

SB 332 - Campaign Finance - For-Profit Substance A

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Position: FAV

February 4, 2021

Testimony on SB 332
Campaign Finance - For-Profit Substance Abuse and Mental Health Treatment Providers - Disclosure of
Contributions
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland supports SB 332 which would expand the State Board of Elections authority to enforce filing requirements to include Medicaid reimbursement contracts with for-profit substance abuse and mental health treatment providers under Title 14.

There is growing frustration by citizens over the role that special interests are playing in our campaigns. Particularly in situations where it can appear that there is a conflict of interest, Maryland does not have unlimited ability to fight back against the surging tide of special interest donations. Public businesses are businesses that make or have a single contract with a State or local governmental entity involving cumulative consideration of at least \$200,000. They are required to submit statements to SBE regarding any applicable contributions.

Contributions from for-profit health treatment providers who have a Medicaid reimbursement contract should function in the same manner. These contributions help build a relationship between the donor and the elected official, and deserve the same scrutiny and public access. Citizens have a right to know who is seeking to influence their government, especially when they, like most health-care interests, spend an overwhelming amount of money trying to influence decisionmakers in Maryland.

Maryland has a well-developed system of campaign finance law, a system that ensures everyday citizens can trace who is making donations and what special interest voices are being heard in that process. SB 332 would build on that system by extending transparency in government contracting.

We urge a favorable report.

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Dorsey returns \$42,000 from drug treatment facility affiliates

Relations between the community and the proposed treatment center will be better “without the spectre of large campaign contributions,” the northeast councilman says

Above: 3rd District Baltimore City Councilman Ryan Dorsey. (J.M. Giordano)

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Councilman Ryan Dorsey has returned the \$42,000 given to him by seven people associated with a company planning a drug treatment facility in his district, he wrote on Facebook today.

The 3rd District Democrat said he returned the money on Wednesday.

Dorsey’s announcement follows *The Brew’s* [disclosure](#) that the councilman accepted multiple campaign contributions – comprising nearly a third of his total fundraising – from people connected with a Columbia-based company proposing an in-patient drug treatment center in Hamilton.

The article raised questions about whether Dorsey could act independently with such a strong financial relationship with the company, Clinic Management and Development Services Inc.

Dorsey did not address that question directly in his Facebook statement other than to say he took the money last October “with a clear conscience.”

And he emphatically pushed back against critics who have expressed concerns that the 104-bed center, proposed at 6040 Harford Road, might increase crime or otherwise harm the community.

“The stigma surrounding addiction is one of the most powerful stigmas operating in society today,” Dorsey wrote, pointing to the urgency of the drug crisis.

“In 2018, there were nearly 900 drug or alcohol related overdose deaths in Baltimore City,” he noted. “Nearly three times the rate of homicides.”

But Dorsey, who faces two Democratic challengers in the April 28 primary, signaled that he is not dismissing the concerns of residents.

“I also understand that the relationship between the community, health professionals and persons in need of addiction treatment is a complicated and fragile one,” he wrote.

That relationship, he said, “should have the chance to be built and succeed without the spectre of large campaign contributions.”

Drug Facility Debate

CMDS president Kevin Pfeffer said today he had heard the councilman was returning the money, but had not spoken with Dorsey “since October” or received the money. But he added, “I have not gotten today’s mail.”

The Brew reported that seven people associated with CMDS each gave Dorsey \$6,000 – the maximum a person or business can contribute to a candidate in a year-year election cycle.

At that time, Dorsey said he supported the proposed facility, but that his position had no connection to the campaign contributions.

He said accepting the money had freed him from many hours of call time with donors, allowing him to focus on legislation and constituent service.

Angela Jancius, president of the Westfield Neighborhood Improvement Association, criticized Dorsey for a lack of transparency in not discussing CMDS’ plans earlier with the community.

She is one of many residents who are opposed to the construction of a drug treatment facility so near an elementary school.

A 2016 study found that crime does not increase in connection with drug treatment centers.

Those fears drew condemnation from others, who called them inaccurate and irresponsible during a public health crisis.

Several cited Debra Furr-Holden’s 2016 study that found crime does not increase in connection with drug treatment centers (DTCs).

“Our research shows that DTCs do not impact communities any more than other commercial businesses,” wrote Furr-Holden, an adjunct professor at the Johns Hopkins Bloomberg School of Public Health.

Matter of Trust

Today, Jancius said she was glad Dorsey returned the money.

“Well, it’s very good, because it’s an issue of trust,” she said. “But I’m disappointed that his statement on Facebook mentions the crisis of addiction, but not the related crisis in education.”

“The community still has a lot of questions about zoning and the history of this property,” she added. “I’m not sure if there’s trust yet.”

Dorsey, who has been open about his own experience with addiction, struck a personal note in his announcement about returning the funds, decrying the social stigma he said “discourages those who need help from seeking it.”

“I’ve been sober for nearly 17 years and there are people in my life who I only see at funerals,” he wrote. “In many cases, whether the person is on the inside or outside of the casket is a matter of whether or not the person had access to treatment.”

