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POSITION ON PROPOSED LEGISLATION

BILL: SB 0509 Drug Paraphernalia for Administration-Decriminalization

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 2/15/2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 509. The Office of the Public Defender supports SB 509, which would decriminalize 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.

Drug addiction is a medical condition and caging individuals is not treatment. Unfortunately, overdoses have increased during the public health crisis. In order to deal with drug addictions and overdose deaths, Maryland needs to continue the recent trend of treating addiction as a public health issue.

This bill would permit Maryland to align with proven public health practices such as needle exchange programs that reduce the spread of HIV and Hepatitis B. Those who possess needles for the express purpose of drug use are far less likely to find unused ones if they can be arrested for simply possessing them. Thus, criminalizing paraphernalia possession leads an already vulnerable population to further endanger their health by reusing or sharing needles with other drug users. Shared needles are the second biggest transmitter of HIV with 1 in 10 new HIV cases coming from injected drug use.

Moreover, punishing the possession of drug paraphernalia is incongruous with the rehabilitative necessity of reducing drug abuse and preventing drug related deaths. Persons struggling with addiction must feel safe to seek treatment for their addiction and any possible medical emergency that their addiction may cause. Decriminalizing paraphernalia will permit drug users to seek professional help without the fear of being incarcerated due to their drug abuse. As public defenders, we have seen cases where individuals have called 911 to help a friend experiencing an overdose. However, despite Maryland's Good Samaritan law, we have seen those who call for help and those who needed medical intervention charged with possession paraphernalia for administration. Thus, the criminalization of paraphernalia hurts Maryland's effort to reduce overdose deaths and contradicts the spirit of Maryland's Good Samaritan law.

Additionally, if drug paraphernalia were decriminalized drug users would be more likely to provide drug implements to officers before being searched. Transparency between a citizen and officer regarding drug implements saves the officer the trouble of having to physically find the paraphernalia and protects the officer from being injured by hidden needles on the person. Accordingly, this bill works to better ensure officer safety and better interactions between citizens and law enforcement officers.

Further, the criminal statute carries a maximum four years of incarceration while drug possession carries a maximum sentence of one year incarceration. We do not think the potential of a four year sentence is in line with the legislature's recent changes to the penalties' for drug possession and paraphernalia respectively. Therefore, we support this proposed legislation.

For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 0509.

Submitted By: Government Relations Division of the Maryland Office of the Public Defender.