



**State of Maryland**  
**Department of State Police**  
Government Affairs Section  
Annapolis Office (410) 260-6100

**POSITION ON PROPOSED LEGISLATION**

**DATE:** February 23, 2022

**BILL NUMBER:** Senate Bill 551                      **Position:** Letter of Concern

**BILL TITLE:** Criminal Procedure – Fresh Pursuit by Law Enforcement – Requirements and Prohibitions

**REVIEW AND ANALYSIS:**

This legislation seeks to establish requirements for a law enforcement officer to engage in a fresh pursuit of a person in a vehicle. It requires the Department of State Police (DSP) to investigate any crash if serious injury or death occurs as the result of the fresh pursuit.

Under current law, the Attorney General's Office (AG), Independent Investigation Unit, shall investigate all alleged or potential police involved deaths of civilians. DSP has partnered with the AG and assists with the investigations, to include police pursuits. Regarding the standards for police pursuits, Criminal Procedure § 2-301 defines the elements and conditions for fresh pursuit by police officers. A law enforcement officer may engage in fresh pursuit of a person who:

- (1) has committed or is reasonably believed by the law enforcement officer to have committed a felony in the jurisdiction in which the law enforcement officer has the power of arrest; or
- (2) has committed a misdemeanor in the presence of the law enforcement officer in the jurisdiction in which the law enforcement officer has the power of arrest. The Maryland Police Training and Standards Commission has created a model policy for each law enforcement agency to adopt into its own policy.

Senate Bill 551 establishes limitations that make it extremely difficult for a law enforcement officer to apprehend a person suspected of committing a crime. This legislation limits the crimes where a police officer can initiate a fresh pursuit to; murder, attempted murder, arson in the first degree, rape, assault, robbery, kidnapping, transporting explosives or hazardous materials. This finite list would prevent an officer from pursuing persons suspected of committing a felony or serious misdemeanors including: hit-and-run collisions resulting in bodily injury or death, significant reckless driving that could cause imminent danger to the public, failure to stop at controlled intersections or driving on the wrong side of the road, or drunk driving, etc. This legislation also requires the officer to have actual knowledge, greater than probable cause, that the person in the vehicle committed the enumerated act. With that being said, an officer could identify the vehicle being used in a kidnapping/robbery/murder, but without direct knowledge of the driver committing the crime the officer would have to let the vehicle go.

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The legislation also puts strict limitations on the speed a police vehicle could travel during a pursuit. In many cases, as was documented in Baltimore City on I-83, the speed of traffic is already more than the speed limits proposed in the legislation. The Transportation Article § 21-106 grants the authority to respond in an emergency or pursuit of a vehicle. Providing the emergency vehicle is operated with both audible and visual signals. Case law, *Altenburg v. Sears* provides that operators of emergency vehicles are authorized to exceed the speed limits and take other actions but they are still required to use due care and ensure the safety of others.

There are some provisions of Senate Bill 551 that are reasonable. For example, helicopters should be used when available, there should be supervisory approval and oversight of the pursuit, prohibit reaching into vehicles with the exception of removing an uncooperative driver from a vehicle at the conclusion of the pursuit.

However, as written, Senate Bill 551 is a statewide prohibition on police pursuits.