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**In Support of House Bills 969 and 1027**  
**Before the**  
**Maryland House Committee on Economic Matters**

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Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center in support of House Bill 969, The Fair Scheduling Act and House Bill 1027, the Right to Rest Act. The National Women's Law Center has been working since 1972 to secure and defend women's legal rights, and to help women and families achieve economic security. The Fair Scheduling Act and Right to Rest Act provide crucial protections from difficult scheduling practices that undermine workers' ability to provide for themselves and their families. These protections are particularly important to women, who make up 70 percent of Maryland's low-wage workforce, where difficult scheduling practices are most common.<sup>i</sup>

The demographics and needs of the workforce have changed. In Maryland, nearly 65 percent of women over the age of 16 are in the labor force.<sup>ii</sup> Women make up nearly 50 percent of Maryland's overall workforce.<sup>iii</sup> Nationwide, 82 percent of children live in households where all parents work.<sup>iv</sup> Working mothers are primary breadwinners in 41 percent of families with children, and they are co-breadwinners—bringing in between 25 percent and 50 percent of family earnings—in another 22 percent of these families.<sup>v</sup> And in families in the bottom 20 percent of the income distribution, nearly 70 percent of working women are either the primary breadwinner or share that responsibility equally with their partners.<sup>vi</sup> More than 26 percent of households in Maryland are headed by single mothers—in these families, there is no other parent with whom to share caregiving responsibilities.<sup>vii</sup>

Women's income is more critical than ever before to families' economic security. Yet, too many women workers are barely scraping by. Working women in Maryland are 2.3 times more likely to have a low-wage job than a working man.<sup>viii</sup> Low wages make it hard for workers to support themselves and their families, but wages are not the only problem. Low-wage jobs are all too often marked by work scheduling policies and practices that pose particular problems for workers with responsibilities outside of their jobs, including caregiving, pursuing education and workforce training, or holding down a second job.<sup>ix</sup> For many, work schedules are unpredictable,

*With the law on your side, great things are possible.*

unstable and inflexible. Some require working evenings, weekends, or even overnight, and many offer only part-time work, despite many workers' desire and need for full-time hours.

## I. Work Scheduling Practices that Fail to Take Workers' Lives into Account Undermine Workers' Best Efforts to Provide for Themselves and Their Families

The fallout from scheduling practices that do not take workers' needs into account can be devastating.<sup>x</sup> Difficult scheduling practices undermine workers' efforts to fulfill their caregiving responsibilities and make maintaining stable child care nearly impossible. They also make it tougher to pursue education or training while holding down a job, as many workers want to do to make a better life for themselves and their families. For workers who need a second part-time job to make ends meet because they cannot get enough hours at their primary job, unpredictable scheduling practices can make juggling two jobs very difficult. And workers managing serious medical conditions are often denied the control over their schedules that they need to manage their health.

### A. Having Little Say in Their Schedules Makes It Nearly Impossible for Workers to Plan Their Lives

Nationwide, workers across the income spectrum report having very few opportunities for meaningful input into the timing of the hours that they work, and some are unable to request even minor changes to their work schedules without suffering a penalty.<sup>xi</sup> Overall, less than half of workers have flexibility in the scheduling of their work hours.<sup>xii</sup> More than a third of parents believe they've been "passed over" for a promotion, raise, or a new job due to a need for a flexible work schedule.<sup>xiii</sup>

Workers in low-wage jobs often have the least say in their work schedules. About half of low-wage workers report having limited control over the timing of their work hours and between two-thirds and three quarters of full-time, low-wage workers report that they are unable to alter when their work day starts and ends.<sup>xiv</sup> Some employers have policies requiring employees to have completely open availability in order to qualify for full-time hours, making it extremely difficult for workers with significant responsibilities outside of work to achieve full-time status.<sup>xv</sup> And workers who request a schedule that allows them to attend school, take a child to a regular medical appointment, or address their own health needs too often find that their employers retaliate by cutting their hours sharply.<sup>xvi</sup>

Tiffany Beroid, a former Walmart worker in Laurel, Maryland, experienced firsthand the difficulty of having little input into her work schedule. When her child care provider became ill she had nowhere to leave her children, and so she asked to be taken off the schedule for a week. Her manager refused. According to Beroid, Walmart store policy required employees to file a temporary disability claim with Walmart's insurance carrier after calling out from work three times. If the claim is denied, the fourth time a worker calls out, store policy called for termination of the worker. Beroid called out for seven days—each of the days her provider was sick. She also filed a temporary disability claim as she was required to do, despite knowing she would be denied. When this claim was denied, she had to appeal all the way to the corporate regional office simply to keep her job.

