

BRIAN E. FROSH
Attorney General

WILLIAM D. GRUHN
Chief
Consumer Protection Division

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Fax No.

Writer's Direct Dial No.
(410) 576-6307

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TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: House Bill 349– Small Claims - Examination in Aid of Enforcement - Prohibition on Arrest or Incarceration for Failure to Appear – **Support**

The Office of the Attorney General supports House Bill 349, sponsored by Delegate Moon, which would prohibit a debtor from being incarcerated for failing to respond to discovery in aid of execution of judgment or a court order enforcing that judgment in small claims cases. The use of body attachments to collect civil debt is not only of questionable constitutionality,¹ but it is also an outdated, unfair, and draconian process that hurts people of limited means and has a significant disparate impact upon people of color.

In Maryland, from 2010-2014 more than 130 body attachments—a lien on an individual's body—were issued each month. These arrest warrants were issued at the behest of debt collectors to determine what assets an individual may possess that creditors can garnish to pay the judgment owed. Only a handful of creditors' attorneys still deploy this harmful tool, often to extract assets that desperate, indigent debtors do not have, try to borrow to stay out of jail, or could be claimed as exempt from garnishment.

The Attorney General's Access to Justice Task Force concluded in one of its recommendations for legislative action, this practice can and should end before it harms more Marylanders.² If a low-wage worker is arrested and jailed, they often lose their job, deepening their financial struggles and making it that much harder to repay debts. Accordingly, the Office of the Attorney General respectfully urges the Judiciary Committee to favorably report House Bill 349.

¹ Article III, Section 38 of the Maryland Constitution provides: "No person shall be imprisoned for debt, but a valid decree of a court of competent jurisdiction or agreement approved by decree of said court for the support of a spouse or dependent children, or for the support of an illegitimate child or children, or for alimony (either common law or as defined by statute), shall not constitute a debt within the meaning of this section." MD. CONST. art. III, § 38; *see also Brown v. Brown*, 287 Md. 273, 281-82 (1980).

² *See* MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS 11, 32 (Jan. 2021), https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf.