

Senate Bill 195

**Family Law – Child Support
In the Judicial Proceedings Committee
Hearing on January 14, 2025
Position: FAVORABLE WITH AMENDMENTS**

Maryland Legal Aid submits its written and oral testimony on SB 195.

Maryland Legal Aid (“MLA”) is a private, nonprofit law firm that provides free legal services to thousands of low-income Marylanders in civil matters, including child support cases. MLA appreciates the opportunity to testify on SB 195, a sweeping omnibus bill on child support introduced by the Department of Human Services (“DHS”) that would alter many aspects of the child support enforcement program. While MLA appreciates DHS’ desire to modernize our state’s child support procedures and supports several of its proposed changes, we are concerned that other aspects of the bill will have unintended negative consequences for Maryland families living in poverty.

A. SB 195 does not fix the current problems with its driver’s license suspension program and will likely perpetuate them.

Year after year, MLA has testified about how DHS’ driver’s license suspension program causes lasting harm to low-income families due to erroneous and unjust suspensions of non-custodial parents’ driver’s licenses for nonpayment of child support. Our experience representing non-custodial parents who have had their licenses improperly suspended has shown that driver’s license suspensions do not work as an enforcement mechanism for those who are living in poverty and do not have the ability to pay child support at rates beyond their means. For low-income parents, license suspension creates a massive barrier to employment and makes it difficult to be an involved and active parent. Without the ability to drive, a parent cannot visit their child, take them to school, or get to work. And, if parents do drive on a suspended license, they risk interactions with the police and the criminal legal system, leading to collateral consequences including criminal citations and their car being impounded.

DHS claims that SB 195¹ exempts parents with incomes “not greater than 250% of the 2024 federal poverty guidelines for an individual (\$37,650 per year)” from license suspension, but this bill, as written, does *not* accomplish that. Rather, the bill merely enumerates having an income below 250% of the poverty line as an additional basis for which parents at risk of license suspension can request an internal DHS investigation into whether suspension is appropriate. As currently written, Md. Fam. Law. § 10-119(c)(1)(i) already lists several grounds upon which a non-custodial parent facing the threat of license suspension can request an investigation. Yet, our cases show that enumerating potential grounds for requesting an investigation into whether a license should be suspended does not prevent suspensions from occurring, even in cases where those specific grounds indeed exist.

¹ See SB 195, 9:28-32.

For example, the current law states that parents who have a “documented disability resulting in a verified inability to work,” must be exempted from suspension after an investigation, but MLA clients who have a disability and who receive social security disability benefits as their only income routinely have their licenses suspended.

For instance, **Mr. M** is an MLA client whose children are all now adults. He still owes child support arrears, but he has a disability and his only source of income is Supplemental Security Income (“SSI”) disability benefits. Mr. M has been threatened with license suspensions **five times in a one-year period**. Each time he receives a notice from DHS advising him that his license will be suspended, he goes to his local child support office and provides proof of his disability and continued receipt of disability benefits. Instead of conducting an investigation, the agency requires him to make a lump sum payment in order to have his license reinstated, despite the fact that SSI is exempt from collections for child support under Maryland and federal law.

Further, many of MLA’s clients do not know their license is suspended until they find out through a routine traffic stop, because they often have not received the notice informing them of a pending suspension or their right to request an investigation. People living in poverty (like the low-income parents MLA serves) are often transient or housing insecure, making it extremely difficult to receive timely notifications. Adding another ground to request an investigation based on income status will not achieve the desired goal if those low-income parents are not aware of their right to an investigation at all.

Mr. M, and so many other disabled and/or low-income parents, are stuck in a perpetual state of impending license suspension, despite the law saying they should be exempt from suspension. When MLA assists clients with driver’s license reinstatement, we, unfortunately, know that it is merely a temporary fix. We must warn clients to be on constant alert of being re-selected for suspension by the automated system used by DHS for license suspension. Nothing in this bill will stop that same thing from happening to parents who would supposedly be exempt because of their income status.