Likewise, when Ms. Beroid asked for a schedule that allowed her to go to school, she was told that if she limited her availability, her hours would be reduced even though she was still available for more than 40 hours each week. While her manager ultimately agreed to make an exception in her case, she was told repeatedly how lucky she was—and that typically, if an associate did not have completely open availability, she would not qualify for full-time work.

#### B. Little Advance Notice of Schedules Means The Only Plans Workers Can Make Are Those They Can Break

Providing notice of work schedules a week or less in advance is common in many industries. According to research analyzing the work schedules of a representative sample of early-career adults (26-32 years old), over a third (38 percent) of early career employees overall knew their work schedule one week or less in advance.<sup>xvii</sup> And such short notice was significantly more common among hourly workers (41 percent) than others (33 percent), and among part-time (48 percent) than full-time workers (35 percent).<sup>xviii</sup> Another survey found that, among all low-wage workers, between 19 and 31 percent are often asked to work extra hours with little or no notice.<sup>xix</sup> Another practice, especially common for retail workers, is to schedule workers for “call-in shifts,” which means they must call their employers to find out whether they need to report to work that same day.<sup>xx</sup> In a study of retail workers in New York City, 20 percent of workers surveyed reported that they always or often must be available for call-in shifts.<sup>xxi</sup> These practices undermine workers’ efforts to seek education or workforce training or arrange transportation to and from work, and make it extremely difficult for part-time workers who need to hold down more than one job in order to get enough hours to make ends meet.<sup>xxii</sup>

Low-wage workers’ ability to access quality, affordable, and stable child care is also often compromised by unpredictable work schedules.<sup>xxiii</sup> With work schedules and incomes that fluctuate from week to week, many workers have no choice but to cobble together child care at the last minute.<sup>xxiv</sup> Because many centers require caregivers to pay a weekly or monthly fee, regardless of how often the child attends, holding a spot in a child care center is often infeasible for workers who do not know when, or even if, they will work that week. Further, workers with unstable schedules may not qualify for child care subsidies due to fluctuations in income and work hours.<sup>xxv</sup> Relying on family, friends, and neighbors to provide child care – as most workers in low-wage jobs must do – is complicated by the fact that their child care providers may also be balancing an unpredictable part-time work schedule at their own jobs with providing child care. When workers are unable to find child care or child care falls through, sometimes workers must miss work and lose pay. In one study, 40 to 60 percent of workers who reported missing work due to child care problems also reported losing pay or benefits, or being penalized in some way.<sup>xxvi</sup> Another common problem that some workers report is being required to stay past their scheduled shift. In a survey of restaurant workers, nearly a third of workers reported that they had been required to stay past the end of a scheduled shift and, as a result, paid fines to child care providers for picking their children up late.<sup>xxvii</sup>

#### C. When the Amount of Hours Workers are Assigned Varies, It is Difficult for Workers to Meet Expenses, or Even Budget

Many workers in low-wage jobs experience unstable schedules that vary from week to week or month to month, or periodic reductions in work hours when work is slow. For example, 59

percent of retail employees employed by one major retailer reported that either the shifts or the days they worked change each week.<sup>xxxviii</sup> For early-career adults, hours fluctuate substantially for both hourly and non-hourly workers; but for those hourly workers who need more hours, such fluctuations can make it extremely difficult to make ends meet.<sup>xxxix</sup> And workers in low-wage jobs, primarily women, are more likely to experience schedule variations; for example, the average variation in work hours in a single month is 70 percent for food service workers, 50 percent for retail workers, and 40 percent for janitors and housekeepers.<sup>xxx</sup> Between 20 and 30 percent of low-wage workers experience a reduction in hours or a layoff when work is slow.<sup>xxxi</sup> Workers also report being sent home early from their scheduled shifts.<sup>xxxii</sup>

In 2013, nearly one quarter (23 percent) of part-time workers worked part-time involuntarily,<sup>xxxiii</sup> because they could not obtain full-time work.<sup>xxxiv</sup> These workers often need more than one job to make ends meet, but when workers have little say in their work schedules at their primary job, it can be difficult to impossible to arrange a schedule at a second job. Low-wage workers, who have the least say in their schedules, are also far more likely than the overall workforce to work part-time involuntarily (14 percent versus 6 percent).<sup>xxxv</sup>

