



National Association of Consumer Advocates

**Testimony to the Judiciary Committee
HB 848 – Small Claims – Examination in Aid of Enforcement –
Prohibition on Arrest or Incarceration for Failure to Appear
Position: Favorable**

February 8, 2021

Delegate Luke Clippinger, Chair
House Judiciary Committee
Room 101, House Office Building
Annapolis, MD 21401
cc: Members, Judiciary Committee

Honorable Chair Clippinger and Members of the Committee:

The National Association of Consumer Advocates is a nonprofit corporation whose members are private and public sector attorneys, legal services attorneys, law professors, and law students whose primary focus involves the protection and representation of consumers. NACA's mission is to promote justice for all consumers by maintaining a forum for information-sharing among consumer advocates across the country and by serving as a voice for its members and consumers in the ongoing struggle to curb unfair or abusive business practices that affect consumers. In pursuit of this mission, NACA advocates for debt collection protections for consumers and families.

Like many of my fellow NACA members in Maryland, I litigate debt collection violations related to post-judgment enforcement issues in small claims matters. In this practice, my most successful recoveries for clients have involved situations where consumers were never served with the underlying district court lawsuits, matters of mistaken identity, and the illegal garnishment of wages and bank accounts by creditors. Restraining human liberty in small claims matters is too great of an unchecked power for an already imperfect system.

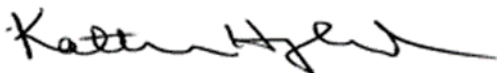
In February of 2020, I met with a group of formerly incarcerated women at the "Life After Release" program in Prince George's County. Upon arrest, many of these women fell behind in their finances and shared a number of the problems they encountered with small claims courts and civil judgments that fell outside of their control. Most chillingly, they reported that upon release, they were arrested again for body attachments the courts issued for small claims judgments. As a

direct consequence of the existing body attachment law, these women ended up back in prison because their subsequent arrests for debt alone violated the terms of their probation. HB 848 would stop this vicious cycle of incarceration, as well as curtail the many other unintended consequences debtors experience from the disparate impacts of this policy.

In Maryland, the recent trend on all sides of this issue has been to move away from body attachments. Creditors' attorneys and consumer advocates have been working together on this issue. Valuable feedback from creditors' attorneys informed that they disfavor body attachments because the orders are not always properly administered, which has caused negative publicity for prominent debt collection practices. Still other creditors' attorneys have advised that they did not request body attachments in debt collection cases, but have had courts impose them when the judge felt limited by procedural options. Thus, in practice, attorneys witnessed a shift away from body attachments, consistent with a larger effort to modernize Maryland's severely outdated debt enforcement practices. (For detailed research and analysis in support of the statement that Maryland's legislation needs a serious policy overhaul, please see "No Exit: How Maryland Debt Collection Practices Deepen Poverty & Widen the Racial Wealth Gap," available online at: http://www.marylandconsumers.org/penn_station/folders/about/annual_report/No_Exit_Report.pdf.) (Last Accessed, February 8, 2021).

It is time to stop the outdated practice of body attachments in Maryland. HB 848 will abolish this practice in small claims matters. For this reason, we strongly urge a favorable report.

Sincerely,



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Maryland State Chair, NACA

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