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policy solutions that work for low-income people

Testimony of the Center for Law and Social Policy (CLASP)
Before the Labor and Public Employees Committee
February 16, 2017
Re: Bill No. 747, An Act Prohibiting "On-Call" Shift Scheduling

The Center for Law and Social Policy (CLASP) is a national organization that works to improve the lives of low-income people by developing and advocating for federal, state, and local policies that strengthen families and create pathways to education and work. As a part of our work to improve job quality for low-wage workers, CLASP has done extensive research and policy analysis on issues related to fair work schedules.

We commend Senator Kennedy's initiative in introducing Bill No. 747, which aims to address the harmful practice of on-call scheduling. On-call scheduling is one of several employer practices that create significant challenges for workers, such as difficulties arranging childcare, attending classes, or holding second jobs; income volatility and insufficiency; personal and familial stress; and health difficulties. In a recent Connecticut poll, nearly half of respondents employed in food service jobs reported being regularly scheduled for on-call shifts. Recently, Attorneys General from nine states, including Connecticut, and the District of Columbia, launched a probe into on-call scheduling, reflecting their "collective concern" about the impact of the practice on workers and their families.

Although we are encouraged by the intent of Bill No. 747, we join with colleagues at other national organizations, as well as local partners, in urging you to consider an alternative approach to addressing the problem. Instead of the proposed bill, CLASP urges the Committee to update the state's long-standing reporting pay policy, which requires employers to compensate employees for part of their shifts when they report to work but are sent home after working for fewer hours than their scheduled shift.

Taking the approach of updating Connecticut's reporting pay policy has several advantages. First, rather than completely prohibiting on-call scheduling, it allows employers who want the flexibility to engage in the practice to do so, but also compensates workers for the added burden it places on them. Second, because the state has a reporting pay regulation, the proposed bill would create perverse incentives for employers that could ultimately cause more harm to workers. Under the proposal, if an employer cancels a shift 12 hours in advance, the employer is violating the law. Yet, if an employer waits until the employee arrives at work to cancel the shift, the employer would be subject to reporting pay

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requirements, but not be in violation of the law. Clearly, the intent of the bill is not to encourage greater volatility and/or less predictability in workers' schedules, but this may be the result. Revising the reporting pay regulation would allow the state to avert this problem.

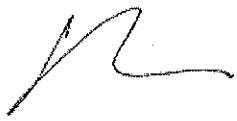
Further, updating the reporting pay rules simply makes sense given current technological realities. That is, while in the past employers waited until an employee showed up at the work site to cancel a shift because it was more difficult to communicate with workers, now an employer can call or send a text message to let the employee know whether a shift will be cancelled at the last minute, or the employer can require the employee to call or otherwise communicate electronically to get this information. The effect is the same – last minute cancellations or changes to shifts that a worker has reserved time for, leaving him or her unable to take on other work or responsibilities – but when such situations follow from in-person communication they are compensated. When they arise in phone calls, text messages, or electronically, they are uncompensated.

For these reasons, we respectfully ask the Committee to consider the following substitution, based on existing language in Connecticut Code of Regulations section 31-62-D1(d),1 for the current text of Bill No. 747[1]:

> An employee, who by request or permission of the employer, reports for duty on any day or is required to be available to work whether or not assigned to actual work, shall be compensated for a minimum of four hours earnings at his or her regular rate unless given adequate notice 24 hours prior to the beginning of the shift that the employee does not need to report to work. Such compensation shall apply when employer requires an employee to be available or "on call" to work, and to contact the employer or its designee or wait to be contacted by the employer or its designee to determine whether the employee must report to work.

Thank you for the opportunity to comment on Bill No. 747. CLASP is grateful for your attention to this important issue, which has a significant effect on low-income families in Connecticut. We are happy to provide additional support for your efforts as needed.

Sincerely,



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[1] A similar requirement pertaining to restaurant and hotel employees is found in section 31-62-E1(b).