

HCH_FAV_SB 704

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Position: FAV



HEALTH CARE FOR THE HOMELESS TESTIMONY
IN SUPPORT OF
SB 704 – Criminal Law – Drug Paraphernalia for Administration – Decriminalization

Senate Judicial Proceedings Committee
March 3, 2020

Health Care for the Homeless supports SB 704, which will amend existing criminal law to remove items that could be used to consume drugs from what is considered drug paraphernalia, effectively decriminalizing possession of those items.

SB 704 will save lives, reduce barriers to housing and employment, and prevent the spread of infectious diseases. As a health care facility serving over 10,000 of Maryland's most vulnerable individuals each year, we see far too often the effects of criminalizing substance use. In Maryland, possession of drug paraphernalia can result in a fine up to \$500 and a misdemeanor – leading to a criminal record that can be used to deny someone housing and employment.¹ Without access to stable housing, it is unfathomable to expect an individual to succeed in treatment for substance use disorders. The criminalization of substance use and paraphernalia perpetuates homelessness and prevents individuals from seeking supportive services. When there is less fear or punishment or arrest by police, individuals feel safer accessing treatment.² By decriminalizing paraphernalia and implementing harm reduction principles, individuals are more inclined to carry and use life-saving supplies—such as sterile needles and safer smoking kits—that prevent overdose deaths and the spread of infectious diseases.³ In addition to saving lives, this has enormous implications for lowering healthcare costs related to treating infectious diseases, like HIV.⁴

In Maryland, there were 515 opioid-related deaths between January and March 2019.⁵ That is far too many. This bill would show Maryland's commitment to reframing the way we view and treat substance use—as a public health issue, not a criminal one. **As a health clinic that sees how crucial and life-saving harm reduction and decriminalization are for the clients we serve, Health Care for the Homeless urges the committee to issue a favorable report on SB 704.**

Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County. For more information, visit www.hchmd.org.

¹ MD Code Ann., Crim. Law, § 5-619 (2013).

² Laura Vearrier, "The Value of Harm Reduction for Injection Drug Use: A Clinical and Public Health Ethics Analysis," *Disease-a-Month* 65, no. 5 (May 2019), pp. 119–41, available at <https://doi.org/10.1016/j.disamonth.2018.12.002>.

³ *Id.*

⁴ David Wilson, et al., "The cost-effectiveness of harm reduction," *International Journal of Drug Policy* 26, supp. 1 (February 2015), pp. S5-S11, available at <https://doi.org/10.1016/j.drugpo.2014.11.007>.

⁵ Maryland Department of Health, *State Releases 2019 First Quarter Fatal Overdose Data* (June 2019), available at health.maryland.gov/newsroom/Pages/State-Releases-2019-First-Quarter-Fatal-Overdose-Data.aspx.

NCADD_FAV_SB 704

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Position: FAV



Senate Judicial Proceedings Committee

March 3, 2020

**Senate Bill 704 - Criminal Law - Drug Paraphernalia for Administration -
Decriminalization
Support**

NCADD-Maryland supports Senate Bill 704 which would decriminalize possession of items that can be used to inject, ingest, inhale, or otherwise consume a controlled dangerous substance. As Maryland continues to consider and implement programs and strategies that reduce the harms caused by substance use, the decriminalization of paraphernalia will continue to help ensure that people are accessing services such as syringe services programs and avoid arrest and incarceration.

The benefits of decriminalization include:

- Improved treatment outcomes when someone with a substance use disorder is ready to enter treatment;
- Greater incentive to seek treatment as people who are using substances are less afraid of law enforcement interaction;
- A reduction in the racial disparities in the criminal justice system, as Maryland is among the worst states in its proportion of people of color who are incarcerated;
- A reduction in the collateral damage caused by incarceration; and
- Improvement in the impact of limited public health resources.

In decriminalizing paraphernalia, we will reduce the need for people to re-use certain items that may contribute to the transmission of infectious diseases. This will have a positive public health impact on the spread of HIV and Hepatitis C, and save money in the reduction of needed health services.

We know the collateral damage caused by the war on drugs continues to harm people in Maryland, and disproportionately people of color. As this committee has heard repeatedly over the years, people with criminal records are too often denied employment, housing, food stamps, and scholarships, without any due consideration of the details involved in the records.

We urge a favorable report on SB 704.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

Andrea M. Lopez, PhD_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV

February 18, 2020

Chairman Luke Clippinger
House Judiciary Committee
House Office Building, Room 101
6 Bladen Street
Annapolis MD, 21401

**RE: SUPPORT of HB0720
Criminal Law - Drug Paraphernalia for Administration - Decriminalization**

Dear Chairman Clippinger and House Judiciary Committee Members,

My name is Andrea Lopez, I am a medical anthropologist and public health researcher and Assistant Professor in the Department of Anthropology at the University of Maryland, College Park. For the last two decades I have worked both in direct service and/or drug treatment programs as well as conducted behavioral research with people who use drugs (PWUD).

I am also one of the Principal Investigators of a recent study, the Statewide Ethnographic Assessment of Drug Use and Services (SEADS). The SEADS Study investigated the experiences of people who use drugs and stakeholders across the state in order to understand drug use patterns, barriers/facilitators to services, and the potential to expand services in order to directly address barriers and negative health outcomes among PWUD in Maryland.

I am writing in strong support HB 0720, an important amendment to Maryland's paraphernalia laws which would achieve two critical goals:

- 1) bring the state closer in line with national best practices regarding the public health treatment of paraphernalia**
- 2) have our state statutes reflect findings from a large body of research that indicates that decriminalization of possession of drug use equipment supports a critical public health agenda to reduce disease transmission and reduce morbidity/mortality related to drug use**

Our study participants in Southern Maryland and the Capital Region expressed a strong desire to follow nationally-recognized public health protocols with respect to the use of drug-related equipment; however, they also expressed urgent concerns and fears that doing so would actually jeopardize their wellbeing because it put them at risk for engagement with the criminal justice system.

For instance, one participant explained his perception that possessing injection equipment would immediately result in charges: *"...they'll charge you right off the jump...they'll charge you straight possession. ...If it's a new needle, they'll get you for distribution of paraphernalia. If it's a used needle, they'll get you for possession of drugs."* Man, Age 32

This participant continued that to explain that charges for paraphernalia put him in a loop of criminal justice involvement, which could be time consuming and costly: *"Not once have I ever*

been caught for drugs, but if you look at my...sheet, case search, it has a bunch of possession charges because paraphernalia is also possession charges.”

The fears about possession of paraphernalia could even extend to people’s willingness to carry Naloxone, the opioid antagonist that is recognized as an essential evidence-based intervention into the overdose crisis. Some perceived that even having Naloxone could subject them to criminalization with respect to possession:

“If you get pulled over and you don’t have nothing on you, but you’ve got the Narcan, they’re going to think like, ‘Oh, yeah. Now the police know.’ Or they think, ‘Somewhere I’m associated with it. So, now they’re going to dig in my car more.’ Or they think, ‘They’re going to search me more, harass me.’ You know what I’m saying? Because I have seen people that’s clearly in active use that have denied Narcan.”—Frontline provider

The decriminalization of paraphernalia would allow PWUD to enact public health best practices regarding use of drug-related equipment to reduce disease transmission and effectively practice overdose prevention across the state. **HB 0720 provides important clarity on how paraphernalia is handled in Maryland and ensures that PWUD are able to make decisions based on public health best practices rather than merely on fear of arrest.**

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Lopez".

Andrea M. Lopez, PhD
lopez@umd.edu

(The views expressed in this testimony are my own and not that of the University of Maryland.)

