

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
Third Reader

Senate Bill 498

(Senator Ready, *et al.*)

Judicial Proceedings

Judiciary

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Drunk and Drugged Driving - Testing - Warrants

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This bill specifies that a person may be compelled to take a test for alcohol, drug, or controlled dangerous substance (CDS) content relating to an alcohol- and/or drug-related driving offense as required by a valid warrant.

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Fiscal Summary

**State Effect:** The bill does not materially affect governmental finances or operations and generally codifies existing practice.

**Local Effect:** The bill does not materially affect local government finances or operations and generally codifies existing practice.

**Small Business Effect:** None.

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Analysis

**Current Law:** A person who drives or attempts to drive a motor vehicle is deemed to have consented to take a test of breath or blood, or both, if the person is detained by a police officer on suspicion of committing an alcohol- and/or drug-related driving.

A person must submit to a test of blood or breath, or both, as directed by a police officer if the person is involved in a motor vehicle accident that results in death or life-threatening injury to another person and the police officer detains the person due to a reasonable belief that the person was driving or attempting to drive while:

- under the influence of alcohol or under the influence of alcohol *per se*;

- impaired by alcohol;
- impaired by drugs and/or drugs and alcohol; or
- impaired by a CDS.

If a police officer directs that a person be tested, then the test must be administered by qualified personnel who comply with the testing procedures specified in statute. Medical personnel who perform the required tests are not liable for civil damages from administering the tests, unless gross negligence is proved.

However, a person may not be compelled to submit to a test to determine the alcohol or drug concentration of a person's blood or breath unless there is a motor vehicle accident that results in death or a life-threatening injury to another person. Further, in a 2016 case, the U.S. Supreme Court held that a blood test cannot be administered without the consent of a person suspected of a drunk and/or drugged driving offense, unless a search warrant is obtained, absent exigent circumstances.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 1529 (Delegate Arikan, *et al.*) - Judiciary.

**Information Source(s):** Anne Arundel, Charles, Frederick, and Montgomery counties; City of Havre de Grace; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2020  
mr/aad Third Reader - March 13, 2020

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Analysis by: Elizabeth J. Allison

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510