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TO: The Honorable Will Smith Jr.  
Chair, Judicial Proceedings Committee

FROM: Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: SB0164 – Driver's Licenses – Suspension for Child Support Arrearages --  
Exception – **Support**

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The Office of Attorney General urges this Committee to favorably report Senate Bill 164. Senator Watson's bill would preclude the Child Support Administration from urging the Motor Vehicle Administration to suspend an individual's driver's license for non-payment of child support if the obligor's family income is not greater than three hundred percent (300%)<sup>1</sup> of the federal poverty level "unless the obligor has been judicially determined to be voluntarily impoverished under § 12-204" of the Family Law Article.

Senate Bill 164 is consistent with the Office of Attorney General's fines and fees advocacy<sup>2</sup> and constitutional due process. In *Bearden v. Georgia*, the United States Supreme Court held that imprisonment for unpaid fines or fees without a hearing to determine ability to pay is unconstitutional under the due process clause of the Fourteenth Amendment.<sup>3</sup> Additionally, *Bearden* has been cited in cases in both the District Court of Maryland and in the Fourth Circuit.<sup>4</sup> Both courts have relied on *Bearden* to determine when it is justifiable for a defendant to not pay a fine or fee. As determined in *Bearden*, if a defendant has made all

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<sup>1</sup> This amounts to less than \$39,000 annually.

<sup>2</sup> In 2020, then-Attorney General Frosh introduced [HB0280 /CH0149](#) ([SB0234/CH0150](#)) to repeal the MVA's authority to suspend the driver's license and vehicle registration of traffic fine and fee debtors and making such debtors eligible for payment plans. That legislation resulted in nearly 90,000 driver's license reinstatements and has avoided countless other driver's license suspensions in the ensuing years.

<sup>3</sup> 461 U.S. 660 (1983).

<sup>4</sup> See *Miranda v. Barr*, 463 F.Supp. 3d 632 (2020); see also *United States v. Boyd*, 935 F.2d 1288 (1991).

reasonable efforts to pay the fine and cannot do so through no fault of her or his own, it is unfair to revoke probation.<sup>5</sup>

Similarly, in the child support context, it is counterintuitive to suspend an obligor parent's driver's license merely because of indigence. Nearly fifty percent (50%) of Marylanders drive to another county to work, and only nine percent (9%) of the work in the greater Baltimore metropolitan region can be reached by public transit within an hour. Therefore, workers need a valid driver's license to secure and maintain employment. The more likely a parent obligor is to have gainful employment, the more likely she or he will be able to pay child support.

For the foregoing reasons, the Office of the Attorney General urges a favorable report of Senate Bill 164.

cc: Committee Members

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<sup>5</sup> See *Boyd*, 935 F.2d 1288.