



WRITTEN TESTIMONY FOR THE SENATE FINANCE COMMITTEE
IN SUPPORT OF SB 641
FEBRUARY 27, 2020

The Metropolitan Washington Employment Lawyers Association (MWELA) is the local chapter of the National Employment Lawyers Association, a national organization of attorneys, primarily plaintiffs' counsel, who specialize in employment law. MWELA advocates for laws that protect Maryland employees and ensure that employees have basic rights and fair treatment by their employers.

MWELA supports SB 641 because it provides necessary protections for Maryland employees and closes a statutory gap which allows employers to *legally* fire employees for opposing wage theft that is illegal under the Maryland Wage Payment and Collection Law ("MWPCPL"). The MWPCPL is designed to ensure that Maryland workers receive the pay they have earned on time and in the proper amount.

SB 641 fulfills the promise made by the MWPCPL in three ways. First, SB 641 provides for protection against retaliation should an employee speaks out about non-payment, underpayment, or delayed payment. Second, SB 641 requires that employers make paychecks transparent so workers can see if they were paid the right amount. And, third, SB 641 makes sure that employees are not improperly classified as independent contractors, and have the protections of wage and hour laws.

What good is a right to payment of wages on time and in the full amount if your employer can fire you simply to bringing issues regarding payment to light? The lack of an effective anti-retaliation provision places an unnecessary barrier between people who need to be paid on time to pay for healthcare, to pay for their care, to make rent and making sure such payment actually happens.

And it should not be this way. Nearly every employment and wage statute has an anti-retaliation provision where employees can bring their own lawsuits when they suffer adverse actions for speaking out. This is true of the Maryland Wage and Hour Law and the Maryland anti-discrimination laws, and it should be true of the MWPCPL. The insight that has led to the widespread adoption of anti-retaliation provisions, that if you allow retaliation to gut the substantive right because of the chilling effect of retaliation, applies with equal force to the MWPCPL. Maryland should not allow employers to sidestep the MWPCPL by chilling the exercise of the important rights therein. SB 641 corrects this legislative gap by adding an anti-retaliation provision to the MWPCPL.

What good is a right to payment of wages on time and in the full amount if you cannot tell if you were paid the proper amount on the paycheck? Some employers provide paychecks with scant information, and which do not inform employees of the number of hours for which the employee is being paid or the amount of withholdings. In those cases, how can the employee tell if she is being paid the right amount? SB 641 fixes this concern by ensuring employers disclose basic information on the paycheck which gives the employee basic information every time she is

paid.

And what good are the wage and hour laws at all if you have been improperly classified as an independent contractor? Wage and hour laws by and large do not apply to independent contractors at all. SB 641 clarifies the definition of who is, and who is not, an independent contractor to ensure that only people truly in business for themselves are exempt from the wage and hour protections.

As the representatives of employees, MWELA's goals are to ensure that Maryland employees are fairly treated, and that existing protections already codified live up to their promise. The MWPCCL falls short of its goals, but can be corrected with the modest changes in SB 641. We urge you to support SB 329 and stand against wage theft.