



WOMEN LAWYERS ON GUARD

Testimony  
of

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of the Women Lawyers On Guard Action Network  
In SUPPORT of SB217, the Salary History Bill  
Before the Maryland Senate Finance Committee  
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Thank you for the opportunity to submit this testimony on behalf of the Women Lawyers On Guard Action Network. Women Lawyers On Guard Action Network is an affiliated organization of Women Lawyers On Guard Inc., a national network of women and men harnessing the power of the law in conjunction with other non-profit organizations, to protect and defend equality, justice, and equal opportunity for all, while supporting research, education of the public, advocacy, litigation, amicus briefs, and its volunteer matching program.

Our organization's focus on gender pay equity issues leads us to offer strong support of Maryland's attempts, over the last several years, to level the playing field for all women in the workplace, including those in both the public and private sectors. We believe that the Salary History Bill provides a key to closing the wage gap for all women employees, while strengthening Maryland's businesses and economy. Therefore, for the following reasons, we are writing to urge the members of this Committee to support SB 217.

Relying on a potential employee's salary history to set pay, and keeping salary ranges secret, harms many types of job applicants. Employers' requests for an applicant's salary history during the hiring process, and reliance on that information to determine compensation, force women to carry lower earnings and pay discrimination with them from job to job. And, because women systematically are paid less than men, employers that rely on salary history to select job applicants and to set new hires' pay will tend to perpetuate gender-based disparities in their workforce.<sup>1</sup>

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Stopping reliance on salary history is a good business practice. In ending the practice of seeking salary histories from job applicants, many companies understand that this practice perpetuates discriminatory wage gaps, and acknowledge that employees should be paid based on their experience, skills, track record, and the responsibilities they will be assuming, and not on what they happened to be paid in their past job.<sup>2</sup>

SB 217 is a proactive measure that will help Maryland businesses close gender wage gaps, recognizing that salary history is not a neutral objective, or an accurate measure by which to set pay or evaluate an applicant. This is particularly true for those whose salary history does not reflect their current qualifications or interests because they may have left the job market to care for family or those persons who moved from the public to the private sector.

Since 2016, some 13 States<sup>3</sup> have passed legislation, all with bipartisan support, prohibiting employers from relying on applicants' salary history. Thus, this is the right time for Maryland lawmakers to act now and pass SB 217, thereby fulfilling Maryland's obligation to its women, families, and the state economy, especially given that Black women in Maryland are paid only 69 cents on the dollar paid to white, non-Hispanic men, and Latinas are paid only 46 cents.

Salary range transparency also helps close the wage gap. When an employer asks job applicants what their salary expectations are without providing applicants any information about the pay for the position, women lose out. This secrecy around salary ranges has been known to affect even women in higher paying positions, including women lawyers.<sup>4</sup> Disclosing salary ranges thus will help level the playing field on negotiations, and helps applicants and employees detect and remedy any unjustified pay disparities.

Pay transparency also promotes employee loyalty and productivity, which is good for employers' bottom line<sup>5</sup> and, indeed, all employers and working people should benefit from pay transparency measures, no matter where they live and work.

In conclusion, ending employers' reliance on salary history is an important step in closing the wage gap. We believe that asking for salary history perpetuates pay discrimination from job to job, and allows employers to use salary history and lack of transparency in salary ranges to disadvantage workers in both the public and private sectors. For these reasons, the Women Lawyers On Guard Action Network urges this Committee to pass SB 217, the Salary History Bill.

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*A national non-profit, harnessing the power of lawyers and the law to protect, preserve and defend equality, justice and opportunity for all.*  
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<sup>1</sup> Research shows that legislation like the Salary History Bill helps narrow wage gaps, as does the practice of providing job applicants the wage range for a position. See Drew McNichols, Information and the Persistence of the Gender Wage Gap; Early Evidence from California's Salary History Ban (February 1, 2019), SSRN: <https://ssrn.com/abstract=3277664> or <http://dx.doi.org/10.2139/ssrn.3277664>. See, e.g., Hannah Riley Bowles, Linda Babcock & Kathleen L. McGinn, Constraints and Triggers: Situational Mechanics of Gender in Negotiations, 89 *J. Personality & Soc. Psych.* 951, 955-56 (2005), [https://projects.iq.harvard.edu/files/hbowles/files/situational\\_mechanics.pdf](https://projects.iq.harvard.edu/files/hbowles/files/situational_mechanics.pdf).

<sup>2</sup> Madison Alder, Amazon, BofA Join Employers That Won't Ask for Pay History, *bloomberg bna*, (Jan. 30, 2018) <https://www.bna.com/amazon-bofa-join-n73014474845/>; Kate Tornone, After helping overhaul GoDaddy's culture, its VP of inclusion sets out on her own, *hrdive*, (Nov. 16, 2017) <https://www.hrdive.com/news/after-helping-overhaul-godaddys-culture-its-vp-of-inclusion-sets-out-on-h/510923/>; Courtney Connley, Starbucks has closed its pay gap in the US—here are 4 other companies that have done the same, *cnbc*, (Mar. 23, 2018) <https://www.cnbc.com/2018/03/23/5-companies-that-have-reached-100-percent-pay-equity-in-the-u-s.html>.

<sup>3</sup> Delaware, New Jersey, New York, Illinois, Massachusetts, Connecticut, Vermont, Maine, Oregon, Hawaii, California, Colorado, and Washington. A number of municipalities, including Montgomery County, Md., have passed similar legislation. See, e.g., <https://www.localdvm.com/news/i-270/montgomery-county-passes-pay-equity-act-to-push-for-equal-pay/>.

<sup>4</sup> <https://biglawbusiness.com/female-law-partners-face-53-percent-pay-gap-survey-finds>.

<sup>5</sup> See, Deborah Thompson Eisenberg, Money, Sex and Sunshine: A Market-Based Approach to Pay Discrimination, 43 *Ariz. State L.J.* 951, 1001-15 (2011); Lamb, N. & Klein, W., A Proactive Approach to Wage Equality is Good for Business, *Employment Relations Today* (Summer 2015), <http://arjuna-capital.com/news/a-proactive-approach-to-wage-equality-is-good-for-business/>; See, Andrew Chamberlain, Is Salary Transparency More Than a Trend?, *Glassdoor* (Apr. 27, 2015), <https://www.glassdoor.com/research/studies/is-salary-transparency-more-than-a-trend/>.