



Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 452:

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

TO: Hon. William C. Smith, Jr., Chair, and members of the Senate Judicial Proceedings Committee

FROM: Caleb Jasso, Policy Advocate

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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. We support **Senate Bill 452** as a means to ensure that incarceration or the threat of incarceration is not improperly used to intimidate small claims debtors.

In the face of the (still) ongoing COVID-19 Pandemic, many Marylanders are experiencing a financial hardship that has placed them in debt. Maryland is still in the midst of a “K-shaped” recovery - meaning that those who were already economically stable pre-pandemic are experiencing a strong and profitable recovery while others who were already struggling financially continue to suffer or have gotten worse. Those who are participating in the tech sector, conduct business online, or have the ability to telework have, indeed, experienced economic boons leaving many lower-income essential workers, where employment requires an in-person presence, in financial limbo. Couple this with the fact that inflation rates have risen to a 40 year high at around 7% and the cost of housing and vehicles are the most they have ever been in US history. Unfortunately, many Marylanders have turned to debt accumulation to meet their financial needs.

According to a 2018 report by the American Civil Liberties Union (ACLU), 1 in 3 Americans has a debt that was referred to a private debt collection agency. UMD Carey Law School did a study examining these issues and found that from Jan. 2015 -Dec. 2020, MD judges issued at least 760 body attachments for creditors against debtors disproportionately targeting lower-income persons of color. The 20 zip codes that had the highest number of body attachments were 81% people of color with a median Senatehold income of \$49k, significantly less than the \$83k Maryland Average.

Under Maryland Rule 3-633, a judgment creditor in the District Court may obtain discovery to aid the enforcement of a money judgment by (1) use of interrogatories and (2) examination before a judge or examiner. This essentially allows creditors to issue arrest warrants for debtors if they do not show up to a “show cause” hearing- which is designed to expose all their assets to creditors. According to a 2018 report by the American Civil Liberties Union (ACLU), 1 in 3 Americans has a debt that was referred to a private debt collection agency. During the course of its research, the ACLU found and analyzed more than 1,000

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cases in which judges in 2 territories and 26 states, including Maryland, issued arrest warrants for alleged debtors at the request of private debt collectors.

Section 38 of Maryland's Constitution prohibits imprisonment for debt, stating that "no person shall be imprisoned for debt." Maryland case law for the past 80 years establishes that a person cannot be imprisoned for contempt for disobeying an order to pay money based upon a simple contract or debt. However, Maryland workers are finding themselves jailed or threatened with incarceration for failure to pay debts to creditors that they simply cannot pay.

It is well established that possession of a criminal record presents a tremendous barrier to securing and maintaining employment. Many people with a criminal record apply for jobs for which they are well-qualified but are, indeed, disqualified from consideration because of their record. This presents significant barriers for debtors who need a job to be able to pay down the debt owed. Debt collection enforcement policies must be tailored to the debtors' financial situation in order to encourage payment.

Senate Bill 452 seeks to address this by banning body attachments (i.e. arrest warrants) in small claims consumer debt cases where the amount in controversy does not exceed \$5,000. **Senate Bill 452** will not only help to level the playing field between unsophisticated consumers and large debt collection firms in small claims courts but will remove the penalty of incarceration for those who simply cannot pay. Jailing debtors for nonpayment of claims under \$5000 is counterproductive and creates additional barriers for debtors. For these reasons, we urge a favorable report of **Senate Bill 452**.

For more information, contact:

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