

AACPS SB241 Paid Sick Leave Exemption SUPP 2.13.20

Uploaded by: Ortiz, Jeanette

Position: FAV



SB241 MARYLAND HEALTHY WORKING FAMILIES ACT - APPLICABILITY

February 13, 2020

FINANCE COMMITTEE

SUPPORT

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

Anne Arundel County Public Schools (AACPS) supports **SB241 Maryland Healthy Working Families Act - Applicability**. This bill clarifies that the Maryland Healthy Working Families Act does not apply to employees of a county board of education who are called to work on an as-needed basis, can reject or accept the shift offered by the county board of education, and are not guaranteed to be called on to work by the county board of education.

The Maryland Healthy Working Families Act has required school systems to provide paid sick leave to substitute teachers. We have essentially been required to hire substitutes for substitutes and this has made covering classes during teacher absences even more difficult. The law is an unfunded mandate that has cost AACPS nearly \$400,000 a year in accrued paid sick leave for substitute teachers alone. We project nearly 13,500 accrued paid sick leave hours for substitute teachers by the end of this school year. The proposed legislation would align county boards of education with other industries in the law that are exempt from providing paid sick leave to employees who receive an invitation to work and have the ability to accept or reject the assignment based upon their needs and interests. There is already a shortage of substitute teachers available in Anne Arundel County and the current law further limits our ability to find substitute teachers to ensure class coverage. Accordingly, the legislation addresses AACPS opposition and concerns regarding the implementation of the Maryland Healthy Working Families Act.

Accordingly, AACPS respectfully requests a **FAVORABLE** committee report on SB241.

SenatorBailey_FAV_SB241

Uploaded by: Senator Bailey, Senator Bailey

Position: FAV

JACK BAILEY
Legislative District 29
Calvert and St. Mary's Counties

Education, Health, and
Environmental Affairs Committee



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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February 13, 2020

Senate Bill 241 – Maryland Healthy Working Families Act – Applicability

Dear Chairwoman Kelley and Members of the Committee,

I am writing to introduce Senate Bill 241 - Maryland Healthy Working Families Act – Applicability. This bill would exempt our local school systems from the requirement to provide sick leave to substitute employees.

Senate Bill 241 gives three specific conditions for this exemption. The employee must be called to work by a county board of education on an as-needed basis, must be able to reject or accept the shift offered by the county board of education, and must not be guaranteed to be called on to work by the county board of education.

When the General Assembly passed this law, it included an exemption for employees who work on an as-needed basis in the health and human services industry. This bill creates a similar exemption for substitute employees. Extending this exemption will save our local school systems money. For some school systems, the savings could be substantial. As stated in the fiscal note for this bill, the Montgomery County Public School System and the Baltimore County Public School System each estimate savings of at least \$1.1 million per year. At this time when all of us are focused on the amount of money that our local school systems receive, I believe that this funding would be better spent on other educational needs.

I respectfully request a favorable report on Senate Bill 241. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey
District 29
Calvert and St. Mary's Counties

MCPSBOE_FAV_SB0241

Uploaded by: SUSSKIND, MCPS BOE

Position: FAV



MONTGOMERY COUNTY BOARD OF EDUCATION

Expanding Opportunity and Unleashing Potential

850 Hungerford Drive ♦ Room 123 ♦ Rockville, Maryland 20850

BILL: SB0241
TITLE: Maryland Healthy Working Families Act - Applicability
DATE: 2/13/2020
POSITION: SUPPORT
COMMITTEE: Finance
CONTACT: Danielle M. Susskind, Coordinator, Legislative Affairs
[Danielle M Susskind @mcpsmd.org](mailto:Danielle_M_Susskind@mcpsmd.org)

The Montgomery County Board of Education (Board) **supports** SB0241.