Danielle German, PhD, MPH_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV

**TESTIMONY IN SUPPORT OF HB 0720:
Criminal Law - Drug Paraphernalia for Administration - Decriminalization**

To: Hon. Luke Clippinger, Chair, and members of the House Judiciary Committee
From: Danielle German, PhD, MPH, Associate Professor
Date: February 1, 2020

Dear Chairman Clippinger and Committee members,

I am an Associate Professor at the Johns Hopkins Bloomberg School of Public Health who has been a researcher on drug use and HIV in Baltimore for close to 20 years. The views that I express are mine and not those of Johns Hopkins University.

I write to express my extensive support for House Bill 0720. Decriminalizing drug paraphernalia is a critical component of a comprehensive, evidence-based strategy to prevent disease transmission, reduce overdose fatalities, and facilitate access to services among people who use drugs. Over the past year, our team conducted an ethnographic study¹ to understand drug use, access to services, and opportunities for service expansion in Maryland from the perspective of 248 people who use drugs (PWUD) and 219 stakeholders across the state. In regards to HB0720, a few study findings stand out:

Access to sterile drug equipment in Maryland is not adequate to prevent health risks among people who inject drugs. Without it, people will often reuse the equipment they have to the point of skin damage and use equipment that has already been used by others – thus dramatically increasing the possibility of disease transmission. Criminalization increases this risk because people are hesitant to hold or store equipment and thus less likely to have materials on hand when needed. Not having equipment does not reduce use, it just makes it less safe.

“I know a lot of people that have caught a lot of stuff and got abscess and had like skin grafts and stuff like that because of using dirty needles. I think personally, regardless, someone is going to do it anyway, so if you could provide, at least a clean way to do it, I think it would be better, 'cause it's not going to just stop happening.” — PWUD (Woman, 20s)

“[It's] horrible [here]. You can't get clean needles anywhere. Anywhere! Nowhere, you can't go into any pharmacy – nowhere will sell you needles here. ... Don't y'all realize that everybody has Hep C because of this? And they're like 'well, that's enabling.' And I'm like 'do you think I'm not gonna shoot up just because you're not selling me needles?'” — PWUD (Man, 20s)

Everything's getting spread around here because people can't get what they want to get, and they can't get clean rigs, or people don't have a ride to [a pharmacy] to get the clean needles. So they just find one that they can find, and then you get arrested with them or whatever happens, and then everything's screwed that you just worked for ..., because you've got to go to jail and all that crap.” --PWUD (Woman, 20s)

Expansion of syringe service programs across the state has been a huge step forward, but these programs are not yet available in all jurisdictions. People in areas with syringe service programs are eligible for a

¹ Statewide Ethnographic Assessment of Drug Use and Services. Western, Central, Eastern Shore Region Principal Investigator: Danielle German, PhD, MPH, Johns Hopkins University; Southern Maryland and Capital Region Principal Investigator: Andrea Lopez, PhD, University of Maryland.

membership card that protects against drug paraphernalia charges. Yet even this protection is often not sufficient, and people report limiting the number of syringes acquired due to fear of police search and drug paraphernalia charges.

"I try not to carry nothing [syringes] on me." — PWUD (White man, 40s)

*"I've had a couple cops, I've told them I've had the card. I've showed them the card. ... They're like you're still carrying something, it's illegal. I'm going to charge you, and it's bulls*** that they can still do that. We shouldn't have to be able to come in here, get our supplies and then have to worry about getting pulled over or getting stopped or whatever and having the cops find them and still charging you when they can't. Because then we're going to take the time, and then they're f***ing up our time, our lives because we got to go to court. And when we go to court and show them that we got the card, they're going to drop it." — PWUD (Man, 20s)*

"So now, you know, in the beginning when we started our SSP program, we had encounters with law enforcement that they just weren't educated on an SSP program, that it was even here and in operation. And we were feeling a lot of resistance. They were arresting...participants, charging them even though the cards say that they should not be charged. They were confiscating their cards. They were throwing their supplies away and still charging them." — Stakeholder

Those who live in areas without SSPs not only face more limited access to equipment and the accompanying health risks, they are also uniquely at risk for drug paraphernalia charges compared to their counterparts in other areas of the state. People who were familiar with syringe services programs elsewhere expressed frustration at the discrepancies across the state.

"It's like in Baltimore City you got needle exchange program, but down here .. if you get pulled over by the police and you got a needle, you're getting possession of drug paraphernalia charge. But in Baltimore City they're giving you needles, so how does that vary in the same state? A state law be a state law. It shouldn't be different from county to county." — PWUD (White man, 50s)

"I'm from Baltimore, so yeah, I done went through the needle exchange program. And it's a shame that it isn't up here because you know you get more time for the needle than you do for the simple possession of the narcotics. You get four years for the needle, but you only get a year for the simple possession. That's mad." — PWUD (Man, 50s)

"I don't have an exchange card because I'm not in Baltimore. Like Baltimore is the only place that exchange card works. Like over here ..., it don't matter if you've got an exchange card or not, get caught with a needle and you're facing four years, one needle." — PWUD (White woman, 30s)

We have also seen that paraphernalia laws can hinder effective overdose response. Even with the Good Samaritan law in place, people remain hesitant to call emergency services for fear of drug charges. Drug users and stakeholders reported examples of emergency overdose response that resulted in arrest due to presence of drug paraphernalia. These experiences weigh heavily on future considerations about engaging service providers during overdose response and compromise trust in public services.

"It's in specific communities unfortunately where law enforcement has still made arrests despite the Good Samaritan law. It has been put into newspaper, the arrest—so not only was the person arrested and shouldn't have been but now they're publicized that they overdosed, and they had drug paraphernalia." — Stakeholder

I support HB720 because it simplifies Maryland's paraphernalia laws and clarifies that possession of supplies that reduce health risks and prevent infectious disease transmission is not a crime. It will remove a known barrier to service engagement and staying safe for people who use drugs in Maryland. As we continue to face an urgent overdose crisis and the very real possibility of infectious disease outbreaks among people with limited access to sterile supplies, this is one public health strategy that should not be overlooked.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Danielle German', followed by a long horizontal flourish.

Danielle German, PhD, MPH
Maryland Legislative District 43
danielle.german@jhu.edu

Deborah Agus, JD_FAV_SB704

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Position: FAV

Decriminalizing Paraphenalia

FAVORABLE Testimony by Deborah Agus, JD

HB0720

Addiction is a brain disease and it is imperative that we use every possible tool to increase our response in saving lives and promoting treatment. Every step towards this goal is worthwhile.

To the contrary, every single barrier in the way of promoting health and saving lives must be removed.

Perpetrating confusion and the threat of arrest and incarceration is not only counter-productive to public health, but it is cruel and unethical and just plain wrong.

Thus, as the Executive Director of BHLI and Adjunct Associate Professor of the Johns Hopkins Bloomberg School of Public Health and as a lawyer, I urge you to pass [HB0720](#) to de-criminalize the possession of specific paraphernalia.

Health Care For The Homeless_FAV_SB704

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Position: FAV



HEALTH CARE FOR THE HOMELESS TESTIMONY
IN SUPPORT OF
HB 720 – Criminal Law – Drug Paraphernalia for Administration – Decriminalization

House Judiciary Committee
February 18, 2020

Health Care for the Homeless supports HB 720, which will amend existing criminal law to remove items that could be used to consume drugs from what is considered drug paraphernalia, effectively decriminalizing possession of those items.