The prevalence of part-time work was exacerbated by the recession, but levels of part-time work still remain high in the recovery, which supports the notion that the trend toward part-time work in low-wage jobs is part of a broader structural change in the way that employers hire and schedule workers.<sup>xxxvi</sup> Some workers are hired expecting full-time hours only to find that they are not put on the schedule at all for weeks and months at a time. This particular practice of hiring workers and then giving them very few or no hours of work is especially well-documented in the retail industry.<sup>xxxvii</sup>

Variable work hours can make it extremely difficult for workers to maintain eligibility for child care subsidies that are tied to work hours or simply to meet basic expenses like food, rent, and utilities. And even in months when workers are scheduled for sufficient hours to meet their expenses, workers experience the incredible stress and uncertainty that comes with not knowing in advance how much income they will be bringing home.

### III. The Fair Scheduling Act and Right to Rest Act Provide Crucial Protections for Workers

#### A. The Fair Scheduling Act and Right to Rest Act Provide Workers with More Predictable and Stable Schedules, and More of a Say in When They Work

Workers need a say in their schedules in order to meet their responsibilities at work and in the rest of their lives. The Fair Scheduling Act permits employees to request that the employer: change the employee's work schedule, honor employees' limitations on their availability to work and consider employees' schedule preferences.<sup>xxxviii</sup>

The Fair Scheduling Act would also help workers achieve more predictable schedules by requiring employers to provide schedules 21 days in advance of when an employee is scheduled to work and provide extra pay when workers are sent home early or assigned shifts after the initial three-week schedule is posted. Furthermore, if the employer makes a subsequent change to the schedule, the employer must pay the employee "predictability pay" equivalent to one hour's wages for each changed shift. If the employer cancels or reduces the hours in a shift within 24 hours before that shift, the employer must pay the employee "predictability pay" equivalent to four hours' wages.

The bill prohibits employers from requiring employees to work hours not included in the initial work schedule, unless the employee consents to the additional hours in writing, and prohibits employers from requiring an employee to find another employee to cover hours during which the employee is unable to work a scheduled shift.<sup>xxxix</sup>

The bill also contains important provisions relating to the cancelling or shortening of shifts, which is a common problem for low-wage workers. All too often, employees report to work only to be sent home an hour or two after they arrive. Workers who are sent home early without working their scheduled shifts have already paid for transportation to and from work, paid for child care in many instances, and foregone any other plans they might have made for that day—such as working a shift at another job or going to school. Likewise, workers on call-in and on-call shifts are unable to make any other firm plans for the day, as they must report to work if told to do so, or suffer a penalty. The fluctuations in work hours that result from these scheduling practices lead to wild fluctuations in income, and can leave workers with no clue whether they will be able to meet their basic expenses from week to week or month to month.

Under the Fair Scheduling Act, if an employee reports to work and is informed the shift has been cancelled or the hours in the shift have been reduced, the employer must pay the employee for at least four hours of work at the employee's regular rate, regardless of how many hours the employee actually works. California, Connecticut, the District of Columbia, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Puerto Rico, and Rhode Island have similar laws on the books, providing for some minimum compensation for employees who report to work only to be sent home without being paid for the hours in their scheduled shifts.<sup>xi</sup>

In addition to the Fair Scheduling Act, the Right to Rest Act<sup>xli</sup> will help to ensure that workers have adequate time to travel and rest between shifts. To respond to the needs of those workers who are required to work back to back shifts, mandatory overtime, or “clopen,”<sup>xlii</sup> the Right to Rest Act: Requires the employer to pay the overtime wage: when any employee who works over 8 consecutive hours; if an employee has agreed to work 7 consecutive days, on the 7<sup>th</sup> day; when an employee has to begin a new shift less than 11 hours after the end of the immediately preceding shift; and within the 11 hour period immediately following the end of a shift that spanned two days.

At the same time that some workers struggle to get enough hours, for others the workweek is too long. According to one study, more than one-third of the U.S. workforce works more than 40 hours per week, with nearly 19% working 50 or more hours per week.<sup>xliii</sup> This overemployment leaves little or no time for obligations outside of work, and comes at the expense of employee's health or that of their family.<sup>xliv</sup> In one study, the effects of mandatory overtime on autoworkers included impaired performance in attention and executive functions, and workers who worked more than eight hours in a day reported feeling more depressed and fatigued.<sup>xlv</sup>

The Right to Rest Act also gives employees who work especially long hours a modicum of control over their schedules. Specifically, it permits them to decline an employer's request for them to work more than 6 consecutive days, more than 55 hours in a work week, to work during hours that occur less than 11 hours after the end of the preceding shift, or to work during the 11-hour period immediately following the end of a shift that spanned 2 days.