Montgomery County Public Schools (MCPS) has a large number of daily substitute teachers and temporary employee pool of employees who work only as needed. These individuals receive a phone call when a daily vacancy comes up due to an absence of a permanent employee. They have the ability to accept or reject the job for the day. Under the provisions of Maryland Safe and Sick Leave, these individuals have the ability to avail sick leave should they become ill on the day the job is to be performed. This has resulted in the school system needing to have a substitute for a substitute.

- This bill would benefit MCPS and other school districts by removing the requirements to issue “sick leave” to daily substitutes, for teaching and other jobs, who are called to work on an as-needed basis.
- The requirements to provide leave to long-term substitutes or permanent school-based substitutes may still apply in some cases. MCPS already provides sick leave to these temporary employees.
- This proposed legislation would restore the original intent of the Maryland Healthy Working Families Act not to apply to substitute teachers, in the face of an opinion of the Maryland Attorney General interpreting the Act to apply to them.
- Attached is the brief that was submitted on behalf of school districts raising concerns about the potential adverse impact on the delivery of teaching and learning that could result from providing sick leave to substitutes.

For these reasons, the Board **supports** this legislation and urges a favorable report.

Frederick BoE_fav_SB241

Uploaded by: toho, karen

Position: FAV

Senate Bill 241
Healthy Working Families Act – Applicability

Frederick County Board of Education
Support

As members of the Frederick County Board of Education, we would like to add our support to passage of this bill. Substitutes are a necessary and vital part of our ability to keep the school system running. In other businesses an employee's work will wait until that person returns from an absence; that is not the case with classroom teachers, special education teachers, assistants, or other personnel who are directly responsible for students. There must always be an adult there to supervise and monitor students. Without substitutes it would be nearly impossible to function as a school system, with our primary goal being to maintain good instruction and a safe environment for our students.

Substitutes decide which schools they will work in, what days they will work, and some even decide which teachers or other school personnel they will substitute for. Whether they work or not is totally at the individual's discretion. Their specific purpose is to take the place of a regular employee when that employee is absent for any reason. It seems perplexing that a school system would now have to pay a Substitute for being absent due to illness.

Frederick County Public Schools has a group of employees titled Resident Substitutes. These individuals are assigned to a specific group of schools and the expectation is that they will work all of their contracted hours. We would not include Resident Substitutes as a group that is affected by this legislation because the criteria in the bill do not apply to them. Although they may not be in the same school or classroom on any given day, they still work the same hours as the regular employees and are ready to fill in at a moment's notice.

We have fully supported sick leave for our regular employees for many years. Providing this service for Substitutes seems illogical to the members of our School Board on behalf of Frederick County Public Schools. Thank you for your time and attention to this matter.

MABE_FAV_SB241

Uploaded by: Woolums, John

Position: FAV

BILL: Senate Bill 241
TITLE: Maryland Healthy Working Families Act – Applicability
DATE: February 13, 2020
POSITION: SUPPORT
COMMITTEE: Finance Committee
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) strongly supports Senate Bill 241.

MABE strongly supports this bill in order to treat daily, on-call as-needed, employees in the public school setting in the same manner as daily on-call as-needed employees in the health and human services industries.

This bill would make a very meaningful amendment to the section of the Healthy Working Families Act governing substitute teachers and other similarly situated school employees. A section of the Labor and Employment Article, as amended by the Healthy Working Families Act (House Bill 1, Chapter 1 of 2018) already exempts daily substitute employees, but only in “a health or human services industry.” MABE believes a logical extension of the exemption applying to employees in health and human services industries would be to similarly exclude daily employees in local school systems.

The exemption being requested would only be for those school employees who: (1) are called to work on an as-needed basis, (2) can reject or accept the shift offered, and (3) are not guaranteed to be called on to work. Again, these are the same criteria in the law used to exempt employees in the health or human service industries.

This bill is needed to avoid the scenario that a school system calling on a substitute teacher or bus driver to work on any given day could be informed that the part-time employee is instead taking compensated sick leave. The school system would then have to incur that expense, continue to seek a substitute who is available, and calculate earned sick leave for that “substitute for a substitute” under the law.

