
February 27, 2020

The Honorable William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis MD 21401

Re: Letter of Information – Senate Bill 649 – Public Information Act – Motor Vehicle Administration – Warrant for Personal Information and Reporting

Dear Chairman Smith and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 649 but offers the following information for the Committee’s consideration.

Senate Bill 649 prohibits a custodian of public records from disclosing personal information to the federal U.S. Immigration and Customs Enforcement (ICE) absent a valid warrant issued by a federal or state court. This provision would apply under the Public Information Act (PIA), which allows disclosure of information “for use by a federal, state, or local government, including a law enforcement agency, or a court in carrying out its functions” (General Provisions Article Section 4-320(f)(1)). The bill further establishes several reporting requirements specific to MDOT Motor Vehicle Administration (MDOT MVA), including reporting the number of requests for personal information received from ICE; the number of those same requests accompanied by a valid warrant; the number and purpose of facial recognition searches completed by ICE based on personal information provided to ICE by the MDOT MVA; and the number of individuals whose personal information was provided to ICE by MDOT MVA.

As a matter of course, law enforcement access to MDOT MVA records occurs via the Department of Public Safety and Correctional Services (DPSCS), through either the Local Law Enforcement Dashboard (Dashboard) or the Maryland Electronic Telecommunications Enforcement Dashboard (METERS). Access to these databases is certified by the Maryland State Police for state and local agencies, and by the Federal Bureau of Investigations for federal agencies. MDOT MVA has no means by which to control or monitor the access of approved end-users in the law enforcement systems.

Though MDOT MVA seldomly provides data directly to law enforcement agencies, on the rare occasion when a law enforcement agency contacts MDOT MVA directly, procedures could be adjusted to accommodate the disclosure and reporting requirements in Senate Bill 649.

Notwithstanding any process-oriented considerations to limiting data exchange between the MDOT MVA and ICE, recent interactions between the U.S. Department of Homeland Security (DHS) and the New York Department of Motor Vehicles (DMV) give the Maryland Department of Transportation reason for concern about potential operational consequences of any actions

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which seek to stop or substantially reduce ICE access to law enforcement databases. On February 5, 2020, two months after New York law took effect prohibiting the disclosure of DMV records to federal immigration and customs enforcement agencies except with a court order or warrant, DHS formally halted enrollments in Trusted Traveler programs (Global Entry, NEXUS, SENTRI, and FAST) for New York residents. Trusted Traveler Programs improve safety and enhance the overall security profile of an airport as those that choose to enroll undergo additional pre-screening requirements. DHS also announced that used vehicle exports from New York will be significantly delayed due to substantial difficulty validating vehicle ownership. Subsequently, Acting DHS Secretary Chad Wolf indicated to Washington State, where a similar law is being considered, that they should expect similar sanctions, and had reportedly considered more severe sanctions in both cases. DHS's posture towards states that are implementing laws to limit their access to records is uncertain and this landscape and potential implications should be considered in the deliberation of this legislation.

The Maryland Department of Transportation respectfully requests that the Committee consider this information when deliberating Senate Bill 649.

Respectfully submitted,

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