



## Department of Public Safety and Correctional Services

### Office of the Secretary Office of Government and Legislative Affairs

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**BILL: SENATE BILL 836**

**POSITION: LETTER OF INFORMATION**

**EXPLANATION:** This bill requires the Department to audit the criminal justice agencies that access the Maryland Image Repository System (MIRS) to ensure compliance with a sworn affidavit that sets forth the basis for probable cause for accessing MIRS, and requires the Department enter into agreements with federal agencies that authorizes access to MIRS.

#### **COMMENTS:**

- The Department's Information, Technology and Communications Division houses and maintains the Maryland Image Repository System (MIRS), a digitized mug shot book used by law enforcement agencies throughout Maryland in the furtherance of their law enforcement investigation duties.
- The MIRS system is only accessible via the Maryland Criminal Justice Dashboard (Dashboard). Dashboard is only available to law enforcement users with certain National Crime Information Center (NCIC) credentials.
- This bill requires an "agency" that uploads an image of an unidentified individual to the Maryland Image Repository System (MIRS) to produce, maintain, and make available an affidavit, as specified. The bill also requires the Department to submit a report to the General Assembly on (1) each instance in which an agency accessed MIRS for exigent circumstances; (2) audits performed under the bill's provisions; and (3) each violation of the bill's provisions.
- The Department lacks the technological capability and resources to maintain and make available affidavits as well as comply with the reporting requirements stipulated under the bill.
- For the Department to produce and maintain these documents and affidavits for each law enforcement official that accesses MIRS, **the Department would be required to establish an Audit Unit at an estimated cost of \$570,000.00.**

- In addition, it would be necessary to develop a software system in order to capture the accessing requirements specified in the bill. **The cost of development is \$250,000.00 with annual maintenance costs of \$25,000.00.**
- SB 836 does not clearly state as to how it will be determined that law enforcement officers had probable cause to believe a particular individual has or is committing a crime.
- MIRS does not provide positive identification, and is not based on probable cause. Probable cause would typically not be the standard for using this investigative tool, as such, does not meet the standard for evidence.
- It is important to note that since it is required that a user have certain NCIC credentials to access MIRS for law enforcement investigatory purposes, DPSCS/ITCD does not provide policy direction. Local law enforcement agencies in the State are responsible for establishing a policy regarding the use of MIRS and decide when, where, and how it is used.

**CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services requests the Committee consider this information as it deliberates on Senate Bill 836.