



## 2009 Legislative Session Report

### Executive Summary

To reform the law, the voice of the people must be brought to the law makers. Since its inception, the Public Justice Center has fully used legislative advocacy as an important strategy in the public interest lawyer's arsenal.

In the 2009 Session of the Maryland General Assembly, the PJC was involved in 26 bills or initiatives considered by the General Assembly. We are pleased to report that 19 of the 26 resulted in a favorable outcome – meaning that a bill was passed that preserved or improved the rights or interests of people who suffer injustice because of their low income or discrimination, or that a bad bill was defeated.

The PJC was the lead or major advocate on four bills in the last session, resulting in 3 major victories:

- **Misclassification of Employees as Independent Contractors.** The Workplace Fraud Act of 2009 (SB 909) passed, which prohibits specific employers from misclassifying their employees as independent contractors. This practice cheats employees out of various benefits and the state out of taxes. The bill authorizes the Commissioner of Labor and Industry to investigate and enforce this law, and includes a private right of action and triple damages for knowing misclassification of employees.
- **Tenants in Foreclosure.** 40% of people who are losing their homes because of the foreclosure crisis are tenants who rent from a landlord who is losing the house in a foreclosure. This year the PJC led two bills to give tenants more rights. HB 776 passed, and now for the first time tenants will be provided notice of the foreclosure proceedings at the time the foreclosure is filed, when the foreclose sale is scheduled, and when the court orders the eviction, so that tenants can take steps to protect themselves. A second bill, SB 829 / HB 733 provided more substantive rights – that the tenant's lease would survive the foreclosure sale and the new purchaser would become the new landlord – but that bill was defeated.

- **Age of Consent to Adoption.** The PJC led the successful opposition to HB 570, which would have altered the age at which a child may consent to, or fail to object to, an adoption in specified provisions of law from 10 to 14. The PJC and its allies, the attorneys who represent children in Child in Need of Assistance (CINA) and related adoption cases and the youth of Foster Youth Incorporated (“FYI”), believe, along with many child welfare professionals, that it is critical that children are comfortable in their new homes before adoption and that children must have a strong voice in what will probably be the most important decision affecting their lives.

Most legislative action is collective action – a coalition of supporters or opponents is organized by a lead advocate. The PJC is a strong supporter of a number of coalitions, and actively testified on a variety of bills. Coalitions and other lead advocates with whom the PJC regularly work include Medicaid Matters ! Maryland, supporters of the Dental Action Commission’s recommendations, the Coalition to Protect Maryland’s Children, and CASA de Maryland with whom we sought stem the anti-immigrant hate tide.

The attached summary outlines the policies that the PJC supported or opposed in the 2009 legislative session. This list presents the bills selected based on the PJC’s focus areas, areas of expertise and resources. This list does not attempt to be an exhaustive list of all of the policy affecting social or economic justice presented in the past.

**A Summary of PJC Activity & Outcomes On 2009 Bills**  
**by Subject Area**

**Child Welfare**

**Children (Budget)**

**DHR Budget**

Lead Sponsor: Not relevant  
PJC Position: Support  
PJC Role: Supporter  
PJC Action: Written and Oral testimony presented on behalf of LJ and PJC  
Result: Passed  
PJC Outcome: PJC Victory  
Narrative: Efforts to increase – or at least avoid cuts in - the budget of the DHR in order to further progress made benefitting children placed in foster care within Baltimore City.

**SB 372/HB 538 Foster Care Tuition Exemption, Expanded Eligibility**

Lead Sponsor(s): Sen. Currie and Del. Jones  
PJC Position: Support  
PJC Role: Coalition Supporter  
PJC Action: Drafted written testimony presented by Coalition to Protect Maryland's Children (CPMC)  
Result: Passed Legislation; Passed both Senate and House unanimously  
PJC Outcome: PJC Victory  
Narrative: This bill extends eligibility for Maryland's college tuition waiver to youth adopted at age 13 or later (from 14 or later in current law) and to younger siblings who are adopted concurrently with a sibling who is 13 or older. This will hasten permanency and encourage concurrent adoptions of siblings.

**HB 570 Adoption – Child's Age of Consent**

Lead Sponsor: Chair, Judiciary Committee (By Request - Departmental - Human Resources)  
PJC Position: Oppose  
PJC Role: Lead  
PJC Action: Organization of opposition among children's CINA attorneys; Drafted written testimony; Drafted and presented the testimony for the opposing bill  
Result: Failed Legislation; Unfavorable report by Judiciary  
PJC Outcome: PJC Victory  
Narrative: This bill would have altered the age at which a child may consent to, or fail to object to, an adoption in specified provisions of law from 10 to 14.

