

The Public Justice Center 2013 Legislative Highlights

Working for justice demands action on many fronts, including in the halls and hearing rooms of Annapolis. The Public Justice Center places a high priority on working with members of the General Assembly because these elected leaders hold the power to change unjust laws as well as to pass legislation that protects the rights of Maryland's low-income residents.

This report describes the PJC's legislative focus during the General Assembly session that ended April 8. A key accomplishment: passage of a new remedy for workers to get the wages they earned – a lien for unpaid wages on the employer's property. Also noteworthy are two housing-rights bills that passed. One specifies that foreclosure sale purchasers and landlords cannot evict or lock out the homeowner or tenant without court process or the presence of the Sheriff; the other allows a tenant to open a new utilities account in the tenant's own name when the landlord fails to pay the utilities. The legislature also passed a bill creating a taskforce to examine whether Maryland should end or limit its use of automatic charging and prosecution of youth as adults for certain crimes. Finally, the legislature passed a bill establishing a taskforce to study implementation of a right to counsel in critical civil cases.

The PJC will continue to build support for several bills for next year's legislative session. They include the HOME Act, which would prohibit landlords from refusing to rent to tenants with Housing Choice (Section 8) vouchers or other lawful, verifiable sources of income to pay the rent; and the Earned Sick and Safe Time Act, which would give all workers the chance to earn paid sick days. The PJC will also continue work on a bill that would require that youth charged as adults be held in juvenile justice facilities pending trial. More information about each of these bills is below.

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TENANT ADVOCACY

The PJC's Human Right to Housing Project leads the Maryland Rental Housing Coalition to protect and expand tenants' rights to safe, habitable, affordable, and non-discriminatory housing and to fair and equal treatment by Maryland's landlord-tenant laws, courts, and agencies.

Maryland HOME Act

SB 487 / HB 603

PJC Position: Favorable

Result: Loss, but progress

Testifying before Maryland legislators, Anthony Gaither described his futile search for housing in Baltimore County. He and his wife spent over \$1,000 in application fees, only to be told that the landlords wouldn't take their housing voucher. After over nine months of searching, they were in danger of losing their voucher yet they were still living in a homeless shelter.

This year, the Public Justice Center, Homeless Persons Representation Project, Catholic Conference, and a coalition of more than 80 organizations statewide advocated for the HOME Act, which would stop landlords from discriminating against tenants like the Gaithers on the basis of their source of rental income. Source of income includes any lawful income, such as Social Security checks, disability, child support, or a voucher, such as a Housing Choice or Section 8 voucher. Because of

this discrimination, many tenants cannot find housing. Plus, when tenants do find landlords who accept their vouchers, the properties tend to be in racially segregated or high-poverty neighborhoods.

For the first time in 20 years, this important legislation passed out of the Senate's Judicial Proceedings Committee. Unfortunately, the bill failed on the Senate floor by a single vote and was sent back to committee. Despite the final result, we are proud that the HOME Act made it farther than ever before.

Our thanks go out to sponsors Del. Stephen Lafferty and Sen. Jamie Raskin, who were tireless advocates for the HOME Act. Together we will work to organize communities in support of the bill and talk with key legislators about next year.



Del. John Olszewski of Baltimore County addresses community members in Dundalk during a meeting about the HOME Act. Photo by Nicole Rodman, provided courtesy of the Dundalk Eagle.

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Stop Non-Judicial Evictions

SB 642 / HB 1308

PJC position: Favorable

Result: Win

Without warning, Sheila and Henry Bradley's landlord told them to leave their home in ten days, even though they always paid the rent on time. Before the time expired, though, the landlord locked them out.

The PJC led the Maryland Rental Housing Coalition and more than 15 other organizations to pass a bill that stops non-judicial evictions like the one the Bradleys faced. The law will prohibit landlords and foreclosure sale purchasers from evicting or locking out a homeowner or tenant without court process or the presence of the Sheriff. It prohibits even threats of non-judicial eviction. The law also requires the defendant to pay the attorney's fees if the resident wins, a provision that will encourage more attorneys to take these cases. SB 642 / HB 1308 reverses the decision of the Maryland Court of Appeals in *Nickens v. Mount Vernon Realty Group et al.*, which concluded based on the 1381 common law of England that non-judicial evictions were still legal in Maryland.

The law will benefit hundreds, if not thousands, of Maryland families who face non-judicial evictions each year. Such evictions can leave families homeless, deprive them of belongings and lead to clashes with landlords using Wild-West-style evictions.

Now PJC will educate service providers, legal advocates, landlords, and foreclosure sale purchasers on the new law. We will also enforce the law, representing tenants with help from partners in the private bar.

Many thanks to Sen. Anthony Muse, Del. Anne Healey and our coalition partners.

