



## Department of Public Safety and Correctional Services

### Office of Government & Legislative Affairs

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**BILL:**                   **SENATE BILL 192**

**POSITION:**           **OPPOSITION**

**EXPLANATION:** This bill establishes requirements and procedures relating to the use of facial recognition by law enforcement agencies. Further, the bill requires the Department to adopt and publish a statewide model policy, develop and administer a training program and proficiency testing, and review and approve a single facial recognition technology for use by law enforcement agencies.

#### **COMMENTS:**

- The Department of Public Safety and Correctional Services operates the State's prisons that house individuals sentenced to serve 18 months or longer. The Department also oversees the Division of Parole and Probation, which supervises individuals who are on parole or probation in the community, and runs the Baltimore City Pretrial Complex that houses individuals awaiting trial.
- The Department houses the Police Training and Standards Commission, an independent commission that functions in the Department.
- Although the Department is the repository for the Criminal Justice Information System that houses criminal history record information, facial recognition technology and CJIS are independent of each other.
- The Department is not a "law enforcement agency" as defined in Public Safety Article § 2-101 and is not an end user of facial recognition technology. The approximately 150 law enforcement agencies in the State that use this service are independent of the Department.
- Section 2-506 of the bill will require the Department to:
  - Adopt and publish a model statewide policy regarding the use of facial recognition.

- Develop and administer a training program as well as proficiency testing as it pertains to the use of facial recognition technology in the courts and criminal investigations - including training and testing on cultural diversity and implicit bias.
  - Review and approve a single facial recognition technology for use by law enforcement agencies in the State.
- Training and proficiency testing regarding the use of facial recognition technology should be provided by the technology's vendors who (1) are the subject matter experts on the use of their technology and (2) would be the ones to determine proficiency standards.
- **The Department is concerned with the language in Section 2-506 requiring review and approval of a single facial recognition technology as it is not in a position to determine the best and sole facial recognition technology for the approximately 150 law enforcement agencies in the State;** especially as the Department is not aware of the technology maintained by each of the enforcement agencies in the State, nor is it aware of the compatibility of each agency's information technology system with existing facial recognition technology.
- Additionally, the bill states a law enforcement agency may not use or contract for the use of facial recognition technology for use in criminal investigations unless the technology is currently approved for use by the Department. As stated previously, the Department does not have knowledge of the technological capabilities of various law enforcement agencies nor is the Department able to determine what is the best resource for EACH agency when conducting criminal investigations.
- As stated previously, the Department is not an end user of this technology and therefore, should not be charged with training and proficiency testing or review and approval of an unknown product for other entities that do use these products on a regular basis. Nor should the Department review and approve a single technology that impacts approximately 150 independent law enforcement agencies. These requirements should solely lie with the subject matter experts who provide the technology and the law enforcement agencies who utilize these services.

- Facial recognition technology is an investigatory tool used by law enforcement agencies and, as such, should reside with them.

**CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully requests the Committee vote **UNFAVORABLE** on Senate Bill 192.