



State of Maryland
Department of State Police
Government Affairs Section
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POSITION ON PROPOSED LEGISLATION

DATE: February 21, 2020

BILL NUMBER: Senate Bill 498 **POSITION:** Support

BILL TITLE: Drunk and Drugged Driving – Testing - Warrants

REVIEW AND ANALYSIS:

This legislation seeks to establish an exception to the prohibition on compelling a person to undergo a test of a person's breath or blood if compelled by a valid judicial warrant.

The acquisition of evidence is a major part of any criminal investigation, be it a major or less serious crime. The responsibility for the collection of evidence falls primarily upon law enforcement officers. Driving while impaired by alcohol, drugs or a combination is a criminal act that kills over 10,000 people every year in the United States and around 150 each year in Maryland. An important piece of evidence in an impaired driving case is evidence of alcohol or drugs in the driver's system. That evidence, according to our Transportation Article, comes from the measurement of alcohol and/or drugs in a driver's breath or blood. Transportation Article 16-205.1 prohibits a law enforcement officer from requiring a driver to provide a breath or blood specimen except in the case of a serious or fatal motor vehicle crash. This prohibition prevents a law enforcement officer from fulfilling a major responsibility and deprives the Court of valuable evidence that could help the Court render an appropriate sentence in the case of a conviction.

When criminal suspects refuse to voluntarily provide means by which law enforcement may obtain evidence of a crime, a law enforcement officer may apply for a search and seizure warrant to a Judge of a Maryland court. Currently however, Chief Judge John Morrissey has informed all Maryland District Court judges that no search warrant should be issued for blood or breath specimens except in cases involving a fatality or life threatening injury crash.

Over the last three years, 2017 through 2019, Maryland has averaged a test refusal rate of 44.2% for drug impaired driving cases, all of which involve blood specimens, In comparison, the average test refusal rate for our neighboring states, for the three years of 2016 through 2018, are much lower; Delaware - 0.34%, New Jersey - 19.39%, Pennsylvania - 8.22%, Virginia - 5.43%, and West Virginia - 32.9%, while the national average rate for test refusal is 7.67%

Clarifying our existing law to clearly authorize a judge to issue a search warrant upon proper application would be a logical step in helping secure evidence of a crime; the crime of driving under the influence or while impaired.

For these reason, the Department of State Police urge the committee to give Senate Bill498 a favorable report.