



MARYLAND
LEGAL AID

Advancing
Human Rights and
Justice for All

February 1, 2023

Senator William C. Smith Jr.
Chairman, Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

**Re: Maryland Legal Aid’s Testimony in Support of Senate Bill 0164
Driver’s Licenses – Suspension for Child Support Arrearages – Exception**

Dear Chairman Smith and Committee Members:

Thank you for the opportunity to testify in support of Senate Bill 0164, legislation that would limit the Child Support Enforcement Agency’s authority to suspend driver’s licenses for child support arrears, by creating an exception for parents who are 300% below the poverty level. The exception will temper the harmful effects of the current arbitrary, automated lottery system used for driver’s license suspension, as described below. This letter serves as notice that Stacy Bensky, Esq. will testify on behalf of Maryland Legal Aid at the request of Senator Watson.

Maryland Legal Aid (MLA) is a private, nonprofit law firm that provides free legal services to thousands of low-income Maryland residents in many civil matters, including family law. MLA’s representation of non-custodial parents who have been ordered to pay child support through the Maryland Child Support Enforcement Agency (the “Agency”), has revealed significant inequities in the state’s automated driver’s license suspension system. This system criminalizes poverty and disproportionately affects low-income parents and families. Driver’s license suspensions do not work as an enforcement mechanism for those who are living in poverty and simply do not have the ability to pay. They create a barrier to employment and make it difficult to be an involved and active parent.

The Agency’s authority to suspend driver’s licenses for child support arrears comes from federal law (42 USC 666(a)), which requires each state to ‘have in effect laws requiring’ the use of certain procedures “to increase the effectiveness of the program.” 42 USC 666(a)(16) requires that states must have the authority to suspend or restrict driver’s licenses, professional/occupational licenses, and recreational/sporting licenses “in appropriate cases.” States are not required to use automated procedures for these license suspensions, and the Agency does not use automated procedures for professional/occupational or recreational/sporting licenses, but it does use an automated system to suspend driver’s licenses. But automatic suspension is not only not “appropriate”—it is harmful and counterproductive.

In compliance with federal law, Maryland law (MD Code Family Law 10-119) permits the Agency to suspend a parent’s driver’s license if they have 60 days or more of arrears. Notably, the

state law, like the federal law, says that the Agency may suspend, not that it must. Despite this discretion, the Agency uses an automated lottery system where every parent with 60 days or more of arrears is automatically placed in a randomized pool of people who can potentially be selected for license suspension each month. It is hard to imagine a more arbitrary, unthinking use of government power.

To be sure, the text of the Maryland law already has enumerated exceptions that limit the Agency's authority to suspend driver's licenses. For example, it bars the Agency from suspending a driver's license if the suspension would impede employment, if the parent has a documented disability resulting in a verified inability to work, or if the parent is paying on their arrearage balance per a payment agreement. In reality, the automated system is completely unfettered and operates as if the already enumerated exceptions do not exist in the statute. We know this because we represent clients every day who fit squarely into an exception, but still have their driver's license suspended.

The automated system does not have any mechanism that removes parents who fit into an enumerated exception from the pool of people who can be randomly selected each month for license suspension. These violations of the statute are particularly egregious for MLA clients, all of whom are low-income and many of whom are disabled, elderly, or both. Parents accrue arrearage balances for many reasons; the assumption is that they are all "dead-beat dads," but most often MLA clients accrue arrears as a result of a medical or disability-connected inability to work, or lack of education or qualification for high or even moderate paying jobs. Many MLA clients' arrears have accrued for years while they attempted to obtain child support modifications themselves, without a lawyer, due to difficulties navigating the court system. Many other clients also accrue arrears while incarcerated, including as a result of the failed war on drugs. Once they get out, it is hard enough to find employment with a criminal record, and not having a driver's license exacerbates an already uphill battle.

MLA routinely assists clients with driver's license reinstatement if they fit into an already enumerated exception in the law. Reinstatement, however, is merely a temporary solution. If the parent has an arrearage balance of 60 days or more, they are still in the pool of people who can be selected for license suspension each month and often will receive another license suspension notice a few months later. The automated system's gross lack of due process disproportionately affects low-income and/or disabled MLA clients. Clients living in poverty often have unstable housing and no stable mailing address. Thus, obligors are not notified effectively that their license will be suspended. When these clients discover the issue during a routine traffic stop, they receive a criminal citation for driving on a suspended license. This type of conviction has devastating consequences, particularly in terms of barriers to employment, as it could potentially lock in previous charges that otherwise would have been expungable.

Even with this legislation, the child support agency would retain the statutory authority to suspend driver's licenses in appropriate cases—just as they have the authority to suspend professional/occupational and recreational/sporting licenses in appropriate cases. Suspending driver's licenses of low-income parents does not increase the program's effectiveness, which is to

increase financial stability for children and families—as is required under the controlling federal statute. Relatedly, while the true solution may be elimination of the automated system in its entirety, if implemented correctly, this change will have long-term positive impacts on low-income communities across Maryland. MLA thanks you for the opportunity to provide input and urges the committee to give SB 0164 a favorable report.



Stacy Bensky, Esq.
Staff Attorney, Maryland Legal Aid
410-951-7755 (Office Phone)
sbensky@mdl.org