For these reasons, MABE urges a favorable report on Senate Bill 241.

ACY_UNF_SB241

Uploaded by: Bevan-Dangel, Jennifer

Position: UNF

EQUITY FOR ALL KIDS



To: Finance Committee
From: Jennifer Bevan-Dangel, Executive Director
Re: SB 241, Maryland Healthy Working Families Act - Applicability
Date: February 13, 2020
Position: Oppose

Advocates for Children and Youth strongly opposes SB 241, which exempts an employee from the Healthy Working Families Act who is called to work by a local board of education on an as-needed basis, can reject or accept the shift offered, and is not guaranteed to be called on to work by the local board of education.

We know that paid sick days protect children and families. For a typical family without paid sick days, just 3.5 sick days without pay is equivalent to losing an entire month's grocery budget. With most families working one and two jobs, all of us have faced the challenge of a sick child needing to stay home. And I imagine many, feeling guilty, have dropped a sick child off at school when the child and those at school would be better off with that child at home. For parents without paid sick days, their children are more than twice as likely as parents with paid sick leave to be sent to school or daycare sick.

ACY opposes any changes to the state's Sick and Safe Leave Act. The legislation already includes compromise decisions that limit the impact of this critical safety net. SB 241 would eliminate the ability for substitutes to earn sick and safe leave, and Maryland should not adopt policies that would force any school employees - regular or substitute - to show up for work sick. This puts in jeopardy not only the employee and his or her family, but also children in the school who could be exposed to viral illnesses.

In addition, "presenteeism" or workers underperforming because of illness, is estimated to cost employers \$160 billion per year – twice as much as the cost of absenteeism. Requiring substitutes to teach while sick, or while concerned about a sick loved one, means that the quality of the education those students receive that day will suffer.

Finally, the Healthy Working Families Act already exempts any employee who "regularly works less than 12 hours a week for an employer," so substitutes who only work occasionally are already exempt. The current law reflects a reasonable balance between enabling substitutes with more regular contact with the school community to earn leave, while exempting those who don't regularly work.

Providing paid earned sick and safe leave is an important step toward family economic stability. It results in healthier and stronger children, families and communities. We urge this committee to vote unfavorable on SB 241.

1 North Charles Street Suite 2400 | Baltimore, MD 21201 | www.acy.org | 410-547-9200 |

Advocates for Children and Youth builds a strong Maryland by advancing policies and programs to ensure children and families of every race, ethnicity, and place of birth achieve their full potential.

MDDCAFLCIO_UNF_SB241

Uploaded by: Edwards, Donna

Position: UNF



MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

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President
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Secretary-Treasurer
Gerald W. Jackson

SB 241 - Maryland Healthy Working Families Act - Applicability
Senate Finance Committee
February 13, 2020

OPPOSE

Donna S. Edwards
President
Maryland State and DC AFL-CIO

Madam Chair and members of the Committee, thank you for the opportunity to provide testimony in opposition to SB 241 - Maryland Healthy Working Families Act - Applicability. My name is Donna Edwards, President of the Maryland State and DC, AFL-CIO. On behalf of the 340,000 union members in the state of Maryland, I offer the following comments.

SB 241 is an attempt to weaken protections for workers and to dilute Earned Sick Leave for working Marylanders. Under current law, substitute teachers are eligible for Earned Sick Leave. SB 241 exempts them from receiving Earned Sick Leave, leaving more workers unprotected when they are sick or have a sick loved one that they need to care for.

In Maryland, we have roughly 8,700 substitute teachers currently employed. Many substitute teachers work full-time, and rely on their job for their primary source of income. Exacerbating this is the fact that the median wage for substitutes is \$31,510/year¹, according to the most recent Bureau of Labor Statistic information from 2017. Therefore, the people affected by SB 241 already earn a lower wage, and would suffer a greater negative impact by having to choose between paying the bills and their health.

