



February 8, 2021

House Bill 848

Small Claims – Examination in Aid of Enforcement – Prohibition on Arrest or Incarceration for Failure to Appear

Position: Support

I am writing to express the support of Civil Justice, Inc. (CJ) for House Bill 848. CJ is a Maryland non-profit committed to increasing the delivery of legal services to low- and modest-income Marylanders through a unique combination of in-house staff and a statewide network of attorneys. CJ has consistently maintained a robust practice focusing on matters that undermine the economic security of Maryland families, including debt collection practices.

The body attachment process presupposes that debtors defiantly refuse to cooperate with the collection of debts they owe. However, in the nine years I have been assisting consumer debtors, this has not been my experience. My clients have been struggling to make ends meet, have been unable to appear for court hearings due to a lack of paid leave, childcare, and transportation, and have been confused about the court process. The experiences of my clients are not unique. Approximately 39% of Marylanders do not earn enough to afford even their most basic needs.¹ The United Way found that a family of four would need to have an income of \$87,156 in 2018 to afford a minimal survival budget.² Most of my clients make far below that threshold and so it should be no surprise that they do not have the means to repay old debts. Debt collection also disproportionately impacts Black families, who, due to structural barriers like redlining and employment discrimination, have significantly less accumulated wealth than white households and are less able to weather a financial emergency.³

In addition, consumers are almost never represented by legal counsel,⁴ which is particularly troubling given the high stakes of a body attachment and the possibilities for

¹ United Way, *ALICE in Maryland: A Financial Hardship Study 2* (2020).

² *Id.* at 3.

³ Kriston McIntosh, *et al.*, *Examining the Black-white wealth gap*, Brookings, Feb. 27, 2020, available at <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>; Paul Kiel & Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, ProPublica, Oct. 8, 2016, available at <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>.

⁴ See, Robyn Dorsey & Marceline White, Md. Consumer Rights Coalition, *No Exit: How Maryland's Debt Collection Practices Deepen Poverty & Widen the Racial Wealth Gap* 12 (2018)(finding that only 2% of consumers had legal representation); Judith Fox, *Do We Have a Debt Collection Crisis? Some Cautionary Tales of Debt Collection in Indiana*, 24 Loy. Consumer L. Rev. 355, 377 (2012)(finding that only 4% of consumers were represented by an attorney); Peter Holland, *Junk Justice: A Statistical Analysis of 4,400 lawsuits Filed by Debt*

confusion and error in the process. The case of Cecily Darden Adams, who was subject to a body attachment due to a judgment obtained by her homeowners' association, illustrates the potential harm to a consumer that is caught up in this process. Though she was served with the initial notice, the hearing was postponed at least three times during the court's reduced operations due to the pandemic. These subsequent notices would have been sent only by mail; the mail delays during the pandemic have been well documented,⁵ Ms. Adams was required to agree to a \$2,500 bond in order to secure her release, which is approximately the amount of the judgment. Thankfully, in Ms. Adams' case, the bond was unsecured; others in her situation may have not been as fortunate and not had the financial means to post bond.

Ultimately, body attachments unfairly harm consumers who are unable to pay their debts and disproportionately impact people of color. This harm greatly outweighs a creditor's need to enforce payment of small civil debts, particularly when other collection methods are available. For these reasons, CJ urges the Judiciary Committee to give House Bill 848 a favorable report. If you have any questions, you can reach me at 410-706-5650 or abertinelli@civiljusticenetwork.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alexa Bertinelli', with a long horizontal flourish extending to the right.

Alexa Bertinelli
Senior Staff Attorney

Buyers. 26 Loy. Consumer L. Rev. 179, 208 (2014)(finding that 2% of consumers in debt buyer cases were represented by a lawyer).

⁵ See, e.g., Christine Condon, *Maryland congressional Democrats call out U.S. Postal Service leaders as constituents continue to face mail delays*, Baltimore Sun, Feb. 4, 2021.