**HB 580 Foster Kids Coverage Act**

Lead Sponsor: Del. Mizeur  
PJC Position: Support  
PJC Role: Coalition Supporter  
PJC Action: Drafted written testimony for filing and presentation on behalf of CPMC  
Result: Passed Legislation; Passed both Senate and House unanimously  
PJC Outcome: PJC Victory  
Narrative: Youth in foster care as of their 18<sup>th</sup> birthday will be eligible for MA coverage (if income eligible) until their 21<sup>st</sup> birthdays.

## **Children; Family rights; Disability rights**

### **SB 613/HB 689 CINA – Disability of Parent, etc.**

Lead Sponsors: Sen. Gladden and Del. Rosenberg  
PJC Position: Support  
PJC Role: Coalition Supporter  
PJC Action: No direct action, supported through CPMC  
Result: Passed Legislation; Passed both House and Senate  
PJC Outcome: PJC Victory  
Narrative: The bill would prohibit the court in a CINA petition from considering the disability of a parent, guardian, etc., except under certain circumstances. The bill would also prohibit local social services, etc., from considering a prospective adoptive parent's disability when giving consent for the adoption.

### **HB 415/SB 874 Rights of Individuals with Mental Disabilities in Facilities**

Lead Sponsors: Del. Kullen and Sen. Exum  
PJC Position: Support  
PJC Role: Supporter  
PJC Action: Drafting and presentation of the testimony on behalf of CPMC; Drafting of written testimony and filing on behalf of the PJC  
Result: Passed Legislation; Passed both House and Senate  
PJC Outcome: PJC Victory  
Narrative: This law will alter the State policies concerning the rights of individuals with mental disabilities who receive services in specified facilities by prohibiting the use of prone restraints and expanding the rights of individuals to have the advocate of their choice participate in treatment and discharge planning. CPMC and PJC supported the bill, as amended, to ensure that children's guardians could not diminish the individuals' rights to assistance persons appointed by the court to represent the child.

## **Civil Rights**

### **SB 151**

### **Homeless Hate Crimes**

Lead Sponsor: Sen. Mooney  
PJC Position: Support  
PJC Role: Supporter (Me too)  
PJC Action: No action taken  
Result: Passed Legislation  
PJC Outcome: PJC Victory  
Narrative: The law would expand the scope of prohibitions against committing specified crimes against homeless persons or groups.

## **Health**

### **Health (Budget)**

Phase 2 of Medicaid Dental Rate Increases (\$7M)

Lead Sponsor: Governor O'Malley  
PJC Position: Support  
PJC Role: Supporter

PJC Action: Drafted, filed written testimony, and delivered oral testimony.  
Result: Unsuccessful; the amount was not included in the Governor's budget.  
PJC Outcome: PJC Defeat  
Narrative: Because of severe budget constraints, the second installment of the MA dental rate increases are on hold. PJC urged that the Governor consider using federal stimulus money to fund them.

**Health (Budget)** **Continued Funding for DHMH Office of Oral Health**  
Lead Sponsor: Governor O'Malley  
PJC Position: Support  
PJC Role: Supporter  
PJC Action: Written and oral testimony in the Senate budget hearing. Only written testimony was filed in the House.  
Result: Full funding was included in the budget.  
PJC Outcome: PJC Victory  
Narrative: Support of the Governor's allowance in the budget of \$1.55 million to continue to support the dental public health system, including school-based dental services programs. Full funding was included in the final budget bill.

**HB 462** **Medical Assistance; Amendments and Waiver Applications**  
Lead Sponsor: Del. Hubbard  
PJC Position: Support  
PJC Role: Supporter (Me too)  
PJC Action: Written testimony  
Result: Passed Legislation; Bill passed by the House and Enrolled, Passed with Amendments in the Senate  
PJC Outcome: PJC Victory  
Narrative: The bill would require the DHMH to publish in the Maryland Register notice of amendments to the Medicaid State Plan or Medical Assistance waiver, to submit these amendments to the Medicaid Advisory Committee, and make these amendments available to the public.

## **Housing/Tenant**

**SB 829/HB 733** **Tenants in Foreclosure; Lease Survives Foreclosure**  
Lead Sponsors: Sen. Lenett and Del. Lafferty  
PJC Position: Support  
PJC Role: Lead  
PJC Action: Bill drafting, found sponsors, oral and written testimony, amendment drafting and negotiation, lobbying, and panel organization  
Result: Failed Legislation; HB 733- Unfavorable Report in House Environmental Matters committee; SB 829- Bill died without vote in the Senate Judicial Proceeding  
PJC Outcome: PJC Defeat  
Narrative: This bill would provide that a tenancy survives the foreclosure for up to 3 months after the sale is ratified by the court. Thus, the tenancy is unaffected by the foreclosure sale and that the foreclosure purchaser becomes the new landlord. The tenancy will terminate on the sooner of its original termination or three months.

### **SB 842/HB 776 Tenants in Foreclosure; Notice to Tenants**

Lead Sponsors: Senators Lenett and Del. Healey

PJC Position: Support

PJC Role: Lead

PJC Action: Bill drafting, sponsors, oral written testimony, amendment drafting negotiation, lobbying, and panel organizing.

Result: Passed Legislation; Passed with amendments in both houses.

PJC Outcome: PJC Victory

Narrative:

This bill would require that tenants or other occupants of a property that is being foreclosed be notified at three critical times: (1) when the foreclosure action is filed in court, (2) when the foreclosure sale is scheduled, and (3) when the court approves an order to evict the tenant or other occupant. The notices will provide tenants with important information about who to contact about purchasing the property, negotiating a new lease with the foreclosure purchaser, and information about moving before the eviction date.

### **HB 236/SB 361 Lead Paint Dust Testing**

Lead Sponsors: Del. Oaks and Sen. Gladden

PJC Position: Support

PJC Role: Supporter

PJC Action: Oral "Me too"

Result: Failed Legislation; SB 361- Third Reading Failed as of April 7<sup>th</sup>; HB 236- Bill died without vote in the Environmental Committee

PJC Outcome: PJC Defeat

Narrative: This bill would change the property owners' requirements to satisfy lead risk reduction standards by doing lead paint dust testing, which is a more accurate method of determining the presence of lead paint in a house.

### **HB 1156 Baltimore City Lead Poisoning Recovery Act**

Lead Sponsor: Del. Rosenberg

PJC Position: Support

PJC Role: Supporter

PJC Action: Oral "Me too"

Result: Failed Legislation; Bill died without vote in the House Judiciary Committee

PJC Outcome: PJC Defeat

Narrative: This bill would provide liability for manufacturers of lead paint on a market share basis and create the Lead Paint Restitution Fund to reimburse persons affected by lead paint in residential property.

## **Immigrants Rights**

### **SB 27 Driver's License**

Lead Sponsor: Sen. Greenip

PJC Position: Oppose

PJC Role: Supporter

PJC Action: No action taken, no hearing was scheduled.

Result: Failed Legislation; Bill died without vote in the Senate Judicial Proceedings Committee

PJC Outcome: PJC Victory

Narrative: This bill would prohibit the MVA from issuing a new driver's license to an undocumented individual, except under certain circumstances.

**SB 41/HB 612**

**In-State Tuition**

Lead Sponsor: Senator Harrington

PJC Position: Support

PJC Role: Supporter

PJC Action: Drafted Written and Oral Testimony

Result: Failed Legislation; SB 41 died without vote in the Senate Committee for Education Health and Environmental Affairs; HB 612 died without vote in the House Committee for Ways and Means

PJC Outcome: PJC Defeat

Narrative: This bill would allow Maryland students who are the children of immigrants, have graduated from high school in the state, whose parents have paid taxes in the state, and who intend to become permanent residents of the state benefit of in-state tuition in Maryland's institutions of higher learning.

**HB 1234**

**Public Benefits – Requirement of Proof of Lawful Presence**

Lead Sponsor: Del. O'Donnell

PJC Position: Oppose

PJC Role: Oppose

PJC Action: Written testimony

Result: Failed Legislation; Unfavorable Report by House Appropriations Committee

PJC Outcome: PJC Victory

Narrative: This bill would require provide of lawful presence in the US through specific types of documents before an individual could receive public benefits.

**SB 208**

**Vehicle Laws - Drivers' Licenses and Identification Cards - Lawful Presence in**

**United States.**

Lead Sponsor: Sen. Brinkley

PJC Position: Oppose

PJC Role: Oppose

PJC Action: Written testimony

Result: Failed Legislation; Bill died without vote in the Senate Committee for Judicial Proceedings

PJC Outcome: PJC Victory

Narrative: The bill would add the requirement that an individual to provide documents that they are lawfully present in the US to the requirements for the issuance of a state driver's license or identification card.

**SB 244**

**Vehicle Laws – Driver's Licenses, ID Cards, and Moped Operator's**

**Permits; Proof of Lawful Presence**

Lead Sponsor: Sen. Greenip

PJC Position: Oppose

PJC Role: Oppose

PJC Action: Written testimony

Result: Failed Legislation; Bill died without vote in the Senate Committee for Judicial Proceedings.

PJC Outcome: PJC Victory

Narrative: This bill would require provide of lawful presence in the US through specific types of documents before an individual could receive an identification card or moped operator's permit.

