



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

**POSITION ON PROPOSED LEGISLATION**

**DATE:** February 3, 2021

**BILL NUMBER:** Senate Bill 601      **POSITION:** Letter of Concern

**BILL TITLE:** Public Safety – Required Drug and Alcohol Testing for Law Enforcement Officers

This legislation seeks to require a law enforcement officer to submit to a compelled blood, breath or urine test for alcohol or drug analysis whenever the officer engages in conduct that results in death or life-threatening injury or discharges their firearm. This legislation also requires the law enforcement agency to make the results of the test available to the person of interest to the conduct or their legal representative.

Under current law, a law enforcement officer may be compelled to submit to drug or alcohol testing. However, those tests are for administrative hearings only, are not subject to disclosure outside of the administrative hearing and require reasonable suspicion of impairment. They are also not summarily subject to disclosure to the public.

The Department has concern over the constitutional protections afforded to any citizen. Without a reason to compel an employee to submit to a test that can be used against them in a criminal proceeding is a violation of the employees right to avoid self-incrimination. No other citizen would be subject to such a standard. Case law has established in order to compel a citizen to a blood test, a warrant is required. In addition, to require dissemination of the results would violate the employee's medical privacy rights. There is due process for the request and subpoena of medical records to be used in a criminal prosecution.

The Department believes in transparency and accountability, but also believes in the protection of an individual's rights. Without any evidence to suggest impairment, there is no need for compelling a test. In addition to the privacy issues, there is a cost to each agency for a test result that would lead to be of no value since there is no indication of impairment. The dissemination of those records is also concerning to the Department.

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

**POSITION ON PROPOSED LEGISLATION**

Every person has an expectation of privacy, unless there is reason to believe impairment is an issue, there is no reason to compel the test.