

MCPA-MSA_HB 404 Wellness Checks - SWA.pdf

Uploaded by: Andrea Mansfield

Position: FWA



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Luke Clippinger, Chair and
Members of the House Judiciary Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 27, 2024

RE: **HB 404 – Law Enforcement – Wellness Checks – Requirements**

POSITION: SUPPORT WITH AMENDMENTS

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT HB 404 WITH AMENDMENTS**. This bill establishes requirements for law enforcement wellness checks. MCPA and MSA do not have an issue with performing wellness checks or setting a framework for them in law. They urge amendments to ensure that the bill effectively achieves its intent.

Currently, officers perform wellness checks typically when a family member or friend requests an in-person visit out of concern for an individual's well-being. There are no laws mandating wellness checks, rather they are performed according to agency policy and best practices.

HB 404 requires an agency to “immediately” conduct a wellness check once it receives a “qualified request.” The term “immediately” is problematic because the standard is too specific and unattainable. It requires agencies to prioritize responding to a wellness check over anything else that may be happening. In some areas, the few officers on duty may be busy attending to other pressing matters (e.g. fatal accident or homicide) and cannot perform the check immediately. An immediate response may not be achievable in all cases, but a prompt or timely response to a wellness check is critically important.

The bill also lacks qualifications for who may make the request and vague parameters to govern a response. For the protection of the first responders and the individual they are called to check on, agencies perform a preliminary investigation. This helps verify a relationship between the requester and the individual, minimizes the potential for abuse, and protects against wasted time and resources (e.g. false wellness calls or responses to vacant buildings).

Additionally, while an agency should forward a request it receives from outside its jurisdiction to the appropriate agency, they have no power to force an agency to perform the check or to perform it immediately. Notifying the requester of the transfer and the appropriate agency of the request is doable.

To address these concerns, MCPA and MSA respectfully request that HB 404 incorporate the amendments attached to this testimony.

For these reasons, MCPA and MSA **SUPPORT HB 404 WITH AMENDMENTS** and urge a **FAVORABLE** committee report as amended.

532 Baltimore Boulevard, Suite 308
Westminster, Maryland 21157
667-314-3216 / 667-314-3236

HB 404 Amendments

Add to definitions:

(A)(2)

“QUALIFIED REQUEST” MEANS A VERBAL OR WRITTEN REQUEST, THAT INCLUDES SUFFICIENT **CREDIBLE** INFORMATION REGARDING A SPECIFIC ~~LIFE-THREATENING~~ **CONCERN OF A LIFE-THREATENING CONDITION. FOR IMMEDIATE ACTION OR RESPONSE.**

(A) (4)

(4) “INTERESTED PARTY” MEANS A: physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer or designee of a health officer who has examined the individual, or another interested person.

(A)(3)

“WELLNESS CHECK” MEANS AN IN-PERSON VISIT BY A LAW ENFORCEMENT OFFICER, **FIREFIGHTER, OR EMERGENCY MEDICAL TECHNICIAN**, CONCERNING THE WELL BEING OF AN INDIVIDUAL.

(B) (1)

IF A LAW ENFORCEMENT AGENCY, **FIRE DEPARTMENT, OR EMERGENCY MEDICAL SERVICE** RECEIVES A QUALIFIED REQUEST **FROM AN INTERESTED PARTY** FOR A WELLNESS CHECK OF AN INDIVIDUAL LOCATED IN THE ~~LAW ENFORCEMENT AGENCY’S~~ **RECEIVING ENTITY’S** JURISDICTION, THE ~~LAW ENFORCEMENT AGENCY~~ **RECEIVING ENTITY** SHALL ~~IMMEDIATELY CONDUCT A~~ **CONDUCT A** WELLNESS CHECK OF THE INDIVIDUAL **WITHOUT UNREASONABLE DELAY.**

(B) (2)

IF A LAW ENFORCEMENT AGENCY, **FIRE DEPARTMENT, OR EMERGENCY MEDICAL SERVICE** RECEIVES A QUALIFIED REQUEST **FROM AN INTERESTED PARTY** FOR A WELLNESS CHECK OF AN INDIVIDUAL WHO IS NOT LOCATED IN THE ~~RECEIVING ENTITY’S~~ ~~LAW ENFORCEMENT AGENCY’S~~ JURISDICTION, THE **RECEIVING ENTITY** ~~LAW ENFORCEMENT AGENCY~~ SHALL IMMEDIATELY SUBMIT A REQUEST TO THE **APPROPRIATE LOCAL SERVICE** ~~ENFORCEMENT AGENCY~~ IN THIS STATE OR ANOTHER STATE TO CONDUCT A WELLNESS CHECK OF THE INDIVIDUAL **WITHOUT UNREASONABLE DELAY.**

(C)

A LAW ENFORCEMENT AGENCY, **FIRE DEPARTMENT, OR EMERGENCY MEDICAL SERVICE** THAT RECEIVES A QUALIFIED REQUEST UNDER THIS SECTION SHALL MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION REGARDLESS OF WHERE THE INDIVIDUAL OR ENTITY MAKING THE QUALIFIED REQUEST IS LOCATED.

HB404_PGCEX_FAV.pdf

Uploaded by: Angela Alsobrooks

Position: FWA



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: House Bill 404 - Law Enforcement - Wellness Checks - Requirements (Gabriel's Law)

SPONSOR: Delegates Woods, *et al.*

HEARING DATE: February 27, 2024

COMMITTEE: Judiciary

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT WITH AMENDMENTS

The Office of the Prince George's County Executive **SUPPORTS House Bill 404 - Law Enforcement - Wellness Checks - Requirements (Gabriel's Law)**, which requires a law enforcement agency that receives a "qualified request" for a wellness check of an individual to immediately (1) conduct a wellness check of the individual, if they are located in the law enforcement agency's jurisdiction or (2) submit a request to the relevant law enforcement agency in the State or another state to conduct a wellness check, if the individual is not located in the law enforcement agency's jurisdiction. A law enforcement agency that receives a qualified request must meet these requirements regardless of the location of who is making the qualified request.

In Prince George's County, all welfare check requests are sent through our Public Safety Communications (PSC), which is a different entity from the Prince George's County Police Department (PGPD). PSCs, who receive such requests as well as dispatch the call, are trained to ask pertinent questions to determine if this is a life-threatening situation before dispatching a police officer. Additionally, PGPD is ill equipped to have a call waiting in queue then answering it for out of priority protocol. The line officer would not have access to nationwide phone numbers as fast as PSC. We offer the friendly amendment (included after the testimony) that expands the requirements regarding receiving and directing a qualified wellness check request to include PSCs.

Additionally, it is not uncommon for Fire/EMS to deal with a wellness check in Prince George's County. We include in our amendment language adding Fire/EMS to the requirements regarding the responding agencies for a wellness check.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS House Bill 404 WITH AMENDMENTS** and asks for a **FAVORABLE** report.

Prince Georges County Executive

Proposed Amendments to HB 404

Article – Public Safety

3-531.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “QUALIFIED REQUEST” MEANS AN ORAL OR WRITTEN REQUEST THAT INCLUDES SUFFICIENT INFORMATION REGARDING A SPECIFIC LIFE-THREATENING CONCERN FOR IMMEDIATE ACTION OR RESPONSE.

(3) “WELLNESS CHECK” MEANS AN IN-PERSON VISIT BY ~~A LAW ENFORCEMENT OFFICER~~ AN OFFICER OR FIRST RESPONDER OF A RESPONDING PUBLIC SAFETY AGENCY CONCERNING THE WELL BEING OF AN INDIVIDUAL.

(4) “RESPONDING PUBLIC SAFETY AGENCY” MEANS A LAW ENFORCEMENT AGENCY OR A FIRE DEPARTMENT LOCATED IN THE JURISDICTION THAT RECEIVES A QUALIFIED REQUEST.

