



**Testimony of Wendy Pollack, Women's Law & Policy Initiative Director  
Shriver Center on Poverty Law  
Joint Hearing on Wage Equity, Workers' Rights and Consumer Protection Information  
November 12, 2020**

Thank you for the opportunity to present today on wage equity and workers' rights. I am Wendy Pollack, the Women's Law and Policy Initiative Director at the Shriver Center on Poverty Law. The Shriver Center's mission is to fight for economic and racial justice through litigation, shaping policy, training, and connecting people in the advocacy community. Today I will present on the Shriver Center's legislative agenda for both the current legislative session and the next, that seeks to improve the wages, terms and conditions of employment, and employment prospects for Black workers. But first, some background information on Black workers.

Most of us are aware of the gender wage gap, which measures the difference in earnings between white men and women as a whole and of women of different racial and ethnic backgrounds. There is also a significant racial wage gap that is very real, with significant repercussions for the Black community. The most recent wage report from the U.S. Department of Labor reporting on the third quarter of 2020 that was released on October 16, 2020 shows the earnings gap between white men and Black workers as follows: all Black workers earn 72% of what white men earn; Black men earn 77.5%, and Black women earn only 68.5% of what white men earn.

What goes into these numbers? Black workers make up more than half the workers who earn less than \$15 an hour, accounting for 15% of all workers who earn less than \$15 an hour yet make up only 12 percent of the total workforce. Black workers are also overrepresented in low-wage industries, such as the food services industry, retail, home care, auto manufacturing, and hotel and motel accommodations. Although the pre-pandemic tightening labor market was helping job prospects, it is taking legislative action like raising the minimum wage as the General Assembly did last year that is moving the needle on increasing the wages for Black workers. But wage equity is not limited to actual wages—employment benefits and protections also contribute to a more equitable workforce. That is why the Shriver Center's agenda includes paid sick leave, paid family and medical leave, protections for gig economy workers, eliminating the subminimum wage for tipped workers, addressing workers' health and safety concerns, and timely and effective enforcement of our employment laws.

Paid sick leave

The Shriver Center has been working in coalition to advocate for paid sick leave for a number of years--and the time is now, in the middle of a pandemic, to signal to Illinois workers that the State has their best interests in mind, and move swiftly to pass the legislation. The Healthy Workplace Act, HB 2343, is sponsored by Senator Lightford and Representative Gordon-Booth. The most recent amendment, which has not yet been filed, would allow workers to earn up to 40 hours a year of leave. Reasons they may take leave include leave for their own illness or for

caring for a sick family member, for school closures, for reasons related to domestic or sexual violence, to visit a family member in jail or prison and other court-related reasons, and COVID-related reasons such as the need to quarantine.

Thirteen states, 19 cities, including Chicago, and 3 counties, including Cook County, have enacted paid sick leave. But even with Chicago and Cook County passing sick leave legislation, there remains 1.5 million workers in Illinois that do not have access to a single paid sick day. Thirty-six percent of Black workers do not have access to any paid leave. The impact on Black families cannot be overestimated since 80% of Black families with children 18 and under are in the labor force; 81% of Black mothers are primary breadwinners for their families; and Black people have significant adult and elder care responsibilities with 1 in 5 serving as a caregiver to an adult family member or someone close to them.

On average, Black workers are paid less and have less savings than white workers. More than 30% of Black households have no net savings or assets to draw on, and more than 1 in 5 Black families (22%) are living in poverty. A few days of lost pay is equivalent to losing an entire month's worth of groceries or health care expenses.

Many Black workers risk their health because they do not have paid sick leave. Without paid sick leave workers are less likely to go to the doctor or get preventive care for themselves or family members. Access to health care is essential but is not fully realized without paid sick leave. For example, workers without paid sick leave are 61% more likely not to receive a flu shot.

There is overwhelming support for paid sick leave legislation among Black people. Studies show that 90% of Black people support paid sick leave legislation.

#### Paid family and medical leave

Like paid sick leave, Black workers are less likely to have access to paid family and medical leave. The federal Family and Medical Leave Act is unpaid leave. The law is very restrictive, so 40% of workers are not eligible. For those who are eligible, two-thirds cannot afford to take leave or fear losing their jobs if they take the leave. The private sector has not stepped up to the plate. While higher wage workers have greater access to paid leave than middle- and lower-wage workers, the majority have no access to such leave. For example, only 13.3% of workers have access to paid maternity leave; and only 8.8% have access to paid paternity leave. That is why 9 states and D.C. have enacted paid family and medical leave laws, and why Illinois should be next. The Shriver Center is working in coalition with Senator Villivalam to introduce the Family and Medical Leave Insurance Act in 2021. The legislation would create a state-operated program that would provide all workers with paid, job-guaranteed leave. Reasons for leave include a worker's own illness, to care for an ill family member, domestic or sexual violence, reasons related to pregnancy and the birth of a child, to care for a new child in the household, an exigency arising out of an active duty family member in the armed forces, and for COVID-related reasons including school and childcare facilities or personnel completely or partially closed or unavailable. We hope that you will support this legislation.

### Gig economy workers

There is lots of talk about the gig economy and gig workers, mostly rideshare workers. The companies that employ these workers treat them as independent contractors, avoiding the responsibilities owed to workers classified as employees—protections such as the minimum wage, unemployment insurance, workers' compensation, and child labor laws. Most of these workers are misclassified and should be classified as employees. The Shriver Center is working in coalition with Senator Castro and Representative Guzzardi to pass a misclassification bill in 2021. It is important to act now since the list of workers misclassified will grow exponentially, particularly throughout low-wage industries, if it goes unchecked. Workers will increasingly be hired through an app—this is already happening, not just for rideshare and delivery workers, but for temporary workers, domestic workers, and others.