For the protection and health of Maryland workers, we urge an unfavorable report.

¹ <https://www.bls.gov/oes/2017/may/oes253098.htm>

_WomensLawCenterofMD_Unfav_241

Uploaded by: Frazier, Derrell

Position: UNF

BILL NO: Senate Bill 241
TITLE: Maryland Healthy Working Families Act – Applicability
COMMITTEE: Finance
HEARING DATE: February 13, 2020
POSITION: **OPPOSE**

In 2017 the Legislature passed The Maryland Healthy Working Families Act (“MHWFA”). The MHWFA finally grants workers the right to earn safe and sick leave so that they no longer must choose between their jobs and their health and safety. After overcoming several hurdles, including the Governor’s veto, the bill went into law and into effect in February 2018. Now, with barely a year having passed, a slate of bills are being proposed to undermine, delay, and erode the benefits of that hard-won piece of legislation.

The Women’s Law Center whole-heartedly supported MHWFA because it provides a reasonable and comprehensive approach to ensuring an important benefit that protects the health and safety of families, workers, and the community. The effective date for the MHWFA was Sunday, February 11, 2018; on that date approximately 700,000 Marylanders began to earn sick and safe leave for the first time. Now is not the time to roll back those benefits and for those reasons, and the reasons below, the WLC opposes all of the bills seeking to chip away at those provisions, including attempts to exclude application of the law to County Board of Education employees.

Of particular importance to the Women’s Law Center are the provisions of MHWFA regarding “Safe Leave”. These provisions allow an employee to use earned leave days to deal with medical, psychological or legal issues arising from domestic violence. As one in four women is the victim of domestic violence or sexual assault, it is imperative that survivors be able to get treatment for an injury or initiate legal proceedings without fearing they will lose their jobs if they take time off. This applies to all workers – regardless of their status.

The ability to have legal representation and/or to go to court to obtain a protective order can have a profound effect on a victim’s ability to leave an abuser and optimize their safety. But in order to do those things, the victim must first be able to take the time to make those appointments. However, financial insecurity is one of the most common reasons women stay with their abusers, and it should be no surprise to learn that taking unpaid leave to appear at court, or to make appointments with counselors or lawyers, is a financial burden too many of our clients are unable to bare.

A survey of American employees found that 44% of full-time employed adults personally experienced domestic violence’s effect in their workplaces¹, while up to half of employed victims of DV report that they lost their jobs in part due to DV². In addition, as many as 96%

¹ Corporate Alliance to End Partner Violence, http://www.caepv.org/getinfo/facts_stats.php?factsec=3

² Questions and Answers about DOMESTIC VIOLENCE AND THE WORKPLACE, Sloane Work and Family Research Network, 2008, <https://workfamily.sas.upenn.edu/sites/workfamily.sas.upenn.edu/files/imported/pdfs/DV.pdf>

experience problems at work due to abuse, 56% are late to work, 28% leave work early, 54% miss entire days of work³, and 47% were specifically prevented from working by the abuser⁴. At the same time, 65% of companies in this country do not have a formal workplace domestic violence prevention policy⁵, and the vast majority do not already provide leave specifically designated for victims of domestic violence. Domestic Violence has a clear and definite impact on the economy and on the Maryland workforce.

The HWFA will allow victims to address these important issues that preserve their safety without risking job security. It ensures women do not have to weigh physical health against economic stability because paid sick and safe leave will be available to them. Its implementation should remain in effect.

Therefore, the Women's Law Center of Maryland, Inc. urges an unfavorable report on Senate Bill 241.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates two hotlines, Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County, and the statewide Collateral Legal Assistance for Survivors and Multi-Ethnic Domestic Violence Projects.

