

SB0402--02.09.21 -- Driver's Licenses - Suspension

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Position: FAV



TESTIMONY PRESENTED TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE

SENATE BILL 402 – Driver's Licenses - Suspension for Child Support Arrearages - Repeal Sponsor: Senator Carter

February 9, 2021

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Support

The Greater Baltimore Committee (GBC) supports Senate Bill 402, which would end Maryland's practice of suspending an individual's driver's license if the licensed driver is delinquent in paying his or her child support. The current practice limits the ability of an impacted individual to maintain steady employment and pay child support.

Studies have found a robust correlation between a lack of legal authority to drive and unemployment/underemployment. The lack of a driver's license makes it difficult to find or keep a job. This is true even when a license is not actually needed to perform the job responsibilities, but is needed to get to the job site and some employers prefer applicants to have a valid driver's license as a proxy for reliability and responsibility. For example, a study of New Jersey drivers found that 42 percent of individuals whose licenses had been suspended lost their jobs within six months after the license suspension, and nearly half were unable to obtain new employment during the period of suspension. Research also shows that suspending driver's licenses for non-driving related violations disproportionately impacts low income and minority drivers.

The American Association of Motor Vehicle Administrators recommended in 2013 that states repeal laws requiring suspensions for non-highway safety-related violations. In addition, in 2016 the U.S. Department of Justice outlined policy guidance related to enforcement of court fines and fees, encouraging state and local courts to "avoid suspending driver's licenses as a debt collection tool," and instead reserve it only for cases that would "increase public safety."

This bill directly aligns with the GBC's *2021 Legislative Priorities*, which call for the support of modifications to child support enforcement and driver's license suspension to lessen barriers to workforce participation.

For these reasons, the Greater Baltimore Committee urges a favorable report on Senate Bill 402.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 66-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

GREATER BALTIMORE COMMITTEE

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MAP - SB 402 - CS Driver License - Support.pdf

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Position: FAV



TESTIMONY IN SUPPORT OF SB 402

Driver's Licenses – Suspension for Child Support Arrearages - Repeal

Senate Judicial Proceedings Committee

February 9, 2021

Submitted by Stacey Jefferson and Julia Gross, Co-Chairs

Member Agencies:

Advocates for Children and Youth
Baltimore Jewish Council
Behavioral Health System Baltimore
CASH Campaign of Maryland
Catholic Charities
Episcopal Diocese of Maryland
Family League of Baltimore
Fuel Fund of Maryland
Health Care for the Homeless
Homeless Persons
Representation Project
Job Opportunities Task Force
League of Women Voters of Maryland
Loyola University Maryland
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Maryland Community Action
Partnership
Maryland Family Network
Maryland Hunger Solutions
Paul's Place
Public Justice Center
St. Vincent de Paul of Baltimore
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Marylanders Against Poverty

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Marylanders Against Poverty (MAP) supports SB 402, which removes the requirement for the Motor Vehicle Administration (MVA) to suspend an individual's driver's license for having child support arrearages, and repeals the process for the Child Support Administration to notify the MVA of an individual's child support arrearages.

Lack of reliable transportation is a significant barrier to obtaining employment in Maryland. Nationally, Maryland ranks 2nd behind New York in the longest commute to work, as Marylanders spend an average of 33.7 minutes commuting to their job.¹ Workers in Maryland need a car to access employment opportunities and to support their families. Particularly in the pandemic, many low-income Marylanders are supplementing their household income in the "gig economy" by using their vehicle to deliver food and drive for app-based rideshares. Moreover, the higher paid jobs in low-wage professions – like managers of retail and food establishments – require their staff to have valid driver's license for employment. Thus, any provision that jeopardizes reliable transportation in our programs disproportionately harms low-income workers and ultimately creates further economic hardship.

Suspending driver's licenses of low-income obligors exacerbates their struggle to obtain a steady income and support their family. Currently, Maryland law revokes or suspends the license of child support obligors who are 60 days out of compliance for a non-commercial license and 120 days for a commercial license. This law creates an immediate obstacle for low-wage workers who struggle to comply with their child support orders. Suspension of a noncustodial parent's license sets up a vicious cycle, often making it harder for the parent to make their child support payments than before they lost their license.² Although Maryland law does provide an opportunity for the noncustodial parent to request a pre-suspension investigation on the grounds that they have a hardship, the burden is on the noncustodial parent to prove they deserve to keep their license due to hardship, and they often have difficulty qualifying.

