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Testimony to the Connecticut General Assembly Labor and Public Employees Committee
In Support of H.B. 6859

Submitted by Natalie Petrucci, Staff Attorney, A Better Balance
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Thank you for the opportunity to submit written testimony regarding Connecticut House Bill 6859, a critically important policy proposal that will provide needed scheduling protections to workers of large employers in specific industries across the state. This bill will address the problem of abusive scheduling practices that leave hourly workers struggling to balance work with family obligations, make child care or healthcare arrangements, and pay their bills. Beyond providing clear benefits to workers, H.B. 6859 also increases workplace productivity and reduces costly turnover for covered employers by promoting employee morale and retention.

A Better Balance is a national legal advocacy organization with four regional offices dedicated to promoting fairness in the workplace and helping workers meet the conflicting demands of work and family. Our organization provides legal and policy support to fair work week and predictable scheduling campaigns throughout the nation, and we have worked on passing, implementing and enforcing similar laws that are now in effect. We also work on pregnancy discrimination, paid family leave and paid sick leave legislation, including in Connecticut. In addition, A Better Balance runs a free and confidential helpline to help workers from across the U.S. understand their workplace rights. We strongly support the passage of H.B. 6859.

I. **Unpredictable and Unstable Scheduling Practices: A Rising Trend with Significant Negative Impacts on Working U.S. Families**

Workers across the United States are struggling to care for their families while working jobs with low pay and few benefits. In 2021, over 76 million workers in the U.S. are paid hourly, representing the majority of all salary and wage workers.¹ Among these hourly workers, over 17 million are part-time.² Specific industries, including retail, hospitality, food service, and long-term healthcare rely heavily on hourly and part-time workers who bear the burden of low-wages and increasingly precarious schedules.

Conditions for hourly workers have declined in recent years due to an increasing trend toward the use of unstable and unpredictable scheduling practices. Many hourly workers are required to

¹ Bureau of Labor Statistics, “BLS Reports: Characteristics of Minimum Wage Workers, 2021.” U.S. Department of Labor (Apr. 2022), *available at*: <https://www.bls.gov/opub/reports/minimum-wage/2021/home.htm>.

² *Id.*

be available nearly round-the-clock without any guarantee that they will actually be called into work and with scheduled shifts that fluctuate dramatically from week to week or are canceled with little notice. Subject to erratic, inflexible, and unpredictable schedules, working families struggle to arrange child care, attend medical appointments, or earn enough to pay their bills. The ability to work a second job or pursue additional education or training becomes nearly impossible when a worker is unable to predict when they are needed to work. More and more, rather than the exception, these scheduling practices have become the norm for low-wage hourly workers.

The over reliance on “just-in-time” scheduling is particularly prevalent in the retail and food service sectors, leaving workers in these industries constantly struggling to balance their work and family obligations. Workers are also often assigned to work “on-call” shifts which require workers to be available to work, but do not compensate them for their time if they are not called in.³ Workers may also be scheduled to close their employer’s business and open early the next day. This scheduling pattern, referred to as a “clopening” shift, can be particularly harmful to workers by disrupting sleep, straining familial relationships, and preventing the worker from getting adequate rest between extended periods of intense physical labor. Overall, these and other abusive scheduling practices threaten the economic stability of working people and have ripple negative impacts on the welfare of workers themselves, their families, and the economy.

While workers at all income levels can benefit from having access to more flexible schedules, low-wage workers are disproportionately likely to struggle with inflexible, and unpredictable work schedules. Workers of color—and women of color in particular—are overrepresented in the service sector and also disproportionately face harmful scheduling instability. This problem has grown worse in recent years as a result of the COVID-19 pandemic exacerbating race and gender inequality with regard to scheduling in several dimensions. During the pandemic, women of color were more likely than their white female and male counterparts to report having less than two weeks’ notice of their schedules.⁴ And overall, women of color were 15-30% more likely to experience canceled shifts, on-call shifts, and involuntary part-time work compared with white men.⁵

³ Elaine Zundl, et. al., The Harvard Shift Project, “Still Unstable: The Persistence of Scheduling Uncertainty During the Pandemic,” 1 (Jan. 2022), *available at*: <https://shift.hks.harvard.edu/still-unstable/>.

