
February 26, 2020

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

Re: Letter of Opposition – Senate Bill 901 – State and Local Government – Participation in Federal Immigration Enforcement

Dear Chairman Smith and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes Senate Bill 901 and offers the following information for the Committee's consideration.

Senate Bill 901 sets out numerous provisions guiding and restricting the actions of state and local law enforcement; corrections agents; and units of state and local governments, or agents of governments relative to immigration and citizenship, and interaction with federal immigration authorities.

In particular, Senate Bill 901 would prohibit a unit of state government from providing information to federal immigration authorities in any matter related to civil immigration enforcement. Currently, law enforcement access to MDOT Motor Vehicle Administration (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). Law enforcement 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 does not control or monitor the access of approved end-users in the law enforcement systems.

Notwithstanding any process-oriented considerations to limiting data exchange between the MDOT MVA and U.S. Immigrations and Customs Enforcement (ICE) specifically, recent sanctions handed down by the U.S. Department of Homeland Security (DHS) to the State of New York Department are concerning. On February 5, 2020, two months after New York law took effect prohibiting the disclosure of New York Department of Motor Vehicles (NYDMV) records to federal immigration and customs enforcement agencies (except with a court order or warrant), DHS formally halted enrollments in Trusted Traveler programs (TSA Pre Check, 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

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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 Senate Bill 901.

Senate Bill 901 further specifies that a unit of state government may not "require an individual to prove the individual's citizenship or immigration status" (page 7, lines 13-15, 27-28), but later (page 9, lines 18-20, 30) provides that a unit of state government is not precluded from complying with a requirement of state or federal law. The federal REAL ID Act requires that applicants for a federally-compliant driver's license or identification card provide proof of lawful status. Under Maryland law, customers who do not qualify for a REAL ID are eligible for a driver's license or identification card marked "not for federal purposes." In 2019, Maryland was the first state to have its Real ID program re-certified by DHS. MDOT MVA's preeminent concern is ensuring the REAL ID status of over 3 million compliant Marylanders is not adversely impacted, and the potentially conflicting provisions in this bill may call into question the Maryland's compliance with Real ID.

The Maryland Department of Transportation respectfully requests the Committee grant Senate Bill 901 and unfavorable report.

Respectfully submitted,

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