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**Testimony of the National Women's Law Center
In Support of S.B. 227—An Act Concerning a Fair Work Week Schedule**

Submitted to the Labor & Public Employees Committee, Connecticut General Assembly

February 24, 2020

Dear Senator Kushner, Representative Porter, and Members of the Labor and Public Employees Committee:

Thank you for holding this hearing and for the opportunity to submit this testimony on behalf of the National Women's Law Center, a non-profit organization that has been working since 1972 to advance and protect gender justice, and to help women and families achieve economic security. NWLC is part of a national coalition helping to lead the movement to secure a fair workweek for working people, because unstable and unpredictable work schedules disproportionately impact women and are particularly detrimental to women with caregiving responsibilities. **We strongly support S.B. 227, "An Act Concerning a Fair Work Week Schedule," as an important step to combat unfair scheduling practices that are harming working people, families, and communities.**

Recent years have seen a rise in the use of "just-in-time" scheduling practices, enabled by modern workforce management systems, that use algorithms to base workers' schedules on perceived consumer demand and maximize flexibility for the employer at the expense of the employee.¹ Across Connecticut, 65% of people working in hourly retail and food service jobs report having irregular or variable work hours, and most receive less than two weeks' notice of their work schedules²—conditions that can make it extremely challenging to meet their responsibilities outside of their jobs. Companies that rely on just-in-time scheduling also frequently spread work hours among many part-time employees so that they can "flex up" at a moment's notice;³ in Connecticut, 64% of hourly retail and food service workers who are working fewer than 30 hours per week want more hours.⁴ Volatile and inadequate work hours—and the volatile and inadequate incomes that result—undercut workers' efforts to budget for expenses and maintain family routines and increase economic hardship, including hunger and housing insecurity.⁵

Women often bear the brunt of just-in-time scheduling practices that undermine their best efforts to support and care for themselves and their families. The low-paid, hourly service sector jobs in which just-in-time scheduling practices are particularly concentrated are jobs that women, disproportionately women of color, are especially likely to hold.⁶ Women also still shoulder the majority of caregiving responsibilities in families⁷—and in Connecticut, 72% of hourly retail and food service workers find that their work schedules make it hard for them to meet their caregiving responsibilities.⁸ Black women and Latinas are especially likely to be breadwinners for their families,⁹ and also are more likely to experience scheduling instability than their white counterparts.¹⁰ The abusive scheduling practices that are common in many hourly jobs thus serve to perpetuate racial and gender income disparities across the state.¹¹

Just-in-time scheduling practices not only harm the working people who experience them, but can also undermine their children's well-being. The features of low-paid work that often interfere with caregiving—including inadequate income and constantly fluctuating work hours—produce stress for parents and children alike, and can adversely affect children's development.¹² And these same conditions can make maintaining stable, high-quality child care nearly impossible.¹³ Volatile work schedules also take a toll on care providers—who are mostly women, disproportionately women of color and immigrant women, and who often must scramble to be available for families with little notice and may also be balancing unpredictable part-time work schedules at their own jobs with providing child care.¹⁴

Connecticut has already taken steps to ensure that workers who are subject to last-minute schedule changes receive some compensation through its longstanding reporting pay policy, which requires employers in the mercantile trade and restaurant industries to pay employees who report to work and are employed for fewer hours than their scheduled shifts.¹⁵ However, Connecticut is now falling behind, as cities and states across the country are expanding protections to combat unfair scheduling practices. Ensuring that the people of Connecticut who work in low-paying service sector jobs have access to a fair workweek is an essential next step.