### Tipped subminimum wage

Structural racism is built into whole industries that remain in place with practices that are at the very root of that racism and are defended by industry leaders today. The restaurant industry's reliance on tipped workers is a prime example.

Tipping proliferated after the Civil War, when emancipated Black workers were hired but not offered a wage—leaving them to rely on patrons' gratuities for their pay instead. Simply put, tipping was introduced to exploit the labor of former slaves. Tipping allowed American restaurants and railway companies to maximize profits by refusing to pay Black employees. Over time, many of the service vocations that previously enslaved people were forced to carry out—like serving food, cutting hair, carrying baggage, and driving vehicles—became subject to tipping. Today restaurant servers, bellhops, food delivery drivers, valets and parking attendants, and nail salon workers are among the many occupations paid primarily through tips.

Service workers were among the many workers initially excluded from the minimum wage provisions of the federal Fair Labor Standards Act (FLSA). Lawmakers amended the FLSA in subsequent decades to expand coverage, but instead of requiring service employers to pay their workers the full minimum wage, the amendments introduced a discriminatory subminimum wage. Today tipped workers receive a small hourly wage, but the expectation remains that most of their income is paid by customers paid through tipping. Employees who receive more than \$30 in tips each month can be classified as tipped workers. In Illinois, the tipped subminimum wage is currently \$6.00 per hour. If an employee's tips do not make up the difference between this rate and the full minimum wage of \$10, employers are legally required to cover the difference. However, evidence suggests that this rarely happens, and service employees lose out on millions of dollars in wages every year due to this carveout.

This legacy of slavery is not the only racist practice that survives. About 20% of restaurant jobs provide livable wages; fine dining establishments can pay very well. However, people of color, particularly women of color, are unable to access these positions. When they do work in fine-dining restaurants, they are relegated to lower level busser and kitchen positions. Studies show that white workers are more likely to be interviewed, and twice as likely to be hired, than equally or better qualified workers of color applying to the same fine-dining establishments. Over 27% of Black workers in the restaurant industry live in poverty. More than half of tipped workers are women—35% of whom are mothers, and nearly 60% of tipped workers are people of color.

Tipping is not working for working people—or even customers who may believe their tips are going directly to the workers they interact with. Wage theft and other violations are rampant. A compliance audit of the restaurant industry conducted by the U.S. Department of Labor between 2010 and 2012 showed that 83.8% had some type of wage theft violation, including tip credit violations, which resulted in nearly \$5.5 million in back wages. And while the food service industry accounts for just 7% of the total U.S. workforce, these workers account for 14% of sexual harassment claims reported to the U.S. Equal Opportunity Commission.

It's time for Illinois to eliminate the tipped subminimum wage.

### Worker health and safety

Most workers in Illinois do not have a state option to address workplace health and safety issues. Illinois' Occupational Safety and Health Act (OSHA) only applies to public employees. This lack of state laws, policies, and remedies leaves Illinois workers without recourse, having to rely on the U.S. Department of Labor for protection. This predicament has been highlighted during the ongoing pandemic. Key findings of a recent national survey include: one in eight workers has perceived possible retaliatory actions by employers against workers in their company who have raised health and safety concerns during the pandemic; Black workers are more than twice as likely as white workers to have seen possible retaliation by their employer; Black workers were both more likely as white workers to fear retaliation if they raise health and safety concerns with their employer (80%) and twice as likely to having unresolved COVID-related concerns at work.

In addition, virus transmission in the workplace may be exacerbated by employer repression and that the disproportionate impact of COVID-19 on Black communities may be related to greater exposure of Black workers to repressive workplace environments—three out of four Black workers (73%) have gone to work even though they believed they may have been seriously risking their health or the health of family members.

Policy changes are needed to ensure working people are safe and secure in their workplaces.

### Timely and effective enforcement

We must have the laws and policies in place that protect workers and the resources necessary to have timely and effective enforcement of those laws and policies, and find ways for more workers to feel comfortable coming forward with their complaints. The need to focus on enforcement is not misplaced. Wage theft alone is so massive, significantly more resources are needed to put an end to this all too common, illegal employer practice. In the ten most populous states, which includes Illinois, 2.4 million workers lose \$8 billion a year to minimum wage violations. In Illinois, over 22% of minimum wage workers experience wage violations with Black workers having an 18% share of the earned wages unpaid.

Everyday practices that seem harmless may exacerbate discrimination. For example, requesting salary history from job applicants perpetuates the lower salaries of women and people of color throughout their careers. Improved negotiation skills do not eliminate bias in the negotiation process. A recent study showed that a ban on requesting salary history helped women and Black men engaged in salary negotiations receive higher salaries than those who were required to

submit their salary history. Last year the General Assembly passed an amendment to the Equal Pay Act, banning employers from requesting salary history from job applicants. We know the law works, now we must ensure workers are aware of the law and that their rights are enforced when the law is violated.

Moreover, we cannot rely on the federal government to protect Illinois workers. For example, of the 1,744 COVID-related retaliation complaints filed with the U.S. Department of Labor, more than half were dismissed without being investigated; only 2% were investigated and resolved. Black workers are more than twice as likely as white workers to have seen possible retaliation by their employer, and they are also twice as likely as white workers to indicate having unresolved COVID-related concerns at work. The lack of timely and effective enforcement has a disproportionate impact on Black workers.

The Shriver Center is ready to work with all of you on legislation and policies that improve the wages, terms and conditions of employment, and employment prospects for Black workers.

Respectfully submitted,

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