**SB 369/HB 195 Vehicle Laws - Proof of Lawful Presence Act of 2009**

Lead Sponsors: Sen. Stone and Del. George

PJC Position: Oppose

PJC Role: Oppose

PJC Action: Written testimony

Result: Failed Legislation; Bills died without vote in the House Judiciary Committee

PJC Outcome: PJC Victory

Narrative: This bill would require proof of lawful presence in the US through specific documentation before the MVA could issue an identification card, driver's license, or a moped operator's permit.

**SB 696/HB 502 State Procurement; Employment of Unauthorized Aliens and the Federal E-Verify**

Lead Sponsors: Sen. Kittleman and Del. Miller

PJC Position: Oppose

PJC Role: Oppose

PJC Action: Written testimony

Result: Failed Legislation; Unfavorable Report by Education Health and Environmental Affairs (Senate), Unfavorable Report by Health and Government Operations (House)

PJC Outcome: PJC Victory

Narrative: This bill would require employers under State procurement contracts to verify an employee's employment eligibility using the federal E-Verify program. The bill would also prohibit an employer from knowingly or intentionally hiring an unauthorized alien.

**Prison**

**Prison (Budget)**

**Inmate Healthcare Performance**

Lead Sponsor: Sen. Jones

PJC Position: Support

PJC Role: Lead

PJC Action: Sen. Verna Jones was asked to request the audit in Jan. 2009.

Result: Pending. The audit has not been requested yet.

PJC Outcome: Defeat, at least for the time being.

Narrative: Sen. Jones agreed to request another performance audit. The PJC drafted a preliminary letter for Sen. Jones to send to Sec. Maynard to give him a chance to respond.

**SB 279**

**Death Penalty – Repeal**

Lead Sponsor: Senators Gladden & Miller, et al.

PJC Position: Support

PJC Role: Support

PJC Action: Written testimony

Result: Passed with amendments

PJC Outcome: PJC Victory

Narrative: Maryland still has a death penalty although this bill reduced the number of situations in which it can be administered. It's an important first step toward ultimately abolishing the death penalty.



## **Workers' Rights**

### **SB 270/HB 310 Unemployment Insurance for Part-Time Workers**

Lead Sponsor: Governor's Bill  
PJC Position: Support  
PJC Role: Supporter  
PJC Action: Written and oral testimony  
Result: Passed Legislation  
PJC Outcome: PJC Victory  
Narrative: This bill would extend unemployment insurance eligibility to individuals who are only able to work part-time.

### **SB 562 Flexible Leave**

Lead Sponsor: Sen. Garagiola  
PJC Position: Support  
PJC Role: Support with amendments  
PJC Action: Behind the scenes amendment  
Result: Passed Legislation with Amendments  
PJC Outcome: PJC Victory  
Narrative: This bill would prohibit an employer from discharging, demoting, suspending, disciplining, or otherwise discriminating or threatening to take any of those actions against an employee because an employee has availed him or herself of the Flexible Leave Act. A compromise was reached concerning this year's bill with the Chamber of Commerce. PJC detected that part of the compromise would have changed the causation standard to the narrow language of "solely because of" instead of simply "because of," making it much harder to enforce. PJC enlisted the help of the Maryland Employment Lawyers Association and in a behind the scenes move, was able to amend the compromise and bill to get rid of the "solely" language.

### **SB 452/HB 1288 Wage Theft Civil Penalties**

Lead Sponsors: Sen. Lenett and Del. Ramirez  
PJC Position: Support  
PJC Role: Supporter  
PJC Action: Written and oral testimony  
Result: Failed Legislation; HB 1288 received an unfavorable report by Economic Matters; SB 452 died without vote in the Senate Finance Committee  
PJC Outcome: PJC defeat  
Narrative: This bill would have allowed an employee to recover triple damages for wage theft under the minimum wage provisions. Current law only permits an aggrieved employee to recover the unpaid wages.

### **SB 909/HB 819 Workplace Fraud Act of 2009**

Lead Sponsors: The President (By Request - Administration), Sen. Kelley, The Speaker (By Request - Administration), and Del. Glenn  
PJC Position: Support  
PJC Role: Supporter  
PJC Action: Written testimony, extensive workgroup negotiations and extensive drafting of bill language, amendments both before and throughout the session.

Result: SB 909 passed with Amendments; HB 819 passed in the House but died without vote in the Senate Finance Committee;

PJC Outcome: PJC Victory (SB 909)

Narrative: This bill would prohibit specific employers from misclassifying their employees as independent contractors. The bill would also authorize the Commissioner of Labor and Industry to investigate and enforce this law. The bill also includes a private right of action and triple damages for knowing misclassification of employees.

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