

TESTIMONY OF
THE HONORABLE KWAME RAOUL,
ATTORNEY GENERAL OF THE STATE OF ILLINOIS

BEFORE THE
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION SUB-COMMITTEE
APPROPRIATIONS COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

April 9, 2019

Good morning Chairwoman DeLauro, Ranking Member Cole, and Members of the Sub-Committee.

My name is Kwame Raoul and I am the Attorney General of Illinois. Thank you for the invitation to testify this morning about the crisis of wage theft in this country. I am pleased to have the opportunity to talk with you today about the ways in which I and other state leaders are responding to this problem by engaging in more strategic wage law enforcement, the challenges we face in doing so, and the critical importance of the federal government as a partner in these efforts.

Background

State attorneys general are the chief lawyers for the states and are charged with protecting the public interest. For decades we have been at the forefront of enforcing and furthering the rights of the residents of our states in areas such as civil rights, consumer rights, and environmental protections.

Until relatively recently, few state attorneys general have engaged in much wage or workplace rights enforcement. As you well know, the federal Fair Labor Standards Act is enforced by the United States Department of Labor or through private rights of action. States like Illinois, that have chosen to regulate above the federal floor established by the Fair Labor Standards Act,

often have a state enforcement scheme that largely parallels the federal one, with a state Department of Labor and some state wage laws that may also be enforced through private suit.

In recent years, however, more and more state attorneys general have come to believe that we must help address rampant violations of wage and hour laws. For example, a comprehensive [2010 survey](#) of low-wage workers in Chicago found that a full 26% of workers had been paid less than the legally required hourly wage the week before. Of workers who had worked more 40 hours in the preceding week, a full 67% were not paid legally required overtime. These statistics are echoed in what we hear from constituents every day. From home health care workers to security guards to truck drivers to restaurant employees, every day my office hears from people who don't know how they will pay their rent or feed their kids because they have not been paid all of their wages.

Not only is this unfair to workers, it harms other businesses that do comply with the wage laws by making them less able to compete.

State AG Labor Accomplishments

In 2015 my predecessor, Attorney General Lisa Madigan, founded the Workplace Rights Bureau within the Attorney General's Office. In 2017, District of Columbia Attorney General Karl Racine and Pennsylvania Attorney General Josh Shapiro also started dedicated units in their offices to fight wage theft and misclassification and to protect workers generally. More recently states like Connecticut, New Jersey, Virginia, and Minnesota have started getting more active on labor issues. These more recent efforts join established Labor Bureaus within the offices of the state attorneys general of New York, Massachusetts, California and Washington. Collectively and separately this small group of state attorneys general has taken some significant actions to protect the working people of our states. For example:

- In Illinois in partnership with our state department of labor we conducted a series of investigations and lawsuits into minimum wage, overtime, and discrimination violations in the Chinese-style buffet restaurant industry. We found evidence that restaurant kitchen workers were working around 11 hours a day, six days a week, and paid what worked out to less than \$5 an hour. Workers were housed by their employers in deplorable conditions and transported to and from work by their bosses. Those cases resulted in four federal consent decrees, shutting down some of the employment agencies that had enabled this exploitative system and requiring payment of penalties and back wages (of up to \$15,000 for some of these individual kitchen workers).
- We reached a \$1 million settlement with a construction employer that had systematically falsified payroll records over a period of years, to make it look as though employees were being paid legally required wages.
- In joint investigations with other states, we have worked with employers to change practices that harm low-wage hourly employees such as use of on-call shifts, and binding workers to inappropriate non-competes or no-hire agreements.

Worker Protection Unit Bill

While I am proud of our accomplishments in this area, my Office has done this work with limited statutory authority or ability to collect back wages on behalf of individuals. That's why as a state senator I sponsored a bill to give the Attorney General supplemental authority to enforce state wage laws. Although the bill passed, it was vetoed by our former Governor. It has now been amended and introduced again with bipartisan support this legislative session. It passed out of committee unanimously just last week.

The bill does not take any enforcement away from the Illinois Department of Labor; it simply gives the Attorney General supplemental authority to investigate and file suit directly to enjoin violations of state wage laws such as the Minimum Wage Law, the Wage Payment and Collection Act, and the Employee Classification Act. The bill will also create a Task Force on the Underground Economy to facilitate information sharing and co-enforcement between local prosecutors, the attorney general's office, labor, businesses, and community organizations. These are the kinds of strategic enforcement models we need if we are to seriously address the problem of wage theft, particularly in the underground economy.

Need for Partnership and Resources

While I am excited to share these state-level developments here with you today, I cannot emphasize enough that we are doing this work with extremely limited resources.

Last year my office's Workplace Rights helpline received complaints from around 675 individual employees, all of whom were interviewed and provided resources by a single paralegal. We currently have only a handful of attorneys who work on these cases full time and no dedicated investigators.

Our State Department of Labor currently has less than ten (10) investigators to enforce a host of state-level wage laws including minimum wage, overtime, and wage payment and collection laws across the entire state of Illinois, with its 12.74 million residents. Unfortunately this lack of resources is consistent with the enforcement picture in other states: a [2011 survey by Columbia University](#) found that while many state wage and hour agencies receive thousands of complaints a year, a majority of states have fewer than 25 employees devoted to wage and hour enforcement and many have fewer than 10 employees. Five states (Alabama, Florida, Georgia, Louisiana, and Mississippi) reported doing no state-level wage and hour enforcement at all.

Given these state-level resource constraints, the federal Department of Labor has been and continues to be a crucial enforcement partner. From research to worksite investigations to detailed employer compliance assistance, the U.S. Department of Labor performs critical tasks that benefit employees, employers, and state enforcers. The Department is also the only public enforcer that can investigate wage compliance issues across state lines. In today's economy, it is not uncommon to receive a complaint from an employee who worked for the same employer across multiple states or complains about a wage payment practice that a national company engages in in multiple locations.

Additionally, the importance of the U.S. Department of Labor has, if anything, grown more important as mandatory arbitration provisions and class action waivers prevent more and more employees from pursuing private wage law enforcement actions. While the Fair Labor Standards Act envisions a public/private enforcement scheme, for many employees the private right of action is now closed to them leaving only complaint to a public agency as a means of enforcing their workplace rights.

Conclusion

In short, we are doing our best on the state level to address the issue of wage theft affirmatively and strategically, but we have limited resources. The Department must continue to play its critical role in ensuring that there are some threshold minimum standards in our workplaces in order to protect workers from being cheated out of their hard-earned wages and to prevent law-abiding businesses from being undercut by unscrupulous competitors,. Thank you again for the opportunity to speak with you today. I would be happy to answer any questions.