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To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Rebecca A. Fleming, Esquire

Date: March 10, 2022

Subject: **Senate Bill 884:**
Driver’s Licenses – Suspension for Child Support Arrearages – Exception

Position: **SUPPORT with an amendment**

The Maryland State Bar Association (MSBA) FJLSC **supports Senate Bill 884 – Driver’s Licenses – Suspension for Child Support Arrearages – Exception, with an amendment**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise.

Currently, Maryland Law Family Law Article § 10-119 provides for the suspension or the restriction of a person’s driver’s license if that person owes child support arrears and the child support obligation is subject to enforcement through the Office of Child Support Enforcement. The current law provides for suspension, the issuance of a work-restricted license, or work restricted privilege to drive. It also requires that the obligor shall receive written notice of the intended suspension, and provides the obligor with an opportunity to request an investigation prior to the suspension. The obligor may submit an objection on the basis of an inaccuracy in the stated arrearage. He or she may also oppose the suspension based upon the impact the suspension would have on his or her ability to obtain or maintain employment, or based upon an undue hardship that would be placed on him or her.

In addition, Maryland Law Family Law Article § 12-201 includes in its definition of income for the determination of child support “potential income of a parent, if the parent is voluntarily impoverished.” Voluntary impoverishment is found when a parent has made the free and conscious choice, not compelled by factors beyond his or her control, to render himself or herself without

adequate resources, whether or not the intent was to avoid paying child support. This has been well settled law for decades.

The FJLSC believes the proposed exception to Family Law Article § 10-119 would permit someone who has been judicially determined to be voluntarily impoverished to avoid meaningful enforcement. If the proposed language passes, an obligor parent would only need to reduce his or her income to the requisite threshold to avoid enforcement, even if a judge has found that obligor to be voluntarily impoverished.

The Child Support Enforcement Administration has very few tools by which it can enforce child support orders. The ability to suspend the license of an obligor who is not paying anything in support of their child or children, is one of the only enforcement tools that is available. The difficulties in enforcing child support orders is felt throughout the state, in every jurisdiction. Court orders are routinely ignored by obligors, leaving single parents shouldering the burden on their own, and leaving children without the support that they are entitled to.

The FJLSC is aware of the legislative goals involved with regards to the proposed exception, and this committee supports those goals, however, we want to ensure that the well settled law regarding voluntary impoverishment will not be impacted by the passage of this bill. We want to avoid an unintended consequence that would permit obligors to intentionally reduce their income to avoid one of the few enforcement mechanisms available to obliges who are attempting to collect support from someone who can pay, but chooses not to.

Obligor who *can* pay their support must know that there is a consequence for their failure to do so. The bill, as written, would allow obligors to avoid enforcement if they ensure that their income remains below a certain level. We regularly argue to judges that an obligor is voluntarily impoverished, both in an attempt to enforce orders and when we are establishing child support orders. We are hopeful that this committee will be amenable to modifying the bill to add language that would state that the proposed exception would not apply to an obligor who has been judicially determined to be voluntarily impoverished. While we share the concerns about the enforcement of child support orders, we would like to ensure they are enforced appropriately in a way that is fair to everyone – both the citizens who are paying child support, and the citizens who are collecting child support.

In an effort to ensure that children receive the support that they are entitled to, and to prevent an unintended consequence which prevents enforcement against someone who is judicially determined to be voluntarily impoverished, the FJLSC urges the Senate Judicial Proceedings Committee to issue an favorable report on SB884 with an amendment that would state that the proposed exception would not apply to an obligor who has been judicially determined to be voluntarily impoverished.

Should you have any questions, please contact Rebecca A. Fleming, Esquire by e-mail at rfleming@tnsfamilylaw.com or by telephone at (410) 339-4100 or Lindsay Parvis at lparvis@jgllaw.com or 240-399-7900.