



**Testimony to the Judiciary Committee
HB 349 – Small Claims – Examination in Aid of Enforcement
Prohibition on Arrest or Incarceration for Failure to Appear
Position: Favorable**

February 9, 2022

Delegate Luke Clippinger, Chair
House Judiciary Committee
Room 101, House Office Building
Annapolis, MD 21401
cc: Members, Judiciary Committee

Honorable Chair Clippinger and Members of the Committee:

The National Association of Consumer Advocates is a nonprofit corporation whose members are private and public sector attorneys, legal services attorneys, law professors, and law students whose primary focus involves the protection and representation of consumers. NACA's mission is to promote justice for all consumers by maintaining a forum for information-sharing among consumer advocates across the country and by serving as a voice for its members and consumers in the ongoing struggle to curb unfair or abusive business practices that affect consumers. In pursuit of this mission, NACA advocates for debt collection protections for consumers and families.

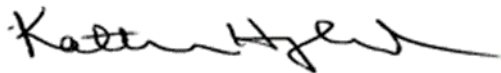
The recent trend in Maryland, on all sides of this issue, is against body attachments. Creditors' attorneys and consumer advocates have been working together to change the law. Creditors' attorneys disfavor body attachments because the orders are not always properly administered, which has caused negative publicity for debt collectors. They further explained that courts have ordered body attachments without any request because judges are limited by procedural options.

I litigate debt collection violations related to post-judgment enforcement issues in small claims matters. Such cases have involved situations where consumers were never served with the underlying district court lawsuits, matters of mistaken identity, and the illegal garnishment of wages and bank accounts by creditors. Restraining human liberty in small claims matters is too great of an unchecked power for an already imperfect system.

For additional consideration, in February of 2020, I met with a group of formerly incarcerated women at the “Life After Release” program in Prince George’s County. Upon arrest, many of these women fell behind in their finances and shared a number of the problems they encountered with small claims courts and civil judgments that fell outside of their control. Alarming, they were re-arrested for body attachments the courts issued for small claims judgments. As a direct consequence of the existing body attachment law, these women then ended up back in prison because subsequent arrests for debts violated the terms of their probation. HB 349 would stop this vicious cycle of incarceration, as well as curtail the many other unintended consequences debtors experience from the disparate impacts of this policy.

It is time to stop the outdated practice of body attachments in Maryland. HB 349 will abolish this practice in small claims matters. For this reason, we strongly urge a favorable report.

Sincerely,



Kathleen P. Hyland, Esq.
Maryland State Chair, NACA