⁴ *Id.* at 3-4

⁵ *Id.*

Unpredictable and unstable scheduling practices are also particularly burdensome to parents and caregivers. The vast majority of parents with children under 18 are in the workforce⁶, and approximately one-third of service sector workers are also parents.⁷ Additionally, four in 10 adults care for sick or elderly family members and 60% of these caregivers are employed.⁸ Parents and caregivers have an acute need for flexibility and input into their schedules.

Overall, unstable and unpredictable work schedules upend lives, make effective budgeting impossible, interfere with family caregiving, and jeopardize access to benefits and financial resources. These practices are also associated with poor health outcomes in adults, negative consequences for parents' well-being, unnecessary complexity in child care arrangements, and behavioral problems in young children.⁹

II. Data Shows Connecticut Workers Need Fair and Predictable Schedules

Research conducted by the Harvard Shift Project tracked how national scheduling trends—including the overreliance on part-time workers, and the use of various scheduling practices that result in precarious schedules for workers—are experienced by Connecticut's service sector workforce. The data makes clear that Connecticut's workers, like similarly situated workers across the country, have little to no say over when, where, and how long they work, and suffer damaging consequences of unstable and unpredictable schedules.

Across the state, nearly 250,000 workers are employed in the retail and food service sectors.¹⁰ Unsurprisingly, many Connecticut workers reported wages that fall short of what is needed to make ends meet, and far below what is considered a livable wage.¹¹ Similar to service sector workers nationwide, Connecticut workers also reported struggling to obtain full-time work, with

⁶ Bureau of Labor Statistics, "Employment Characteristics of Families News Release", U.S. Department of Labor (Apr. 20 2022), *available at*: <https://www.bls.gov/news.release/famee.htm>.

⁷ Elaine Zundl, et. al., The Harvard Shift Project, "Still Unstable: The Persistence of Scheduling Uncertainty During the Pandemic," 4 (Jan. 2022), *available at*: <https://shift.hks.harvard.edu/still-unstable/>.

⁸ Susannah Fox, Maeve Duggan, & Kristen Purcell, Pew Research Center, "Family Caregivers are Wired for Health" (Jun. 20 2013), *available at*: <https://www.pewresearch.org/internet/2013/06/20/family-caregivers-are-wired-for-health/>.

⁹ Kristen Harkness & Daniel Schneider, "Precarious Work Schedules And Population Health," *Health Affairs*, 1 (Feb. 12, 2020); *see also* Kristen Harknett, Daniel Schneider & Sigrid Luhr, "Who Cares if Parents have Unpredictable Work Schedules?: Just-in-Time Work Schedules and Child Care Arrangements," *Social Problems*, Volume 69, Issue 1, 164-183 (Feb. 2022), *available at*: <https://doi.org/10.1093/socpro/spaa020>.

¹⁰ Daniel Schneider & Kristen Harknett, Harvard Shift Project, "Working in the Service Sector in Connecticut," 1 (March 2018), *available at*: <https://shift.hks.harvard.edu/files/2018/03/Working-in-the-service-sector-in-Connecticut.pdf>.

¹¹ *Id.*

58% of workers surveyed reporting a desire to work more hours overall, and among those working less than 30 hours a week, 64% wanting to work additional hours.¹² This condition is described as “involuntary underemployment.”

