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THE MARYLAND HOUSE OF DELEGATES
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Testimony in Support of HB 1020
Consumer Protection - Credit Reporting - Medical Debt
(Fair Medical Debt Reporting Act)

HB 1020 prohibits the inclusion of medical debt on consumer reports. This bill would bring Maryland in line with 10 other states that have already enacted such a law.[1]

This bill does not regulate or prohibit the collection of unpaid medical debt by health care providers or debt collectors. Nor does it cancel any medical debt owed by consumers. Nor does it change any consumer's obligation to pay what they owe for the medical care they receive. This bill only prohibits medical debt from being included on a consumer report (i.e. a credit report).

One in five Americans have some form of medical debt. On average, this debt is just $579. Medical debt is disproportionately held by older adults and veterans, as they are more likely to face complex care and complex billing challenges.[2] Medical debt on a consumer report can make it more difficult for families to access credit, housing, employment, and small business loans.

Because medical debt is typically incurred involuntarily and from unforeseen circumstances,[3] medical debt collections are less predictive of the likelihood of default than nonmedical collections. Research by the federal Consumer Financial Protection Bureau (CFPB) has concluded that a medical bill on a person's credit report is a poor predictor of whether they will repay a loan, and that it contributes to thousands of denied applications on mortgages that consumers are able to repay.[4] In fact, the CFPB has found that individuals with medical collections are less likely to be delinquent than other individuals with the same credit score. For these reasons, VantageScore and other newer credit scoring models no longer use medical debt and medical collection information in the calculation of credit scores, stating that such debt has negligible predictive value.[5]

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[1] California, Colorado, Connecticut, Illinois, Maine, Minnesota, New Jersey, New York, Rhode Island, and Virginia.
[2] CFPB: Issue Spotlight: Medical Billing and Collections Among Older Americans
[3] Two-thirds of medical debts are the result of a one-time or short-term medical expense arising from an acute medical need. Hamel, Liz et al. "The Burden of Medical Debt: January 2016 Results from the Kaiser Family Foundation/New York Times Medical Bills Survey." Kaiser Family Foundation.
[4] CFPB: Consumer credit reports: A study of medical and non-medical collections.
[5] Medical debt information removed from VantageScore 4.0.

In 2023, the nation's three largest credit reporting bureaus (Experian, Equifax, and TransUnion) voluntarily agreed to remove all paid medical debts, medical debts under $500, and medical debts less than a year old from credit reports.[6] With this change, it was estimated that roughly half of all Americans with medical debt on their reports had it removed from their credit history.[7] However, despite these voluntary industry changes, thousands of Marylanders still have outstanding medical bills in collections appearing in the credit reporting system. The complex nature of medical billing, insurance coverage and reimbursement, and collections means that the medical debts that continue to be reported are often inaccurate, inflated, or attributed to the wrong payer.[8]

In the past year, the CFPB proposed, adopted, and finalized a rule to prohibit all medical debt from consumer reports nationwide, regardless of the amount of debt or the date it was incurred. The new Presidential administration, however, has ordered the CFPB to halt the implementation of the rule and has begun to disband the agency altogether. Without a federal regulator to enforce the Fair Credit Reporting Act (FCRA) and oversee the nation's credit reporting system, it is all the more important that actions are taken at the state level to protect consumers from adverse medical billing information on credit reports.

This bill is not preempted by federal law. In 2022, the CFPB issued an interpretive rule[9] that made clear that states are not preempted under the FCRA in taking action to prohibit certain information, including medical debt, from appearing in consumer reports (excerpts below):

- "*States therefore retain substantial flexibility to pass laws involving consumer reporting to reflect emerging problems affecting their local economies and citizens. For example, if a State law were to forbid consumer reporting agencies from including information about medical debt, evictions, arrest records, or rental arrears in a consumer report, such a law would generally not be preempted.*"
- *"States may pass laws addressing the furnishing and reporting of medical debt."*

HB 1020 follows a well-established trend in Maryland of putting reasonable guardrails on the information that can be included in consumer reports. The General Assembly passed a similar bill last year, HB 622, which prohibited certain records of criminal proceedings in consumer reports. We also passed HB 262, which limited the amount of obsolete information that can be included in consumer reports. As it relates to medical debt, the General Assembly in 2021 passed HB 565, which prohibited hospitals from reporting certain medical debt to consumer reporting agencies, including all medical debt held by patients who are uninsured or who are eligible for free or low-cost care. Passing HB 1020 would be consistent with these past actions.

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[6] CFPB: Have medical debt? Certain debts should no longer be on your credit report.
[7] Urban Institute: Medical Debt Was Erased from Credit Records for Most Consumers, Improving Many Americans' Lives
[8] CFPB Proposes to Ban Medical Bills from Credit Reports
[9] CFPB: The Fair Credit Reporting Act's Limited Preemption of State Laws