

Testimony in Support of Senate Bill 657

Small Claims – Examination in Aid of Enforcement – Prohibition on Arrest or Incarceration for Failure to Appear

Before the Judiciary Proceedings Committee: March 3, 2021

House Bill 848 Prohibits an individual from being arrested or incarcerated for failure to respond to certain orders to appear in court relating to an examination in aid of enforcement of a money judgment entered in a small claim action in the District Court; providing for the application of this Act; and generally relating to enforcement of certain money judgments.

My name is Jeffrey Abney and I am a third year law student at the University of Maryland-Carey Law School.

During the last year, our Consumer Protection Clinic conducted a study about judgment creditors' use of body attachments in civil debt cases in Maryland. Our findings include the following:

- From January 2015 until December 2020 at the request of judgment creditors, Maryland judges issued at least 765 body attachments to enforce civil judgments against debtors.
- The average judgment in these cases was \$5,069. \$6,000 of a judgment debtors' cash or property are exempt from execution on a judgment. Meaning, on average, the amount of the exemption exceeded the amount of the judgment.
- These Judgment creditors disproportionately use body attachments against people of color, after zip code analysis. The top five zip codes out of the cases we studied were populated with 81.24% persons of color. The top twenty zip codes were populated with 81.32% persons of color.
- The top five zip codes with these case also fall well below the state median income level of \$83,242, with an aggregated medium income of \$49,023.

Most creditors in the State use wage garnishments or property liens as the debt collection methods of choice.

- The business type of these creditors that most commonly use body attachments, in descending order of frequency, are finance companies, municipalities, realty companies, credit unions, and homeowner associations. You can go to jail for failure to pay fines for not cutting your grass on time.
- Just four attorneys are responsible for over 25% of the body attachments in the State.
- Those municipalities that used body attachments, in descending order of frequency, were Prince George's County (35), Anne Arundel County (11), and Montgomery, Harford, and Howard Counties (each once or twice).
- Arrests on body attachment warrants can occur soon after the issuance of the warrant, or come months or even years later. During these periods of time the person is subject to arrest, most without notice.

Under Maryland Code, Courts and Proceedings Article §§ 11-504 & 11-505, judgment debtors are entitled to an exemption of \$6,000 of their cash or property. They must, however, affirmatively assert this exemption, which many do not have the ability to do effectively by themselves.

There are non-wage sources of funds that automatically are protected from garnishment, including public assistance benefits, workers compensation, supplemental security income, social security benefits, state police pensions, life insurance or annuity proceeds, unemployment insurance benefits, veterans' benefits, and retirement benefits.

Conclusion

In sum, our study shows that judgment creditors are using body attachments against significant numbers of judgment debtors, most of whom are disproportionately lower-income people of color. Many of these judgment debtors either have no assets or have statutorily protected assets, and are still arrested and jailed or made subject to arrests for indefinite periods of time.

I strongly urge the adoption of SB 657.

This testimony is submitted on behalf of the Consumer Protection Law Clinic at the University of Maryland Carey School of Law and not by the School of Law or the University of Maryland system.