(B) (1) IF A LAW ENFORCEMENT AGENCY OR PUBLIC SAFETY COMMUNICATIONS AGENCY RECEIVES A QUALIFIED REQUEST FOR A WELLNESS CHECK OF AN INDIVIDUAL LOCATED IN THE ~~LAW ENFORCEMENT~~ AGENCY’S JURISDICTION, THE ~~LAW ENFORCEMENT AGENCY~~ RESPONDING PUBLIC SAFETY AGENCY SHALL IMMEDIATELY CONDUCT A WELLNESS CHECK OF THE INDIVIDUAL.

(2) IF A LAW ENFORCEMENT AGENCY OR PUBLIC SAFETY COMMUNICATIONS AGENCY RECEIVES A QUALIFIED REQUEST FOR A WELLNESS CHECK OF AN INDIVIDUAL WHO IS NOT LOCATED IN THE ~~LAW ENFORCEMENT~~ AGENCY’S JURISDICTION, THE LAW ENFORCEMENT AGENCY OR PUBLIC SAFETY COMMUNICATIONS AGENCY SHALL IMMEDIATELY TRANSFER THE CALL OR SUBMIT ~~A~~ THE QUALIFIED REQUEST AND CALLER CONTACT INFORMATION TO THE RELEVANT LAW ENFORCEMENT AGENCY OR PUBLIC SAFETY COMMUNICATIONS AGENCY IN THE STATE OR ANOTHER STATE ~~TO CONDUCT A WELLNESS CHECK OF THE INDIVIDUAL.~~

(C) A LAW ENFORCEMENT AGENCY OR PUBLIC SAFETY COMMUNICATIONS AGENCY THAT RECEIVES A QUALIFIED REQUEST UNDER THIS SECTION SHALL MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION REGARDLESS OF WHERE THE

INDIVIDUAL OR ENTITY MAKING THE QUALIFIED REQUEST IS LOCATED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

late testimony

Uploaded by: Elizabeth Hilliard

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB 404 Gabriel's Law

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/27/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 404

While our government gives the legislature the power to make laws, that power is not unbridled. Our laws must conform to the United States Constitution, even when they are well-intentioned. Legislators are tasked with the job of identifying problems and coming up with solutions, and undoubtedly, our legislators are seeking to remedy a problem with this Bill, but this Bill, unfortunately, creates more problems than it aims to address. Namely, it fails to sufficiently define qualified request, and it fails to place limitations on what law enforcement can do in its community caretaking function or proclaim what they cannot. And finally, it creates a mandatory interaction between law enforcement and vulnerable persons, without any requirement that trained mental health providers be involved.

In no uncertain terms, law enforcement may not rely on the community caretaking function to enter into a person's home, and this law fails to draw that important boundary. More specifically, in Caniglia v. Strom, 593 U.S. 194, 197–98 (2021), a unanimous Supreme Court made abundantly clear that police officers' community caretaking function may not be used to make a warrantless entry into a home. This bill, on the other hand, which demands a response from law enforcement on a non-criminal matter, under the community caretaking doctrine, makes a law enforcement response mandatory, but it fails to appropriately draw the boundaries around what that response will look like, and when and how it ends. With the knowledge, from as recent as 2021, that the United States Supreme Court rejects any notion that the community caretaking function can serve as a basis for law enforcement to enter a

home, it seems this legislation conflicts with the law or, at best, under-informs the public and law enforcement, by failing to recognize this important line in the sand drawn by the Constitution.

The bill also fails to sufficiently define what qualified request means—leaving open the possibility for false calls. And finally, and perhaps most importantly, the Bill fails to address the necessity that trained mental health workers, not law enforcement officers armed with deadly weapons, be the ones to respond to mental health crises. All too often, officers exacerbate community caretaking calls, making matters worse and people (including law enforcement) are catastrophically and fatally injured. Without any sufficient guardrails this legislation may be well-intentioned, but it makes everyone less safe.