



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

**House Bill 00435**  
**Child Support – Incarcerated Obligor**  
In the Senate Judicial Proceedings  
Hearing on March 21, 2024  
**Position: FAVORABLE**

*Maryland Legal Aid (MLA) submits its written testimony on HB 00435 at the request of its sponsor, Delegate Luke Clippinger.*

MLA asks that the Committee report **favorably** on House Bill 00435, which expands the ability of child support obligors to stop child support arrears from accruing during periods when they are incarcerated and, thus, unable to work. MLA is Maryland’s largest private, civil non-profit law firm, providing free legal services to indigent Maryland residents. MLA assists low-income individuals and families in every Maryland county with a wide array of civil legal issues, including family law cases such as divorce, custody, child support, and domestic violence matters. In our family law cases, MLA represents mothers as well as fathers, and custodial as well as non-custodial parents.

MLA assists formerly incarcerated individuals with a variety of legal matters. Many of those formerly incarcerated individuals report leaving jail or prison only to find that child support debt had been accumulating while they were incarcerated, despite their obvious inability to pay during that time. Shouldering child support debt can enormously hamper a returning citizen’s ability to successfully reenter society; for example, this debt could lead to driver’s license suspension, show up on a credit report run by a prospective landlord, or trigger a tax refund interception.

Existing Maryland law provides that “child support is not past due and arrearages may not accrue”<sup>1</sup> when obligors are sentenced to 180 days or more in prison. However, no such relief is available for individuals incarcerated for fewer than 180 days, even though they too are unlikely to be able to pay child support during the period of their incarceration, and will almost certainly be negatively impacted by child support debt upon their release. HB00435 makes child support order suspension available to *all* incarcerated individuals, regardless of the amount of time they spend in prison or jail, in recognition of the fact that incarceration of any length almost always interferes with an obligor’s ability to pay child support.

---

<sup>1</sup> MD Fam L Code § 12-104.1(b)

---

Of course, there may be some rare circumstances where brief periods of incarceration – such as when someone is temporarily taken into custody after being arrested and released on bail one or two days later – may not interfere with an obligor’s ability to continue paying child support. In such situations, HB 00435 allows for courts to exercise discretion as to whether to suspend a child support order, based on whether there is evidence that an obligor’s ability to pay child support has been reduced due to incarceration. If HB 00435 is passed, MLA would encourage the Child Support Administration (CSA) to craft and implement rules and regulations to guide the court and CSA in administering this relief appropriately.

One recurring problem HB 00435 does not address is the fact that, even under current law, many of our clients report that their child support orders are not actually being suspended while they are incarcerated for periods over 180 days; instead, upon their release, they discover that arrears have been accruing and then must work with the Child Support Administration to obtain a retroactive adjustment of their balance. Even though MLA has found the Child Support Administration helpful in assisting formerly incarcerated people with adjusting their arrears, sometimes the damage has already been done by the time the obligor learns of his arrearage balance; for example, they might receive a criminal citation for driving on a license they did not know was suspended, or their tax refund might be intercepted for arrears that never should have accrued.

MLA encourages CSA to work with the judiciary, the Maryland Department of Public Safety and Correctional Services, as well as community advocacy organizations like ourselves to ensure that child support orders are actually suspended at the *start* of an obligor’s period of incarceration, not merely adjusted on the backend after release. There are many creative approaches Maryland could take to ensure this happens; in the District of Columbia, for example, the court is required to advise criminal defendants at sentencing hearings that they have the right to suspend their child support orders during their incarceration, and these suspension requests can be filed on the spot, in open court.<sup>2</sup> MLA would welcome the opportunity to be a part of tackling this problem, and making child support suspension more widely accessible to individuals facing incarceration.

**For these reasons, Maryland Legal Aid urges the Committee to issue a FAVORABLE report on HB 00435.** If you have any questions, please contact Ameer Vora, (443) 604-6186, [avora@mdlaborg](mailto:avora@mdlaborg).

---

<sup>2</sup> See D.C. Code § 23-112a.