In addition to wide-spread involuntary underemployment by workers in Connecticut’s service sector, researchers found that workers experienced unstable and unpredictable work schedules along several dimensions. Only 19% of service sector workers in the state reported a regular daytime work schedule, with all other workers surveyed reporting either an irregular, unstable, or non-standard work schedule.¹³ Advance notice of schedules was rare with a third of workers receiving between one and two weeks’ notice, and the vast majority of workers reporting less than a week’s notice of their schedules receiving four days of notice or less.¹⁴ In addition, Connecticut service workers reported a high level of variability with their scheduled hours, which in turn leads to inevitable income volatility.¹⁵ Workers surveyed also reported being scheduled for on-call and clopening shifts, as well as experiencing last-minute shift cancellations within the past month to differing degrees.¹⁶ One third of Connecticut’s retail workers surveyed live with children and the data showed working parents being scheduled in these unpredictable ways at near identical rates to non-parents surveyed.¹⁷ This data reflects a dynamic supported by numerous studies – that when parents are subject to abrupt scheduling changes or assigned inflexible shifts, they often must scramble to secure reliable child care, leading to unnecessary stress on parents, children, and their care providers.¹⁸

Beyond reporting individual instances of abusive scheduling, a striking 66% of Connecticut workers surveyed reported keeping their schedules open and available for work.¹⁹ This pressure to keep schedules open and available for work has major implications for a worker’s ability to effectively manage work and family responsibilities and achieve a semblance of work-life balance. Under these circumstances and facing these conditions of employment, it is reasonable that the workers surveyed overwhelmingly expressed a desire for increased scheduling stability and predictability.²⁰

¹² *Id.* at 2

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 3

¹⁸ *Id.* at 3; *see also* Kristen Harknett, Daniel Schneider & Sigrid Luhr, “Who Cares if Parents have Unpredictable Work Schedules?: Just-in-Time Work Schedules and Child Care Arrangements,” *Social Problems*, Volume 69, Issue 1, 164-183(Feb. 2022), *available at*: <https://doi.org/10.1093/socpro/spaa020>.

¹⁹ *Id.* at 2

²⁰ *Id.*

III. House Bill 6859: A Sound Policy Solution to the Problem of Unpredictable Scheduling

a. An Overview of H.B. 6859 & Key Coverage Details

House Bill 6859 is a reasonable policy modeled on successful fair scheduling and right to request laws in effect in other states and cities across the country. If passed, it will provide critical protections to covered workers, including the right to receive schedules with advance notice and to receive payment if their schedule changes at the last minute, or if they agree to work a clopening shift with fewer than 11 hours of rest between shifts. Notably, the proposed legislation contains reasonable exceptions to the scheduling predictability provision to allow employees to voluntarily trade shifts or take sick or vacation leave. It also will provide workers with the right to decline certain shifts under specific circumstances without fear of retaliation, as well as promote access to hours for part-time workers. In addition, House Bill 6859 encourages good faith engagement between workers and employers, ensuring that workers understand when, where and how many hours they are likely to be scheduled to work and can plan their lives and finances accordingly. Finally, to ensure the policy will work as intended, the bill incorporates strong enforcement provisions to ensure widespread compliance.

H.B. 6859 limits coverage to workers in just four industries – retail, food service, hospitality, and long-term health care – and to only to employers within those industries that (1) employ more than 500 workers globally, or (2) are part of a restaurant with at least 30 locations worldwide, or (3) operate as a franchise that is part of a network with at least 500 employees worldwide.

These coverage considerations are important because H.B. 6859’s coverage is tailored to just cover large corporate employers who are most likely to subject workers to unpredictable scheduling practices. These large employers also are most likely to have the means and technology to easily adapt to new requirements if the bill becomes law.

It is critical that H.B. 6859 explicitly covers franchises that are a part of a network with over 500 employees globally. Contrary to misleading characterizations, franchises are highly distinct from small businesses. Franchisees commonly receive substantial financial backing from corporate franchisors. This support can take many forms, including but not limited to technological support and shared liability for a franchisee’s employment practices. Corporate franchisors also exercise a high degree of control over the scheduling practices of their franchisees. Typically, franchisors provide franchisees with workforce management technology to generate or manage worker schedules. The usage of workforce management software among large employers in the industries covered by H.B. 6859 is a major contributing factor to the rise in unstable and

unpredictable schedules experienced by workers. At the same time, its use also signals that these employers could easily adjust to this bill's requirements by implementing programming tweaks to their software that could result in reliable and sustained compliance.

