

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 657
Small Claims – Examination in Aid of Enforcement – Prohibition
on Arrest or Incarceration for Failure to Appear
DATE: February 3, 2021
(3/3)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 657. This bill would prohibit the arrest or incarceration of any individual for a failure to respond to an order to appear in court for enforcement of a money judgment or to show cause for contempt in a small claims action in District Court.

The Judiciary agrees that there should be a uniform procedure to enforce District Court orders in small claims actions. However, the method contemplated in Senate Bill 657 effectively eliminates the ability of the court to enforce its orders. By not allowing the arrest of an individual for failure to respond to a court order, that individual is essentially free to disregard the orders of the court, with no repercussion. This bill would conceivably result in more persons failing to appear after a money judgment is entered against them in a small claims action. If an individual knows that they cannot be arrested and brought to court to enforce the judgment, there is no incentive to appear. Further, there is no consequence for that failure to appear if the person cannot be forcibly brought to court to show cause why the individual should not be held in contempt.

cc. Hon. Bill Ferguson
Judicial Council
Legislative Committee
Kelley O'Connor