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TESTIMONY TO THE HOUSE JUDICIARY COMMITTEE

HB 349: SMALL CLAIMS-EXAMINATION OF AID IN ENFORCEMENT- PROHIBITION ON ARREST OR INCARCERATION FOR FAILURE TO APPEAR

POSITION: FAVORABLE

February 7, 2022

The Honorable Luke Clippinger, Chair
The Honorable David Moon, Vice-Chair
House Judiciary Committee
Room 101, House Office Building
Annapolis, MD 21401
Cc: Members, House Judiciary Committee

Honorable Chair Clippinger, Vice Chair Moon, and Members of the Committee:

As an attorney who represents your constituents statewide on consumer matters, I support this legislation because in the context of a matter arising from a judgment on a consumer claim Maryland's Constitution bars debtors from being jailed in relation to their debts.

No person shall be imprisoned for debt, but a valid decree of a court of competent jurisdiction or agreement approved by decree of said court for the support of a spouse or dependent children, or for the support of an illegitimate child or children, or for alimony (either common law or as defined by statute), shall not constitute a debt within the meaning of this section.

MD. CONST. ART. III, § 38.

The practice addressed by this bill is consistent with MD. CONST. ART. III, § 38 is when judges can issue arrest warrants for alleged debtors at the request of debt collectors. While the Courts may wish to issue contempt remedies for debtors who fail to follow its Orders, those contempt remedies cannot include Orders to arrest or imprison debtors without running afoul of MD. CONST. ART. III, § 38.

**HB 349: Small Claims-Examination of Aid in Enforcement-Prohibition on Arrest or
Incarceration for Failure to Appear
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February 5, 2022

Certain limited collectors utilize and request the state courts to issue arrest warrants for judgment debtors. In the past I have had clients subjected to this unconstitutional practice. For example, a debtor from a judgment entered in Charles County related to his former property was subjected to one of these orders and arrest warrant in his new home state of West Virginia. The debt collector sought and obtained an order to have the debtor arrested in West Virginia and held over the course of the weekend to have him transferred back to Maryland. The debt collector took these actions even though it had agreed to a settlement waving its purported right to collect. Had I not been involved in that settlement, the debt collector would have had this debtor hauled back to Maryland after being retained in West Virginia on false pretenses over the course of a weekend without the right to do so.

**FOR THESE REASONS, I ASK THAT THE COMMITTEE ISSUE A FAVORABLE
REPORT ON HB 349.**

Sincerely,

/s/ Phillip Robinson

Phillip Robinson