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March 9, 2022

Senator William C. Smith
Chairman, Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

**Re: Maryland Legal Aid's Testimony in Support of Senate Bill 0884
Driver's Licenses – Suspension for Child Support Arrearages –
Exception**

Dear Chairman Smith and committee members:

Thank you for the opportunity to testify in support of Senate Bill 0884, legislation that would limit the Child Support Enforcement Agency's authority to suspend driver's licenses for child support arrears. This letter serves as notice that Stacy Bensky, Esq. will testify in support of SB 0884 on behalf of Maryland Legal Aid at the request of Senator Watson.

Maryland Legal Aid (MLA) is a private, nonprofit law firm that provides free legal services to low-income Maryland residents in many civil matters, including family law. MLA's representation of non-custodial parents, or obligors, who have been ordered to pay child support through the Maryland Child Support Enforcement Agency (the "Agency"), has revealed significant inequities in the automated driver's license suspension system. This system criminalizes poverty and disproportionately affects indigent obligors.

The Agency's authority to suspend driver's licenses for child support arrears comes from 42 USC 666(a)(16), which requires each state to "have in effect laws requiring" the use of certain procedures "to increase the effectiveness of the program." The procedures outlined include everything from genetic testing and establishing paternity to the obligation of the state agencies to review and, if appropriate, adjust support orders every three years, to tax intercepts and income withholding orders, to the authority to withhold or suspend certain licenses.

42 USC 666(a)(16) requires that states must have the authority to suspend or restrict driver's licenses, professional/occupational licenses, and recreational/sporting licenses in appropriate cases. The states are not required to use automated procedures for these license suspensions, and the Agency does not

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04.2021



use automated procedures for professional/occupational or recreational/sporting licenses, but it does use an automated system to suspend driver's licenses.

In compliance with federal law, Maryland law permits the Agency to suspend an obligor's driver's license if the obligor's child support payments are 60 days or more out of compliance. Notably, current Maryland law says explicitly that the Agency may suspend, not that it must. Despite this, the Agency uses an automated lottery system where every obligor with 60 days or more of arrears is automatically in a randomized pool of people who can potentially be selected for license suspension each month.

On its face, the law has already enumerated exceptions that limit the Agency's authority to suspend driver's licenses. For example, it bars the Agency from suspending an obligor's driver's license if the suspension would impede current or potential employment, if the obligor has a documented disability resulting in a verified inability to work, or if the obligor is paying on their arrearage balance per a payment agreement.

In reality, the automated driver's license suspension system is completely unfettered and operates as if the exceptions enumerated above do not exist in the statute. The automated system does not have any mechanism that removes obligors who fit into an enumerated exception from the pool of people who can be randomly selected each month for license suspension. These violations of the statute are particularly egregious for MLA clients with disabilities, as most disabled obligors only accrued arrears because of a disability-connected inability to work. Moreover, many MLA clients' arrears have accrued for years while they attempted to obtain child support modifications pro se, due to difficulties navigating the court process.

MLA routinely assists clients with driver's license reinstatement if they fit into an already enumerated exception in the law. Reinstatement, however, is merely a temporary solution. If the obligor still has an arrearage balance of 60 days or more, they are still in the pool of people who can be selected for license suspension each month and often will receive another license suspension notice a few months later. The automated system's gross lack of due process disproportionately affects low-income and/or disabled MLA clients. Clients living in poverty often have unstable housing and no stable mailing address. Thus, obligors are not notified effectively that their license will be suspended. When these clients discover the issue during a routine traffic stop, they receive a criminal citation for driving on a suspended license. A "driving on a suspended" conviction has devastating consequences, particularly in terms of barriers to employment, as it could potentially lock in previous charges that otherwise would have been expungable.

License suspensions only work as an enforcement action for those with higher incomes who can pay, and the child support agency would still very much have the authority to suspend driver's licenses in those appropriate cases – just as they have the authority to suspend professional/occupational and recreational/sporting licenses in appropriate cases. Not having a driver's license is a massive barrier to employment and makes it harder for obligors to be involved in their children's lives. Suspending driver's licenses of low-income obligors does not increase the program's effectiveness (to increase financial stability for children and families) – as

is required under the controlling federal statute. If implemented correctly, this law will have long-term positive impacts on low-income communities across Maryland. MLA thanks you for the opportunity to provide input and urges the committee to give SB 0884 a favorable report.



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