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TO: The Honorable Delores G. Kelley
Chair, Finance Committee

FROM: Office of the Attorney General

RE: SB 727 – Maryland Healthy Working Families Act – Revisions and Public Health
Emergency Leave – **Letter of Support**

The Office of Attorney General supports the goal of SB 727 to sufficiently protect workers against the pandemic and to stop the spread to protect the lives of Marylanders. Senate Bill 727 is a response to weaknesses in our current law.

The COVID-19 outbreak revealed the necessity of paid sick leave to allow exposed workers to quarantine. In response, United States Congress enacted the Families First Coronavirus Response Act (“FFCRA”).¹ The FFCRA provided additional paid sick leave to workers and contain the pandemic. The Act, however, expired on December 31, 2020.² Maryland’s Healthy Working Families Act (“HWFA”) supplanted FFCRA, but it lacks FFCRA’s provided solutions. Thus, the HWFA must be amended to include these solutions and improvements. And SB 727 does so.

The FFCRA was not perfect. Throughout the pandemic, many Maryland workers did not have access to a single day of paid sick leave because of the FFCRA’s big business exemption.³ And the HWFA exempted Maryland’s agricultural workers, temporary workers, and on-call health professionals from access to necessary paid sick leave. As a result, many workers were forced to choose between a paycheck and their health. Senate Bill 727 is designed to address these inequities and ensures that more workers have access to these necessary protections.

¹ See generally Families First Coronavirus Response Act, H.R. 6201, 116th Cong. §§ 5102–5111 (2020) (enacted).

² See H.R. 6201 § 5109.

³ See H.R. 6201 § 5110 (2)(B)(i)(I)(aa) (codifying that companies with 500 or more employees are exempt from providing additional paid sick leaves).

Also, the COVID-19 had compounding and devastating impacts on Black,⁴ Latino,⁵ and other communities of color. The disparate access to paid sick leave was apparent because many of the Maryland's exempted workers were workers of color.⁶ Senate Bill 727 amends the HWFA to better address disparate racial impact by removing exemptions for groups of workers who are disproportionately Black and Latino.

Moreover, the Attorney General's COVID-19 Access to Justice Task Force recommended to requiring "employers to provide paid [sick] leave to workers who must self-quarantine due to workplace exposure,"⁷ and "add[ing] eligibility to use paid leave during a declared public health emergency."⁸ And SB 727 follows these recommendations.

Lastly, SB 727 promotes strong economic and health recovery. When workers are pressured to work through illness, businesses lose productivity⁹ and workers suffer from elongated health consequences, fear of retaliation, and potential job loss.¹⁰ Senate Bill 727 codifies workers' rights to paid sick leaves during a public health emergency. Senate Bill 727 provides 14 more days of paid emergency sick leave to allow workers to isolate and quarantine as recommended by public health officials. By expanding Maryland's sick leave law to cover more workers, and providing for paid public health emergency leave, the legislation establishes a landscape for Maryland's stronger economic future and to successful pandemic containment.

For the foregoing reasons, the Office of the Attorney General urges a favorable report on SB 727.

cc: Members of the Finance Committee

⁴ THE BALT. AFRO-AM., *Black and Brown Health Care Workers More Likely to Get COVID-19* (Jan. 29, 2021), <https://afro.com/black-and-brown-health-care-workers-more-likely-to-get-covid-19/>.

⁵ Ryan McFadden, *Health Experts Cite Virus's Effect on Md.'s Latino Community* (Oct. 28, 2020), DAILY REC., https://thedailyrecord.com/2020/10/28/health-experts-cite-virus-effect-on-md-s-latino-community/?utm_term=Health.

⁶ FSG & POL'Y LINK, *ADVANCING FRONTLINE EMPLOYEES OF COLOR: INNOVATING FOR COMPETITIVE ADVANTAGE IN AMERICA'S FRONTLINE WORKFORCE 7* (Jan. 2020), <https://www.policylink.org/sites/default/files/Advancing%20Frontline%20Employees%20of%20Color.pdf>; see also Bartel et. al., *Racial and Ethnic Disparities in Access to and Use of Paid Family and Medical Leave: Evidence from Four Nationally Representative Datasets* (Jan. 2019), <https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>; KAISER FAMILY FOUND., *Coronavirus Puts a Spotlight on Paid Leave Policies* (Mar. 2020).

⁷ MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, *CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS 13* (Jan. 2021), https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf.

⁸ *Id.*

⁹ See Zoe Ziliak Michel, *The Business Benefits of Paid Sick Days in Maryland* (Jan. 13, 2017), <https://www.clasp.org/sites/default/files/publications/2017/04/The-Business-Benefits-of-Paid-Sick-Days-in-Maryland-final.pdf>.

¹⁰ See Dana Wilkie, *9 in 10 Workers Admit Going to Work Sick* (Nov. 7, 2019), SOC'Y FOR HUM. RES. MGMT., <https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/coming-to-work-sick-.aspx>.