MLA has advocated for much-needed reform of DHS’ automated driver’s license suspension system for years, and we appreciate that DHS acknowledges the harm caused by unjust license suspension. While we support DHS’ desire to ameliorate these harms, SB 195 does not do so, because it continues to place the onus on low-income individuals to ensure that they are not wrongfully ensnared by DHS’ automated system of referral for license suspension. To truly effectuate change, DHS’ bill should include language that affirmatively excludes those with income below 250% of the poverty guidelines from the automated driver’s license suspension system, rather than forcing our low-income clients to ask, month after month, to stop a pending suspension or reinstate after suspension (and all of its negative collateral consequences) has already happened. DHS could adopt the language found in SB 15, which affirmatively exempts individuals earning below 250% of the poverty guidelines from suspension.

MLA urges the committee to consider structuring the bill differently, requiring DHS to affirmatively exclude those who fall into an exception in the law from the

automated suspension system and/or to consider further actions that would eliminate the automated system completely.

B. SB 195 sets the rate of payments towards arrears at a precarious and rigid level.

SB 195 contains a provision² stating that if an individual owes arrears *after* their children are emancipated, the payment towards arrears must be kept at the full rate of the previous child support order established before the emancipation, unless a court modifies the repayment amount. This new provision would have devastating effects on parents who owe arrears for emancipated adult children—particularly parents who are low-income, seniors, and disabled and who owe arrears to the state of Maryland for previous Temporary Cash Assistance (TCA benefits) received by the custodial parent.

Currently, §10-122 of the Family Law Article allows either the courts *or* DHS the authority to set the monthly amount a parent must pay towards their arrearage balance, and it specifies that payment amount on arrears must be at least \$1 but cannot be more than 25% of the support ordered amount. Under §10-112.1, non-custodial parents whose income falls below 225% of the federal poverty level can have their state-owed arrears forgiven through the Payment Incentive Program (“PIP”). Under PIP, if the noncustodial parent makes 24 consecutive payments in full, the agency must then forgive their remaining state-owed arrears. When MLA enrolls clients in PIP, we routinely ask the agency to set a lower monthly payment amount so that low-income (often senior and/or disabled) clients can realistically keep up with the payments for 24 months and successfully complete the program to have the remainder of their state owed arrears forgiven. Under §10-122’s current language, the agency has to agree to set the payment amount at no more than 25% of the original support ordered amount. This is a necessary protection for low-income parents that SB 195 would take away.

As written, SB 195 would also take away the agency’s own current authority to set a lower payment amount on arrears after emancipation. It would force every non-custodial parent with arrears to file a motion to modify payment on arrears, inundating the court with these requests, when, as it stands now, the agency can simply set the arrears payment amount itself, without having to get a court order first. These types of motions generally take at least a year to work their way through the court system, so this will make it incredibly difficult for non-custodial parents to have their monthly arrears payment lowered to an amount that they can reasonably afford to pay.

MLA represents many senior and/or disabled clients. Some of those clients are supported financially by their now adult children because so much of their social security disability or retirement check is garnished for state-owed arrears from when that child was a minor, thus ***perpetuating the cycle of poverty***. **MLA urges the committee to strike this provision from the bill and leave section 10-122 unaltered.**

² See SB 195, 18:11-16.

C. SB 195 includes much needed updates to Maryland's child support practices, such as establishing a multifamily adjustment and clarifying that child support cases generally should not be filed against parents with children in foster care as a means of cost recovery.

Although MLA worries about the real-life consequences of some of SB 195's provisions, other parts of the bill are laudable and beneficial for the low-income families we serve. For example, SB 195 adds a multifamily adjustment to the Child Support Guidelines, creating an income deduction for parents who have additional children in their homes besides the children at issue in a given child support case. By reducing a parent's available income based on the number of additional children residing with that parent, the bill accounts for the reality that modern American families often consist of parents balancing financial responsibilities to multiple children. SB 195's multifamily adjustment ensures that no single child gets shortchanged.

Additionally, SB 195 creates statutory language clarifying that child support cases should be filed against parents with children in foster care, as a means of cost recovery, in only *limited* circumstances. This language adheres to the [guidance](#) issued by the Federal Office of Child Support Services in 2022, which highlighted how foster care cost recovery child support cases tend to destabilize vulnerable families, exacerbate economic hardship, and prolong a child's placement in foster care. Federal guidance called on states to greatly limit the filing of these cases, because they generally do not serve the best interests of children, and MLA is pleased that DHS has agreed to do so.

For the forgoing reasons, MLA urges a favorable report on SB 195, if amendments are added to address its driver's licenses suspension and arrearage payment provisions.

Sincerely



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