Removing the current enforcement policies for driver license suspensions for child support arrearages is better for children, and better for our communities. When parents are able to maintain employment – and have options to seek out higher wage jobs – children are more likely to receive support payments. In addition, by maintaining transportation, noncustodial parents can build meaningful parent-child relationships and uphold their familial responsibilities. By eliminating barriers to transportation and employment, SB 402 will create economic stability not only for low-income Marylanders struggling to make child support payments, but also for their families.

MAP appreciates your consideration and strongly urges a favorable report on SB 402.

Marylanders Against Poverty (MAP) is a coalition of service providers, faith communities, and advocacy organizations advancing statewide public policies and programs necessary to alleviate the burdens faced by Marylanders living in or near poverty, and to address the underlying systemic causes of poverty.

¹ US Census. American Community Survey. 2019 ACS 1-year estimates. Commuting Characteristics. <https://data.census.gov/cedsci/table?q=S0801&g=0400000US24&tid=ACST1Y2019.S0801&hidePreview=true>

² Abell Foundation. 2019. *Reforming Child Support to Improve Outcomes for Children and families.* <https://files.eric.ed.gov/fulltext/ED596117.pdf>

SB 402.PDF

Uploaded by: Legal Aid, Maryland

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
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01.2021



LSC



February 5, 2021

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

**Re: Maryland Legal Aid's Testimony in Support of Senate Bill 0402
Driver's Licenses – Suspension for Child Support Arrearages –
Repeal**

Dear Chairman Smith, Senator Carter and committee members:

Thank you for the opportunity to testify in support of Senate Bill 0402, legislation that would repeal 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 SB402 on behalf of Maryland Legal Aid at Senator Carter's request.

Maryland Legal Aid (MLA) is a private, nonprofit law firm that provides free legal services to indigent Maryland residents in a wide array of civil matters, including family law. In October 2018, MLA began accepting child support cases for full representation. The majority of MLA child support clients are non-custodial parents, or obligors, who are ordered to pay child support through the Child Support Enforcement Agency ("the Agency"). MLA's representation of these clients has revealed inequities in the child support enforcement system and, in particular, the automated driver's license suspension system, which criminalizes poverty and disproportionately affects indigent obligors. MLA supports SB 0402 and asks this committee give it a favorable report.

MD Code Family Law 10-119 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. However, that authority is limited. 10-119 bars the Agency from referring obligors to the MVA for driver's license suspension if they have a documented disability resulting in a verified inability to work. Despite this, MLA clients who have verified disabilities, and who receive disability benefits as a sole form of income, are routinely referred to the MVA for license suspension. 10-119 also bars the Agency from referring obligors for license suspension if the client is in compliance with a payment agreement. Yet MLA clients paying in accordance

with such agreements through earnings withholding order (EWO) every month are routinely referred to the MVA for license suspension.

These MVA suspension referrals occur because the Agency's driver's license suspension system is automatic and random. Thus, any obligor with 60 days or more of arrears is automatically in the randomized pool of people who can potentially be referred to the MVA for license suspension. The automatic driver's license suspension referrals routinely violate the enumerated exceptions in the statute

These suspension referrals 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 due to difficulties navigating the court process to obtain disability related modifications of their child support orders.

Randomized and erroneous license suspension referral also has a particularly adverse effect on older adults. Many MLA clients are senior citizens, with now adult children, but child support arrears are still owed to the State of Maryland to repay the State for public assistance from when the children were young. MLA's older adult clients are on limited and fixed incomes and pay on these arrears each month through earnings withholding orders. The proposed legislation will correct erroneous license suspension referrals for these older adult clients living on a fixed income and paying arrears via such withholding orders.

Once an erroneously suspended license is reinstated, that is merely a temporary solution. If the obligor still has 60 days or more worth of arrears then the client is still in the pool of people who can be referred for license suspension, and often will receive another license suspension notice a few months later.

Moreover, clients living in poverty often have unstable housing and no stable mailing address. Thus, obligors are not notified effectively that their license is going to be suspended. When these clients then 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 this charge is not expungeable in Maryland, despite being a misdemeanor. A non expungeable charge locks in any previous charges that otherwise would have been expungeable.

Driver's license suspensions for child support arrears disproportionately have adverse and life altering impacts for those living in poverty. SB 0402 will limit these negative effects and increase equity for MLA clients.

MLA supports SB 0402, a repeal of the statutes that authorize driver's license suspensions for child support arrears, will have long term positive impacts on marginalized communities – not only on obligors, but their children, families, and low income communities across Maryland. MLA thanks you for the opportunity to provide input and urges the committee to give SB 0402 a favorable report.

/s/ Stacy Bensky

Stacy Bensky, Esq.