³ *Id.*

⁴ Judith McFarlane et al, Indicators of Intimate Partner Violence in Women's Employment, 48 Am. Assoc. Occupational Health Nurses J. 217 (May 2000); Employment Law and Domestic Violence, A Practitioner's Guide, American Bar Association, Commission on Domestic Violence, Julie Goldscheid and Robin Runge, (2009)

⁵ The Society for Human Resource Management, *When Domestic Violence Comes to Work*, 2013

-C.A.S.H._unfav_241

Uploaded by: Frazier, Derrell

Position: UNF



SB 0241 -Maryland Healthy Working Families Act - Applicability
Senate Finance Committee
February 13th, 2020
Oppose

Chairwoman Kelly, Vice-Chair and members of the committee, thank you for the opportunity to provide testimony in opposition of Senate Bill 241. This bill would exempt substitute teachers in county schools from the Maryland Healthy Working Families Act.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy.

SB 241 aims to exempt substitute teachers that work on an as-needed basis from the Maryland Healthy Working Families Act. This act was passed in 2018 to provide a safety net for Marylander workers. Exempting certain substitute teachers from this act is concerning because all substitute teachers should be protected. Substitute teachers are an important part of our educational system. They are just as susceptible to getting sick as other teachers, and they should have the safety to stay home and heal with negative consequences on their finances. If certain substitute teachers are not protected, they could miss out on earning income they have already planned to receive. This will cause an increase in substitute teachers' income volatility which leads to numerous adverse effects. The ripple effect of income volatility can lead to an increase of credit use, missed bills, and other financial burdens that can do lasting financial harm.

For this reason, we encourage you to return a favorable report on SB 241.

SJOTF-Derrell_Unfav_241

Uploaded by: Frazier, Derrell

Position: UNF

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 241:

Maryland Healthy Working Families Act – Applicability

TO: Madame Chair Delores G. Kelley, and Members of the Senate Finance Committee

FROM: Derrell Frazier, Policy Advocate

DATE: February 13, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We oppose Senate Bill 241 as a means of ensuring that hardworking Marylanders can continue to access our paid sick and safe leave law without having to risk their job, paycheck or financial security.

On February 1, 2018, over 700,000 Marylanders began to accrue earned sick and safe leave under the Maryland Healthy Working Families Act (HB 1 of 2017) after a long six (6) year fight. This long fight involved much negotiation and compromise to make sure that both businesses and workers are considered equitably when it comes to earned sick and safe leave. However, when it comes to earned sick leave, state-by-state we know that working families are the most vulnerable. No one should have to choose between their health and their job, yet an absence or delay of earned sick leave makes this choice ever-present for working families. Most importantly though, the absence or delay of earned sick leave means the increasing pressure and fear of losing income, which for a low-wage working family can ultimately mean the loss of stability on a variety of levels: family, economic, health, and more. Any alteration of earned sick and safe leave for Marylanders will only cause more harm and ultimately becomes counterproductive to the six years of progress Maryland has already made.

SB 241 seeks to exempt from the Maryland Healthy Working Families Act an employee who is called to work by a local board of education on an as-needed basis can reject or accept the shift offered and is not guaranteed to be called on to work by the local board of education.

JOTF is committed to opposing any legislation that seeks to undermine the hard work of countless legislators and advocates across the state to ensure that the Maryland Healthy Working Families Act continues as current law. We believe that what is proposed in Senate Bill 241 only serves to disrupt low-wage workers access to better job security. SB 241, as it would limit the millions of hard-working Marylanders, in particular low-income workers who are least able to lose even a single paycheck, can take necessary time off for family and medical life events without the risk of falling into poverty. For these reasons, we respectfully urge an unfavorable report of Senate Bill 241.

