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POSITION ON PROPOSED LEGISLATION

BILL: SB 1075

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 03/04/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 1075.

My name is Timothy Bradford and I am an Assistant Public Defender in Caroline County, Maryland.

I do not support this bill for multiple reasons. First, although paragraph a of this bill states that sharing without remuneration or exchange of goods is exempt from prosecution, later on in paragraph d, it states each person who distributes or delivers heroin or fentanyl can violate this section. It is not uncommon for those suffering from addiction to heroin or fentanyl to pool their money and have one person go buy drugs. Later on they meet and divide the drugs. The way this statute is written, it will show criminal liability to people that were not envisioned in the drafting of this piece of proposed legislation. Most of the time, the person who gives someone the drugs that lead to an overdose is not a drug dealer but rather a fellow addict.

Secondly, I oppose this bill because it takes a crime against a person and puts it in a controlled dangerous substance distribution statute. Currently, the Court of Appeals in Maryland recognizes gross negligence manslaughter for situations like this. *State v. Thomas*, 464 Md. 133 (2019). If the Senate disagrees with the level of proof or the penalty for manslaughter it should change that statute or make an exception such as vehicular manslaughter. As it doesn't make sense to put an exception to the manslaughter statute involving vehicles in the Transportation Article, it makes no sense to put this exception in the controlled dangerous substance section of the Criminal Article.

Finally, this bill in paragraph f, states that any sentence for violation of this bill shall be consecutive to any other provision of law. I am opposed to this because it takes away discretion from the Courts trying to fashion a fair and just sentence which varies from case to case.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 1075.

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

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