Staff Attorney, Maryland Legal Aid

410-951-7755 (Office Phone)

sbensky@mdlab.org

SB 402 Driver's Licenses - Suspension for Child Su

Uploaded by: McKinney, Robin

Position: FAV



SB 402 Driver's Licenses - Suspension for Child Support Arrearages - Repeal
Judicial Proceedings
February 9, 2021
Support

Chairman Smith, Vice-Chair and members of the committee, thank you for the opportunity to provide testimony in support of Senate Bill 402. This bill repeals the law that requires the Department of Motor Vehicles to suspend an individual driver's license due to arrearage of child support and will allow a parent access to the most common type of transportation in order to travel to work and earn money for support.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

The major flaw of the current systematic suspension of driver's licenses for failure to pay child support is the assumption that the individual is willfully avoiding their duty to provide means for a child's wellbeing. The current law does not account for an individual's ability to pay. About 9% of the population in Maryland live below the federal poverty level and an additional 30% are income constrained and do not have sufficient funds to consistently make ends meet.¹ While the intent of license suspension appears to be to enforce support payments, the true consequences disproportionately fall on disadvantaged communities of color and create a complicated web of barriers that result in a further inability to pay support.² These workers must choose to either keep working without a reliable means of transportation and risk the high probability of job loss or continue to drive and maintain employment, but risk additional fines and fees and perhaps a downward spiral into the criminal justice system if caught. In either case, the result is often reduced income and ultimately less resources for the child.

The economic consequences of the current pandemic will likely increase the number of parents struggling to make child support payments. Furthermore, the current penalty of revoking a driver's license for delinquent child support will only further exacerbate the problem by impeding the efforts of cash strapped noncustodial parents and slow recovery for the whole family.

For these reasons, we encourage you to return a favorable report on SB 402.

¹ <https://www.unitedforalice.org/state-overview/maryland>

² <https://www.acslaw.org/issue/brief/briefs-landing/discriminatory-drivers-license-suspension-schemes/>

TESTIMONY IN SUPPORT OF SENATE BILL 402_.pdf

Uploaded by: Dews, Christopher

Position: FWA



Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 402:

Driver's Licenses - Suspension for Child Support Arrearages - Repeal

TO: Hon. William Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Christopher Dews, Policy Advocate

DATE: February 9, 2021

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. JOTF supports Senate Bill 402 as means a of repealing the punitive practice of driver's license suspensions for lower-income obligors.

Mobility is key in Maryland's regional economy. The Census Bureau reported that more than 50% of Marylanders travel outside of their county for employment. This statistic is more pronounced for lower-income communities of color where there is a scarcity of jobs available by public transit. In fact, only 9% of jobs in the Baltimore region can be reached within one hour, one-way by public transit. Thus for economic sustainability, both a valid driver's license and a vehicle are necessary.

In 2015, NPR reported that 62% of Marylanders who owe child support make less than minimum wage, but owe at least \$10,000 in unpaid arrearages. Maryland Code Ann., Fam. Law § 10-119 states that upon 60 days of nonpayment of child support an obligor shall have their license or privilege to drive suspended. Beyond this, Maryland Code Ann., Transportation §16-303 states that driving on an invalid license (suspended, canceled, or revoked) in Maryland is a crime punishable by up to (1) one year in jail, a \$1000 fine, or both. As such, child support debt triggers a suspended driver's license, arrest, or incarceration, further complicating the ability of low-wage workers to secure and maintain employment.

Although African Americans make up 31.1% of Maryland's population, MDOT data suggests that they made up to 71% of the license suspensions between 2015 - 2020. There is no evidence that suggests that suspending an individual's driver's license improves the collection of arrears for persons making less than 300% of the Federal Poverty Level (FPL) or \$39k annually. However, Maryland continues the practice of suspending lower-income obligors in supposed compliance with federal law.

Federal Code 42 U.S.C.A. § 666 (a) demands that all U.S. States have laws that "increase the effectiveness of the [child support enforcement] program which the state administers" and allows the State to withhold, suspend, or restrict licenses of individuals owing child support in "in appropriate cases" (16). If Maryland does not have a suspension program for those who are outside of compliance, they risk losing access to federal funds.

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Driver's license suspensions for workers who make less than \$39k annually cannot be considered "appropriate" or increasing "effectiveness" as it (1) wastes taxpayer dollars in collections enforcement, (2) prohibits and eliminates access to employment for workers and job seekers, and (3) heightens tensions between the custodial parties and, in turn, decreases compliance rates. As such, Maryland should allow for the repeal of driver's license suspensions for obligors who make less than \$39k per year (300% FPL).