Marylanders Against Poverty_UNF_SB241

Uploaded by: Jefferson, Stacey

Position: UNF



TESTIMONY IN OPPOSITION TO SB 241

Maryland Healthy Working Families Act – Applicability

Senate Finance Committee

February 13, 2020

Submitted by Stacey Jefferson and Margo Quinlan, Co-Chairs

Member Agencies:

Advocates for Children and Youth
Baltimore Jewish Council
Behavioral Health System Baltimore
CASH Campaign of Maryland
Catholic Charities
Episcopal Diocese of Maryland
Family League of Baltimore
Fuel Fund of Maryland
Health Care for the Homeless
Homeless Persons
Representation Project
Job Opportunities Task Force
League of Women Voters of Maryland
Loyola University Maryland
Maryland Catholic Conference
Maryland Center on Economic Policy
Maryland Community Action
Partnership
Maryland Family Network
Maryland Hunger Solutions
Paul's Place
Public Justice Center
St. Vincent de Paul of Baltimore
Welfare Advocates

Marylanders Against Poverty

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Margo Quinlan, Co-Chair
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Marylanders Against Poverty (MAP) strongly opposes SB 241, which exempts an employee from the Healthy Working Families Act who is called to work by a local board of education on an as-needed basis, can reject or accept the shift offered, and is not guaranteed to be called on to work by the local board of education

As of February 11, 2018, more than 700,000 Maryland workers now have access to earned sick leave - and we should not go backwards. Nearly four in ten private-sector workers – and 80% of low-wage workers – were previously unable to earn a single sick day to recover from common, short-term illnesses. Families that are already living in or near poverty can least afford to lose income due to illness, yet half of Maryland workers earning less than \$35,000 couldn't earn sick days in Maryland prior to February 2018. For our most vulnerable neighbors, just a few days of lost pay is often equivalent to an entire month's grocery budget or rent payment, thus rolling back the Healthy Working Families Act could be financially catastrophic for low-income Marylanders.

Even seemingly “minor” changes to the Healthy Working Families Act – like SB 241 - could negatively impact our state’s workers, families, and the health of our communities. In particular, SB 241 would eliminate the ability for substitutes to earn sick and safe leave, and Maryland should not adopt policies that would force *any* school employees - regular or substitute - to show up for work sick. Additionally, the Healthy Working Families Act already exempts any employee who “regularly works less than 12 hours a week for an employer,” so substitutes who only work occasionally are already exempt. The current law reflects a reasonable balance between enabling substitutes with more regular contact with the school community to earn leave, while exempting those who don't regularly work.

Access to earned sick leave provides economic security for working Marylanders, and ultimately creates the stability necessary for low-income families to move out of poverty. Changing access to earned sick leave before we've had time to analyze its impact is short-sighted and potentially detrimental. Maryland workers have waited years for access to earned sick leave, and should not bear the burdens of harmful new exemptions and changes.

MAP appreciates your consideration and urges an unfavorable report on SB 241.

Marylanders Against Poverty (MAP) is a coalition of service providers, faith communities, and advocacy organizations advancing statewide public policies and programs necessary to alleviate the burdens faced by Marylanders living in or near poverty, and to address the underlying systemic causes of poverty.

MSEA_UNF_SB241

Uploaded by: Johnson, Sean

Position: UNF

**Testimony in Opposition to Senate Bill 241
Maryland Healthy Working Families Act - Applicability**

**Senate Finance Committee
February 13, 2020
1:00 PM**

**Sean Johnson
Government Relations**

The Maryland State Education Association opposes Senate Bill 241 that seeks to expand exemptions of the Maryland Healthy Working Families Act to substitute teachers.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our 896,837 students for careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

Earned sick leave has been a legislative priority for MSEA because sick and safe leave for employees helps build stronger families, healthier communities, workplaces with happier and more productive employees, and students who are ready to learn.

Substitute teachers that meet the high bar of routine work and hours should not be prohibited from earning sick leave just because they also meet the definition outlined in the bill as a substitute employee. Agreements reached in the initial adoption of the law should not be revisited at the detriment of workers.

MSEA requests an unfavorable report for Senate Bill 241.

