

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 127
Judiciary

(Delegates Moon and Clippinger)

Judicial Proceedings

District Court - Small Claims - Enforcement of Money Judgments

This bill prohibits the District Court, in a small claims action, from (1) ordering the appearance of an individual for an examination in aid of enforcement of a money judgment or (2) ordering an individual to answer interrogatories in aid of execution of a money judgment.

Fiscal Summary

State Effect: While the bill affects operations in the District Court, it is not expected to materially affect State finances or otherwise materially affect State operations, as discussed below.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Small Claims Actions

The District Court has exclusive jurisdiction over a small claim action, which is (1) a civil action for money in which the amount in controversy does not exceed \$5,000, exclusive of interest, costs, and attorney's fees or (2) specified landlord tenant actions (failure to pay rent or tenant holding over) involving up to \$5,000 in rent claimed, exclusive of interest and costs. Pretrial discovery is not permitted in a small claim action. The court must

conduct the trial of a small claim action in an informal manner, and the rules of evidence generally do not apply.

Enforcement of a Judgment – Obtaining Information about the Debtor’s Assets

A creditor who has secured a judgment against a debtor often needs to obtain more information about the debtor’s assets in order to collect on the judgment. A judgment creditor can do this in a variety of ways, including the Judgment Debtor Information Sheet, written interrogatories in aid of execution (up to 15 written questions sent to the debtor about the debtor’s assets and income with responses to be made under oath), or an examination in aid of enforcement of a money judgment (court hearing). The Maryland Rules contain specified provisions regarding procedures for these options.

In general, if the creditor chooses to send the debtor a Judgment Debtor Information Sheet and the debtor does not complete and return the form by the legal deadline, the creditor may obtain information from the debtor through written interrogatories or an in-court examination. A judgment creditor who decides not to use the information sheet may also pursue written interrogatories or an in-court examination.

A judgment creditor may request a show cause order when the judgment debtor has (1) ignored written interrogatories and an order from the judge compelling the defendant’s answers to the interrogatories or (2) failed to appear for an examination ordered by the court. If the judgment debtor fails to appear in court for the show cause hearing, the judge may issue a body attachment (Attachment for Contempt). If the court orders a body attachment but it is not issued on the day of the hearing, the judgment creditor may file a request for a body attachment. Before the court can issue a body attachment, the judgment creditor must provide proof of proper service on the judgment debtor or willful evasion of service by the judgment debtor. If the court issues a body attachment, the judgment debtor is taken into custody by the sheriff’s office and brought before the court to explain the failure to appear.

Under § 6-411 of the Courts and Judicial Proceedings Article, an individual arrested for failure to appear in court to show cause why the individual should not be found in contempt for failure to answer interrogatories or to appear for an examination in aid of enforcement of a money judgment must be taken immediately (1) if the court is in session, before the court that issued the order that resulted in the arrest or (2) if the court is not in session, before a judicial officer of the District Court for a determination of appropriate conditions of release to ensure the individual’s appearance at the next session of the court that issued the order that resulted in the arrest. If a judicial officer determines that the individual should be released on a status other than personal recognizance without any additional conditions, the judicial officer must impose on the individual the least onerous condition or

combination of conditions that will reasonably ensure the appearance of the individual as required.

State Fiscal Effect: While the Judiciary cannot reliably estimate the overall effect on District Court caseloads and workloads, the Judiciary advises that the bill impacts the ways in which civil small claims are enforced. Additionally, District Court forms, brochures, and webpages involving small claims actions need to be altered to reflect the bill’s provisions. These alterations to District Court procedures and operations can be handled with existing budgeted resources. With respect to identical legislation, the Central Collections Unit (CCU) has previously advised that the bill does not affect CCU operations.

The bill limits the methods judgment creditors/plaintiffs in small claims actions may use to obtain information about a judgment debtor/defendant in order to collect on a judgment. Absent information about the judgment debtor’s income or assets, a judgment creditor is unable to file an accurate petition to garnish the judgment debtor’s wages, assets, or property. Thus, judgment creditors may file inaccurate garnishment petitions based on their own knowledge, which may result in garnishments that cannot be completed, delayed collections of judgments, and additional petitions. Also, small claims litigants are often self-represented and may be discouraged from filing petitions to collect on a judgment. **Exhibit 1** contains statistics regarding small claims civil actions in the District Court.

Exhibit 1
District Court Small Claims Civil Actions
Fiscal 2019-2021

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
Small Claims Civil Actions Filed	96,535	105,334	95,071
Small Claims Cases Involving a Request for Interrogatories	1,113	1,798	526
Small Claims Cases Involving an Order to Appear for an Examination in Aid of Enforcement of a Money Judgment	212	133	25
Small Claims Cases – Show Cause Order Issued	1,455	1,514	1,530
Small Claims Cases – Body Attachment Issued	116	78	27

Source: Maryland Judiciary

Local Fiscal Effect: Baltimore City and Caroline, Howard, and Prince George’s counties advise that the bill is not expected to fiscally impact their jurisdictions.

Small Business Effect: The bill limits the ways in which judgment creditors can obtain information to collect on a judgment and judicial recourse if a judgment debtor fails to respond to post-judgment inquiries in a small claims action.

Data is not available on the extent to which small businesses use interrogatories or examinations in order to collect on a judgment in a small claims action. Regardless, the bill may have a meaningful effect on small businesses that are unable to collect on a judgment as a result of the bill's provisions.

Additional Comments: Although the General Assembly passed similar legislation in the 2022 session (Senate Bill 452 and House Bill 349), the Governor vetoed the bills.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 452 and HB 349 of 2022.

Designated Cross File: SB 594 (Senator Smith, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore City; Caroline, Howard, and Prince George's counties; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

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