If Maryland truly wants to stay in compliance with federal statutes regarding child support enforcement, the most effective way to accomplish this would be to ensure that all non-custodial parents have the financial standing to remain in compliance with their obligation. Suspending licenses for lower-income obligors runs counter to the purposes of increasing child support compliance. For these reasons and more, we urge a favorable report with amendments on Senate Bill 402.

2021-02-09 SB 402 (Support with Amendment).pdf

Uploaded by: Jung, Roy

Position: FWA

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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

February 9, 2021

TO: The Honorable William C. Smith, Jr.
Chair, Judiciary Committee

FROM: The Office of the Attorney General

RE: SB 402 Driver's Licenses – Suspension for Child Support Arrearages – Repeal –
Support with Amendments

The Office of Attorney General supports curbing the Child Support Administration's ability to cause the Motor Vehicle Administration to suspend an individual's driver's license for child support arrearages whenever the arrearages are caused by an individual's indigency.

Concerns have been raised about repealing altogether the authority to suspend drivers' licenses based upon child support arrearages. Passage of a full repeal, as SB 402 was introduced, would arguably place the State in violation of federal law because 42 U.S.C. § 666(a)(16) requires states to have a program to suspend the drivers' licenses of delinquent child support obligors. This violation could subject the Child Support Administration to a complete loss of its substantial federal funding and would also eliminate one of its enforcement tools. Therefore, our Office supports passage of a modified bill that eliminates this authority for individuals who earn less than 300 percent of the federal poverty level.

In short, we support amending SB 402 (HB 580) to require some sort of means-testing before automatically suspending the driver's license of every parent who falls behind on child support. With that change, our Office would unequivocally support a favorable report on SB 402.

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cc: Members of the Committee

LDDC_Child_Support_Memo_SB402_final.pdf

Uploaded by: Shi, Zhongyang

Position: FWA

MEMORANDUM

To: The Honorable William C. Smith Jr.
Chair, Senate Judicial Proceedings Committee

From: The University of Baltimore School of Law Legal Data and Design Clinic

Date: February 5, 2020

Re: SB 402 Driver's Licenses – Suspension for Child Support Arrearages – Repeal
(FAVORABLE-WITH AMENDMENTS)

I. INTRODUCTION

The University of Baltimore School of Law Legal Data and Design Clinic (LDDC) submits the following written testimony in favor of SB402 with amendments. Though complete repeal of driver's license suspensions for child support arrearages (DLS-CSA) is unnecessary and could risk federal funding, current DLS-CSA practice desperately needs reform. As our analysis shows, current DLS-CSA law exacerbates racial inequality and cycles of poverty.

Our conclusions derive from 2015-2020 DLS-CSA data (disaggregated by race and zip code) provided by the Maryland Department of Transportation (MDOT) and the Office of the Attorney General (OAG). We also incorporated public census data on race and poverty levels in Maryland counties into our analysis. Our major conclusions are:

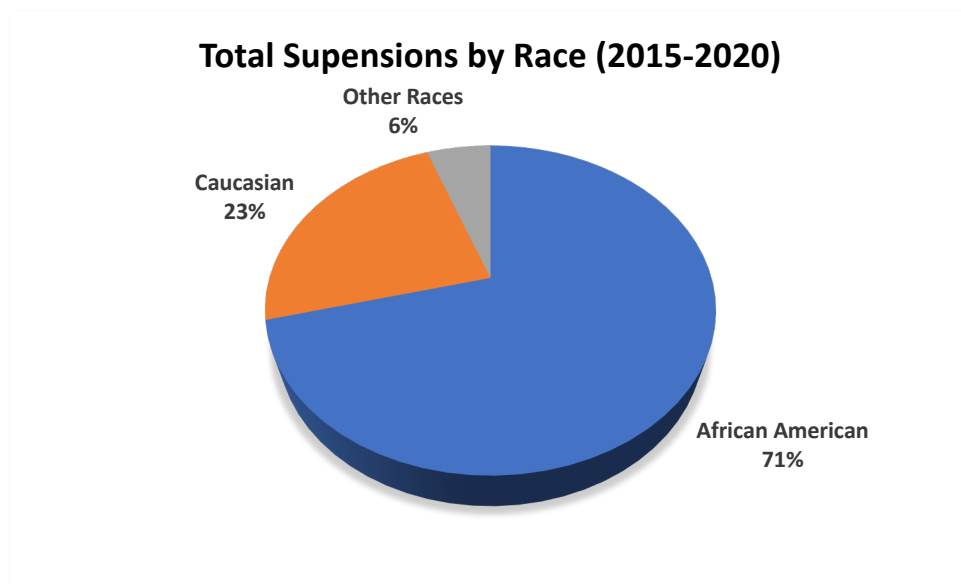
- On average, African American residents are almost 5 times more likely to experience license suspension than their Caucasian counterparts.
- In areas with poverty rates lower than the state average, an average of 9.3 African Americans received license suspensions, a rate 3 times higher than Caucasian residents within similar areas.
- Unlike drivers of other races, African Americans were the only racial group to experience substantially higher license suspensions in both counties that had lower and higher poverty rates than the state of Maryland's poverty average.

