

The Public Justice Center (PJC) often acts as a more traditional legal services program or law office when it represents people in cases to enforce rights that already exist in the law. Still, the people we represent usually do not have a significant voice or influence in the Maryland General Assembly – where the laws are made. The laws on the books are often skewed against our clients' needs and interests, or even if stated neutrally, the laws may have a negative impact on our clients because of their race, economic position, type of employment or housing, or because of their use of public services or benefits. That's where the PJC breaks the norm of traditional legal services: we lobby to increase legal recognition and protection for our clients by:

- Supporting workers who have not been paid the wages they have earned, and who may not be afforded health and safety benefits at their place of employment;
- Advocating for tenants who risk retaliation for speaking up about unsafe housing conditions, or who are fighting to maintain affordable and accessible housing for their families;
- Supporting laws that provide a right to a lawyer in basic needs civil cases so that access to justice does not depend on a person's income;
- Calling attention to homeless students and unaccompanied youth who are often not seen, much less taken care of, by the state; and
- Supporting access to health care for people struggling to make ends meet.

The 2015 Session of the Maryland General Session was a difficult year for the PJC and other justice advocates. The first year after an election is often considered an educational year because so many new legislators need to learn how they affect our clients. This year, changes in leadership of key committees brought new, and for us unfortunately, difficult dynamics.

Below we report on five bills in which the PJC was a leader of a coalition of advocates. Though only one of them will become law this year, we made significant progress in presenting some bills for the first time to a new legislature and advancing others.

# The Public Justice Center 2015 Legislative Highlights

## Healthy Working Families Act

**SB 40 / HB 385**

**PJC Position: Favorable**

**Result: Loss, but progress**

When Megan Sennett, a single mother of three, started to feel ill, she tried to work through her discomfort. Despite having three jobs, none of them allowed her to earn sick leave, and she couldn't afford to suffer a pay cut in order to see a doctor. Instead, she developed a critical kidney infection and needed emergency care. Ultimately, her recovery required her to miss more work than she would have needed to if she had been able to see a doctor earlier, and it left her family even more economically vulnerable. Not having the opportunity to earn paid sick days forced her to choose between her health and her family's economic well being – and that choice ended up costing her both.

Unfortunately, Megan's situation is similar to that of 720,000 Marylanders who do not have access to paid sick days. The Healthy Working Families Act (HWFA) would have addressed this gap in our labor and employment laws by allowing employees to earn up to 56 hours (7 days for full time workers) of paid sick time a year to care for themselves or a family when they are ill, or to seek out services related to domestic violence, sexual assault, or stalking. The HWFA would have applied to employers with 10 or more employees; employers with fewer than 10 employees would have only been required to allow their employees to earn unpaid days

off for the same reasons. The bill also exempted part-time workers who regularly work less than 8 hours a week, and allowed employers to require a 90 day wait period before a new employee could use earned leave. The PJC was largely responsible for drafting this legislation.

The PJC, a founding member of the Working Matters Coalition, brought with its partners and bill sponsors Senator Catherine Pugh and Delegate Luke Clippinger stories of workers like Megan to Annapolis to show legislators



Andrea Vaughn, PJC Staff Attorney, with Senator Catherine Pugh, bill sponsor, and Amanda Rothschild, managing partner of Charmington's.

## The Public Justice Center 2015 Legislative Highlights

the need for paid sick days, and addressed the concerns of opponents to the bill. Support for the bill was overwhelming: 135 organizations joined Working Matters, and polling shows that more than 80 percent of Marylanders support paid sick leave. This year we also had our highest number of co-sponsors since the bill was first introduced in 2013: 77 co-sponsors in the House and 21 co-sponsors in the Senate. Maryland's campaign for paid sick leave and members of our Working Matters coalition also received national attention: President Barack Obama met with our small business supporters at Charmington's, Senator Pugh attended the State of the Union address, and ally Melissa Broome of Job Opportunities Task Force received the Champions of Change award at the White House.

Despite the overwhelming popular support for the bill, it did not make it out of the House Economic Matters Committee or the Senate Finance Committee this year. However, the chairmen of both committees encouraged bill supporters and opponents to come together during the legislative interim and report back to the committees in the fall. While the PJC and our partners were disappointed that the bill did not pass this year, we will continue our advocacy efforts for paid sick days in 2016. To keep up to date with our campaign, check out [www.paidicksickdaysmd.org](http://www.paidicksickdaysmd.org) or [www.facebook.com/workingmatters](https://www.facebook.com/workingmatters).

### Stricter Enforcement for Maryland Public Information Act

**SB 695/ HB755**

**PJC Position: Favorable**

**Result: Win!**

Maryland's Public Information Act (MPIA), similar to the federal Freedom of Information Act, requires state agencies to find and copy public records in response to a request. This is an important tool that citizens, journalists, and lawyers use to identify improper government behavior. State agencies often resist providing the requested documents by simply refusing to do it, or by saying that the request was submitted to the wrong agency or wrong custodian (shifting responsibility), or by charging excessive amounts for copying and not waiving the fees for low-income petitioners. In the past, the Public Justice Center and others have resorted to filing lawsuits to compel agencies to comply with the MPIA.