Allow Tenant to Restore Utility Service When Landlord Fails to Pay

SB 849 / HB 1090

PJC Position: Favorable

Result: Win

Imagine coming home from work to find that your home had no electricity. Not because of a storm, but because your landlord stopped paying the utility bill. And imagine your frustration when the utility company won't let you open a new account in your name because it needs the landlord's written permission, and your landlord is nowhere around. There you are – no lights, no heating or cooling, no refrigerator, no stove. This scenario is far too frequent all across Maryland.

The PJC and a coalition of advocates helped pass a bill to prevent situations like this. HB 1090 / SB 849 will give tenants and landlords 14 days' advance notice for gas and electric utility shutoffs. If the bills are not paid, tenants will have the right to open a new account in their own name. They will only pay for utilities going forward—they won't be liable for whatever amount the landlord owes. Tenants also will have the right to deduct utility payments from future rent since they will be paying that bill directly to the utility.

Thank you to our partners: Baltimore Neighborhoods, Inc., Casa de Maryland, the Homeless Persons Representation Project, Maryland Legal Aid, the Office of People's Counsel, and the Consumer Protection Division of the Maryland Attorney General's Office. Our gratitude also goes out to bill sponsors Sen. Victor Ramirez and Del. Benjamin Barnes, who were instrumental in the passage of the bill.

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WORKERS' RIGHTS

The PJC's Workplace Justice Project seeks to expand and enforce the rights of low-wage workers through legislative advocacy and litigation, working in coalition with low-wage workers, other advocates, Maryland's Department of Labor, Licensing and Regulation, and the private bar.



He had to sue his employer to collect all of the wages he'd earned. SB 758 / HB 1130 will allow workers like him to use a lien to collect unpaid wages more quickly.

Lien for Unpaid Wages

SB 758 / HB 1130

PJC Position: Favorable

Result: Win

Low-wage workers are an essential part of our community, caring for children, cleaning hotels, cooking and serving food, caring for the elderly and constructing our homes and hospitals. Many are not fully paid for their important work. Hundreds of thousands of low-income workers in Maryland do not even receive minimum wage or overtime every week, losing about 15% of their annual earnings.

To go after their unpaid wages, workers must file a complaint in court or with a state or federal agency. Most live paycheck to paycheck and can't afford to hire an attorney or wait months or years for a judgment. When workers do file a complaint, employers often hide or sell their assets to avoid paying or simply ignore a judgment requiring them to pay the worker.

This year, the Public Justice Center and allies passed a law that will allow a worker to place a lien on the property of an employer who owes them wages. This will

keep the employer from selling, hiding or disposing of the property until the wages are paid, encouraging them to pay up quickly.

Now we'll work on implementing and enforcing the new law. We'll help the Maryland Department of Labor, Licensing and Regulation draft regulations, along with forms to notify employers and establish the lien in the public record. We'll create training materials and do outreach so that advocates and workers know how to use the law to collect unpaid wages.

Thanks to the many people who helped pass this bill:

- Sponsors Del. Benjamin Barnes and Sen. Victor Ramirez
- Professor Elizabeth Keyes and her students at the University of Baltimore School of Law for drafting a report on wage theft in Maryland
- All of the workers and advocates who submitted written and oral testimony in support

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Earned Sick and Safe Time

SB 698 / HB 735

PJC Position: Favorable

Result: Loss, but progress

More than 700,000 working moms, dads, sons and daughters in Maryland have no paid sick leave. That means they are forced to make impossible choices when they or a loved one become ill. They can go to work sick, send a sick child to school, or ignore the needs of a parent who is ill—or they can tell the employer they will be out, sacrifice much-needed income and risk losing their job.

This year, the PJC, a leader of the Working Matters coalition along with Job Opportunities Task Force and United Workers, introduced the Earned Sick and Safe Time Act. The bill would enable employees to earn one hour of leave for every 30 hours worked, up to a maximum of seven days per year. They could use the accrued paid leave when they or a family member falls ill.

The hearing room was packed as workers, school nurses, doctors and researchers testified about the benefits of paid sick leave: more economic security for families, more productive time at work and fewer public health concerns because sick employees and sick children are not spreading the flu or other illnesses in restaurants, classrooms and other public places.

The bill did not pass, but our outreach efforts were very successful, and we will



Delegates John Olszewski and Tom Hucker (center) with members of the Working Matters coalition. Photo provided courtesy of the Working Matters coalition.

capitalize on the momentum next year. We had excellent leadership of the Working Matters Coalition, and the coalition has grown to 85 organizations and businesses. More than 6,700 Marylanders have signed our petition in support of the bill. Thanks also to sponsors Del. John Olszewski and Sen. Robert Garagiola for their leadership. Moving forward, we'll work to ensure that legislators hear the voices of their constituents who support earned sick time and understand that workers and the community would all benefit from the bill.

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JUST KIDS

The Just Kids Partnership is a collaboration between the Public Justice Center and Community Law In Action whose goals are to:

- 1) reduce the number of youth who are charged and tried as adults;
- 2) advocate for policies that transfer fewer youth to the adult criminal justice system; and
- 3) increase the number of community programs and practices that serve youth who are accused of serious offenses.