The provisions in the Fair Scheduling Act and Right to Rest Act are an important step forward in providing more predictable and stable work schedules for employees.

## B. Minor Modifications to the Fair Scheduling Act Would Further Strengthen Its Protections

Providing a right to request changes in work schedules free from retaliation, which the Fair Scheduling Act does, is crucial for employees. The bill could be further strengthened by including a more robust right to request and providing for a good faith interactive process between the employer and employee to discuss the request, and by requiring the employer to state the reason for denial if the request is denied.

The bill could also be further strengthened to ensure that it does not inadvertently disincentivize employers from granting employee requests for time off. Employers may be less likely to allow workers to take time off if they know that the worker who asked for time off may only be replaced if another employee affirmatively consents to work. (Under the current bill, no employee may be required to work hours added to her schedule with less than 21 days' notice unless she consents.) This is a particular concern since many employee needs for time off – e.g., to take a child to a routine doctor's appointment, deal with a plumbing emergency, or a worker's own illness – will occur with less than three weeks' notice. Research has also shown that workers' inability to take time off negatively impacts their ability to engage with their children's school. Many school events are planned with one week notice or less.<sup>xlvi</sup>

In order to avoid the unintended consequence of constraining employees' ability to take time off, the Fair Scheduling Act could be modified to include some limitations on the consent requirement, as follows: an employee may not be required to work a schedule changed with less than three weeks' notice, except where the employer has exhausted all good faith, reasonable attempts to obtain voluntary workers, and the schedule is being changed for one of the following reasons: (1) an emergency which could not have been reasonably anticipated and that is not caused or aggravated by the employer's inattention or lack of reasonable contingency planning; (2) to avoid a negative impact on the health or safety of the employees or the public; or (3) the unforeseen unavailability of an employee previously scheduled to work that shift. Adding these provisions strikes a balance between the need to create more schedule predictability for employees and the need to preserve employees' ability to take time off.

Requiring the employer to pay an extra hour of pay for any shift changed after the work schedule is posted three weeks in advance may similarly have the unintended consequence of discouraging employers from granting employees' requests for time off. This is because employers may not want to pay a replacement worker predictability pay in order to accommodate an employee's request not to work a shift to which she is assigned.

This potential unintended consequence of deterring employers from granting requests for time off can be avoided by including exceptions to the extra pay required after the work schedule is posted three weeks in advance, including that predictability pay will not be required when the shift is changed after the schedule is posted due to: (1) an emergency which could not have been reasonably anticipated and that is not caused or aggravated by the employer's inattention or lack of reasonable contingency planning; (2) to avoid a negative impact on the health or safety of the employees or the public; or (3) the unforeseen unavailability of an employee previously scheduled to work that shift.

## IV. Fair Scheduling Practices Are Good for Employees, Businesses and the Bottom Line

Scheduling practices that fail to take workers' needs into account result in higher rates of turnover and absenteeism and lower worker engagement.<sup>xlvii</sup> In contrast, fair scheduling leads to more productive and committed employees and lower turnover.<sup>xlviii</sup> In other words, when businesses provide flexible working arrangements, they benefit. Research shows that the benefits of implementing fair scheduling practices for lower-wage workers are comparable and even greater than the benefits of providing those arrangements to their higher-wage counterparts.<sup>xlix</sup> Among the benefits are reduced absenteeism, increased retention, reduced health care costs, and increased revenue.<sup>1</sup> When workers have schedules that work, everyone wins. This bill is an important first step to creating workplace polices that really work for workers and their families.

## VI. Conclusion

With these bills, Maryland joins California,<sup>li</sup> Minnesota,<sup>lii</sup> Indiana,<sup>liii</sup> Oregon,<sup>liv</sup> and Michigan,<sup>lv</sup> which have all recently introduced legislation to curb abusive scheduling practices. The Fair Scheduling Act and the Right to Rest Act are key components of a set of legislative proposals being considered by the Maryland General Assembly – including earned sick days, a bill to strengthen our equal paw laws and a bill to strengthen protections from harassment –which would help women and families succeed. We urge your support for this important legislation.

