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January 25, 2023

**TO:** The Honorable Luke H. Clippinger, Chair  
Judiciary Committee

**FROM:** Kathleen P. Hyland  
Assistant Attorney General

**RE:** House Bill 127 – District Court – Small Claims – Enforcement of Money  
Judgments – SUPPORT

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The Office of the Attorney General supports House Bill 127, sponsored by Delegates Moon and Clippinger, which would prohibit the district court from (1) ordering that a debtor appear for an examination or (2) ordering a debtor to answer interrogatories in aid of enforcement of a judgment, ultimately preventing consumers from being incarcerated for failing to either appear or respond in small claim actions. Representatives of the debt collection industry have stated that they no longer rely on oral examinations or interrogatories in aid of enforcement. Instead, the overwhelming majority of creditors employ modern technologies such as skip-tracing and searching consumer databases.

House Bill 127 is consistent with the bill that passed the General Assembly last session, only to be vetoed by the Governor. The Office believes that the approach taken by House Bill 127 is a reasonable method of eliminating the use of body attachments in debt collection without impacting the authority of the courts or the ability of creditors to collect debts. The use of body attachments to collect civil debt is not only of questionable constitutionality,<sup>1</sup> but it is also an outdated, unfair, and draconian process that hurts people of limited means and has a significant disparate impact upon people of color. In Maryland, from 2010-2014, more than 130 body attachments – a lien on an individual's body – were issued each month. These arrest warrants

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<sup>1</sup> Article III, Section 38 of the Maryland Constitution provides: "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; *see also Brown v. Brown*, 287 Md. 273, 281-82 (1980).

were issued at the behest of debt collectors to determine what assets an individual may possess that creditors can garnish to pay the judgment owed. Only a handful of creditors' attorneys still deploy this harmful tool, often to extract assets that desperate, indigent debtors do not have, try to borrow to stay out of jail, or could be claimed as exempt from garnishment.

Limiting posttrial discovery and enforcement methods is consistent with existing Maryland law. Certain legislative exceptions have already been made to limit pretrial and trial procedures for small claims in the district court. In Maryland, a small claims action is even called a "special proceeding" and pretrial discovery is not available.<sup>2</sup> Before and during a trial, the rules of evidence do not generally apply.<sup>3</sup> House Bill 127 would be entirely consistent with Maryland's legislative history of special treatment for small claim actions by providing necessary changes to posttrial procedures and abolishing body attachments.

The Attorney General's Access to Justice Task Force concluded in one of its recommendations for legislative action, the use of body attachments to collect debts can and should end before it harms more Marylanders.<sup>4</sup> If a low-wage worker is arrested and jailed, they often lose their job, deepening their financial struggles and making it that much harder to repay debts. Accordingly, the Office of the Attorney General respectfully urges the Judiciary to favorably report on House Bill 127.

cc: The Honorable David Moon  
The Honorable Luke Clippinger  
Members, Judiciary Committee

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<sup>2</sup> MD. RULE 3-701(e) states that no pretrial discovery shall be permitted in a small claim action.

<sup>3</sup> MD. RULE 3-701(f) limits the application of Title 5. "Evidence" to small claim proceedings, except as otherwise required by law.

<sup>4</sup> See MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS 11, 32 (Jan. 2021)

[https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG\\_Covid\\_A2J\\_TF\\_Report.pdf](https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf).