



Advocating better skills, jobs, and incomes

Testimony in Support of House Bill 848:

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

TO: Hon. Luke Clippinger, Chair, and members of the House Judiciary Committee

FROM: Christopher Dews, Policy Advocate

DATE: February 10, 2021

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We support House Bill 848 as a means to ensure that incarceration or the threat of incarceration is not improperly used to intimidate small claims debtors.

In these difficult economic times, many unemployed Marylanders are experiencing financial hardship, which negatively impacts their financial stability. Many adult workers and job-seekers find themselves struggling to not only pay for current bills but past debt. Workers are behind on their bills and residents from all rungs of the economic ladder – especially those with a criminal record - are finding themselves caught in a downward spiral.

Unfortunately, debt collectors are using sheriff's deputies and the threat of jail to intimidate people into paying debts. The Maryland Constitution prohibits imprisonment for debt, stating that "no person shall be imprisoned for debt." Maryland case law for the past 80 years establishes that a person cannot be imprisoned for contempt for disobeying an order to pay money based upon a simple contract or debt. However, Maryland workers are finding themselves jailed or threatened with incarceration for failure to pay a debt they simply cannot pay.

For those who cannot pay, the worsening economy, combined with debt collection lawsuits, has resulted in individuals being incarcerated for contempt of court for failing to respond to court hearings or other court orders. It is well established that possession of a criminal record presents a tremendous barrier to securing and maintaining employment. Many people with a criminal record apply for jobs for which they are well-qualified but do not have their applications even considered because of their past. This presents significant barriers for debtors who need a job to be able to pay down the debt owed.

JOTF JOB OPPORTUNITIES TASK FORCE

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Debt collection enforcement policies must be tailored to the debtors' financial situation in order to encourage payment. House Bill 848 seeks to address this. House Bill 848 will ban body attachments in small claims consumer debt cases where the amount in controversy does not exceed \$5,000. House Bill 848 will not only help to level the playing field between unsophisticated consumers and large debt collection firms in small claims courts but will remove the penalty of incarceration for those who simply cannot pay. Jailing debtors for nonpayment of claims under \$5000 is counterproductive and creates additional barriers for debtors. For these reasons, we urge a favorable report of House Bill 848.