



End Debtors' Prisons: Vote YES on HB 1081/SB 1050

What is the issue?

Maryland's Constitution says that "no person shall be imprisoned for debt" and 80 years of state case law make 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 debt collection industry, there has also 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.
- 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.
- 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.
- **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.

The Solution:

Passage of HB 1081/SB 1050 would eliminate individuals being jailed for debt.



What HB 1081/SB 1050 WILL do:

- HB 1081/SB 1050 states that an individual can be picked up (arrested) on a body attachment. But once picked up, the individual will be taken immediately to a court or a district commissioner. Once there, the individual would complete a form that declares their assets and answers questions under the threat of perjury.
- Once the form is completed, the individual is released on their own recognizance.
- This process eliminates the bail or bond so that no one will be jailed for failure to pay the bail or bond.
- It ensures that the Court must be in session for someone to be picked up on a body attachment, so that no one will be held in jail for 24-72 hours until they can be seen by a court commissioner.
- It satisfies the need of creditors to get information about an individual's assets. **Please note: there is no opposition from creditors to this bill.**
- It will reduce the burden on sheriff's departments, jails, taxpayers, and judges.

What HB 1081/SB 1050 will NOT do:

- It does NOT get rid of body attachments. Individuals can still be picked up on a body attachment, they just won't be jailed.

What the industry 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 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.

HB 1081/SB 1050 provides dignity and respect to indigent Marylanders, meets the needs of creditors, and ensures no Marylander will be jailed for a debt – and ends a two-tiered justice system.

VOTE YES on HB 1081/SB 1050.