

## **Testimony of Brandy Axdahl**

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#### **Before the Senate Judicial Proceedings Committee in Support of SB 559**

**February 25, 2021**

Chairman Smith and distinguished members of the Committee, thank you for the opportunity to testify before you today in support of S.B. 559, which will allow search warrants in impaired driving cases where an offender has refused a chemical test and/or evidence supports suspicion of drug-impaired driving.

Responsibility.org is a national not-for-profit that leads the fight to eliminate impaired driving and underage drinking and is funded by the following distillers: Bacardi U.S.A., Inc.; Beam Suntory; Brown-Forman; DIAGEO; Edrington; Mast-Jägermeister US Inc.; Moët Hennessy USA; Ole Smoky LLC; and Pernod Ricard USA.

We strongly support S.B. 559 to allow a chemical test for driving under the influence (DUI) offenders with a valid search warrant. This is critically important as states bordering Maryland have legalized cannabis and as Maryland considers cannabis legalization. The search warrant is only sought after an officer has observed dangerous driving, has pulled the driver over and determined the driver's impairment likely involves alcohol and/or drugs, a standardized field sobriety test has been conducted, and a blood alcohol concentration test has been administered or refused. Only then will law enforcement seek additional chemical evidence via a search warrant in order to obtain a blood alcohol concentration level and/or levels of drugs in a suspect's body.

DUI is the only crime where the investigation stops after minimal evidence is obtained due to standard operating procedure. If a law enforcement officer observes impairment and detects a blood alcohol concentration (BAC) above the legal limit, the investigation typically ends.

As more drivers are tested for drugs, it has become apparent that many alcohol-impaired drivers are actually multiple substance impaired drivers who avoid detection (Grondel, 2018 and Bui & Reed, 2019).

Search warrants are often needed to secure additional evidence of alcohol and/or drug-impaired driving. If drug use is not identified, it cannot be monitored or treated and multiple substance impaired driving, which poses a much higher crash risk, remains significantly underreported. Every impaired driving investigation – whether it involves alcohol, drugs, or both – is a race against the clock.

When DUI cases involve drugs, time delays are significant, and the most compelling evidence (i.e., drug levels in the blood) dissipates quickly. In most states, blood tests confirm drug presence in a DUI suspect's system.

However, due to delays in obtaining blood draws, test results often do not reflect drug concentration levels at the time of driving on account of rapid metabolization. When a suspect refuses to voluntarily submit to a breath test or a blood draw, a warrant must be obtained. Additionally, in most jurisdictions, a certified healthcare professional must perform the blood draw in a medical facility. This process can add up to two additional hours, possibly more in rural areas. To guard against the loss of evidence,

officers must efficiently collect blood or other chemical samples that are then analyzed to confirm drug presence in DUI cases.

Electronic warrant systems (e-warrants) help officers quickly obtain a search warrant for blood to accurately determine BAC or toxicology results and streamline the arrest process. Other benefits of e-warrants include reduced workloads, fewer errors, stronger DUI cases, speedier case resolutions, fewer burdens on the system, reduced refusal rates, and public deterrence. Minnesota's e-Charging platform reduced error rates from 30% to nearly zero and practitioners report increased ease in obtaining warrants. With an e-warrant system, submissions can be prepared in under 10 minutes and the review, approval, and return process can be completed in 15-20 minutes. Implementation recommendations and examples of robust systems can be found in our Guide to Implementing Electronic Warrants. Delaware has had an electronic warrant system in place for many years and offers a model that Maryland can consider.

Responsibility.org supports increased rates of drug testing in impaired driving cases, including measures to improve and enhance roadside identification of impaired drivers through standardized field sobriety test (SFST) training, Advanced Roadside Impaired Driving Enforcement (ARIDE), the Drug Evaluation and Classification (DEC) program, and oral fluid drug screening. However, the ability to seek a search warrant to test for drugs (and in refusal cases alcohol as well), is one of the most important steps in building a foundation to combat drug-impaired and multiple substance impaired driving. On behalf of Responsibility.org, I urge your passage of S.B. 559. It will help save lives and sets Maryland up to successfully address the evolving impaired driving problem.

Thank you.