



**PJC Report on the  
2011 Session of the  
Maryland General Assembly**

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**Why Do We Lobby?**

Living in poverty in America is usually described in terms of hardship, lack of resources, and denied opportunity. All true, and all contribute to one very salient fact of being poor: not having a voice. Or more precisely, not having enough power to have a voice of influence.

Confronting injustice on behalf of people living in poverty means being able to make the voice of the people heard in the courts, the agencies, and in the halls and hearing rooms of Annapolis. When you want to change an unjust law, you must talk to the law maker.

Please take a minute to review the Public Justice Center's report on its work in the 2011 Maryland General Assembly Session. It highlights the work of the PJC in Annapolis this past session. The PJC led legislative campaigns on 17 bills and won 13 of them (a "win" counts as either a good bill passed or a bad bill defeated). But don't for a minute think that we do this by ourselves. The PJC works with a wide coalition of allies and advocates, sometimes leading the coalition on a particular bill. We also often provide particular analysis, contacts, or resources to support campaigns led by our friends. The PJC also provided support on 35 other bills, 20 of which were "won."

A special shout out to Public Policy Partners: Ann Ciekot and Michele Douglas, our lobbyists on the ground in Annapolis. They provided superb advice and shepherded us through the process.

A handwritten signature in black ink, appearing to read "John Nethercut".

John Nethercut  
Executive Director

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## I. WORKERS

The PJC’s Workplace Justice Project seeks to expand and enforce protective labor and employment laws through legislative advocacy and litigation, working in coalition with low-wage workers, private attorneys, and other advocates. The Project is currently focusing on strengthening and enforcing Maryland wage payment laws and laws prohibiting employers from misclassifying their employees as independent contractors. The PJC works in collaboration with the Job Opportunities Task Force (JOTF), Progressive Maryland, the Maryland Employment Lawyers Association (MELA) and several labor organizations in supporting other pro-worker legislation.

### **PJC’s STOP EMPLOYER RETALIATION BILL PASSES!**

The PJC’s primary legislative objective for workers this session was to strengthen protections against employer retaliation when workers make a complaint, bring an action, or testify under the Maryland Wage and Hour Law. SB 551/ HB 1130 as passed expanded the definition of a protected employee complaint to now include oral complaints made to any supervisor, manager or foreman, and to include complaints whether made through the employer’s internal grievance procedure or not. The prior definition of employer’s prohibited “adverse actions” only included discharge. The new law now includes discharge, demotion, or threats of discharge or demotion, and “any other retaliatory action that results in a change to the terms or conditions of employment that would dissuade a reasonable employee from making a complaint, bringing an action, or testifying in an action.” This change greatly expands worker protection against employer retaliation.

In the 2011 Session, PJC and allies achieved several other victories:

- ✓ The Job Applicant Fairness Act (SB 132/ HB 87) passed and prohibits the use of credit checks to determine whether or not to offer employment to an applicant, except in certain circumstances. The practice of using information from credit history checks to determine whether or not to hire someone has been shown to be discriminatory. Minorities are more likely than whites to have poor credit scores resulting from, among other factors, high rates of debt and high-cost loans, and research has shown that credit ratings are not a good indicator of future job performance.

- ✓ SB 882/ HB 1228 was passed, providing an additional 13 weeks of unemployment benefits for unemployed workers most in need – those who have already exhausted their benefits yet still cannot find employment.
- ✓ HB 298 passed, making void any agreement to work for less compensation than required by law.

Unfortunately a significant bill that the PJC supported did not pass:

SB 448/ HB 290, the “Ban the Box” bill, would have prohibited questions about criminal history for State job applications until the applicant is selected for an interview. For individuals with a criminal history, the legislation would have increased the chances of being invited for a job interview with the State and removed one barrier to attaining gainful employment, which has been shown to decrease the likelihood of recidivism.

And one bad bill did pass over PJC opposition:

- ✓ SB 685/ HB 589 represents one of many attempts to carve out certain workers from important employment benefits. In this case, SB 685/ HB 589 sought to exclude messenger drivers from eligibility for unemployment benefits and passed.

## II. TENANTS

The PJC’s Tenant Advocacy 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.

