d), E1					X	X			
<b>Massachusetts</b> 454 Mass. Code Regs. 27.04					X	X			
<b>New Hampshire</b> N.H. Rev. Stat. Ann. § 275:37-b					X	X			
<b>New Hampshire</b> N.H. Rev. Stat. Ann. § 275:43-a							X		
<b>New Jersey</b> N.J. Admin Code § 12:56-5.5					X	X			
<b>New York</b> N.Y. Comp. R. & Regs. tit. 12 §§ 142-2.3, 2.4; 146-1.5, 1.6					X	X			X
<b>Oregon</b> S.B. 828, 2017 Leg., 79th Sess.		14 DAYS		X	X		X	X	
<b>Rhode Island</b> 28 R.I. Gen. Laws § 28-12-3.2					X	X			
<b>Vermont</b> 21 Vt. St. Ann. § 309							X		
<b>Washington, DC</b> D.C. Mun. Reg. tit. 7 §§ 906, 907					X	X			X
<b>Chicago, IL</b> Chicago, Il., Mun. Code § 1-25	X	14 DAYS		X	X		X	X	
<b>Emeryville, CA</b> Emeryville, Cal., Mun. Code §§ 5-39.01 - .12	X	14 DAYS		X	X		X	X	
<b>Evanston, IL</b> Ordinance No. 24-O-23	X	14 DAYS		X	X		X	X	
<b>Los Angeles, CA</b> Cal. Mun. Code ch. XVIII Art. 5 Sec. 185.03	X	14 DAYS		X	X		X	X	
<b>New York City, NY</b> N.Y.C., N.Y., Admin. Code §§ 20-1201 - 1212, 1221 - 1241 (fast food)	X	14 DAYS		X	X		X	X	
<b>New York City, NY</b> N.Y.C., N.Y., Admin. Code §§ 20-1201 - 1212, 1251 - 1252 (retail)		72 HOURS			X				
<b>New York City, NY</b> N.Y.C., N.Y., Admin. Code §§ 20-1261-1263							X		
<b>Philadelphia, PA</b> Philadelphia, Pa., Mun. Code § 9-4601	X	14 DAYS		X	X		X	X	
<b>San Francisco, CA</b> S.F., Cal., Admin. Code §§ 12Z.1 - .12							X		
<b>San Francisco, CA</b> S.F., Cal., Police Code art. 33F §§ 3300F1 - .18, art. 33G §§ 3300G.1 - .18	X	14 DAYS	X	X					
<b>San Jose, CA</b> San Jose, Cal., Mun. Code § 4.101.040	X				X				
<b>SeaTac, WA</b> SeaTac, Wash., Mun. Code § 7.45.030	X				X				
<b>Seattle, WA</b> Seattle, Wash., Mun. Code § 14.22.055 - .150	X	14 DAYS		X	X		X	X	

## APPENDIX B: GLOSSARY OF FAIR WORK SCHEDULES PROVISIONS

**ACCESS TO HOURS:** Access to hours provisions require employers to offer additional available hours to their qualified existing employees before hiring any additional employees to work those hours.

**ADVANCE NOTICE:** Advance notice provisions require employers to provide employees with a certain amount of advance notice of their schedules. Some provisions also require employers to provide estimates of schedules and minimum hours before an employee begins employment.

**PART-TIME PARITY:** Part-time parity provisions require employers to treat part-time and full-time employees equally with regard to wages, ability to accrue benefits, and eligibility for pay raises and promotions.

**PREDICTABILITY PAY:** Predictability pay provisions require employers to pay employees a certain number of hours of compensation, in addition to payment for any time actually worked, when employers make last-minute changes to employees' schedules.

**REPORTING PAY:** Reporting pay provisions require employers to pay employees for some portion of their originally scheduled shifts when employees report for work but are then told that their shifts have been cancelled or reduced.

**RIGHT TO REQUEST:** Right to request laws protect employees who want to request flexible working arrangements or other changes to their schedules by granting them the express right to do so free from retaliation by their employers.

**RIGHT TO REST:** Right to rest provisions require employers to provide a minimum amount of rest time between shifts and to pay employees who consent to work without the rest time at a higher rate.

**SPLIT-SHIFT PAY:** Split-shift pay provisions require employers to pay employees additional wages as compensation for any day on which they are required to work shifts in which they have a gap or gaps between scheduled hours in the same day.