

Testimony of the National Employment Law Project in Support of HB136/SB233 with Amendments

The National Employment Law Project (NELP) appreciates the opportunity to submit testimony for the record regarding HB136/SB233, a bill designed to provide Maryland workers with a remedy when they are the victims of illegal retaliation for exercising their employment rights.

NELP is a nonprofit research, policy, and capacity building organization that for more than 50 years has sought to strengthen protections and build power for workers in the U.S., including workers who are unemployed. For decades, NELP has researched and advocated for policies that create good jobs, expand access to work, and strengthen protections and support for underpaid and jobless workers both in the workplace and when they are displaced from work. Our primary goals are to build worker power, dismantle structural racism, and ensure economic security for all.

NELP is grateful for the introduction of HB136/SB233 to better address illegal retaliation against workers who complain about wage-related violations. Maryland currently offers shockingly weak protections against such retaliation, leaving workers with nowhere to go and no effective remedies to pursue when it happens to them.

However, we urge a crucial amendment to the bill. We certainly have no objections to making an administrative remedy available to workers when they've been the victim of retaliation. Not every worker will be able to find a lawyer to take their case and they must be able to turn to the Maryland Department of Labor for assistance.

That being said, we urge you to remove the requirement that workers exhaust administrative remedies when they are the victims of retaliation. Just as the Fair Labor Standards Act, the federal wage and hour law, allows workers to choose between filing a complaint with the U.S. Department of Labor or going straight to court, so too should this bill allow workers to go straight to court to pursue their full and perhaps most expedient remedies when they've been retaliated against for exercising their rights.

As drafted, the bill would create a situation where a worker who is fired for suing their employer in state court for wage violations couldn't add the retaliation claim to their complaint until they have complained to MDOL and allowed that entire process to run its course. Retaliation is already such a powerful tool in the hands of an unscrupulous employer because it chills the rights of all employees who fear job loss for exercising their legal rights. Workers should be able to exercise whatever avenue of remedy is most efficient and effective for them in these circumstances.

Finally, a private right of action would allow MDOL to focus their time and attention on workers who are unable to find a private attorney to assist them.

Thank you for your time and attention to this important issue and for providing the opportunity for NELP to weigh in on the best way to construct this bill to truly provide the best protections against retaliation.