



Testimony in Opposition to Maryland Healthy Working Families Act – Verification

Senate Bill 404, House Bill 908

To: Members of the Senate Finance Committee

From: The National Partnership for Women & Families

Date: February 20, 2020

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy organization dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the demands of work and family. The National Partnership has provided assistance and guidance to nearly every jurisdiction that has passed a paid sick days law in the United States, including Maryland's Healthy Working Families Act.

When passed, Maryland's Healthy Working Families Act guaranteed approximately 750,000 Maryland workers the right to earn and use paid sick and safe days.¹ Workers who previously had to choose between caring for a sick child or family member and their paycheck could now take care of their family while not worrying about the consequences they might face at work. Workers and businesses in jurisdictions with paid sick and safe days laws have seen improved public health, stronger economies, lower unemployment rates and increased productivity – all without any significant impact on businesses.²

Since passing paid sick time, this body has considered various additional restrictions on worker's use of that time. Senate Bill 404 would impose unnecessary restrictions on a worker's ability to use their accrued sick time and undermine the purpose of the Healthy Working Families Act. SB 404 would allow an employer to unilaterally demand that any employee who takes leave between their 107th and 120th day of employment provide verification that the leave is for a legitimate purpose – even if it is the first time the employee needs to use their earned sick leave. Additionally, the bill would allow employers to deny further requests for leave if verification is not provided. The National Partnership is strongly opposed to SB 404 and the proposed changes the bill would make to the Maryland Healthy Working Families Act.

The Maryland Healthy Working Families Act already contains provisions to protect employers and safeguard against the abuse of paid sick days. For example, Section 3-1305(G) allows an employer to request verification after just two missed shifts.³ This is more stringent than most paid sick days law in the country as nearly every other law does

not allow an employer to request verification of a worker's use of paid sick days until the worker has taken three or more consecutive days from work.⁴ Additionally, Section 3-1305(B)(3) allows an employer to deny leave in certain situations where proper notice has not been provided,⁵ while Section 3-1305(G)(2) allows the denial of leave where proper verification has not been provided.⁶ And finally, Section 3-1302(b)(5) preserves businesses' rights to adopt and enforce policies that prohibit patterns of leave abuse. These provisions show that the Healthy Working Families Act provides any protection employers need – the additional limitations imposed by SB 404 are gratuitous.

Demands for verification and subsequent consequences for not providing such verification would severely undermine the purpose of the Healthy Working Families Act and reduce the benefits Maryland workers are entitled to under the law. Allowing employers to deny an employee their earned sick and safe leave for lack of verification the very first time they seek to use it will create confusion and chill the legitimate use of leave. If workers face these additional requirements, they will be less likely to use their accrued and protected time and force them to work even when they need to tend to their of their families' health. When workers are faced with demands for instant verification or fear of denial of subsequent leave requests, they are less likely to use their accrued time and more likely to come into work sick, forgo medical appointments, send a sick child to school, and tell others to do the same. This undermines the law and will have harmful effects on public health and businesses.

Paid sick days help to reduce the productivity lost when employees work sick – known as presenteeism. Presenteeism is estimated to cost the national economy \$160 billion annually, far surpassing the cost of a worker calling out sick.⁷ The need for instant verification can also put lives in danger if the need for using leave is because of an incident related to domestic violence, stalking or sexual assault. Denying workers use of their accrued sick days for not being able to instantly provide verification invalidates the benefit for many of the most vulnerable workers. Women, people of color and women of color face more discrimination and job instability generally, and SB 404 would only add to that burden. Black workers, for example, are more likely to report fears of penalties or disciplinary action for taking paid sick days than either white or Hispanic workers.⁸

Allowing employers to demand instant verification for the use of earned sick and safe time during a thirteen-day window would severely diminish the rights of Maryland workers. It would restrict a benefit that is critical to helping workers balance the demands of work and family and put the health and well-being of hundreds of thousands of Maryland workers and their families at risk. The Maryland Healthy Working Families Act already has strong protections in place that enable employers to supervise their workers' use of paid sick and safe days – and there is nothing to suggest that implementing this restriction would serve any meaningful protection or service to employers or workers.

We appreciate the opportunity to submit testimony on Senate Bill 404. If you have any questions, please contact Alex Baptiste, Policy Counsel (abaptiste@nationalpartnership.org or 202.238.4861) at the National Partnership for Women & Families.

Sincerely,

The National Partnership for Women & Families

1 National Partnership for Women & Families (2019, March). *Paid Sick Days – State and District Statutes*. Retrieved 19 February, 2020, from <http://www.nationalpartnership.org/our-work/resources/workplace/paid-sick-days/paid-sick-days-statutes.pdf>

2 National Partnership for Women & Families (2019, March). *Paid Sick Days are Good for Business*. Retrieved 19 February 2020, from <http://www.nationalpartnership.org/our-work/resources/workplace/paid-sick-days/paid-sick-days-good-for-business-and-workers.pdf>

3 MD. Code. Ann., § 3-103, § 3-1305(G) The Maryland Healthy Working Families Act (2018). Retrieved 19 February 2020 from http://mgaleg.maryland.gov/2017RS/Chapters_noln/CH_1_hb0001e.pdf

4 See note 1.

5 See note 2 at § 3-1305(B)(3).

6 Ibid. at § 3-1305(G)(2).

7 See note 1. When adjusted for inflation, presenteeism costs businesses approximately \$218 billion annually.

8 Miller, K., Drago, R., Williams, C., (2011, July). *Paid Sick Days and Employer Penalties for Absence*. *Institute for Women's Policy Research*. Retrieved 19 February 2020, from <https://wpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/D297.pdf>