



The Honorable Glenn Youngkin
Office of the Governor
P.O. Box 1475
Richmond, VA 23218

March 13, 2023

Dear Governor Youngkin:

We write as three members of the U.S. Commission on Civil Rights, and not on behalf of the Commission as whole, to express our concern regarding H.B. 1924.¹ If H.B. 1924 becomes law, we fear it will have a deleterious effect on some of Virginia's most vulnerable citizens. We urge you to veto this bill.

Two of us (Kirsanow and Heriot) are the only two remaining members of the Commission who were serving at the time the Commission studied the effect of Section 14(c) of the Fair Labor Standards Act. We were the only two conservative members of the Commission at that time and we voted against the progressive members' recommendation that 14(c) be abolished.²

The evidence adduced by the Commission convinced us that Section 14(c) plays a valuable role in the lives of many vulnerable people. If Section 14(c) is eliminated, most 14(c) employees will not obtain mainstream employment. In fact, it is likely that they will not be employed at all. They will be relegated to at-home care or attend "day programs" – essentially daycare for adults. This is not an outcome anyone should support.

Opponents of 14(c) argue that it is demeaning for people with disabilities to be paid commensurate with their productivity and therefore less than the minimum wage. We believe work has inherent dignity, and that it is demeaning to take away an employment opportunity because other people believe it pays too little.

The most important aspect of Section 14(c) is that it is *voluntary*. No one is forced to participate in the program. Furthermore, employees who are working under 14(c) are regularly evaluated to determine their productivity and have their wages set accordingly.

The Commission was deluged with public comments when we studied this issue. In Commissioner Kirsanow's 22 years on the Commission, he has never known the Commission to

¹ H.B. 1924, <https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+HB1924ER>.

² U.S. Commission on Civil Rights, Subminimum Wages: Impacts on the Civil Rights of People with Disabilities, September 2020, <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>.



receive so many comments. The overwhelming majority – over 90 percent – of the comments supported retaining 14(c). Almost all the comments were from parents, siblings, and other caregivers for people who participate in the 14(c) program. The common themes expressed by the commenters were:

- My child would be overwhelmed by working in a competitive environment (in some cases, the child had worked in a competitive environment before, or divided her time between a 14(c) employer and competitive employment);
- My child needs more supervision and guidance than is available in a competitive environment;
- My child needs to work with people who understand her emotional or mental difficulties (such as temper tantrums in the middle of the day);
- My child is vulnerable to abuse (i.e. bullying, assault, etc.) outside of the protective environment of a 14(c) workplace;
- My child has many friends at her 14(c) workplace, and would not fit in at a competitive workplace;
- My child understands the difference between a “day” program (essentially daycare for adults) and working, and takes pride in working and earning money. If 14(c) is eliminated, she will no longer be able to take pride in being employed.

For these reasons, we again urge you to veto H.B. 1924. Our statements dissenting from the Commission’s report are appended to this letter. If you have any questions or would like to discuss this issue further, please contact Commissioner Kirsanow’s special assistant, Carissa Mulder, at cmulder@usccr.gov.

Sincerely,

Handwritten signature of Peter Kirsanow in black ink.

Peter Kirsanow
Commissioner

Handwritten signature of Gail Heriot in black ink.

Gail Heriot
Commissioner

Handwritten signature of J. Christian Adams in black ink.

J. Christian Adams
Commissioner