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HB 1021

Labor and Employment – Maryland Healthy Working Families Act – Seasonal Temporary Workers

Hearing before the House Economic Matters Committee, February 25, 2020

Position: OPPOSE

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 1021** and requests an **UNFAVORABLE** report.

The Standard Probationary Period is 90 days; Increasing it to 120 Days Would Weaken the Maryland Healthy Working Families Act. HB 1021 purports to allow employers to deny the use of leave in for the first 120 days of work and shorten the period during which an employee must be rehired for earned leave to be reinstated. Combined, these two changes would further limit access to earned sick and safe leave for thousands of seasonal workers. Current law, which generally permits employers to limit use of earned leave until they have been employed 106 days, is already restrictive and less generous than the majority of sick and safe leave laws. Indeed, in the majority of states and jurisdictions that have enacted sick and safe leave, most allow an employer to prohibit use of earned leave during a reasonable probationary period of only 90 days. Massachusetts, Oregon, Arizona, Washington, Connecticut, and California all allow employees to use leave after just 90 days. Montgomery County and Washington D.C. allow the same. Because HB 1021 would take Maryland in the wrong direction, PJC opposes it.

Prior Attempts to Completely Exclude Seasonal Workers Were Rejected, With Good Reason. As early as 2016, 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 were rejected. They were again rejected several times since then, including the previous two years. *See e.g.*, House Bill 1421 (2018) and House Bill 1300 (2019). And they should be rejected now. By its very nature, seasonal work is for a short period of time. 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 1021. Contrary to what some proponents of these efforts have recently 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.

Bill is Untimely. Maryland passed the Healthy Working Families Act after six years of hard-fought compromise, considering the concerns of businesses and employees alike. The legislature struck a balance based on the totality of the circumstances, considering and weighing all the testimony and arguments before it. The law that passed reflects the serious consideration of all parties' concerns, including those raised by the proponents of HB 1021 here. Having only recently taken effect, the law should not be subject to piecemeal changes, particularly not ones that have been recently rejected.

For the foregoing reasons, the PJC **OPPOSES HB 1021** and urges an **UNFAVORABLE** report. Should you have any questions, please call Sally Dworak-Fisher at 410-625-9409 ext. 273.