

March 4, 2024

Dear Chair Wilson, Vice Chair Crosby, and members of the Economic Matters Committee:

I am writing in support of House Bill 1226, the *Maryland Predictable Scheduling Act*. As an academic researcher with expertise in scheduling practices and policies, I believe this legislation would improve the well-being and economic security of retail, hospitality, and food service workers in the state of Maryland.

I am currently conducting research on similar scheduling laws that have been in effect for years in Chicago, New York City, Oregon, Philadelphia, San Francisco, and Seattle, among other jurisdictions. These laws originate with worker demands for adequate hours and predictable shifts, both to earn a decent income and to plan their lives outside of work. Maryland has followed many states in raising the minimum wage to \$15/hour, but a higher wage does not guarantee a livable income for workers with too few hours or unpredictable schedules at work. HB 1226 would bolster the state's commitment to hourly service workers by requiring their employers to provide 14 days' advance notice and compensation for employer-driven changes to the schedule.

HB 1226 promotes the goal of predictable scheduling while making reasonable provisions for employers to adapt to unforeseen market conditions. In consumer services, as in many businesses, things don't always go according to plan. Under the draft bill, covered employers would still be able to change the schedule on short notice so long as they compensate affected workers with additional pay or, in the case of hours reductions, half the pay they would have received for the scheduled hours. If schedule flexibility is truly valuable to a business, an extra hour is a modest premium to pay workers who agree to a change for the employer's benefit. By the same token, HB 1226 provides a disincentive for employers cutting hours as a way of offloading business risk onto workers. Research by Susan Lambert and colleagues shows that managers in many retail and food service establishments are able to provide 14 days' advance notice and, when schedule changes do occur, premium pay for workers who accept these changes can be offset through increased productivity and retention.¹

Some employers claim that extra pay for schedule changes is not necessary because workers already benefit from greater flexibility or opportunities for advancement. These claims are not supported by prior research I conducted using data from the Bureau of Labor Statistics.² Studying a cohort of employees born in the early 1980s, I find that these early-career workers are penalized rather than rewarded for schedule instability. Compared with more stable but otherwise similar jobs, workers with unpredictable schedules report lower job satisfaction and are less likely to have access to beneficial flexibility. They are also more likely to leave jobs with unstable schedules, contributing to problems with worker retention in retail, food service, and other sectors where unstable scheduling is common. HB 1226 would help Maryland employers to attract and retain

¹ Lambert, Susan, and Anna Haley. 2021. "Implementing Work Scheduling Regulation: Compliance and Enforcement Challenges at the Local Level." *ILR Review*, 74(5), 1231-1257. <https://doi.org/10.1177/00197939211031227>

² Fugiel, Peter. 2022. "Compensation for Unstable and Unpredictable Work Schedules: Evidence from the National Longitudinal Survey of Youth, 1997 Cohort." Washington Center for Equitable Growth working paper. <https://equitablegrowth.org/wp-content/uploads/2022/04/041522-WP-Compensation-for-Unstable-and-Unpredictable-Work-Schedules-Fugiel.pdf>

hourly workers in covered sectors either by making schedules more predictable or compensating workers for the risks that come with unpredictable schedules.

Maryland can learn from the example of other jurisdictions where similar legislation has been implemented with more or less success. As shown in research by Kristen Harknett and colleagues, the Seattle Secure Scheduling Ordinance has been effective in improving schedule predictability, resulting in better sleep quality and greater economic security for covered workers.³ By contrast, the Oregon Fair Workweek Act has had limited success in increasing predictability or compensation for schedule changes, according to research by Larissa Petrucci and coauthors.⁴ The different outcomes of these scheduling laws stem from differences in how these jurisdictions handled rulemaking, outreach, and enforcement. Seattle made significant investments in outreach to employers, workers, and community organizations as well as expanding its own Office of Labor Standards. Meanwhile, Oregon's law has been undermined by rules allowing many if not most employers to avoid paying compensation due to workers on a "standby list" who thereby consent in advance to last-minute schedule changes. I urge you to advance HB 1226 out of committee and create the conditions for its successful implementation by avoiding loopholes like the Oregon standby list and investing in outreach and enforcement capacity on the model of Seattle or New York City.

I would be happy to answer questions about this testimony and recommend other experts whom you could consult regarding implementation and enforcement of fair workweek standards. I can be reached by phone at 260-468-8528 and by email at peter.fugiel@rutgers.edu. Thank you for your consideration of this important issue.

Sincerely,

A handwritten signature in black ink that reads "Peter J. Fugiel". The signature is written in a cursive, flowing style.

Peter J. Fugiel, Ph.D.

³ Harknett, Kristen, Daniel Schneider, and Véronique Irwin. 2021. "Improving Health and Economic Security by Reducing Work Schedule Uncertainty." *Proceedings of the National Academy of Sciences* 118, no. 42. <https://doi.org/10.1073/pnas.2107828118>

⁴ Petrucci, Larissa, Lola Loustaunau, Ellen Scott, and Lina Stepick. 2021. "Persistent Unpredictability: Analyzing Experiences with the First Statewide Scheduling Legislation in Oregon." *ILR Review* 75 (5), 1133-1158 <https://doi.org/10.1177/00197939211064902>.