

MCPA-MSA_SB 551 Fresh Pursuit by Law Enforcement_O

Uploaded by: Elizabeth Vigna

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William Smith, Jr., Chair and
Members of the Judicial Proceedings Committee

FROM: Chief of Staff David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 23, 2022

RE: **SB 551 – Criminal Procedure – Fresh Pursuit by Law Enforcement –
Requirements and Prohibitions**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 551. This bill attempts to place requirements on law enforcement officers who may be engaged in a fresh pursuit of a person in a vehicle and requires the Department of State Police to conduct an investigation if a serious injury or death results from the fresh pursuit.

MCPA and MSA have several concerns with this legislation.

1. Maryland's Fresh Pursuit law authorizes police officers extra-territorial police authority (exercising police authority outside of their jurisdiction) for felonies or a misdemeanor in the presence (including traffic offenses). The term "pursuit" in this definition doesn't necessarily refer to a vehicle pursuit, and most likely didn't when written, since it was derived from Common Law. Amending §2-301 of the Criminal Procedure Article is out of place as the bill language is limiting driving behavior, normally found in Traffic Law. Further, the language in this bill would only affect pursuits outside of an agency's jurisdiction, not within, since it is incorporated in Fresh Pursuit.
2. The bill now provides a new definition for all to remember. "Dangerous Act" does not incorporate all crimes of violence in Maryland, including Abduction and Carjacking, and doesn't address other life threatening situations including hit and run accidents resulting in death or serious injury or Driving while Intoxicated where a suspect's driving is flagrantly reckless that he/she presents a clear and present danger to other users of the

roadway, and failure of to apprehend the violator would likely pose an imminent and life threatening danger to the public.

3. The language "actual knowledge that the person in the vehicle has committed a dangerous act" would be impossible in many instances, as officers cannot always positively identify a suspect involved in a "dangerous act" while in a vehicle, as officers many times come across look outs for vehicles (including just tag numbers), and the drivers refusal to stop or they flee provides probable cause that the suspect is inside the vehicle.
4. Most agencies in the State do not have helicopters, or if they do, a helicopter is not readily available.
5. Putting speed restrictions in law would allow persons to simply escape from the pursuit.
6. Coming to a complete and full stop at all intersections (including ones that are controlled by a traffic control device and there is a favorable signal for the officer) is contrary to current Maryland Vehicle Law for responding to emergency calls for service.
7. "Reach inside the pursued vehicle while it is moving or under the control of the person being pursued". What is the definition of "control"? If the car is simply running, the officer may have to reach inside to remove the person and place them into custody, or if the car is still in drive or on in the case of an impaired driver, the officer may have to reach inside to place the car in park or turn it off.

For the reasons listed above, MCPA and MSA OPPOSE SB 551 and urge an UNFAVORABLE Committee report.

Darius Testimony Letter Bill SB0551.pdf

Uploaded by: Rowena Simmons

Position: FAV

Rowena Simmons's testimony for Bill SB0551

Who I am to Darius Gore

My name is Rowena Simmons, the mother of Darius Gore. Darius was born at John Hopkins Bayview Hospital on September 12th, 1991, weighing 7lbs 8oz. Darius is my first-born child. Darius grew up on Dorchester Road and attended Forest Park High School. Our family moved on Carlisle Ave in 2007. I was Darius's mom, friend and the first person to teach him the meaning of love, patience. Our bond was stronger than ever because I had Darius when I was 27 yrs. Old. Darius meant everything to me, he saw me go through early adulthood. Darius basically taught me to grow up and he taught me about sacrifice. Darius was my inspiration for change for a silly young woman to being responsible. First born children are always special because I think they are your experiment child growing and learning about motherhood.

What has happened to me since the death of my son Darius Gore

Darius's death has taken the life out of me. It's like losing a part of my soul. I never felt so emotionally stuck and drained before, it's like living in a dream. It's like a never-ending nightmare for me and I feel helpless. I sit down and think about what took place and how my son was in Sinai Hospital all alone with no family and friends at his bedside. Darius was not able to hear our voices or see our faces when he was in and out of consciousness. Darius has a family that loved his and that he has left behind that is struggling to get a grip on his death and how it suddenly happened. Darius was a caring and loving son, brother, uncle and friend to so many who loved him. This accident has left a big void in our lives because we were not able to properly be by his side nor was, we able to

say goodbye. I was not able to sit by his bedside to pray with him in the hospital due to the covid restrictions. I couldn't have proper funeral due to the early covid restrictions and with all of this it has brought tremendous trauma and strain on myself and family. Since Darius's death I haven't been able to go back into my community non-profit to work because of the pain and the constant memories and thoughts of Darius. Darius would help me with community events and special projects. I really cannot understand or wrap my brain around the idea of the police chasing a stolen vehicle through our city streets and neighborhoods in that manner to apprehend someone for a nonviolent stolen vehicle that caused the killing of my son. Due to this my son is gone forever and I will never hold or see my child again. I pray that no one else will have to bury their child because of a stolen vehicle chase.

Why I'm in support of Bill/SB0551

I support Bill/SB0551 because police policy 1503 has had no significant requirements for Baltimore City law enforcement officers. Law enforcement has had a broad range of use of force and has had a broad range of use of force and has made a common practice of force instead of de-escalation practices. I believe this bill will hold the Baltimore City police department and its officers accountable. I believe this bill will hold the Baltimore City Police Department and its officers accountable and will add core principles for its officers and the police department to adhere to improved guidelines. The new bill will issue in better revised interventions and updated practices. This update will insure better communication, intense supervision, meticulous documentation, global positioning and approval systems and, knowledgeable de-escalating techniques. With my support of Bill SB/0551 I approve the bill and I would like to see better outcomes from the initiation of this bill. This bill is not only for the safety of Baltimore Citizens but also for those officers who took the oath to serve those who are in the communities.

Thank you,

Rowena Simmons

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Uploaded by: Andrea Mansfield

Position: UNF



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MSP Position Paper on SB551.pdf

Uploaded by: Thomas Williams

Position: UNF



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.

State of Maryland
Department of State Police
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POSITION ON PROPOSED LEGISLATION

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.