### **PJC’S STOP LANDLORD RETALIATION BILL PASSES!**

Since 2008, a top priority of the Rental Housing Coalition has been to strengthen protections against landlord retaliation for tenants who exercise their rights to make complaints about dangerous housing conditions, participate in lawsuits, or join tenant unions. We want to bring Maryland up to the standards enjoyed by most tenants in the country under the Uniform Residential Landlord and Tenant Act. After extensive hearings, lobbying, and negotiation, we finally passed a bill this year.

SB 620/ HB 670 – the “Stop Retaliation” bill – as passed:

- Changed the standard of proof by which a tenant must prove retaliation from “solely because” to “because.”
- Changed the method by which tenants may complain about the landlord from making a “written complaint” to providing “written or actual notice,” which includes situations in which the tenant has spoken with the landlord about the problem.

- Added new “retaliatory actions” that the landlord is prohibited from doing: (1) threatening to bring an action for possession, and (2) terminating a periodic tenancy such as a month-to-month oral lease.
- Added a new affirmative cause of action for tenants to bring a claim for damages resulting from a retaliatory action, including a threat to evict or actual eviction. Damages are limited to three months rent, but the tenant may seek attorneys’ fees upon proving retaliation.
- This law preempts any local law that is less protective of tenants’ rights.

The PJC and its allies won several other victories for tenants in the 2011 Session:

- ✓ SB 516/ HB 842 requires that before a foreclosure purchaser can claim rent from a tenant, the purchaser must serve notice on each tenant, advising them of how to pay the rent. This bill stops a practice by banks of not demanding the rent, then evicting the tenant for nonpayment of a large amount of back rent in order to avoid giving tenants their right to stay in a foreclosed property until the end of their current lease.
- ✓ SB457/ HB 653 allows specific non-attorneys -- legal services paralegals, law students, and landlord agents -- to represent tenants and landlords in District Court in rent escrow proceedings. Previously these non-attorneys were allowed to represent only in summary ejection (eviction) proceedings. This bill was supported by both landlord and tenant advocates and results in more access to justice for people who would not otherwise have representation.
- ✓ HB 1004 was a bad bill that the PJC was able to defeat in the Senate after it was passed by the House. The bill sought to permit landlords to initiate eviction proceedings against tenants accused of disturbing the public peace after providing only 15 days notice, rather than the 30 days required by existing law. By cutting in half the time a tenant has to prepare to appear in court, the bill would have severely limited tenants’ ability to retain lawyers to represent them and imposed significant burdens on legal services providers.
- ✓ PJC successfully opposed HB 1226, which sought to prohibit tenants from using cash to pay rent arrears when exercising their right to redeem the property they lease. Many tenants, particularly those who are low-income, use cash as their primary form of currency, and this bill would have significantly undermined their ability to avoid eviction by paying off the rent they owed.

Unfortunately, a good bill that the PJC has supported for many years was again defeated. The Maryland HOME Act (SB 643/ HB 902) aimed to outlaw discrimination in the sale or rental of housing based on a prospective purchaser’s or tenant’s source of income. Specifically, it sought to prevent sellers and landlords from turning away individuals who are otherwise qualified to buy or rent the property but are often perceived as undesirable because they have a Housing Choice Voucher or receive disability benefits or other forms of public assistance.

### III. CHILDREN

The PJC advocates for children and families in a variety of ways, specifically focusing on students who are homeless or in foster care and on youth who are charged and jailed as adults. The PJC works in coalition with Community Law in Action, Just Kids Partnership, Advocates for Children and Youth (ACY), Legal Aid Bureau, Maryland Coalition Against Sexual Assault, Maryland Association of Social Workers, and Maryland Foster Youth Resource Center, among many others.

In the 2011 Session, we achieved several victories relating to children:

- ✓ SB 333/ HB 1118 passed and requires juvenile court judges to report instances of inadequate foster care services. The PJC led a coalition of advocates to ensure that juvenile court judges report to specific enumerated entities (including the attorneys in *L.J. v. Dallas*, the foster care class action which PJC co-counsels) when children in foster care are not receiving the care and services required by law.
- ✓ SB 768/ HB 859 passed and, due to amendments suggested by PJC and ACY, will ensure that out of court statements by child victims may continue to be admitted in child abuse and neglect proceedings without requiring that the child testify in court.
- ✓ HB 789 allows the Department of Social Services to cosign for minors in foster care in order to obtain a driver's license, which addressed a long-standing problem where no one would sign the forms required in order for foster youth to test for their driver's licenses.
- ✓ HB 1208 increases access of former foster youth to higher education by raising from 21 to 25 the age by which former foster youth have to be enrolled in a Maryland higher education institution in order to qualify for the tuition waiver.
- ✓ SB 200 requires the Department of Juvenile Services to report recidivism rates each year. The PJC hopes that the availability of such data will assist the Just Kids Partnership (which includes the PJC) as we move forward with the campaign to end the automatic prosecution of youth as adults.
- ✓ The PJC persuaded the sponsor to withdraw HB 316, which proposed to give Circuit Court judges the option to sentence juveniles to both a juvenile disposition and a subsequent adult criminal sentence. The PJC opposed the bill in part because research has shown that blended sentencing laws of this type have the effect of increasing the number of children sent into the adult system.

- ✓ HB 426 would have added certain crimes related to gang activity to the list of crimes that are automatically prosecuted in the adult criminal system. The PJC and the Just Kids Partnership persuaded the House committee to kill the bill.

## IV. HEALTH

A primary objective of the PJC's Health Rights Project is to protect and expand the coverage of Medicaid, the health plan for people living in poverty. The PJC joined a large coalition of advocates led by Health Care for All to increase the tax rates for alcoholic beverages sold in Maryland and to use the additional revenue to fund state health programs. The bill was introduced as SB 168/ HB 121: the Lorraine Sheehan Health & Community Services Act of 2011. Ultimately this bill died, but was replaced with SB 994, which passed and increases the sales tax on alcoholic beverages to 9% and directs the funds to the Developmental Disabilities Administration.

SB 843 was an effort to address the ongoing failure of the Department of Health and Mental Hygiene (DHMH) and the Department of Human Resources (DHR) to timely process Medical Assistance – Long Term Care (MA-LTC) applications by adding new notice requirements, adding new budget estimate language and other reporting requirements, and adding a new requirement that the department make an eligibility determination at the fair hearing. The PJC supported the notice and reporting requirements, but opposed the language regarding the determination to be made at fair hearings, which likely would have had adverse consequences, especially for unrepresented applicants, and undermined protections already in place. Although the bill did not make it out of committee, the hearing did bring further attention to the continuing problem of delays in the application process for MA-LTC and put additional pressure on DHMH and DHR to address the delays.

## V. IMMIGRANTS

The PJC actively supports CASA de Maryland's efforts to recognize and support the rights of Maryland's immigrant community and to withstand the anti-immigrant backlash.

### **IN-STATE TUITION BILL PASSED!**

A victory that has been many years in the making was finally achieved in 2011. SB 167/ HB 470 allow undocumented immigrants who attended Maryland high schools and whose parents can show they paid taxes to pay in-state tuition at Maryland state colleges.

The PJC also supported successful efforts to stop several anti-immigrant bills:

- ✓ HB 342 would have prohibited a judge or a District Court commissioner from allowing pretrial release of a defendant who cannot provide acceptable documentation that s/he is lawfully present in the U.S.

- ✓ HB 272 would have required a court or a District Court commissioner to ask a defendant to show proof of lawful presence in deciding whether to grant pretrial release.
- ✓ HB 239 would have required the Division of Correction and the Division of Parole and Probation to forward case record and Presentence Investigation Report (PRI) information related to immigration status to the U.S. Immigration and Customs Enforcement (ICE) Agency.
- ✓ HB 380 and SB 585/ HB 28 all would have required state agencies to verify lawful presence in the United States for an adult to receive public benefits.
- ✓ SB 807 and SB 390/ HB 761 and HB 760 would have required an employer under a State procurement contract or State grant to verify employment eligibility through the federal E-Verify database.
- ✓ SB 329/ HB 372 would have required the Frederick County Board of Education to count the number of undocumented students in their school system, which the PJC opposed because the bill would have had a chilling effect on the enrollment of undocumented immigrant children in school and may have caused delay in enrollment of homeless children.
- ✓ SB 676 would have required every county's Board of Education to provide the Board of County Commissioners with the number of students whose presence in the U.S. cannot be documented each year.
- ✓ HB 401 would have prohibited Maryland colleges and universities from classifying individuals as eligible for in-state tuition unless the individuals provide documentation showing they are lawfully present in the U.S.