II. DISCUSSION

At the outset, it bears emphasis that the fundamental logic of DLS-CSA is flawed. No correlation exists between one's ability to drive competently and one's ability to pay child support. Suspension is thus a punitive measure wholly unrelated to safety on Maryland's roads and highways. Even worse, DLS-CSA actually makes it more difficult for people who owe child support to meet their obligations. This is because many Marylanders drive to work. Taking away the ability to drive thus deprives these Marylanders of the ability to make money. Given the absence of an adequate public transportation infrastructure, DLS-CSA risks contributing to a vicious cycle wherein a person goes deeper and deeper into debt because he has been deprived of a key means to make money to pay back that very debt.

With this context in mind, we turn to the problem of DLS-CSA seen through the lenses of race and poverty.

(a) RACIAL DISPARITIES IN DLS-CSA



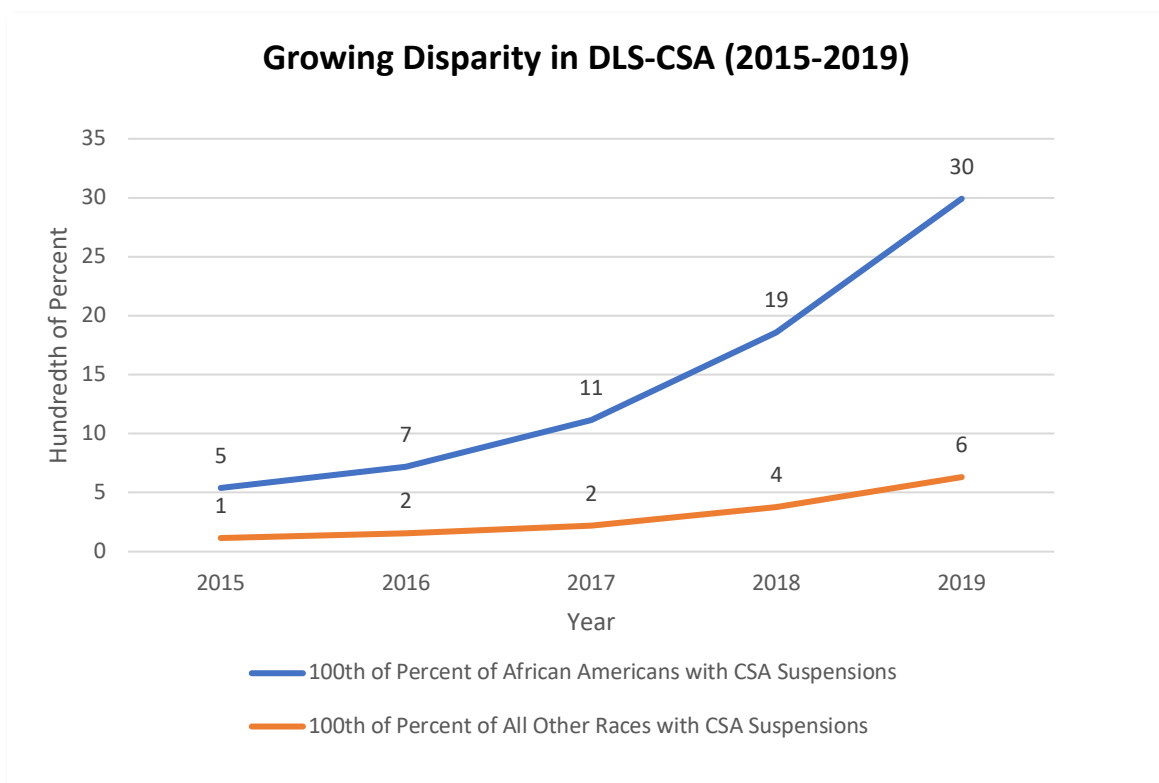
Although African Americans constituted 31.1% of Maryland's population in 2019, MDOT data shows that 71% of suspensions between 2015 and 2020 were of African Americans. By contrast, Caucasians constitute 58.5% of the population but only 24% of suspensions. The fact that approximately 3 times more African Americans than Caucasians suffered DLS-CSA shows the disproportionate impact.