SB 241_MD Center on Economic Policy_UNFAV

Uploaded by: ORR, BENJAMIN

Position: UNF

Employment Protections Should be Consistent Across Maryland's Workforce

Position Statement in Opposition to Senate Bill 241

Given before the Senate Finance Committee

Maryland made great strides in 2018 when the General Assembly set basic standards that ensure most Marylanders have access to paid sick days. The Healthy Working Families Act provided paid sick days for about 488,000 Marylanders, and extended important job protections to thousands of additional employees at small businesses.ⁱ Paid sick days are essential for working families, public health, and the economy. Taking these benefits away from substitute teachers would move Maryland backwards. For these reasons, the Maryland Center on Economic Policy opposes Senate Bill 241.

Senate Bill 241 would narrow the scope of the Maryland Healthy Working Families Act by exempting substitute teachers from earning paid sick leave. Doing so would harm Maryland and lead to no material fiscal gain. Earned sick days promote public health. Workers with paid sick leave are more likely to receive preventive care that will lead to the early detection and treatment of illnesses.ⁱⁱ Cities and states that guarantee earned sick days have lower rates of flu infection. The reduced health care costs associated with paid sick leave (due to less contagious disease, less reliance on emergency rooms, and fewer short-term stays in nursing home) are expected to save Marylanders an estimated \$23 million each year.

Substitute teachers play an instrumental role in Maryland's education system. Despite this, they are typically among the lowest paid public workers in the state, often earning salaries barely above the minimum wage. Due to this, not only is it more difficult for them to prepare for the economic shock of a serious medical need, but they are among those most harmed by taking an unpaid day off. Without the state's requirement for earned sick days, substitute teachers will be far less likely than high-income earners to have access to paid sick time.ⁱⁱⁱ If Senate Bill 241 is implemented, we will be taking earned sick days from the Maryland workers who need it the most.

Guaranteeing access to paid sick days supports a vibrant and growing economy. MDCEP's prior analysis of paid sick leave proposals in Maryland has found that guaranteeing earned sick days saves Maryland employers up to \$13 million per year through improved productivity. On average, cities and states that passed earned sick days guarantees had equivalent or stronger job growth in comparison to the United States overall 12 months after implementation. A majority of business owners and executives support earned sick days, even when polled by anti-regulation political consultants.^{iv}

Employers in Maryland should be held to consistent standards under Maryland’s labor laws. Unequal policies can contribute to income inequality and wage gaps for marginalized groups within Maryland. While the current law does have different standards for smaller businesses, which are allowed to provide unpaid sick leave instead of paid sick leave, it is not reasonable to exempt substitute teachers from provisions of our labor laws.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Budget and Tax Committee make an unfavorable report on Senate Bill 241.

ⁱ Christopher Meyer, “A Strong Earned Sick Days Law Will Bring Major Benefits for Maryland Families and our Economy,” Maryland Center on Economic Policy, November 2017. <http://www.mdeconomy.org/sickleave/>

ⁱⁱ Jessica Milli, “Access to Paid Sick Time in Maryland,” Institute for Women’s Policy Research, January 2017, <http://www.iwpr.org/publications/pubs/access-to-paid-sick-time-in-maryland/>.

ⁱⁱⁱ Kendal Orgera and Samantha Artiga, “Disparities in Health and Health Care,” Kaiser Family Foundation, August 2018, <http://files.kff.org/attachment/Issue-Brief-Disparities-in-Health-and-Health-Care-Five-Key-Questions-and-Answers>

^{iv} “CMD PRWatch Markup of 01-05-16 State Chambers Topline Poll,” Luntz Global via PRWach, 2015, https://www.prwatch.org/files/cmd_prwatch_markup_of_01-05-16_state_chambers_topline_poll.pdf

PJC_UNF_SB 241

Uploaded by: Robinson, Tyra

Position: UNF



Tyra Robinson, Attorney
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SB 241

Labor and Employment – Maryland Healthy Working Families Act – Applicability Hearing of the Senate Finance Committee February 13, 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 through litigation and public policy. The PJC **OPPOSES SB 241** and requests an **UNFAVORABLE** report.