The PJC supported a large coalition to advocate for this bill. After many amendments, the bill passed both the House and Senate. Under the bill:

- The Governor will appoint the State Public Information Act Compliance Board, which will handle complaints about overcharging and has the authority to order state agencies to produce the records and set a reasonable cost. The Board will also report to the General Assembly on ways to improve the Act.
- The Attorney General will appoint the Public Access Ombudsman, who will oversee all state

# The Public Justice Center 2015 Legislative Highlights

agencies to ensure compliance.

- If an MPIA case goes to court, the burden of proof of a willful violation of the statute is reduced and the court may award statutory damages up to \$1,000 against the state.
- An income standard and procedure are established for indigent applicants to obtain fee waivers.

## Paystub Transparency Act

**HB 528**

**PJC position: Favorable**

**Result: Loss**

Too often low-wage workers are unable to determine whether they have been paid properly because Maryland law requires only very limited information on a paystub. This remains true despite the fact that federal and state laws require employers to track a number of details regarding their employees' pay. HB 528 was designed to bridge that gap between existing law and practice by requiring employers to include additional wage information directly on their employees' paystubs, such as the rate of pay and hours worked that employers are already required to keep. The bill would have made it easier for a worker to understand whether or why she was (or was not) compensated properly simply by examining her paystub. This was the first year such leg-

islation was introduced in Maryland. Delegate Brooke Lierman was the bill's sponsor and a zealous advocate. While PJC worked with Delegate Lierman to organize a terrific panel of advocates and the hearing went well, the bill was withdrawn because it appeared it would be voted down. The PJC is already beginning to develop its campaign to pass the Paystub Transparency Act in a future legislative session.

## Attorney's Fees for Violations of the Maryland Constitution

**HB 283/ SB 319**

**PJC Position: Favorable**

**Result: Loss**

People whose rights under the Maryland Constitution have been violated by state or local government have a hard time finding a lawyer to represent them. These cases are frequently long and difficult, and there are often not major monetary damages because the victim is seeking an injunction to stop the violation against others in the future. Low-income victims cannot afford the attorney fees it would take to fight this type of case.

This bill would provide greater access to justice for low-income Marylanders by allowing the court to order the defendant to pay the plaintiff's attorney fees when the plaintiff wins in court. "Shifting" fees is used in more than 80 Maryland statutes, such as in con-

## The Public Justice Center 2015 Legislative Highlights

sumer protection and wage claim cases, to level the playing field and encourage attorneys to take meritorious cases. But attorney fee awards are not available for perhaps the most important violation – that of the Maryland Constitution. Fee shifting would also encourage government to settle meritorious cases faster and would deter them from violating peoples’ rights in the first place.

The PJC led a coalition including Brown, Goldstein & Levy, the ACLU of Maryland, the Maryland Disability Law Center, and the Maryland Legal Aid Bureau to support the sponsors of this bill: Senator Anthony Muse and Delegates Jill Carter and Kathleen Du-mais. This is the third year such a bill has been introduced, and the first time it has passed the House Judiciary Committee and then the full House. Unfortunately, the Chairman of the Senate Judicial Proceedings Committee would not allow his committee to vote on the bill and it died there.

### Civil Right to Counsel in Maryland

**HB 348 / SB 468**

**PJC Position: Favorable**

**Result: Loss, but progress**

It’s hard to imagine, but Marylanders facing very serious consequences in civil cases, such as exposure to domestic violence or loss of their children, do not have a right to

a free lawyer if they cannot afford one. Last year, the Task Force to Study Implementing a Civil Right to Counsel in Maryland (commissioned by the legislature) released a report saying that Maryland would “benefit significantly” by providing a right to counsel “in those categories of cases where basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or child custody.” The report\* also observed that the United States lagged well behind its European counterparts in terms of a right to counsel in civil matters, and noted that studies have repeatedly shown that providing counsel makes a big difference in case outcome.

The Task Force report concluded by urging the legislature to a) implement a phased-in right to counsel in domestic violence cases, and b) fund a pilot project to study the impact of providing counsel in custody proceedings. These recommendations were seconded by the legislatively-created Commission on Child Custody Decision-Making. In 2015, HB 348 and SB 468 were introduced to implement these recommendations. Although the bills did not progress to a committee vote this year, they started the much-needed conversation about the need to protect vulnerable Marylanders in these critical proceedings.

\*You can read the entire Report of the Task Force to Study Implementing a Civil Right to Counsel in Maryland here: <http://www.mdcourts.gov/mdatjc/taskforcecivildcounsel/pdfs/finalreport201410.pdf>