License Suspensions for Child Support Non-Compliance as of 11/10/2020

RACE	Calendar Year						Grand Total
	2015	2016	2017	2018	2019	2020	
AFRICAN AMERICAN	987	1,321	2,073	3,475	5,621	5,465	18,942
CAUCASIAN	374	486	735	1,214	2,068	1,417	6,294
ASIAN	11	9	11	16	33	25	105
AMERICAN INDIAN	6	6	3	22	31	16	84
OTHER	69	113	140	245	384	339	1,290
NULL	1	1	2	3	5	4	16
TOTAL	1,448	1,936	2,964	4,975	8,142	7,266	26,731

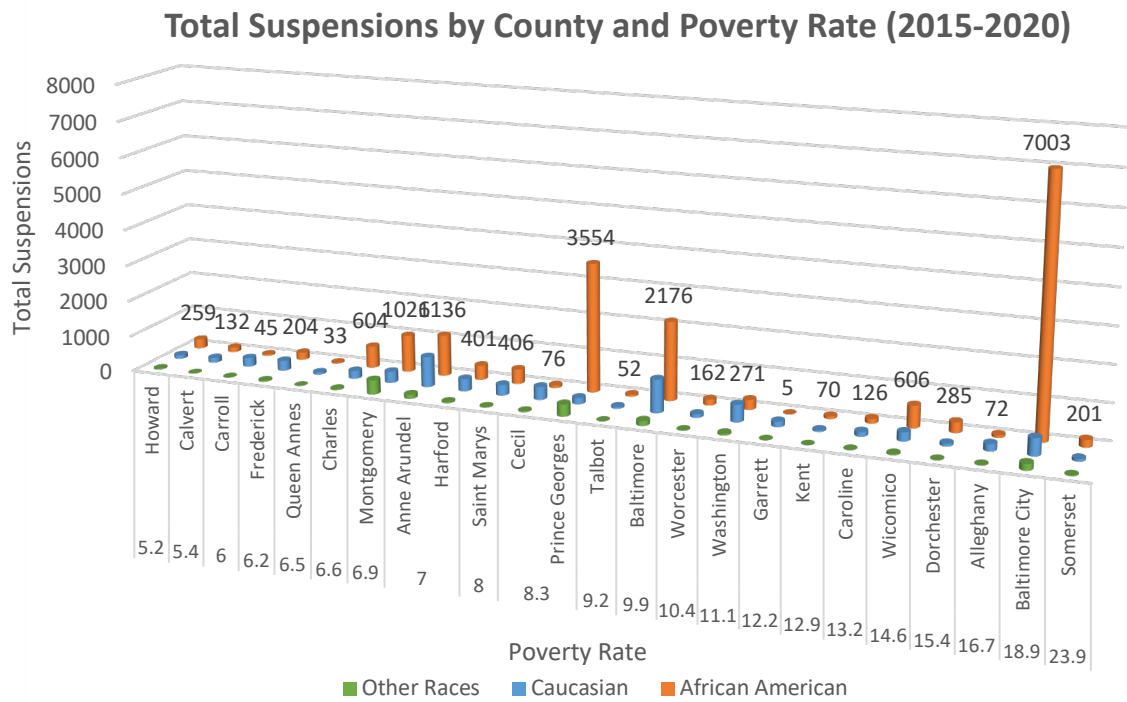
Figure 1 – Maryland Department of Transportation, Office of Data Management

This disparate impact has worsened over time. The chart below shows the percentage of all African Americans versus other races suffering DLS-CSA (Note: the chart show hundredths of one percent). The gap is clearly increasing. The estimated total population of 2020 was unavailable and therefore this analysis is conducted over the period of 2015 to 2019. By 2019, African Americans were 5 times more likely to have a CSA suspension than other races.



(b) POVERTY AND DLS-CSA

Our analysis shows that DLS-CSA disproportionately affects the poorest Marylanders. Using disaggregated zip code provided by the MDOT, this can be easily visualized. The columns in the graphic below shows the total numbers of suspensions in each county by race. Counties are arranged by poverty rate: the counties with the lowest poverty rates are on the left of the graphic while the counties with the highest rates are on the right.



The picture painted is clear. Citizens of poorer counties suffer more. In 2018, the state of Maryland's poverty rate was 9.1%. Twelve (12) counties experienced poverty at high levels than the state poverty rate while 11 experienced lower poverty rates. Residents in counties with poverty rates higher than the 9.1% state rate were more likely to experience license suspension. However, African Americans received substantially higher numbers of license suspensions in counties on either side of the state rate. In counties with higher poverty rates, African Americans received an average of 24.3 license suspensions, a stark contrast from the average of 5.4 suspensions for Caucasian residents. In counties with lower poverty rates, there was an average of 9.3 suspensions for African Americans and 3.9 for Caucasians. Overall, on average, African American residents are almost 5 times more likely to experience license suspension than their Caucasian counterparts.