HB 720 will save lives, reduce barriers to housing and employment, and prevent the spread of infectious diseases. As a health care facility serving over 10,000 of Maryland's most vulnerable individuals each year, we see far too often the effects of criminalizing substance use. In Maryland, possession of drug paraphernalia can result in a fine up to \$500 and a misdemeanor – leading to a criminal record that can be used to deny someone housing and employment.¹ Without access to stable housing, it is unfathomable to expect an individual to succeed in treatment for substance use disorders. The criminalization of substance use and paraphernalia perpetuates homelessness and prevents individuals from seeking supportive services. When there is less fear or punishment or arrest by police, individuals feel safer accessing treatment.² By decriminalizing paraphernalia and implementing harm reduction principles, individuals are more inclined to carry and use life-saving supplies—such as sterile needles and safer smoking kits—that prevent overdose deaths and the spread of infectious diseases.³ In addition to saving lives, this has enormous implications for lowering healthcare costs related to treating infectious diseases, like HIV.⁴

In Maryland, there were 515 opioid-related deaths between January and March 2019.⁵ That is far too many. This bill would show Maryland's commitment to reframing the way we view and treat substance use—as a public health issue, not a criminal one. **As a health clinic that sees how crucial and life-saving harm reduction and decriminalization are for the clients we serve, Health Care for the Homeless urges the committee to issue a favorable report on HB 720.**

Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County. For more information, visit www.hchmd.org.

¹ MD Code Ann., Crim. Law, § 5-619 (2013).

² Laura Vearrier, "The Value of Harm Reduction for Injection Drug Use: A Clinical and Public Health Ethics Analysis," *Disease-a-Month* 65, no. 5 (May 2019), pp. 119–41, available at <https://doi.org/10.1016/j.disamonth.2018.12.002>.

³ *Id.*

⁴ David Wilson, et al., "The cost-effectiveness of harm reduction," *International Journal of Drug Policy* 26, supp. 1 (February 2015), pp. S5-S11, available at <https://doi.org/10.1016/j.drugpo.2014.11.007>.

⁵ Maryland Department of Health, *State Releases 2019 First Quarter Fatal Overdose Data* (June 2019), available at health.maryland.gov/newsroom/Pages/State-Releases-2019-First-Quarter-Fatal-Overdose-Data.aspx.

Jill Carter_FAV_SB704

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Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0704 - Drug Paraphernalia for Administration –
Decriminalization
Before the Judicial Proceedings Committee
on March 3, 2020**

Mr. Chairman, Vice chair, and Members of the Committee:

This bill is about public health. It is about decriminalizing drug addiction. It is about public safety. It is about protecting law enforcement officers.

What this bill does is simply make it no longer illegal to possess syringes or other items commonly used to prepare and inject illegal drugs.

Research shows that those who fear arrest for paraphernalia are much more likely to share and reuse supplies. But, if it is legal to possess syringes, IV drug users will be safe to get clean needles rather than reuse their supplies. They would rather run the risk of infections such as HIV, tetanus, and hepatitis than hazard an arrest.

Because possessing needles is illegal, there is intense pressure to ditch used syringes immediately rather than hold on to them until they can dispose of them properly. Dumping used needles on the street puts the general public at risk.

The first thing a police officer asks someone they are about to search is, “Do you have any needles or anything else that can stick me?”. If possessing a needle is illegal, it is less likely one will admit to it. This puts the officer in harm’s way.

People involved in syringe service programs are still getting arrested and charged. Although the fiscal note shows that cases charged under the current law are typically dismissed, the process of being arrested and charged itself is the punishment. It is enormously disruptive to the person arrested. Having to go to court takes them away from their treatment. Having to meet with their attorney can cause them to miss a dose of buprenorphine. Recovery is a frail process. Any disruption could derail it entirely.

Lastly, if a patient can be honest with the pharmacist about why they are buying the syringes, she can talk to them about naloxone, as well. This alone could save lives.

For these reasons, and others to be discussed by the panelists, I urge a favorable report on SB 704 from this committee.

Very Truly Yours,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

Jill P. Carter

Ju Nyeong Park, PhD MHS_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV

TESTIMONY IN SUPPORT OF HB 720
Criminal Law – Drug Paraphernalia for Administration – Decriminalization

TO: Hon. Luke Clippinger, Chair, and members of the House Judiciary Committee
FROM: Ju Nyeong Park, PhD MHS, Assistant Scientist at Johns Hopkins School of Public Health
DATE: February 18, 2020

Dear Chairman Clippinger and Committee members,

My name is Ju Park and I am an epidemiologist and a faculty member at Johns Hopkins University. The views that I express are mine and not those of Johns Hopkins University. My research and teaching focuses on the opioid epidemic; I have provided technical advice to the Maryland Department of Health and the Maryland Opioid Operational Command Center established by Governor Larry Hogan. I have lived in Baltimore City for 9 years.

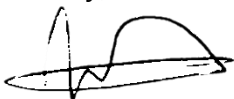
Health agencies and law enforcement are currently working at cross-purposes in Maryland regarding opioid use disorder. On one hand, we understand that the prevention and treatment of overdose and infectious diseases among people experiencing addiction is a key priority, but paradoxically, we continue to punish those suffering from addiction by arresting them for their addiction, including for exhibiting evidence of drug use.

House Bill 720 is a commonsense bill designed to protect those living with addiction by striking language on drug paraphernalia criminalization. Drug paraphernalia includes syringes and cookers - the same tools given out by health departments and community-based organizations to help prevent the spread of infectious diseases such as HIV and Hepatitis C. Rest assured that this bill does not include items used to manufacture or distribute drugs.

Research shows that criminalizing drug paraphernalia possession poses a major barrier to prevention efforts.^{i,ii,iii,iv} Being stopped or arrested for paraphernalia is a common occurrence: annually affecting a quarter of people surveyed in our studies.^{ii,v} People who are stopped by police, experience police violence, or fear being arrested are far less likely to access harm reduction services that provide lifesaving sterile syringes and naloxone. People who have their syringes confiscated by police are more likely to share syringes, which is a HIV and Hepatitis C hazard. Placing such legal barriers to service access can cause major infectious disease outbreaks, which end up costing taxpayers far more to manage. Those who are released from prison have been observed to be at 12 times higher risk of overdose death.^{vi} This is in part due to losing their tolerance to opioids during incarceration and barriers to medication-assisted treatment in the community. We also know that communities of color and homeless individuals are far more likely to be targeted by these laws, and regularly searched, and arrested using paraphernalia laws.^{vii}

Drug addiction is a treatable medical condition and jail is not treatment. We do not arrest people diagnosed with hypertension, depression or lung cancer to coerce them into treatment. We should stop arresting people for having a drug addiction. It is expensive and ineffective. Instead of encouraging cycles of arrest and recidivism, we should be helping individuals towards pathways of recovery. I urge you to give this commonsense measure a favorable vote. Thank you for your consideration.

Sincerely,



Ju Nyeong Park, PhD MHS
District 1
2122 E Pratt St, Baltimore MD 21231

ⁱ Beletsky, L., Heller, D., Jenness, S. M., Neaigus, A., Gelpi-Acosta, C., & Hagan, H. (2014). Syringe access, syringe sharing, and police encounters among people who inject drugs in New York City: a community-level perspective. *International Journal of Drug Policy*, 25(1), 105-111.

ⁱⁱ Park, J. N., Linton, S. L., Sherman, S. G., & German, D. (2019). Police violence among people who inject drugs in Baltimore, Maryland. *International Journal of Drug Policy*, 64, 54-61.

ⁱⁱⁱ Beletsky, L., Cochrane, J., Sawyer, A. L., Serio-Chapman, C., Smelyanskaya, M., Han, J., ... & Sherman, S. G. (2015). Police encounters among needle exchange clients in Baltimore: drug law enforcement as a structural determinant of health. *American Journal of Public Health*, 105(9), 1872-1879.

^{iv} Flath, N., Tobin, K., King, K., Lee, A., & Latkin, C. (2017). Enduring consequences from the war on drugs: how policing practices impact HIV risk among people who inject drugs in Baltimore City. *Substance Use & Misuse*, 52(8), 1003-1010.

^v Park, J. N., Footer, K. H., Decker, M. R., Tomko, C., Allen, S. T., Galai, N., & Sherman, S. G. (2019). Interpersonal and structural factors associated with receptive syringe-sharing among a prospective cohort of female sex workers who inject drugs. *Addiction*, 114(7), 1204-1213.

^{vi} Binswanger, I. A., Stern, M. F., Deyo, R. A., Heagerty, P. J., Cheadle, A., Elmore, J. G., & Koepsell, T. D. (2007). Release from prison—a high risk of death for former inmates. *New England Journal of Medicine*, 356(2), 157-165.

^{vii} Beletsky, L., Grau, L. E., White, E., Bowman, S., & Heimer, R. (2011). The roles of law, client race and program visibility in shaping police interference with the operation of US syringe exchange programs. *Addiction*, 106(2), 357-365.

Law Enforcement Action Partnership_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV



LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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Derbyshire, England, LEAP UK

Date: February 18th, 2020

Re: HB 0720 - Criminal Law - Drug Paraphernalia for Administration -
Decriminalization

Position: SUPPORT

To: The Maryland State House Judiciary Committee

Dear Members of the Judiciary Committee,

Thank you for hearing this bill. I am testifying today as a resident of Finksburg, a former Deputy Secretary of the Maryland Department of Public Safety and Correctional Services, and a retired Major with the Baltimore City Police Department. I support HB 720 because decriminalizing paraphernalia possession will reduce disease and overdose deaths and help rebuild police-community trust.

Heroin use was a crisis in Baltimore when I began as a patrol officer in 1970. It was still a crisis 27 years later, when I retired as Commanding Officer of the Eastern District and started serving with the Department of Public Safety and Correctional Services. Today, with fentanyl mixed in the drug supply, overdoses are higher than ever before.

Fortunately, we are finally learning that arresting people for drug use does not stop overdoses, disease transmission, or drug-related crime. In fact, it is counterproductive, because it makes people hide from the authorities, share syringes, and fail to report crimes. We are moving in the right direction by establishing syringe access programs, because they reduce HIV and Hepatitis C transmission without increasing drug use or crime.

It's time for our state to take the next step and decriminalize paraphernalia possession. There is no public safety rationale to keep arresting people on this charge. In all my years of policing, I have never seen a serious threat to public safety be resolved by a paraphernalia arrest. I have, however, seen this charge used to unnecessarily arrest hundreds of people who use drugs.

Decriminalizing syringe possession would also help patrol officers, who are at risk of accidental needle-stick. Every time police make an arrest, we search the person before detaining them. As we pat them down, we ask the suspect if there's anything in their pockets or bags that could hurt us. Suspects will often lie if they're in possession of a syringe, hoping to avoid a paraphernalia charge. Researchers have found that one in three police officers are stuck with a needle while on the job.¹ Imagine the stress that police and their families experience while waiting to receive their test results after a needle-stick injury. This legislation would enable suspects to warn officers that there is a needle in their pocket without fear of a further criminal charge.

This legislation would also reduce the chance that the needle in their pocket carries an infectious virus. When people know they can be arrested for syringe possession, they are more likely to share syringes to minimize their chance of arrest.

This bill would also reduce syringe littering. When we punish people for syringe possession, they do not risk carrying a used syringe with them to dispose of it safely. Instead they leave it wherever they use it -- in a park, in an alley, or in a public restroom. We shouldn't have to worry about our children playing barefoot in the park or our custodians being stuck by needles at work. This legislation would enable people to carry their syringe until they have a safe means of disposal.

Finally, this bill would help reestablish police-community trust. When we arrest someone for drug paraphernalia, the community sees us wasting

¹ [https://www.ajpmonline.org/article/S0749-3797\(99\)00137-3/abstract](https://www.ajpmonline.org/article/S0749-3797(99)00137-3/abstract)

taxpayer resources and punishing someone who needs treatment. People who use drugs see these arrests and become afraid to report a crime or call 911 when a friend overdoses. We need the cooperation of the whole community, including those who are currently hiding from the police, in order to protect public safety.

In short, supporting this legislation is common sense. We have a clear opportunity to reduce disease transmission and syringe littering, protect officers, and improve community trust. Anyone who supports public safety and public health should support this legislation.

Thank you for the opportunity to speak to you today.

Deputy Secretary Wendell M. France, Sr. (Ret.)
Department of Public Safety and Correctional Services
Retired Major, Baltimore Police Department

NCADD_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV



House Judiciary Committee

February 18, 2020

**House Bill 720 - Criminal Law - Drug Paraphernalia for Administration -
Decriminalization
Support**

NCADD-Maryland supports House Bill 720 which would decriminalize possession of items that can be used to inject, ingest, inhale, or otherwise consume a controlled dangerous substance. As Maryland continues to consider and implement programs and strategies that reduce the harms caused by substance use, the decriminalization of paraphernalia will continue to help ensure that people are accessing services such as syringe services programs and avoid arrest and incarceration.

The benefits of decriminalization include:

- Improved treatment outcomes when someone with a substance use disorder is ready to enter treatment;
- Greater incentive to seek treatment as people who are using substances are less afraid of law enforcement interaction;
- A reduction in the racial disparities in the criminal justice system, as Maryland is among the worst states in its proportion of people of color who are incarcerated;
- A reduction in the collateral damage caused by incarceration; and
- Improvement in the impact of limited public health resources.

In decriminalizing paraphernalia, we will reduce the need for people to re-use certain items that may contribute to the transmission of infectious diseases. This will have a positive public health impact on the spread of HIV and Hepatitis C, and save money in the reduction of needed health services.

We know the collateral damage caused by the war on drugs continues to harm people in Maryland, and disproportionately people of color. As this committee has heard repeatedly over the years, people with criminal records are too often denied employment, housing, food stamps, and scholarships, without any due consideration of the details involved in the records.

We urge a favorable report on HB 720.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

Sarah Kattakuzhy, MD_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV

TESTIMONY IN SUPPORT OF HB0720:

Criminal Law- Drug Paraphernalia for Administration - Decriminalization

TO: Hon. Luke Clippinger, Chair, and members of the House Judiciary Committee

FROM: Sarah Kattakuzhy, MD

DATE: February 17, 2020

My name is Sarah Kattakuzhy, and I am a physician at the Institute of Human Virology at the University of Maryland School of Medicine, where I specialize in the overlap of infectious disease and substance use disorder. I am writing to provide my unequivocal support for House Bill 0720. This bill would reduce disease transmission and harms associated with drug use, and would improve safety on an individual and community level.

I am writing from my unique perspective as both a scientist researching hepatitis C in people with opioid use disorder, and as a clinician providing care to this vulnerable population. Simply put, decriminalization of drug paraphernalia is a public health measure to improve the safety and health of both individuals who use drugs, and the larger population. While clean needles and syringes are the cornerstone of infection prevention, they are not enough. Several pathogens, including hepatitis C, can survive on surfaces outside of the human body for up to one week, and can be transmitted through non-injecting paraphernalia including cookers, cottons, water, tourniquet, and straws.

In order to stop the transmission of these infectious diseases, individuals who use drugs must: (1) have access to unused drug use paraphernalia; (2) be allowed to carry this equipment; and (3) be able to dispose of this equipment in appropriate containers. These steps would reduce disease transmission without increasing drug use, and would reduce community burden of improperly discarded drug use paraphernalia.

While many health departments, non-profit organizations, and syringe exchange programs dispense and collect non-injecting equipment, current paraphernalia laws make it impossible for individuals to accept, carry, utilize, and dispose of such equipment without the risk of arrest or fines. I believe that we are asking individuals who use drugs – your constituents -- to make an impossible choice: protect yourself and be jailed, or use whatever is available. With these options, it is no wonder that so many of my patients are forced into the latter, and live with the consequences.

I recognize that some opponents may raise a third option – don't use at all. But I can tell you what I've witnessed with my own eyes, and what is backed by decades of research: in the setting of a chronic, unrelenting disease, for many, there is no other choice. Without full decriminalization of drug paraphernalia, we will continue to stigmatize people who use drugs, and we will further drive infectious complications of opioid use disorder. On this issue, science, common sense, and human rights have consensus: full decriminalization of drug use paraphernalia.

I respectfully urge the Judiciary Committee to rule in favor of drug paraphernalia decriminalization, to improve the health and safety of all Marylanders.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Kattakuzhy', with a stylized, cursive script.

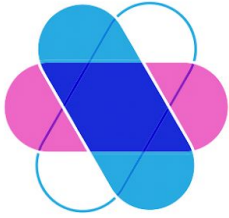
Sarah Kattakuzhy, MD

10832 Rockland Dr
Laurel, MD 20723
Legislative District 13

Trans Healthcare MD_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV



Trans Healthcare Maryland

because you shouldn't have to know more than your doctor.

Support HB 720
February 11, 2020

Support HB 720 Criminal Law - Drug Paraphernalia for Administration - Decriminalization
Trans Healthcare MD - Lee Blinder Executive Director

Thank you for your time today, we are writing in support of HB 720 Criminal Law - Drug Paraphernalia for Administration - Decriminalization. Transgender persons can be at greater risk of scrutiny, whether or not there is any indication of illicit drug use, when possessing syringes and needles used for our medically necessary and life saving hormone replacement therapy (HRT). HRT is often taken intramuscularly or subcutaneously via syringe by transgender persons, and we do not deserve to face criminal charges for simply having our medical supplies with us. Overpolicing disproportionately impacts our community members living at the intersection of anti-Blackness, sexism, and anti-transgender bias, and we ask that the house committee decriminalize this antiquated process. Access to sterile syringes is a public health necessity, and when our community members cannot feel safe to possess medically necessary supplies, inappropriate reusing of supplies becomes more likely.

We know that access to sterile single use syringes is key to halting transmission of blood borne pathogens, and also reduces pain upon injection of medically necessary and life saving medications like HRT. Our most well resourced community members order year long supplies of syringes in bulk to be shipped directly to their home, but that option isn't available for most of our community members who lack the needed funds to do so. Additionally, should persons be able to order their supplies, they also feel concerned about bringing them on a trip or to travel, due to this outdated criminalization process. Transporting medical supplies must be decriminalized so our community members can feel safe in possessing the supplies they need. We find that that many pharmacies across Maryland are, in their words, "low syringe pharmacies" and that can mean that it can be difficult or impossible to even purchase the needed supplies. Adding fear of charges for possession on top of low access, means that our community are afraid to access and possess their needed medical supplies.

This is an urgent matter of public health, public wellness, and equity, and we strongly urge you to vote in support of HB 720.

Tyler Jones and Suzanne Pelz, GRPA_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV

Statistics and Data Request: Possession of Paraphernalia

Date of Request: 12/21/19 (Clarification on request received 1/7/20 and 1/21/20)

Name of Requestor: Jeanine Johnson, Chief of Staff for Delegate Moon

Request Details: Ms. Johnson requested statistics related to citations issued under CL 5-619 and 5-620. The date range requested included cases filed between 2013 and present. Additionally, data was requested by county, gender, race, year, number of individuals charged, number of people charged multiple times, times when paraphernalia was the only charge versus multiple charges on a case, and the outcome of cases. After clarification, the only charge requested was for CJIS Code 5 3550 – CDS: Poss Paraphernalia. Additionally, it was explained that providing information on the number of individuals charged was not possible, but a total number of citations issued was possible. Additionally, information on whether or not an individual was charged more than one time was not possible. After further clarification, the requester indicated that totals regarding gender race, and single vs. multiple charges were ok to be compiled as a total between 2013 and 2019.

GRPA Contacts: Tyler Jones and Suzanne Pelz, GRPA

Fulfilment Process: Contact was made with JIS to request the data as described in the request details. JIS provided the mainframe data. The MDEC data was collected using the ECR CO - Detail of all Case Filings, Disp, Sentence and Restitution. An additional request for data was made to JIS for MDEC total charge number information, as this was not included in the original ECR. This document contains tables for each of the following:

1. Table 1: Total number of **cases** filed with a charge of CJIS Code 5 3550 – CDS: Poss Paraphernalia, years 2013 – 2019
2. Table 2: Total number of **charges** filed with a charge of CJIS Code 5 3550 – CDS: Poss Paraphernalia, years 2013 – 2019
3. Table 3: Gender recorded in **cases** containing a charge of CJIS Code 5 3550 - CDS: Poss Paraphernalia, combined years 2013-2019
4. Table 4: Race recorded in **cases** containing a charge of CJIS Code 5 3550 - CDS: Poss Paraphernalia, combined years 2013-2019
5. Table 5: Total number of **cases** that contain a single charge of CJIS Code 5 3550 – CDS: Poss Paraphernalia, years 2013 – 2019, and no other **charges**, and Total number of cases that contain a single charge of CJIS Code 5 3550 – CDS: Poss Paraphernalia, years 2013 – 2019 and additional other **charges**
6. Table 6: Disposition by **charges** for CJIS Cod 5 3550 – CDS: Poss Paraphernalia, years 2013 – 2019

Please note that in this document, “cases” refers to an entire case. A case may consist of a single charge or multiple charges. The term “charges” refers to each individual charge filed. The number of charges will be higher than the number of cases.

Statistics and Data Request: Possession of Paraphernalia

Data/Statistics: The following table shows the total number of **cases** which contain a charge of CJIS Code 5 3550 – CDS: Poss Paraphernalia.

Table 1: Cases filed by year – CDS: Possession of Paraphernalia (2013-2019)								
Jurisdiction	2013	2014	2015	2016	2017	2018	2019	Total
Allegany	339	259	228	226	142	136	175	1505
Anne Arundel	1783	1972	1544	1166	1121	852	904	9342
Baltimore City	2456	2125	1057	1004	959	836	652	9089
Baltimore County	2275	2015	1641	1231	1081	1163	1167	10573
Calvert	744	675	632	485	445	448	476	3905
Caroline	240	174	113	96	120	143	191	1077
Carroll	674	654	237	220	192	221	347	2545
Cecil	481	492	355	338	398	548	537	3149
Charles	729	644	486	343	237	202	144	2785
Dorchester	341	294	201	164	189	189	182	1560
Frederick	667	700	583	544	502	657	770	4423
Garrett	222	202	39	51	49	79	57	699
Harford	473	413	314	217	196	138	161	1912
Howard	828	684	336	265	302	299	229	2943
Kent	162	146	97	96	86	106	85	778
Prince George's	2378	2314	1741	800	674	480	507	8894
Queen Anne's	322	246	155	131	229	235	175	1493
Montgomery	3080	2421	1036	738	556	600	565	8996
St. Mary's	288	256	154	121	137	106	159	1221
Somerset	138	115	61	59	72	79	53	577
Talbot	239	257	195	225	181	172	183	1452
Washington	379	486	306	322	384	347	325	2549
Wicomico	753	661	360	362	372	342	351	3201
Worcester	472	493	203	113	101	83	71	1536
Total	20463	18698	12074	9317	8725	8461	8466	86,204

Statistics and Data Request: Possession of Paraphernalia

Data/Statistics: The following table shows the total number of **charges** filed of CJIS Code 5 3550 – CDS: Possession of Paraphernalia. A case may contain more than one charge of CDS: Possession of Paraphernalia between 2013 and 2019.