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<sup>i</sup> NWLC, *Women in the Low-Wage Workforce by State: Women are Overrepresented in the Low-Wage Workforce in Every State* 1 (2014), available at [http://www.nwlc.org/sites/default/files/pdfs/pv\\_fs\\_low\\_wage\\_state\\_tables.pdf](http://www.nwlc.org/sites/default/files/pdfs/pv_fs_low_wage_state_tables.pdf).

<sup>ii</sup> NWLC calculations based on U.S. Census Bureau, American Community Survey 2013, available at [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_13\\_1YR\\_DP03&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_1YR_DP03&prodType=table).

<sup>iii</sup> NWLC, *supra* note 1, at 1.

<sup>iv</sup> NWLC, *THE SCHEDULES THAT WORK ACT: GIVING WORKERS THE TOOLS THEY NEED TO SUCCEED* 1 (July 2014), available at <http://www.nwlc.org/resource/schedules-work-act-giving-workers-tools-they-need-succeed>.

<sup>v</sup> The share of mothers who are breadwinners or co-breadwinners has increased from 27.5 percent in 1967 to 63.3 percent in 2012. SARAH JANE GLYNN, CENTER FOR AMERICAN PROGRESS, *BREADWINNING MOTHERS, THEN AND NOW* 6 (June 2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/06/Glynn-Breadwinners-report-FINAL.pdf>.

<sup>vi</sup> *Id.* at 3.

<sup>vii</sup> NWLC, *Women and Poverty, State by State* (Sept. 2014), available at <http://www.nwlc.org/resource/women-and-poverty-state-state>.

<sup>viii</sup> NWLC, *supra* note 1, at 1.

<sup>ix</sup> See, e.g., NWLC, *COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-WAGE JOBS* 3-4 (April 2014), available at [http://www.nwlc.org/sites/default/files/pdfs/schedules\\_that\\_work\\_act\\_fact\\_sheet\\_7.22.14.pdf](http://www.nwlc.org/sites/default/files/pdfs/schedules_that_work_act_fact_sheet_7.22.14.pdf); RESTAURANT OPPORTUNITIES CENTER UNITED, *THE THIRD SHIFT: CHILD CARE NEEDS AND ACCESS FOR LOW-WAGE WORKING MOTHERS IN RESTAURANTS* 1-2, (July 2013), available at <http://www.scribd.com/doc/161943672/The-Third-Shift-Child-Care-Needs-and-Access-for-Working-Mothers-in-Restaurants>.

<sup>x</sup> See generally, *COLLATERAL DAMAGE*, *supra* note 9.

<sup>xi</sup> LIZ WATSON & JENNIFER SWANBERG, *FLEXIBLE WORKPLACE SOLUTIONS FOR LOW-WAGE HOURLY WORKERS: A FRAMEWORK FOR A NATIONAL CONVERSATION* 6 (Workplace Flexibility 2010, May, 2011), available at

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<http://workplaceflexibility2010.org/images/uploads/whatsnew/Flexible%20Workplace%20Solutions%20for%20Low-Wage%20Hourly%20Workers.pdf>.

<sup>xii</sup> White House Council of Economic Advisers, *Nine Facts about American Families And Work* 4 (June 2014), available at [http://www.whitehouse.gov/sites/default/files/docs/nine\\_facts\\_about\\_family\\_and\\_work\\_real\\_final.pdf](http://www.whitehouse.gov/sites/default/files/docs/nine_facts_about_family_and_work_real_final.pdf).

<sup>xiii</sup> *Id.*

<sup>xiv</sup> *Id.* at 19-20.

<sup>xv</sup> See Jodi Kantor, *Starbucks to Revise Policies to End Irregular Schedules for Its 130,000 Baristas*, N.Y. TIMES, Aug. 14, 2014, available at [http://www.nytimes.com/2014/08/15/us/starbucks-to-revise-work-scheduling-policies.html?\\_r=0](http://www.nytimes.com/2014/08/15/us/starbucks-to-revise-work-scheduling-policies.html?_r=0).

<sup>xvi</sup> See, e.g., Retail Action Project, *What You Need to Know about Erratic Scheduling: 5 trends in unpredictable retail scheduling*, available at <http://retailactionproject.org/advocacy/policy/erratic-scheduling/>.

<sup>xvii</sup> SUSAN J. LAMBERT, PETER J. FUGIEL, AND JULIA R. HENLY, PRECARIOUS WORK SCHEDULES AMONG EARLY-CAREER EMPLOYEES IN THE US: A NATIONAL SNAPSHOT 6 (Aug. 2014), available at [http://ssascholars.uchicago.edu/work-scheduling-study/files/lambert.fugiel.henly\\_.precarious\\_work\\_schedules.august2014.pdf](http://ssascholars.uchicago.edu/work-scheduling-study/files/lambert.fugiel.henly_.precarious_work_schedules.august2014.pdf).

<sup>xviii</sup> *Id.*

<sup>xix</sup> WATSON & SWANBERG, *supra* note 11, at 21.

<sup>xx</sup> STEPHANIE LUCE & NAOKI FUJITA, DISCOUNTED JOBS: HOW RETAILERS SELL WORKERS SHORT 15 (Retail Action Project 2012), available at [http://retailactionproject.org/wp-content/uploads/2012/03/7-75\\_RAP+cover\\_lowres.pdf](http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf).

<sup>xxi</sup> *Id.* at 13.

<sup>xxii</sup> WATSON & SWANBERG, *supra* note 11, at 8-9.

<sup>xxiii</sup> See generally, LIZ BEN-ISHAH, HANNAH MATTHEWS, & JODIE LEVIN-EPSTEIN, SCRAMBLING FOR STABILITY: THE CHALLENGES OF JOB SCHEDULE VOLATILITY AND CHILD CARE (Ctr. For Law and Social Policy Mar. 2014), available at <http://www.clasp.org/resources-and-publications/publication-1/2014-03-27-Scrambling-for-Stability-The-Challenges-of-Job-Schedule-Volat-.pdf>.

<sup>xxiv</sup> *Id.*

<sup>xxv</sup> See generally, Karen Schulman & Helen Blank, *Pivot Point: State Child Care Assistance Policies 2013* (NWLC 2013).

<sup>xxvi</sup> WATSON & SWANBERG, *supra* note 11, at 8.

<sup>xxvii</sup> ROC, *supra* note 9, at 9-10.

<sup>xxviii</sup> Jennifer Swanberg, et. al., *CitiSales Study: Jobs that Work for Hourly Employees* 4 (2009), available at <http://www.uky.edu/Centers/iwin/citisales/hourly-overview.html>.

<sup>xxix</sup> LAMBERT, FUGIEL, HENLY, *supra* note 13, Table 7.

<sup>xxx</sup> See Schedules That Work Act, H.R. 113th Cong. (2014) (from Sec. 1 Short Title & Findings, based on an analysis of the National Longitudinal Survey of Youth by Susan Lambert), available at <https://www.congress.gov/bill/113th-congress/house-bill/5159/text>.

<sup>xxxi</sup> WATSON & SWANBERG, *supra* note 11, at 22 (with the exception of full-time low-wage workers with standard hours, for whom less than 20 percent reported this problem.).

<sup>xxxii</sup> LUCE & FUJITA, *supra* note 20, at 15.

<sup>xxxiii</sup> NWLC calculations based on Bureau of Labor Statistics (BLS) Current Population Survey (CPS) Annual Table 20, Persons at work 1 to 34 hours in all and in non-agricultural industries by reason for working less than 35 hours and usual full or part-time status, 2007 through 2013, available at <http://www.bls.gov/cps/tables.htm#annual>. Figures are annual averages for those working part-time for economic reasons (also known as involuntarily part-time workers) across all industries.

<sup>xxxiv</sup> NWLC calculations based on Miriam King et. al., Integrated Public Use Microdata Series, CPS: Version 3.0 (PUMS-CPS) (Univ. of Minn. 2010). Data are for 2012. All figures are for employed workers. Median hourly wages: Bureau of Labor Statistics (BLS), Occupational employment Statistics (OES), May 2013 National Occupational and Wage estimate, available at [http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm).

<sup>xxxv</sup> *Id.*

<sup>xxxvi</sup> See SUSAN LAMBERT & JULIA HENLY, MANAGERS' STRATEGIES FOR BALANCING BUSINESS REQUIREMENTS WITH EMPLOYEES' NEEDS (2010), available at <http://news.uchicago.edu/article/2010/08/31/hourly-workforce-carries-burden-during-recession-study-finds>.