Average of Total Suspensions by Race and Poverty Level

Poverty Rate (2018)	African American	Caucasian	Other Races
Higher (above state rate)	24.3	5.4	2.0
Lower (below state rate)	9.3	3.9	2.2

III. CONCLUSION

Because DLS-CSA has obvious race and poverty impacts, the LDDC favors SB 402 with amendments. In light of the inequalities exacerbated by current practice, the LDDC recommends the ending automatic suspension of driver's licenses as a CSA penalty.

Sincerely,
 Colin Starger, LDDC Supervising Attorney
 Kenbrielle Ard, LDDC Rule 19 Student Attorney
 Kala Fryman, LDDC Rule 19 Student Attorney
 Zhongyang Shi, LDDC Rule 19 Student Attorney
 Ché Star, LDDC Rule 19 Student Attorney

cc: Members of the Senate Judicial Proceedings Committee

MD Judiciary - Testimony SB 402.pdf

Uploaded by: Elalamy, Sara

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 402
Driver's Licenses – Suspension for Child Support Arrearages -
Repeal
DATE: January 27, 2021
(2/9)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 402. This bill repeals the process under which the Child Support Administration is authorized to notify the Motor Vehicle Administration of an individual's child support arrearages for the purpose of suspending the individual's driver's license or privilege to drive.

The Judiciary is concerned that enactment of this legislation may affect Maryland's receipt of federal child support funds under Title IV-D of the Social Security Act, 42 USC § 651 *et seq.* Section 666(a)(16) of the act requires each state to have in effect laws requiring the use of certain procedures, including "[p]rocedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses . . . of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings."

The act also permits states to seek an exemption for these and other requirements. If this bill is enacted and an exemption is not received, the Judiciary could lose Title IV-D funds, which covers approximately 65% of the salary and benefits for magistrates and clerks who work on Title IV-D child support cases. In FY 20, the Judiciary received \$4,821,749 in Title IV-D funds.

Further, this bill would remove a vital tool used by the courts to require compliance with child support orders. In addition, it is unnecessary as current law provides the courts as well as the individual bureaus of support enforcement wide discretion in reinstating a person's driving privileges.

cc. Hon. Jill Carter
Judicial Council

Legislative Committee
Kelley O'Connor

SB 402 - Driver's Licenses - Suspensions for Child

Uploaded by: Fleming, Rebecca

Position: UNF

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Rebecca A. Fleming, Esquire

Date: February 5, 2021

Subject: **Senate Bill 402:**
Driver's Licenses – Suspension for Child Support Arrearages – Repeal

Position: **OPPOSE**

The Maryland State Bar Association (MSBA) FJLSC opposes Senate Bill 402 – Driver's Licenses – Suspension for Child Support Arrearages – Repeal.

This testimony is submitted on behalf of the Family and Juvenile Law Section Council ("FJLSC") of the Maryland State Bar Association ("MSBA"). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

Currently, Maryland Law Family Law Article § 10-119 provides for the suspension or the restriction of a person's driver's license if that person owes child support arrears and the child support obligation is subject to enforcement through the Office of Child Support Enforcement. The current law provides for suspension, the issuance of a work-restricted license, or work restricted privilege to drive. It also requires that the obligor shall receive written notice of the intended suspension, and provides the obligor with an opportunity to request an investigation prior to the suspension. The obligor may submit an objection on the basis of an inaccuracy in the stated arrearage. He or she may also oppose the suspension based upon the impact the suspension would have on his or her ability to obtain or maintain employment, or based upon an undue hardship that would be placed on him or her.

The FJLSC does not believe that the current law should be repealed. The Child Support Enforcement Administration has very few tools by which it can enforce child support orders. The

ability to suspend the license of an obligor who is not paying anything in support of their child or children, is one of the only enforcement tools that is available. The difficulties in enforcing child support orders is felt throughout the state, in every jurisdiction. Court orders are routinely ignored by obligors leaving single parents shouldering the burden on their own, and leaving children without the support that they are entitled to.

Further, most Offices of Child Support Enforcement will not suspend an obligor's license if the obligor is making the most minimal payments toward the obligation. At times, it is easy for an obligor to avoid having his or her license suspended. In some cases, payment of even a small fraction of the obligation will prevent a license from being suspended. That, in and of itself, is a travesty. To see an obligor pay ten dollars per month, for example, and avoid any repercussion for failing is offensive to the FJLSC, a board comprised of attorneys who believe that children should receive the support that they are entitled to.