Table 2: Charges filed by year - CDS: Possession of Paraphernalia (2013-2019)								
Jurisdiction	2013	2014	2015	2016	2017	2018	2019	Total
Allegany	383	306	273	276	157	169	202	1766
Anne Arundel	2130	2418	1930	1478	1440	1075	1128	11599
Baltimore City	2487	2154	1066	1010	962	836	652	9167
Baltimore County	2655	2407	2031	1544	1372	1430	1386	12825
Calvert	955	807	765	601	523	554	607	4812
Caroline	324	208	139	126	157	180	266	1400
Carroll	756	757	289	267	231	266	416	2982
Cecil	592	623	422	406	474	641	629	3787
Charles	870	755	605	454	347	261	179	3471
Dorchester	396	378	267	220	240	244	260	2005
Frederick	779	828	703	686	629	799	907	5331
Garrett	267	230	57	59	61	88	62	824
Harford	523	453	374	246	232	168	213	2209
Howard	962	794	425	321	382	407	331	3622
Kent	264	186	141	123	121	149	125	1109
Prince George's	2387	2322	1748	800	680	482	508	8927
Queen Anne's	467	336	212	180	316	355	276	2142
Montgomery	3118	2450	1068	754	565	613	574	9142
St. Mary's	358	336	223	164	167	140	191	1579
Somerset	162	125	69	78	97	112	72	715
Talbot	291	284	287	362	280	247	230	1981
Washington	416	546	364	427	546	450	388	3137
Wicomico	1028	873	503	460	448	413	453	4178
Worcester	527	573	245	128	111	88	84	1756
Total	23097	21149	14206	11170	10538	10167	10139	100,466

Statistics and Data Request: Possession of Paraphernalia

Data/Statistics: The following table reflects the gender recorded in **cases** containing a charge of CJIS Code 5 3550 - CDS: Possession of Paraphernalia between 2013 and 2019.

Table 3: Gender by Cases - CDS: Possession of Paraphernalia (2013 – 2019)				
Jurisdiction	Female	Male	Unknown or Not Listed	Total
Allegany	1035	468	2	1505
Anne Arundel	2607	6701	34	9342
Baltimore City	1842	7239	8	9089
Baltimore County	2626	7943	4	10573
Calvert	1180	2722	3	3905
Caroline	327	748	2	1077
Carroll	641	1901	3	2545
Cecil	1075	2065	9	3149
Charles	708	2074	3	2785
Dorchester	361	1192	7	1560
Frederick	1485	2934	4	4423
Garrett	175	524	0	699
Harford	528	1377	7	1912
Howard	751	2188	4	2943
Kent	232	545	1	778
Prince George's	1437	7408	49	8894
Queen Anne's	476	1014	3	1493
Montgomery	1669	7308	19	8996
St. Mary's	339	878	4	1221
Somerset	146	425	6	577
Talbot	429	1021	2	1452
Washington	766	1781	2	2549
Wicomico	911	2283	7	3201
Worcester	363	1169	4	1536
Total	22109	63908	187	86204

Statistics and Data Request: Possession of Paraphernalia

Data/Statistics:

The following table reflects race recorded in cases containing a charge of CJIS Code 5 3550 - CDS: Poss Paraphernalia, combined years 2013-2019.

Table 4: Race by Cases - CDS: Possession of Paraphernalia (2013 – 2019)									
Jurisdiction	Asian	Black	Indian	Multi-Racial	Native Hawaiian or Other Pacific Islander	Other	Unknown or Not Listed	White	Total
Allegany	0	256	0	1	0	4	6	1238	1505
Anne Arundel	51	2657	2	14	5	108	120	6385	9342
Baltimore City*	9	6897	15	0	0	84	20	2064	9089
Baltimore County	50	4336	3	2	2	69	37	6074	10573
Calvert	22	959	1	0	0	19	11	2893	3905
Caroline	2	278	1	1	0	8	6	781	1077
Carroll	7	427	0	0	1	9	27	2074	2545
Cecil	6	383	0	0	3	11	21	2725	3149
Charles	11	1469	1	0	0	7	7	1290	2785
Dorchester	8	894	1	0	0	29	16	612	1560
Frederick	11	909	0	0	0	33	19	3451	4423
Garrett	1	57	0	0	0	2	5	634	699
Harford	5	530	1	1	0	15	15	1345	1912
Howard	38	1060	0	0	0	28	18	1799	2943
Kent	1	293	1	0	0	7	5	471	778
Prince George's*	34	7054	4	0	0	184	45	1573	8894
Queen Anne's	7	465	1	1	3	16	10	990	1493
Montgomery*	144	4295	3	0	0	448	133	3973	8996
St. Mary's	3	447	0	1	0	3	1	766	1221
Somerset	0	337	0	0	0	5	1	234	577
Talbot	4	462	0	6	1	26	13	940	1452
Washington	7	734	0	1	1	14	19	1773	2549
Wicomico	5	1428	0	2	6	32	23	1705	3201
Worcester	20	371	1	1	0	15	17	1111	1536
Total	446	36998	35	31	22	1176	595	46901	86204

*The codes for race differ between MDEC jurisdictions and mainframe jurisdictions. In Baltimore City, Prince George's and Montgomery County, the race identifier of Black, African American was recorded in the column titled Black. The race identifier of White, Caucasian, Asiatic Indian, Arab was recorded in the column titled White. The race identifier of Asian, Native Hawaiian, Other Pacific Islander was recorded in the column titled Asian. The race identifier of American Indian, Alaska Native was recorded in the column Indian. The race identifier of Unknown, Other was recorded in the column of Other.

Statistics and Data Request: Possession of Paraphernalia

Data/Statistics: Total number of **cases** with a single charge of CJIS Code 5 3550 - CDS: Possession of Paraphernalia and no other charges (Single Charge), and total number of cases with both a CDS: Possession of Paraphernalia charge and additional charges (Multiple Charges), combined years 2013-2019.

Table 5: Number of Charges by Case – CDS: Possession Paraphernalia (2013-2019)			
Jurisdiction	Single Charge	Multiple Charges	Total*
Allegany	570	935	1505
Anne Arundel	2970	6372	9342
Baltimore City	785	8304	9089
Baltimore County	680	9890	10570
Calvert	895	3010	3905
Caroline	235	842	1077
Carroll	652	1886	2538
Cecil	1198	1951	3149
Charles	529	2256	2785
Dorchester	333	1227	1560
Frederick	1563	2860	4423
Garrett	266	433	699
Harford	592	1320	1912
Howard	707	2236	2943
Kent	144	634	778
Prince George's	3397	5497	8894
Queen Anne's	241	1252	1493
Montgomery	5021	3975	8996
St. Mary's	143	1078	1221
Somerset	108	468	576
Talbot	559	893	1452
Washington	554	1995	2549
Wicomico	484	2717	3201
Worcester	464	1072	1536
Total	23090	63103	86193

*The total shown in this table differs by 11 cases from Table 1. This data was not received as part of the original request, and was run several days after the data for Table 1 was run. After data validation, it was determined that 11 of the original cases were subsequently expunged.

