

Testimony of the Human Trafficking Prevention Project

BILL NO: House Bill 481
TITLE: Criminal Law – Drug Paraphernalia for Administration – Decriminalization
COMMITTEE: Judiciary
HEARING DATE: February 15, 2022
POSITION: **SUPPORT WITH SPONSOR AMENDMENTS**

House Bill 481 with sponsor amendments would revise the existing drug paraphernalia law to remove certain items that could be used to consume drugs from its list of prohibited items, effectively decriminalizing possession of those items. It was also protect so-called “secondary distributors” of these items from arrest. The Human Trafficking Prevention Project supports this bill because it will reduce the risk of infectious disease, arrest, and re-exploitation for trafficking survivors who use drugs, many of whom do so to cope with the trauma of their trafficking experience. In addition, protecting secondary distributors from arrest will increase the amount of support available to the most marginalized and isolated people who use drugs, which will decrease these users’ risk of a host of harms, including human trafficking.

Legislation passed by the Maryland General Assembly in 2016 has allowed for the expansion of syringe services programs (SSPs) statewide in order to distribute harm reduction supplies to prevent transmission of infectious diseases such as HIV and Hepatitis C. The research supporting the numerous health benefits of SSPs is clear and extensive. **Every scientific and medical organization to study the issue has shown that legal access to sterile supplies reduces the spread of HIV, hepatitis, and other blood-borne diseases.** Studies have also shown that access to supplies does not increase improperly discarded needles,¹ rates of drug use,² or other criminalized activity.³ In fact, people who use SSPs are more likely to reduce injections, to stop injecting altogether, to begin drug treatment, and to remain in drug treatment once started.

For these health benefits to materialize however, people need to trust that they can access supplies without law enforcement interference. When supplies are broadly considered illegal, even some registered SSP participants experience harassment and citation from law enforcement who do not understand the confusing patchwork of paraphernalia exceptions.⁴ HB 481 would also protect individuals who don’t have access to an SSP from arrest, such as Marylanders who live in rural areas and must obtain clean syringes from a pharmacy. It would also protect individuals known as secondary distributors who deliver syringes on behalf of an SSP to users who are harder to reach because of physical or mental disabilities and other forms of marginalization.⁵ Under current law, the use, possession, delivery, or sale of paraphernalia to inject, ingest, inhale, or otherwise introduce a controlled dangerous substance into the human body is a criminal offense in Maryland and a first-time violation is subject to a misdemeanor and \$500 maximum fine. Subsequent violations are subject to a misdemeanor, up to two years of imprisonment, and/or a maximum fine of \$2,000. Any arrest, regardless of its outcome, carries with it significant collateral consequences.

Harm reduction methods such as the decriminalization of paraphernalia are especially important to survivors of human trafficking, given that drug use is both a common predictor of, and a reaction to, this horrific crime. Many trafficking survivors report self-medicating to cope with past trauma and were trafficked as a direct result of their addiction, while those who have survived a trafficking experience often begin using substances in an attempt to cope with what has happened to them. Decreasing the risk of incarceration while at the same time increasing safe usage and support lessens the likelihood of re-exploitation for trafficking survivors who

¹ New York Academy of Medicine. New York State Expanded Syringe Access Demonstration Program Evaluation. January 15, 2003

² National Institutes of Health Consensus Panel, Interventions to Prevent HIV Risk Behaviors (Kensington, MD: National Institutes of Health Consensus Program Information Center, February 1997).

³ P. Lurie, A.L. Reingold, B. Bowser (eds). The Public Health Impact of Needle Exchange Programs in the United States and Abroad: Summary, Conclusions and Recommendations (1993)

⁴ There are several exceptions to paraphernalia criminalization under current law. The Maryland General Assembly repealed the criminal prohibition of cannabis-related paraphernalia in 2015, granted exemption for possession of some drug paraphernalia for participants of syringe service programs in 2016, and repealed the criminal prohibition of items to test or analyze drugs, like fentanyl test strips, in 2018.

⁵ Murphy, S., Kelley, M. S., & Lune, H. (2004). The health benefits of secondary syringe exchange. *Journal of Drug Issues*, 34(2), 245-268.

use drugs because they are less likely to have to rely on a potential trafficker for this essential assistance.

Harm reduction measures like House Bill 481 are important for all people who use drugs, including survivors of trafficking. Equipping people to use drugs more safely works not only to stem the spread of infectious disease, but also to lift the stigma that so often isolates drug users, making them vulnerable to a whole host of other harms, including human trafficking. For these reasons, the Human Trafficking Prevention Project at the University of Baltimore School of Law supports House Bill 481 and respectfully urges a favorable report with sponsor amendments.

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