



End Debtors' Prisons: Vote YES on HB 349/SB 452

The Issue

Maryland's Constitution says that "no person shall be imprisoned for debt" and 80 years of state case law makes clear that an individual should not be jailed for a consumer debt.

Yet, in Maryland, from 2010-2014 more than 130 body attachments -a lien on an individual's body-were issued each month. These arrest warrants were issued at the behest of debt collectors to determine what assets an individual may possess that plaintiffs can garnish to pay the judgment owed.

In 2020, in the midst of the COVID-19 pandemic, a Montgomery County woman was arrested and briefly jailed over a dispute with her homeowners association, despite the fact that she never received notice of the court date that she missed.

Between 2015 and 2017, Prince George's County filed for 41 body attachments in cases where the defendant owed as little as \$329. One Prince George's County resident was arrested and jailed overnight and arrested two more times even though all of his income is protected from garnishment by law.

Past Legislative Action

In 2013, the General Assembly passed legislation¹ that limited this practice in two ways:

- People arrested must be taken to a) the court that issued the body attachment, if it is in session, or b) to a judicial officer of the District Court (most likely a District Court Commissioner) if the court itself is not in session.
- If the court (or judicial officer) does not release the arrested person on their own recognizance without any conditions, the conditions must be the least onerous to ensure the person's attendance at the next hearing.

Despite recent changes to the law, problems remain. MCRC's research shows that body attachments and arrests continue, and at times, individuals are jailed over a weekend if they are arrested on a Friday and cannot see a court commissioner.

Creditors and consumer advocates agree that the law is unevenly followed and creates more confusion than clarity.

Problems with Current Law :

- **It's unnecessary. Creditors and consumer advocates agree**-these attachments are a remnant of

¹ 1 Chapter 622 of 2012, codified at Md. Code, Cts & Jud. Proc. 6-411



another era. Creditors can obtain the information they need on assets through modern technology and do not need to use body attachments to obtain information.

- **Creates a 2 tier-system of justice.** Despite efforts to prohibit setting a bond for release, we are still seeing bail or bond set -this creates a system where those who can afford to pay a bail or bond do not go to jail, while those who can't afford to pay remain in jail.
- **Criminalizes poverty.** Creates a vicious cycle of poverty where debt collection attorneys use the court system to help them collect debts – including debts that may legally not be able to be collected upon. For example, our research found that several individuals arrested and jailed had income that was legally protected from garnishment-yet they were arrested multiple times for a debt to a municipality.
- **It serves no constructive purpose.** Jailing someone for a debt serves no constructive purpose: the individual is not violent, nor are they a danger to the community. The individual could however experience real harm due to a body attachment, including losing their job if they are incarcerated. Job loss, of course, makes it far more difficult to repay a debt.
- **Endangers public health.** In the midst of a global health pandemic, it is dangerous and risky to arrest and potentially jail a Maryland resident because of a small consumer debt.
- **Waste of taxpayers money.** Given the many other pressing issues that sheriffs and police must deal with, it is a poor use of their time and taxpayer resources for them to arrest individuals for these small debts allegedly owed to municipalities, HOAs, and bail bondsmen. Jailing these individuals is also a poor use of state resources.

The Solution:

Passage of HB 349/SB 452 will end debtors' prisons in Maryland.

What HB 349/SB 452 WILL do:

- Eliminate arrest warrants (body attachments) as aids of interrogatories or for show cause (contempt) in interrogatories.
- Ease the burden on the courts time and resources by eliminating these outdated Dickensian procedures.
- Eliminate a process that criminalizes poverty for indigent Maryland residents, particularly those in communities of color.

Vote YES on HB349 /SB452