Statistics and Data Request: Possession of Paraphernalia

Data/Statistics:

The following table shows disposition by charges of CJIS Code 5 3550 - CDS: Possession of Paraphernalia.

2013 - 2019 Table 6: Disposition by Charges – CDS Possession of Paraphernalia													
Jurisdiction	Abated by Death	Dismissed	Extradition	Forwarded to Circuit Court	Guilty	Judgment of Acquittal	Jury Trial Prayer	Nolle Prosequi	Nolo Contendere	Not Guilty	Probation Before Judgment	Stet	Total
Allegany	4	0	0	183	127	0	263	759	0	3	81	223	1643
Anne Arundel	98	18	0	1886	1320	14	643	3148	0	71	669	2879	10746
Baltimore City	12	10	0	2394	474	32	1566	3925	0	44	69	432	8958
Baltimore County	78	729	1	2825	837	20	1551	3894	0	80	405	1798	12218
Calvert	37	48	0	342	423	12	229	2425	0	17	287	771	4591
Caroline	3	1	0	243	166	6	376	413	0	7	68	34	1317
Carroll	19	5	0	360	167	7	555	1103	0	15	173	455	2859
Cecil	25	0	0	323	481	1	1001	1057	0	6	98	462	3454
Charles	35	5	0	534	393	4	259	1396	0	11	425	305	3367
Dorchester	0	16	0	354	187	12	123	979	0	16	135	84	1906
Frederick	41	0	0	539	587	5	695	2271	0	7	287	379	4811
Garrett	1	0	0	104	29	0	25	461	0	2	103	54	779
Harford	14	4	0	334	247	11	258	308	0	15	124	826	2141
Howard	12	3	0	483	336	3	256	1761	2	9	259	291	3415
Kent	7	0	0	229	59	4	262	418	0	3	30	72	1084
Prince George's	24	27	0	763	71	26	1001	4117	0	21	38	2596	8684
Queen Anne's	4	2	0	375	192	5	600	739	0	2	46	101	2066
Montgomery	25	14	0	479	1811	64	17	4930	0	52	706	648	8746
St. Mary's	11	28	0	82	176	3	62	892	0	2	75	155	1486
Somerset	1	6	0	111	19	3	41	410	0	4	23	69	687
Talbot	2	16	0	435	217	1	109	863	0	34	150	82	1909
Washington	15	15	0	912	274	8	203	990	0	12	97	415	2941
Wicomico	22	8	0	630	323	8	237	1500	0	52	99	1080	3959
Worcester	11	17	0	148	94	5	64	1041	0	27	106	138	1651
Total	501	972	1	15068	9010	254	10396	39800	2	512	4553	14349	95418

Univ of MD School of Law_FAV_SB704

Uploaded by: Senator Carter, Senator Carter

Position: FAV

Testimony in Support of House Bill 720

Criminal Law- Drug Paraphernalia for Administration- Decriminalization
Before the Judiciary Committee: February 18, 2020

House Bill 720 decriminalizes the possession and use of drug paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance. It also repeals the prohibition against the delivery, manufacturing, or possessing with the intent to deliver or sell under certain circumstances.

This bill complements the State's efforts to reduce the impact of substance abuse in our communities. In 2017, Governor Hogan declared a State of Emergency in response to the opioid crisis in Maryland and across the country.¹ The devastating consequences of the opioid epidemic include substance abuse and overdose as well as an increased risk in the transmission of infectious diseases such as HIV, hepatitis C, and hepatitis B.² As a public health measure, House Bill 720 will help prioritize health and safety over punishment and begin to reduce the stigma associated with problematic drug use. It will improve lives, save taxpayer dollars, and reduce the burden on law enforcement resources.

Current Drug Paraphernalia Laws Are Confusing and Fueling Crisis

Although drug use itself is not criminalized, Maryland law effectively criminalizes drug use through bans on the possession of controlled dangerous substances³ and prohibitions on possession of drug paraphernalia.⁴ Currently in Maryland, the possession of drug paraphernalia is a misdemeanor. The maximum penalties upon conviction depend on whether the person is a repeat offender. For a first violation, the punishment is a fine not to exceed \$500⁵. For subsequent violations, the punishment includes jail time not exceeding 2 years or a fine not exceeding \$2,000, sometimes both.⁶

House Bill 720 will decrease the current confusion surrounding the differences in Maryland's drug paraphernalia laws. This confusion stems from the fact that not all drug paraphernalia is illegal. The Maryland General Assembly created exceptions that decriminalized drug paraphernalia involving the use or possession of marijuana,⁷ instruments used to test or analyze controlled substances for fentanyl,⁸ and possession of controlled paraphernalia by a participant in a syringe exchange program.⁹

¹ *Overdose Prevention in Maryland*, MARYLAND DEPARTMENT OF HEALTH BEHAVIORAL HEALTH ADMINISTRATION (last visited Feb. 28, 2019) https://bha.health.maryland.gov/overdose_prevention/Pages/Index.aspx.

² National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, *Managing HIV and Hepatitis C Outbreaks Among People Who Inject Drugs*, CENTERS FOR DISEASE CONTROL AND PREVENTION (Mar. 2018).

³ MD. CODE ANN., CRIM LAW § 5-601 (2018).

⁴ MD. CODE ANN., CRIM LAW § 5-619 (2018).

⁵ MD 5-619(d)(2)(i)

⁶ Id. at (iii)

⁷ MD. CODE ANN., CRIM LAW § 5-619(c)(1) (2018), 2015 Md. Laws Ch. 351 (S.B. 456).

⁸ MD. CODE ANN., CRIM LAW § 5-619(c)(2) (2018), 2018 Md. Laws Ch. 145 (S.B. 1137) (removing "test" and "analyze" from the law's language).

⁹ MD. CODE ANN., HEALTH § 24-908(b) (2016), 2016 Md. Laws Ch. 348 (S.B. 97).

While these exceptions provide a good foundation for the fight against the opioid epidemic, House Bill 720 is needed to address inconsistencies in the current law. Only the syringe exchange programs and participants meeting the requirements under Title 24 of the Maryland Code are protected by the exemptions. Participants registered in these programs are safe from prosecution for possessing syringes. This exemption does not apply to individuals who obtain a clean needle elsewhere. Currently only four counties have qualifying programs able to distribute syringes. This is far from a number adequate to serve the state. When the supplies are illegal, even registered program participants fear harassment and arrest. Decriminalizing drug paraphernalia would decrease the fear of prosecution for organizations and participants. Both recipients and providers of services should feel completely protected. Doing so would minimize risky behavior and unsafe use practices.

Moreover, the nuances in the current law make it difficult for law enforcement officers to properly enforce them. This decreases the efficacy of harm reduction programs due to fear of harassment, and it subjects the laws to abuse. For example, how could an officer possibly distinguish between an “illicit” needle and one used for a diabetic to inject insulin? Not only does the current law create confusion for officers and individuals, but the lack of clarity also allows police to be selective in their enforcement, which may disproportionately harm minority populations.

