



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: House Bill 1057 Task Force to Study the Use and Possession of De Minimis Quantities of Controlled Dangerous Substances

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 16, 2024

The Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report on House Bill 1057.

House Bill 1057 establishes a task force to, among other things:

- analyze and document the relationship between drug use and crime
- conduct a survey of research and consult with a panel of experts to recommend types of controlled dangerous substances and de minimis quantity amounts that should be eligible for a civil citation for use or possession;
- evaluate the use of dedicated drug courts in other states and identify best practices;
- identify alternatives to criminal legal system intervention, such as assessments of substance use or mental health disorders, or referral to drug education program;
- investigate ways to increase the availability of low barrier substance use disorder treatment, peer support and recovery services, transitional, supportive, and permanent housing for individuals with substance use disorder; and harm reduction interventions
- identify the application of de minimis quantity civil offense provisions, the fine

amounts, and ways in which youth under the age of 21 years might be treated differently under a de minimis quantity law.

Permitting persons convicted of possession and use of de minimis quantities of controlled dangerous substances to face civil penalties instead of criminal convictions or incarceration, reclassifies substance use and addiction as the public health crisis it is, not an action in need of punishment but of treatment.

Unfortunately, overdoses have increased in Maryland, with an especially notable uptick during the COVID-19 pandemic.¹ Marylander's struggle with addiction demonstrates that simply caging drug users in jail and punishing them has failed. A failure that this bill recognizes by removing drug addiction from the criminal system and into the realm of public health.

There are a few examples of the positive results of decriminalizing, or reducing the criminalization of drug use. In 2014, California voters defelonized possession of illegal drugs for personal use. In just one year, the jail population decreased from 51, 151 to 46, 384. The average cost for an inmate in California is \$64, 642. With 4,767 fewer inmates, California saved \$308 million dollars in 2015 after defelonizing possession of drugs for personal use.²

Portugal decriminalized drug possession in 2001. The drug use rates are far lower than in the United States. Between 1997 and 2012, the use of drug treatment programs rose by 60%. The drug overdose rates dropped from 80 to 16 in 10 years. The percentage of people in prison for drug violations dropped 20% within 14 years. Within 13 years, the number of HIV cases decreased from 1,575 to 78 cases. The number of AIDS cases decreased from 626 to 74 cases. Portugal's success with drug decriminalization provides Maryland a clear example of a better

¹ <https://www.baltimoresun.com/health/bs-hs-overdose-rate-maryland-coronavirus-pandemic-20210113-rll3kzzv3jd6he2bf44wah5cbm-story.html>

² https://www.ppic.org/wp-content/uploads/content/pubs/report/R_316MB3R.pdf;
<https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-price-of-prisons-2015-state-spending-trends-prison-spending>.

way to deal with drug addiction.³

We can look at the concerns and criticisms in Oregon's decriminalization efforts to understand the importance of starting a task force that will guide Maryland's efforts to humanize, dignify, and treat those with substance use disorders.⁴ Where Oregon passed the decriminalization law first and worried about implementation second, Maryland should pass this task force bill, determine how we can implement treatment-focused drug laws, and then turn towards potential de minimis decriminalization efforts based on the recommendations of experts.

Addiction and use of drugs should not be handled in the criminal legal system, they must be addressed in the public health realm. Ensuring that we are providing individuals with treatment is critical to decreasing mass incarceration and improving Maryland. Establishing this task force is one small step in the direction of making it easier for people struggling with addiction to connect with their community and feel less ostracized and decreasing the stigma of drug use. Decreasing the stigma and decriminalizing de minimis possession, will make drug users feel more encouraged to seek treatment and support, which in turn will make recovering and healthy living within their communities more likely.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 1057

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

³ <https://www.nytimes.com/2020/10/05/upshot/portugal-drug-legalization-treatment.html>;
<https://drugpolicy.org/issues/drug-decriminalization>;
<https://transformdrugs.org/blog/drug-decriminalisation-in-portugal-setting-the-record-straight>.

⁴ <https://www.propublica.org/article/oregon-leaders-hampered-drug-decriminalization-effort>