Richard spent eight months locked up with adults in the Baltimore County Detention Center before his case was dropped. In that time, the sixteen-year-old didn't receive schooling. He saw a man beat another with a padlock in a sock. He felt frightened, depressed and alone.

Richard is one of the many youth automatically charged as adults and held in adult jail. The vast majority of these youth are eventually sent to the juvenile system or released outright or on probation, but only after they have lost months of their lives to adult jail without having been convicted. Automatic prosecution casts far too wide of a net, harming kids who should not be in the adult system, without any improvement in youth or public safety outcomes.

Just Kids proposed two bills this year – one focused on ending the automatic prosecution of youth as adults; the other on removing youth from adult jails. Thank you to all of the youth justice advocates who supported these bills.

Taskforce on Juvenile Jurisdiction

SB 648 / HB 786

PJC Position: Favorable

Result: Win

SB 648 / HB 786, after much amendment, creates a Taskforce on Juvenile Jurisdiction. This taskforce will review how current policies and practices treat youth charged with serious crimes. The taskforce will determine if Maryland should end or limit its use of automatic charging and prosecution of youth as adults for certain crimes, based solely on age and offense. SB 648 / HB 786 will be an important step toward ending the automatic prosecution of youth as adults, a change that could affect hundreds of Maryland youth. Just Kids will monitor the taskforce and continue to build public support for reform.

Special thanks to Del. Jill Carter, the bill's lead sponsor in the House, Del. Aisha Braveboy and the Legislative Black Caucus, Sen. Lisa Gladden, Sen. Anthony Muse, and all of our allies.



Photo courtesy of the Just Kids Partnership. Read Richard's full story at <http://justkidsmaryland.wordpress.com>.

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Pretrial Detention

SB 454 / HB 848

PJC Position: Favorable

Result: Loss

SB 454 / HB 848 would have required that youth charged as adults who were detained pretrial would be held in facilities run by the Department of Juvenile Services instead of adult jails, except in specified circumstances. Unfortunately the bill did not pass out of committee.

This bill remains important and will be re-introduced next year. Most youth charged as adults are held in adult jails, with correctional officers who aren't trained to work with youth. Youth in adult jails are also at great risk of victimization and suicide. In most counties, they may be held in the general adult population or held in protective custody, i.e. solitary confinement. Both practices harm youth. While they await trial, these youth have little access to rehabilitative services or in many cases, adequate education.

The biggest challenge to passing this bill is the concern that the Department of Juvenile Services may not have the capacity to handle these youth. Just Kids will continue to support efforts to right-size the juvenile justice system by reducing unnecessary detention of youth in the juvenile system, thereby creating space for youth charged with more serious offenses. In addition, we will keep organizing the public through blogs, public education, issue briefs, and community and



Photo by Kevin Junior, courtesy of the Just Kids Partnership.

stakeholder meetings. We urge anyone who supports this effort to join our campaign.

Thank you to lead sponsors Del. Sandy Rosenberg and Sen. Lisa Gladden, as well as to the groups and individuals who spoke in support of the reform.

CIVIL RIGHT TO COUNSEL

The Civil Right to Counsel Project, at the state level, seeks to gain recognition under the Maryland Constitution or legislation to appointed counsel for indigent people in basic human needs civil cases, such as determinations of child custody.

Civil Right to Counsel Task Force

SB 262 / HB 129

PJC position: Favorable

Result: Win

Every year close to half a million Maryland residents who live in poverty face serious legal issues such as fighting for custody of their children or facing eviction. They can't afford to hire a lawyer, and free legal service programs and pro bono lawyers often can't help them. (Currently these efforts can meet only about 20 percent of the need.) As a result, many thousands of people who need help protecting themselves from domestic violence or keeping their families from becoming homeless through foreclosure have to do so without a lawyer at their side.

To address this need, the Public Justice Center worked with the Maryland

Access to Justice Commission to pass a law that creates a taskforce to study and report on the potential of a civil right to counsel in Maryland. The taskforce, which will complete its work within a year, will bring together representatives from all three branches of government and the access to justice community to examine implementation strategies, as well as costs and savings. The task force also will educate policy makers and the public on what happens when people living in poverty have to navigate the legal system on their own, and it will explain how providing counsel would help in basic needs cases, such as custody disputes, evictions and foreclosures.

The PJC believes the taskforce can pave the way for establishing a civil right to counsel and securing funding for it. Thank you to Chief Judge Robert M. Bell and the Judicial Conference for introducing the bill. Thanks also to the Access to Justice Commission, chaired by the Hon. Irma Raker and staffed by Pamela Cardullo Ortiz, for proposing the taskforce. The Commission has endorsed the principle of a civil right to counsel and issued a report on implementation strategies and estimated costs. Its advance work will give the taskforce a great head start.