Current Drug Paraphernalia Laws Create a Disparate Impact on Minorities

Drug use rates are comparable amongst Black and White Americans, while use amongst Hispanic or Latino Americans is slightly less.¹⁰ However, a different picture is revealed when lifetime drug use is examined. The National Survey on Drug Use and Health reveals that 54.5% of White Americans identified as having used illicit drugs compared to 45.9% of African Americans and 37.7% of Hispanic or Latino Americans.¹¹

The racial composition of the U.S. prison population provides a glimpse into the impact of inequitable criminal law enforcement policies. The Bureau of Justice Statistics (BJS) tracks the race of prisoners who have been sentenced to at least one year in prison which accounts for 97%.¹² Of this subsection of prisoners, 30.3% are White, 33% are Black, and 23.4% are Hispanic.¹³ This must be juxtaposed to the racial breakdown of the U.S Population, which is 60.4% White, 13.4% Black, and 18.3% Hispanic or Latino.¹⁴

The imprisonment rate statistics highlight this inequity further. The imprisonment rate for Black men is 2,336 per 100,000 people, for Hispanic men it is 1,054 per 100,000, and for

¹⁰ National Survey on Drug Use and Health 2018, Substance Abuse and Mental Health Services Administration, Table 1.23B (2019)

¹¹ National Survey on Drug Use and Health 2018, Substance Abuse and Mental Health Services Administration, Table 1.22B (2019)

¹² Prisoners in 2017, Bureau of Justice Statistics, U.S. Department of Justice, NCJ 252156, 5-6 (April 2019) available at <https://www.bjs.gov/content/pub/pdf/p17.pdf>.

¹³ *Id.* at 6.

¹⁴ QuickFacts, United States, United States Census Bureau, available at <https://www.census.gov/quickfacts/fact/table/US/PST045219>.

White men it is 397 per 100,000.¹⁵ In other words, Black men are imprisoned at a rate almost six times that of White men and Hispanic men are imprisoned at a rate of 2.7 times that of their White counterparts.¹⁶ The numbers are even worse for Black men ages 18 to 19, who are 12 times more likely to be imprisoned than their White counterparts.¹⁷

To examine the imprisonment statistics specific to drug possession or use is a challenge. BJS tracks imprisonment for drug offenses but does not delineate the specific drug involved in the crime.¹⁸ BJS also categorizes prisoners by their most serious offense.¹⁹ This practice has the potential to underrepresent the number of people in prison with a drug conviction because they will be tracked for their most serious convicted offense, e.g., homicide. However, even with these limitations, the data provides important insight. Nearly half of all federal prisoners (47.3%) were serving time for a drug offense.²⁰ Of the 78,800 prisoners with a drug offense as their most serious crime, 22% were White (17,300), 37% were Black (29,000), and 39% were Hispanic (31,000).²¹ These numbers continue demonstrate the disproportionate imprisonment rates.

The racial breakdown of incarceration rates for drug crimes, at both the federal and state level, raises concerns given the racial composition of the country as a whole.²² This concern is compounded when considered in the context of drug use statistics that show that more Whites use illegal drugs in the course of their lifetime than Blacks or Hispanics.²³ When Black Americans represent 13.4% of the population but 37% of federal prisoners and 30.4% of state prisoners nationwide convicted of drug crimes, it is clear that the law is not being equitably enforced.

Decriminalizing Drug Paraphernalia Would Reduce the Burden on Courts and Law Enforcement

Currently, the consequences associated with paraphernalia possession depend on whether the individual has been convicted before. After a first offense, the charge can carry criminal penalties that require court hearings to be set automatically. Since the majority of individuals charged with possession are repeat offenders, House Bill 720 could have a positive fiscal impact on the courts, prosecutors, and public defenders. By removing the penalties associated with paraphernalia possession, their workloads could be lessened.

In Maryland between 2013 and 2019, the total number of charges for possession of paraphernalia was 95,418.²⁴ The total number of recorded cases filed containing a charge of

¹⁵ Prisoners in 2017, Bureau of Justice Statistics, U.S. Department of Justice, NCJ 252156, 17 (April 2019) *available at* <https://www.bjs.gov/content/pub/pdf/p17.pdf>.

¹⁶ *Id.*

¹⁷ *Id.* at 15.

¹⁸ *See id.* at 22, Table 13 (revealing that BJS tracks drug crimes but not the drugs involved in these crimes).

¹⁹ *See id.* (tracking prisoners by their most serious offense).

²⁰ *Id.* at 24.

²¹ *Id.*

²² QuickFacts, United States, United States Census Bureau (providing statistics on the race of U.S. population) *available at* <https://www.census.gov/quickfacts/fact/table/US/PST045219>.

²³ *See Part III(A)*(providing a discussion of illicit drug use and marijuana use across racial categories).

²⁴ Possession of Paraphernalia Statistics

possession of paraphernalia was 86,204.²⁵ The total number of cases filed with a single charge of possession of paraphernalia in those same years was 23,090.²⁶ These numbers demonstrate the heavy burden the courts endure handling these types of cases. Criminal charges, which carry the potential of jail time, require the defendant be arraigned by a judge, and often require additional hearings to resolve the charges. Over 40% of these charges are ultimately dropped. Out of the 95,418 charges, 39,800 were nolle prosequi.²⁷ Decriminalizing the possession of drug paraphernalia would reduce the number of cases in which the court is required to appoint an attorney. Accordingly, it would also reduce the strain on the Public Defender.

Other States Have Decriminalized Paraphernalia

Maryland would not be the first to decriminalize drug paraphernalia. This epidemic is nationwide and other states have taken legislative action. Last April, New Mexico Governor Michelle Lujan Grisham signed legislation²⁸ that decriminalized the possession of small quantities of marijuana and repealed criminal sanctions associated with possession of drug paraphernalia. Alaska, Rhode Island and West Virginia are all states that have no prohibition on the possession of drug paraphernalia. Additionally, while Wyoming prohibits delivery or possession with intent to deliver, they do not prohibit the simple possession of drug paraphernalia.

Conclusion

The current legal framework in Maryland surrounding drug use is confusing, improperly enforced, and creates unnecessary risk to those affected by the opioid epidemic. States have begun to shift away from using criminal punishment as a means to combat this crisis. Instead, by decriminalizing paraphernalia, the focus turns to harm reduction practices. Maryland should do the same. House Bill 720 is a necessary step in Maryland's fight. It will help prioritize health and safety over punishment and begin to reduce the stigma associated with problematic drug use. This will enable people to access resources and get the help they need.

This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law or the University of Maryland system.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ NMS 30-31-25.1(C) (2019).

MCPA-MSA_UNF_SB 704

Uploaded by: Mansfield, Andrea

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

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

FROM: Chief 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: March 3, 2020

RE: **SB 704 Criminal Law – Drug Paraphernalia for Administration –
Decriminalization**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 704. This bill would decriminalize the use or possession of drug paraphernalia for all other drugs, other than marijuana. These drugs would include dangerous street level (user amount) doses of heroin, fentanyl, cocaine, methamphetamine, LSD and others.

MCPA and MSA are very concerned this bill creates potential for an escalation in the continually rising opioid overdose rates by decriminalizing the devices to ingest the substance, that is often a trigger of usage and directly leads to the approximately 80K overdose deaths reported annually in the United States.

In addition, if paraphernalia is decriminalized, there would be little to no opportunity to enter treatment through a criminal justice diversion program. These programs include the opportunity, for those who qualify, to avoid criminal prosecution by entering treatment programs, that work in conjunction with the court system, to help users break the cycle of addiction. The danger to public safety that is posed by dangerous street level drugs, as well as the tools to ingest these drugs, requires a comprehensive Criminal Justice approach, that does not include decriminalization.

For these reasons MCPA and MSA OPPOSE SB 704 and urge an UNFAVORABLE Report.