



End Debtors' Prisons: Vote YES on HB848/SB657

What is the issue?

Maryland's Constitution says that "no person shall be imprisoned for debt" and 80 years of state case law makes clear that a person cannot be jailed for disobeying an order to pay money based on a simple contract or debt.

Yet with the growth of the debt collection industry, there has been an increase in abusive debt collection practices, including the issuance of body attachments. Debt collectors request that judges issue body attachments – a “lien on an individual's body” – post-judgement in order to discover what assets defendants have that plaintiffs can garnish or seize.

- From 2010 to 2014, the Maryland District Courts issued **1,615 body attachments** (arrest warrants) in civil cases in FY 2014 – about 134 per month.
- In a 6 month period, nearly 400 body attachments were issued to consumers in Baltimore City and Baltimore County for debts under \$5,000
- About **77 individuals** were arrested on a body attachment in 2014. Although not commonplace, arrests in debt collection cases are not anomalies nor mistakes.
- When arrested, defendants may be required to pay bail or a bond, which was found to range from \$200 to \$3,000.
- If a defendant cannot pay this bail, he or she can end up languishing in prison for days or weeks until he or she can arrange to pay the bail bond set in the case. While this is not a frequent occurrence, it continues to happen in Maryland – resulting in de facto debtors' prisons.
- In 2014 Only 2% of consumers in Baltimore City and Baltimore County who were arrested on a body attachment for debt collection had legal representation, while 98% plaintiffs had legal representation.
- The poverty rate in Maryland has increased by 19.1% between 1990-2016. Over 20% of Marylanders are asset-poor, with black households comprising 34% of those who are asset poor in the state. Stagnant wages in the state combined with rising costs of living equates to many low income Marylanders experiencing difficulty surviving economically, which contributes to rising debts in the state.
- A defendant may also be held in jail if they are picked up on a body attachment and the district court or court commissioner is not in session, in which case the individual may be held in jail 24 to 72 hours until they can see a commissioner – **for a debt.**

Problems with Current Law:

- **Creates a 2 tier-system of justice.** Those who can afford to pay a bail or bond do not go to jail, while those who can't afford to pay remain in jail.
- **Criminalizes poverty.** Creates a vicious cycle of poverty where debt collection attorneys use the court system to help them collect debts – including debts that may legally not be able to be collected upon.



- **Disproportionately affects Black residents.** Black Marylanders hold more debt than white Maryland residents. Residents of majority-Black communities have been more aggressively pursued for debt collection than residents of majority-white communities. Many of these arrest warrants show up during routine traffic stops, and, since Black drivers are over-policed, this practice could lead to aggressive tactics being used by police against Black Maryland residents because of an unpaid debt.
- **It serves no constructive purpose.** Jailing someone for a debt serves no constructive purpose: the individual is not violent, nor are they a danger to the community. The individual could however experience real harm due to a body attachment, including losing their job if they are incarcerated. Job loss, of course, makes it far more difficult to repay a debt. Jailing Marylanders for debt only serves to harm the community and contributes to economic and racial disparities in the state.

The Solution:

Passage of HB848/SB657 would eliminate individuals being jailed for debt entirely.

What HB848/SB657 WILL do:

- It will reduce the burden on courts and judges, sheriff's departments, jails, and taxpayers.
- This bill is supported by many Maryland debt collectors.
- It is an important action to end the criminalization of poverty.
- It expands economic rights and equity in Maryland.

What HB 1081/SB 1050 will NOT do:

- It does NOT end the ability of creditors to collect debts and seek repayment. It simply ends the Dickensian practice of jailing indigent Marylanders for consumer debt.

What the opposition says: "This doesn't happen in Maryland anymore. We don't need this."

- We have evidence that this *does* happen in Maryland. Marylanders have been arrested and jailed for debts over the past few years. However, if it is *not* an issue in Maryland, then there should be no issue in passing the legislation and codifying current practices.

VOTE YES on HB 848/SB657.