The FJLSC is aware that there is an argument that this law adversely affects low income parents who are not able to pay the support that has been ordered. The law is clear that the support should be established based upon the incomes of the parties, and if there is a change in the income levels of either parent, the child support can, and should, be modified. In addition, there are mechanisms within the current law that should prevent a person who truly should not have his or her license suspended from being subject to that penalty. If the current law does adversely affect low income parents, then that specific issue should be addressed in another manner, possibly by amending the current law. There must be a better solution that would protect low income obligors from being overburdened with an inappropriate support amount, or having their licenses inappropriately suspended. Repealing Family Law Article § 10-119, is not that solution. Repealing Family Law Article § 10-119 would only serve to make it that much easier for parents who *can* meet their obligation to simply refuse to do so. It is already difficult enough to enforce child support orders. If the few enforcement mechanisms that exist are eliminated, the State might as well tell obligors that they may pay support, if they so choose. Obligor who *can* pay their support must know that there is a consequence for their failure to do so.

In an effort to ensure that children receive the support that they are entitled to, the FJLSC urges the Senate Judiciary Committee to issue an unfavorable report on SB 402.

Should you have any questions, please contact Rebecca A. Fleming, Esquire by e-mail at rfleming@tnsfamilylaw.com or by telephone at (410) 339-4100.

SB402_DHS_Oppose.pdf

Uploaded by: Graziano, Lauren

Position: UNF

DATE: February 9, 2021
BILL NUMBER: SB 402
COMMITTEE: Judicial Proceedings
BILL TITLE: Driver's Licenses - Suspension for Child Support Arrearages - Repeal
DHS POSITION: Oppose

The Department of Human Services (the Department) respectfully submits this letter of opposition regarding Senate Bill 402 (SB402). SB402 would repeal the ability of the Child Support Administration (CSA) to suspend driver's licenses as an enforcement tool for child support payment to the detriment of Maryland's children served by both CSA and the Department.

Driver's license suspension for obligors in arrears is federally required for Maryland to comply with Section 466(a)(16) of the Social Security Act. Historically certain laws and procedures have measurably increased the efficiency and effectiveness of states' enforcement programs, including driver's licenses suspension. Nearly ten percent of Maryland's child support collections each year are the result of referrals to the Driver's License Suspension program. In 2019, over \$50 million was collected for Maryland's children through referrals to the program.

Moreover, passage of SB402 puts federal funding for the child support program at risk. Without the statutory authority to suspend driver's licenses, Maryland's State Plan would be noncompliant with federal law. CSA receives 66% of its financial support from the federal government. In order to qualify for that funding, Congress has required states to implement particular laws and procedures necessary for the success of those state programs. As such, CSA is required to have an approved Child Support State Plan in order to receive federal funding under title IV-D. This plan is subject to 42 U.S.C. § 666(a)(16) which dictates that a state must have laws allowing for the "withhold[ing], suspens[i]on or [the right] to restrict the use of driver's licenses." A non compliant state plan will result in immediate suspension of all federal payments for the state's child support programming. Currently, the entire federal grant for Maryland's IV-D program, including incentive payments, totals \$91.2 million..

In addition, section 402(a)(2) of the Social Security Act requires operation of a child support program under an approved IV-D plan as a condition for eligibility for a Temporary Assistance for Needy Families (TANF) block grant under title IV-A of the Act. Repealing the process for driver's license suspension due to failure to pay child support may threaten Maryland's receipt of our TANF block grant. Maryland's TANF block grant totals about \$228.3 million and the TANF contingency funding amounts to \$27.2 million, which is also at stake with the passage of this legislation. In total, Maryland stands to potentially lose a total of \$346.7 million in federal funds with the passage of Senate Bill 402.

While proponents of the bill may express concern that driver's suspension due to failure to pay child support would perpetuate arrearages by hindering an obligor's ability to travel to their place of employment, the Department would like to remind the Committee that if an obligor shows undue hardship (such as potential loss of employment), there is a process in place to stop the referral to the Motor Vehicles Administration (MVA) or reinstate the license to have the suspension removed; as well as to enter into a payment plan with the local child support office. Additionally, the obligor is provided

advance notice allowing 30 days to contest prior to CSA referring the suspension to MVA as well as an additional 30 days to contest before the license is suspended.

For these reasons, the Maryland Department of Human Services respectfully requests that the Committee return an unfavorable report for SB 402.