



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

April 5, 2023

Delegate Luke Clippinger
Chairman, Judiciary Committee
House 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 Clippinger and Committee Members:

Thank you for the opportunity to testify in support of Senate Bill 0164. Maryland Legal aid (MLA) submitted both oral and written testimony earlier this session on Senate Bill 0164 at the request of Senator Watson in the Senate Judicial Proceedings Committee and on the cross-filed House Bill 0326 at the request of Delegate Henson.

This legislation 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 250% 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 MLA.

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 and expungement/barriers to employment. 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. Most families whose child support cases are serviced by the child support enforcement agency are low-income. This is largely because if a custodial parent applies for public benefits on behalf of the child in the form the Temporary Cash Assistance (TCA) or daycare vouchers, they must agree to assign their child support to the state and for the Agency to bring a child support case against the non-custodial parent in order to pay the state back for those benefits. If the custodial parent does not agree to this, then they are denied benefits. From the onset of the case, this causes conflict and frustration within families and creates adverse parties between the parents.

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. Once the non-custodial parent's driver's license is suspended, they are unable to contribute in other

ways—for example, picking the child up for visits, carpooling to school, doctor’s appointments, etc. In our work assisting non-custodial parents with driver’s license reinstatement, we often speak to custodial parents who are confused and upset at the fact that the non-custodial parent’s driver’s license is suspended. Most often, custodial parents are frustrated that they are now responsible for driving the child to and from any visits with the non-custodial parent. Further, when non-custodial parents drive on suspended licenses, they risk interactions with the police and the criminal justice system.

MLA clients live in poverty and often have unstable housing and no stable mailing address. Thus, parents 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.

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. 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.

On its face, 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 see clients every day who fit squarely into an exception, but still have their driver’s license suspended. This is because 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.

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 and constant violation of the current statute is particularly egregious for low-income and/or disabled parents. Parents accrue arrearage balances for many reasons; the assumption is that they are all "dead-beat dads," but most often MLA clients accrue arrears due to 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 are released from incarceration, it is hard enough to find employment with a criminal record, and not having a driver's license exacerbates an already uphill battle.

In those situations where excessive arrears have accrued, it may take decades for the parent to reduce their arrearage balance to less than 60 days of arrears. These parents are perpetually in a cycle of potential license suspension month after month, year after year. Many MLA clients are disabled seniors whose children are now adults, but they still owe arrears to the state from public benefits received by the custodial parent when the children were minors. These seniors' social security and/or disability benefits are garnished each month per earnings withholding order, and their licenses are still suspended. Many are grandparents trying to help care for their grandchildren and are stopped from doing so because of license suspension. License suspensions clearly and obviously perpetuate the cycle of poverty.

If this legislation were to pass, the child support agency would still 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.

DHS claims that license suspension notices allow for early intervention, by encouraging parents to contact their local child support office for assistance with services such as modifications of their child support order when they fall behind. MLA knows this to be a farce. Every client who comes to MLA with a child support issue has gone to the

Agency first to seek assistance. Most notably are clients who come to MLA because the minor child is now residing with them, and they went to the Agency for assistance with modifying their child support. In those cases, without fail, the Agency did nothing except instruct them to go to the court to modify their child support order. This happens even in situations where the child has been placed with the former non-custodial parent through Child Protective Services (CPS). The Agency has documentation that custody has flipped and the minor child is now residing with the former non-custodial parent, yet they continue to garnish the paycheck and suspend the license of the parent with whom the child is residing.

The Agency does not help parents avoid incurring excessive arrearage balances. If anything, the Agency contributes to situations where parents accrue excessive arrearage balances. In the experience of MLA and its clients, the Agency does not assist families or parents who come to them seeking help with license suspension. Sadly, every parent, family, and situation is treated the same through a punitive, automated system.

Parents with suspended licenses also often go to the Agency with potential employment opportunities, showing they need their driver's license reinstated, only to be told by the Agency this is not good enough. They are told they need to already have secured the employment in order for the Agency to reinstate the driver's license. This means that if a job requires an in-person interview and/or requires the potential employee to have reliable transportation—and most do—the Agency is actively placing obstacles in the way. This bill helps clear those obstacles for low-income parents.

MLA thanks you for the opportunity to provide input and urges the committee to give SB 0164 a favorable report. MLA also urges the committee to consider additional efforts and oversight of the automated system in order to ensure proper implementation of the exception in this bill and the exceptions already in the text of the current law, and/or to consider further actions that would eliminate the automated system and suspend or restrict driver's licenses in the same manner that professional/occupational licenses and recreational/sporting licenses are suspended or restricted—that is only in appropriate cases, pursuant to the above mentioned controlling federal law, 42 USC 666(a)(16).



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