<sup>xxxvii</sup> LUCE & FUJITA, *supra* note 20, at 6, 13. See also Steven Greenhouse, *A Part-Time Life, as Hours Shrink and Shift*, N.Y. TIMES, Oct. 27, 2012, available at <http://www.nytimes.com/2012/10/28/business/a-part-time-life-as-hours-shrink-and-shift-for-american-workers.html?pagewanted=all>.

<sup>xxxviii</sup> Fair Scheduling Act, *supra* note 7, §3-1303(E)(1)-(2).

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<sup>xxxix</sup> *Id.* §3-1303(D)(1)-(2).

<sup>xl</sup> See NWLC, *Reporting Time Pay: A Key Solution to Curb Unpredictable and Unstable Scheduling Practices* (Jan. 2015) (outlining state reporting time pay laws), available at

[http://www.nwlc.org/sites/default/files/pdfs/reporting\\_time\\_pay\\_fact\\_sheet\\_jan\\_2015.pdf](http://www.nwlc.org/sites/default/files/pdfs/reporting_time_pay_fact_sheet_jan_2015.pdf)

<sup>xli</sup> H.B. 1027.

<sup>xlii</sup> “Clopening” refers to the growing practice of the same workers being required to close at night and then open the following morning. See Steven Greenhouse, *In Service Sector, No Rest for the Working*, N.Y. TIMES, Feb. 21, 2015, available at [http://www.nytimes.com/2015/02/22/business/late-to-bed-early-to-rise-and-working-tired.html?\\_r=0](http://www.nytimes.com/2015/02/22/business/late-to-bed-early-to-rise-and-working-tired.html?_r=0).

<sup>xliii</sup> Lonnie Golden, *A Brief History of Long Work Time and the Contemporary Sources of Overwork*, J. OF BUS. ETHICS 2 (Spring 2008), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1084323](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1084323).

<sup>xliv</sup> *Id.* at 7.

<sup>xliv</sup> Lonnie Golden & Helene Jorengesen, *Time After Time: Mandatory Overtime in the U.S. Economy* (Economic Policy Institute 2002), available at [http://www.epi.org/publication/briefingpapers\\_bp120/](http://www.epi.org/publication/briefingpapers_bp120/).

<sup>xlvi</sup> Anna Hayley Lock & Linn Posey-Maddox, *Fitting it all In: How Mothers’ Employment Shapes their School Engagement 20-22*, Forthcoming in COMMUNITY, WORK & FAMILY (accepted Dec. 2015).

<sup>xlvii</sup> A BETTER BALANCE, FACT SHEET: THE BUSINESS CASE FOR WORKPLACE FLEXIBILITY 2-4 (Nov., 2010), available at [http://www.abetterbalance.org/web/images/stories/Documents/fairness/factsheets/BC-2010-A\\_Better\\_Balance.pdf](http://www.abetterbalance.org/web/images/stories/Documents/fairness/factsheets/BC-2010-A_Better_Balance.pdf).

<sup>xlviii</sup> *Id.*

<sup>xlix</sup> Anna Danziger & Shelley Waters Boots, *Lower-Wage Workers and Flexible Work Arrangements*, WORKPLACE FLEXIBILITY 2010 GEORGETOWN UNIVERSITY LAW CENTER 7 (2008), available at

<http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1000&context=lega.l>

<sup>l</sup> A BETTER BALANCE, *supra* note 47.

<sup>li</sup> California Assembly Bill No. 357, Fair Schedule and Pay Equity Act (Feb. 2, 2015), available at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB357&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB357&search_keywords=).

<sup>lii</sup> Minnesota Fair Scheduling Act, HF 1139 (Feb. 23, 2015), available at [https://www.revisor.mn.gov/bills/text.php?number=HF1139&session=ls89&version=list&session\\_number=0&session\\_year=2015](https://www.revisor.mn.gov/bills/text.php?number=HF1139&session=ls89&version=list&session_number=0&session_year=2015).

<sup>liii</sup> Indiana Senate Bill 416 (Jan 12., 2015), available at <https://iga.in.gov/legislative/2015/bills/senate/416#document-cd799e76>.

<sup>liv</sup> Oregon House Bill No. 2010 (Jan. 2015), available at

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2010/Introduced>.

<sup>lv</sup> Michigan Senate Bill No. 1112, Employee Scheduling Accommodation Act (Oct. 2014), available at <http://www.legislature.mi.gov/documents/2013-2014/billintroduced/Senate/pdf/2014-SIB-1112.pdf>.