Moreover, most fair scheduling laws regulate franchise-operated businesses in the same manner as any other large chain: by aggregating the total number of employees across locations operated by the different franchisees under the same brand. Fair scheduling laws in effect in Emeryville, California, Seattle, Washington, and New York City have all taken this approach and offer successful examples that prove covering franchises is a well-tested and reasonable approach.

b. H.B. 6859 Provides Critical Benefits to Help Workers Support Themselves and Their Families

Once passed, H.B. 6859 will promote predictable schedules for the quarter of a million impacted workers in Connecticut who currently suffer the damaging impacts of unstable and unpredictable work schedules. H.B. 6859 will give covered workers greater control over their schedules, more financial stability, and the level of predictability needed to effectively manage both the responsibilities of work and family life.

While this bill protects workers from a range of unfair scheduling practices previously mentioned, there are two provisions that are of particular significance to the workers represented by A Better Balance. First, Section 5 provides access to hours for involuntarily underemployed workers. This is significant because part-time workers are often disadvantaged by lower hourly wages relative to their full-time counterparts, as well as a lack of access to benefits and job opportunities. This "access to hours" provision also promotes increased racial and gender equity in the workplace given that women of color are overrepresented among workers reporting involuntary underemployment.

Second, Section 3(e) would create a right for Connecticut workers covered by the bill to request modified work schedules or flexible working arrangements. This "right-to-request" will have significant positive impacts on families juggling caregiving responsibilities and personal health needs. It gives impacted workers a greater voice and opportunity to self-advocate without fear of reprisal, and it encourages more employers to engage in a deliberative process around such requests with their employees. We are aware of workers who have lost their jobs for merely requesting a change in schedule; this provision would ensure that workers need not be afraid to request schedule changes that may be essential for themselves or their families.

c. Fair Schedules are Good for Employers' Bottom Lines

Beyond benefits to workers, predictable and flexible scheduling policies, such as H.B. 6859, also benefit employers and the economy. When workers have more predictability and input into their schedules, employers experience increased retention, attendance, and morale among employees. These gains can in turn increase a company's market value. A study of Fortune 500 companies found that, on average, firms' stock prices rose 0.36% in the days following announcements of new work-life balance initiatives.²¹

Costly turnover can also be reduced through the implementation of fair scheduling policies. Low-wage workers are more committed to jobs that offer the flexibility needed to fulfill personal and family responsibilities. Thus, it comes as no surprise that workplace policies that improve flexibility have been shown to increase employee retention rates.²² For businesses in industries that experience high levels of turnover, such as retail and food service, increasing retention rates can add up to significant savings.²³ It is therefore likely that, if passed, H.B. 6859 will help large Connecticut employers in covered industries keep and retain workers during in the midst of a tight labor market.

IV. Conclusion

Workers have a right to know when, where, and how much they will work. When workers have a say about the details of their work schedule, they can show up to work more productive, and most effectively balance their work and family responsibilities. Unstable and unpredictable scheduling practices put an unnecessary strain on all hourly and low-wage workers, and significantly impact working families, by jeopardizing their health, access to child care, and economic stability. House Bill 6859 is a smart policy solution to address the problem of unpredictable and abusive scheduling, offering key protections to workers, while also offering benefits to employers that will increase their bottom lines. This bill is a win-win for Connecticut. A Better Balance strongly supports the passage of this predictable scheduling legislation and urges committee members to vote yes on H.B. 6859.

²¹ Executive Office of the President Council of Economic Advisors, "Work-Life Balance and the Economics of Workplace Flexibility," 23 (June 2014), available at: https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/documents/updated_workplace_flex_report_final_0.pdf.

²² Heather Boushey & Sarah Jane Glynn, Center for American Progress, "There Are Significant Business Costs to Replacing Employees," 1-3 (Nov. 2012), available at: <https://www.americanprogress.org/article/there-are-significant-business-costs-to-replacing-employees/>.

²³ *Id.*