- **S.B. 227 recognizes the costs that working people and their families bear when they face last-minute schedule changes—and compensates them accordingly.** The proposed legislation addresses just-in-time scheduling practices where they are particularly pervasive: among moderately sized and large employers in the retail, restaurant, and hospitality industries, plus certain nursing homes. By requiring covered employers to provide 14 days’ notice of shifts and guaranteeing half time pay for any unworked hours when shifts are canceled or reduced with less than the required notice (or an extra hour of pay for other kinds of changes), the bill helps compensate employees for the costs associated with changed shifts. These costs can include rearranging child care or not being able to pay a bill as expected—costs that so many working people are not in a position to absorb. The policy also discourages unnecessary last-minute changes while allowing employers to make such changes when they are in fact necessary, so long as they provide the requisite pay to affected employees.
- **S.B. 227 discourages the unhealthy and unnecessary practice of “clopening.”** Like last-minute schedule changes, the practice of “clopening”—i.e., requiring an employee to work the closing shift one night and the opening shift the next morning—is particularly disruptive to family routines and can harm workers’ health and productivity on the job.¹⁶ The legislation will help ensure that workers in covered establishments have adequate time to travel and rest between shifts by prohibiting employers from requiring employees to work with less than 11 hours between shifts; if an employee consents to work such a shift, the bill requires the employer to pay the employee at 1.5 times their rate of pay for the hours they work in a shift that begins less than 11 hours after their previous shift ended.
- **S.B. 227 promotes opportunities for full-time work.** The bill requires covered employers to offer available hours to current, qualified part-time employees before hiring new employees, temporary employees, or contractors—helping workers gain the hours and income they need to provide for themselves and their families.

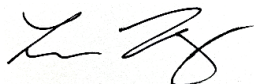
Many of the companies that would be covered by S.B. 227 are already complying with similar laws in Oregon, Seattle, New York City, Philadelphia, and San Francisco, among other jurisdictions.¹⁷ Workforce management company Deputy, which provides technology that supports compliance with these laws, reports positive impacts among their clients, including increased hours for workers; substantial reductions in absences and tardiness; and a modest decrease in labor costs for covered employers.¹⁸ Moreover, Duke University researchers who monitored working parents in Emeryville, California found that those covered by the local fair workweek policy reported a 35 percent decline in schedule instability after the policy took effect, along with significant improvements in family well-being.¹⁹

NWLC appreciates the efforts of the bill sponsors and this Committee to address the negative impact of just-in-time scheduling on the lives of women and families in Connecticut. We thank you for your consideration and respectfully request a vote in favor of S.B. 227.

Sincerely,



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Director of Job Quality & Senior Counsel