Denying School System Employees Earned Sick and Safe Leave Would Undermine the Purpose of the Healthy Working Families Act and Threaten Public Health. The Healthy Working Families Act ensures that employees do not have to choose between a paycheck and caring for themselves or a family member. It is also designed to limit "presenteeism," where individuals who cannot afford to take time off show up for work ill, are less productive, and spread their illnesses to co-workers.¹ Presenteeism is particularly problematic in situations where employees interface with the public, such as in school systems. Like other school employees, substitutes also work in classrooms, nurses' offices, drive school buses, and clean our schools both during and at the end of the day. The same concerns that motivate access to earned sick and safe leave for other employees also apply to the employees who substitute, and Maryland should not adopt policies that would force *any* school employees (regular or substitute) to show up for work sick. Just as teachers and other school staff need to be able to take time to care for themselves and their family, so too do employees in an "on call" status.

SB 241 is Unnecessary. The Healthy Working Family Act was passed after six years of compromise with the issues of all businesses and employers appropriately considered and balanced. One of those compromises is a provision that exempts any employee who "regularly works less than 12 hours a week for an employer." LE § 3-1303(a)(1). In other words, individuals who generally only work one or two days per week are not covered by the new law. Thus, daily substitutes employed by county boards of education who work just one day a week, as well as those who usually substitute just one day a week but occasionally work more, are exempt. The Attorney General's opinion on the issue of school substitutes recognized that this compromise invariable exempts some

¹ See, e.g., "Presenteeism, a Public Health Problem," Widera, Eric, et. al, Journal of General Internal Medicine (November 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2947637/>.

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substitutes. See 103-18 Op. of Attorney Gen. (Dec. 4, 2018) (noting that some daily substitute teachers unquestionably fall within the exception)². Moreover, the recent reports submitted to the Maryland State Department of Education suggested that several school systems have begun to comply with the HWFA where substitutes are concerned, and they should be encouraged to continue to do so. Finally, earlier data demonstrating what was *actually paid out* for sick leave use – as opposed to doomsday predictions – revealed that those jurisdictions “incurred little or no fiscal impact in providing required leave.” Dep’t. of Legislative Serv. M.D. Senate Reg. Sess., *Revised Fiscal and Policy Note HB 0001* (2017) at 13.³ In sum, the current exemption reflects a good balance between enabling substitutes with more regular contact with the school community to earn leave, while exempting those who don’t regularly work much, and data suggests that compliance is neither too burdensome nor too costly.

Other States Guarantee Sick and Safe Leave to Daily Substitutes. The motivating concern behind SB 241 seems to be the costs to the school systems. Yet cost alone is not a reason to deny the ability of substitute school employees to earn sick leave given the public health implications. Nor does it appear that other school systems have suffered by affording leave even to their substitutes. Indeed, Oregon, California and Washington have each recognize that daily substitutes need sick and safe leave. See, e.g., Riverside Unified Sch. Dist., *Substitute Teacher Handbook*, at 18 (April 2017).⁴

SB 241 is Untimely. The Healthy Working Families Act was passed after years of hearings and significant debate. The exemptions adopted by the legislature took into account all other factors and provisions (pros and cons) in the bill. Local school systems had years to timely raise concerns about on call employees, yet they did not. Efforts to open the door to additional exemptions at this point would be both untimely and unfair, particularly where the law has only been in effect for a year.

For the foregoing reasons, the PJC **OPPOSES SB 241** and urges an **UNFAVORABLE** report. Should you have any questions, please call Tyra Robinson at 410-625-9409 ext. 223.

²<https://www.courtlistener.com/opinion/4570557/public-schools-sick-and-safe-leave-statutory-construction-whether/>.

³ http://mgaleg.maryland.gov/2017RS/fnotes/bil_0001/HB0001.pdf

⁴ http://www.riversideunified.org/UserFiles/Servers/Server_580721/File/Departments/Personnel/Substitute%20Handbook%2016-17%20rev.%204-13-17.pdf.

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