Laura Narefsky
Fellow, Workplace Justice

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- ¹ See generally, e.g., NAT'L WOMEN'S LAW CTR. (NWLC), COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-WAGE JOBS AND THEIR CONSEQUENCES (Apr. 2017), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/04/Collateral-Damage.pdf>; Daniel Schneider & Kristen Harknett, *Consequences of Routine Work-Schedule Instability for Worker Health and Well-Being*, 84 Am. Soc. Rev. 82 (Feb. 2019).
- ² SHIFT PROJECT, WORKING IN THE SERVICE SECTOR IN CONNECTICUT (March 2018), <https://shift.berkeley.edu/files/2018/03/Working-in-the-service-sector-in-Connecticut.pdf>.
- ³ See, e.g., Susan J. Lambert, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. Human Relations 1203, 1207 (2008).
- ⁴ SHIFT PROJECT, *supra* note 2, at 2.
- ⁵ See generally, e.g., ASPEN INST., RESPONSES TO AND REPERCUSSIONS FROM INCOME VOLATILITY IN LOW- AND MODERATE-INCOME HOUSEHOLDS: RESULTS FROM A NATIONAL SURVEY (Dec. 2017), <http://www.aspenepic.org/responses-repercussions-income-volatility-low-moderate-income-households-results-national-survey/>; Daniel Schneider & Kristen Harknett, *Hard Times: Routine Schedule Unpredictability and Material Hardship Among Service Sector Workers* (Oct. 2019), <https://equitablegrowth.org/working-papers/hard-times-routine-schedule-unpredictability-and-material-hardship-among-service-sector-workers/>.
- ⁶ See generally JULIE VOGTMAN & KAREN SCHULMAN, NWLC, SET UP TO FAIL: WHEN LOW-WAGE WORK JEOPARDIZES PARENTS' AND CHILDREN'S SUCCESS (Jan. 2016), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/01/FINAL-Set-Up-To-Fail-When-Low-Wage-Work-Jeopardizes-Parents%E2%80%99-and-Children%E2%80%99s-Success.pdf>. In Connecticut, women make up 65% of the workforce across the 40 lowest-paying jobs, which include restaurant servers, bartenders, fast food workers, and hotel clerks. NWLC calculations based on U.S. Department of Labor, Bureau of Labor Statistics (BLS), May 2018 National Occupational Employment & Wage Estimates, https://www.bls.gov/oes/current/oes_nat.htm, and Current Population Survey, Household Data, 2018 Annual Averages, Table 11, <https://www.bls.gov/cps/cpsaat11.htm>.
- ⁷ See U.S. Dep't of Labor, Bureau of Labor Statistics, American Time Use Survey, Table A-1: Time spent in detailed primary activities and percent of the civilian population engaging in each activity, averages per day by sex, 2018 annual averages (2019), <https://www.bls.gov/tus/a1-2018.pdf>.
- ⁸ See SHIFT PROJECT, *supra* note 2, at 5. 72 percent of service sector workers report their work schedules always, often, or sometimes make it hard to meet caregiving responsibilities; 40 percent report always or often.
- ⁹ See SARAH JANE GLYNN, CTR. FOR AM. PROGRESS, BREADWINNING MOTHERS CONTINUE TO BE THE U.S. NORM (May 2019), <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/>.
- ¹⁰ See Adam Storer, Daniel Schneider & Kristen Harknett, *What Explains Race/Ethnic Inequality in Job Quality in the Service Sector?* (Oct. 2019), <https://equitablegrowth.org/working-papers/what-explains-race-ethnic-inequality-in-job-quality-in-the-service-sector/>.
- ¹¹ See NWLC, The Wage Gap, State by State, <https://nwlc.org/resources/wage-gap-state-state/> (last visited Feb. 23, 2020).
- ¹² See generally VOGTMAN & SCHULMAN, *supra* note 6. See also, e.g., Daniel Schneider & Kristen Harknett, Parental Exposure to Routine Work Schedule Uncertainty and Child Behavior (Oct. 2019), <https://equitablegrowth.org/working-papers/parental-exposure-to-routine-work-schedule-uncertainty-and-child-behavior/>.
- ¹³ See, e.g., VOGTMAN & SCHULMAN, *supra* note 6, at 18; Dani Carillo et al., *On-call Job, On-Call Family: The Necessity of Family Support Among Retail Workers with Unstable Work Schedules* (Wash. Ctr. for Equitable Growth Working Paper 110116, Nov. 2016), <http://equitablegrowth.org/wp-content/uploads/2016/10/110116-WP-retail-workers-with-unstable-schedules.pdf>; Kristen Harknett, Daniel Schneider & Sigrid Luhr, Who Cares if Parents Have Unpredictable Work Schedules?: The Association between Just-in-Time Work Schedules and Child Care Arrangements (Oct. 2019), <https://equitablegrowth.org/working-papers/who-cares-if-parents-have-unpredictable-work-schedules-the-association-between-just-in-timework-schedules-and-child-care-arrangements/>.
- ¹⁴ See VOGTMAN & SCHULMAN, *supra* note 6, at 18.
- ¹⁵ Conn. Agencies Regs. § 31-62-D2(d) (mercantile trade); Conn. Agencies Regs. § 31-62-E1 (hotels, hotel restaurants).
- ¹⁶ See HUMAN IMPACT PARTNERS & CTR. FOR POPULAR DEMOCRACY, SCHEDULING AWAY OUR HEALTH: HOW UNPREDICTABLE WORK HOURS AFFECT HEALTH AND WELL-BEING 7-8 (2016), https://humanimpact.org/wp-content/uploads/Scheduling-Away-Our-Health_rev3.pdf.
- ¹⁷ See NWLC, STATE & LOCAL LAWS ADVANCING FAIR WORK SCHEDULES (Oct. 2019), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/10/Fair-Schedules-Factsheet-v2.pdf>. Chicago's fair workweek law takes effect July 1, 2020. *Id.*
- ¹⁸ Communication from Krista Hardwick, legal counsel, Deputy (Jan. 28, 2020). Ms. Hardwick reports that fair workweek laws generally result in a 14 percent increase in hours for workers; absences and tardiness have gone down by over 30 percent; and covered employers in fair workweek jurisdictions have seen a 3 percent decrease in labor costs.
- ¹⁹ FAIR WORKWEEK INITIATIVE & CTR. FOR POPULAR DEMOCRACY, GROUNDBREAKING STUDY SHOWS FAIR WORKWEEK POLICIES HELP WORKING PARENTS (Feb. 2019). Data cited is drawn from Anna Gassman-Pines & Elizabeth O. Ananat, Duke Univ., *Daily Effects of Work Schedule Instability on Families and Children* (manuscript in preparation).