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Budget and Taxation Committee
Capital Budget Subcommittee
Health and Human Services Subcommittee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill 332

Bill Title: Campaign Finance - For-Profit Substance Abuse and Mental Health Treatment Providers - Disclosure of Contributions

Hearing Date: February 4, 2021 – Education, Health, and Environmental Matters Committee

Chair: The Honorable Paul Pinsky; Vice Chair: The Honorable Cheryl Kagan

I write to you today in **support** of Senate Bill 332. The disclosure of campaign funds raised has become a fundamental principle in our political system. The public disclosure of funds raised – and funds spent – allows the citizenry to know who is funding political campaigns and their messages, allowing voters to make an informed decision when going to the ballot box. It has never been more important for citizens to know who is spending money to promote or defeat political candidates. Further, the public disclosure of campaign funds also allows for the prevention of political corruption and for candidates to be held accountable.

The purpose of Senate Bill 332 is to alter the definition of “contract” to include Medicaid reimbursement contracts with a for-profit substance abuse and mental health treatment provider. In short, when a political candidate is disclosing campaign contributions, he, she, or they must disclose if an individual (s) has business dealings with a for-profit substance abuse and mental health provider – even if that provider’s contract is to the extent of only receiving Medicaid reimbursement (s).

In efforts to provide relevant accountability of political candidates and fully disclose campaign contributions to the public, we hope that you will move for a **favorable** report of Senate Bill 332.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Cory V. McCray".

Cory V. McCray
State Senator

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Uploaded by: Cooper, Charlie

Position: FWA



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**TESTIMONY BEFORE THE EDUCATION, HEALTH, AND
ENVIRONMENTAL AFFAIRS COMMITTEE
SB 332 – CAMPAIGN FINANCE – DISCLOSURE OF CONTRIBUTIONS
SUPPORT WITH AMENDMENT**

February 4, 2021

Get Money Out (GMOM) is an all-volunteer organization established eight years ago. We want all citizens to have equal access to the ballot and an equal say in governance. Through our grassroots actions, we have signed up over 9,000 supporters.

We believe that full and prompt disclosure of campaign spending and contributions is essential to everyone having equal access to the ballot. In the absence of such disclosure, voters may not understand the true meaning of advertising and other political messaging that occurs during a campaign. Senate Bill 332 is intended to further that goal by expanding the definition of “doing public business.”

Under existing law, candidate campaigns and other campaign finance entities must report large contributions and expenditures, but entities doing public business must make reports every six months. The timing requirements of these reports are such that certain large contributions might not be publicly available from a campaign finance entity, but the reports for entities doing public business are bi-annual regardless of campaign cycles. Therefore, more information will come out sooner under this bill.

Any for-profit provider of service receiving State subsidy should be considered to be doing public business, regardless of the particular service provided. We do feel that the wording of the bill stigmatizes substance abuse and mental health treatment, and we believe that there is a more appropriate way to capture contributions from more entities doing public business. Therefore, we ask the Committee to consider the following amendment:

Page 2, lines 10-11, strike, “SUBSTANCE ABUSE OR MENTAL HEALTH TREATMENT PROVIDER” and substitute “PROVIDER OF SERVICES TO STATE-SUBSIDIZED CLIENTS”.

Those seeking undue influence over in our political system will find every crack in the system. Senate Bill 332, with the amendment we propose, will close a gap and better achieve the purpose of the reporting by those doing public business.

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Uploaded by: David, Sarah

Position: FWA

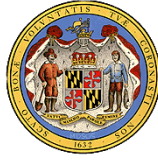
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SUPPORT FOR SB 332- TITLE 14 ENFORCEMENT AMENDMENTS

Mr. Chairman and Members of the Education, Health, and Environmental Affairs Committee:

We are writing to express the Office of the State Prosecutor's support for amendments for enforcement of Title 14 proposed with Senate Bill 332, which would allow the Office of the State Prosecutor and the State Board of Elections to effectively enforce Title 14 of the election law Article by providing civil enforcement power.

The Office of the State Prosecutor

The Office of the State Prosecutor is an independent agency within the Executive Branch of government. The Office is tasked with ensuring the honesty and integrity of state government and elections by conducting thorough, independent investigations, and when appropriate, employing our criminal and civil enforcement power to prosecute conduct affecting the integrity of our government institutions, officials, employees, and elections. One of the duties of The Office of the State Prosecutor is to enforce Maryland's election laws.

Title 14

Title 14 mandates that business entities that have a single contract of at least \$200,000 with a governmental entity file statements with the State Board of Elections listing the business' applicable campaign contributions. Title 14 encourages transparency and seeks to avoid corruption in the award of State contracts.

A review of Title 14 indicates the Office of the State Prosecutor was apparently intended to have civil enforcement power over violations of Title 14, but a technical loophole is preventing us from exercising that power. The amendments to SB 332 would close the loophole, affording the civil enforcement power that many assume we already have.

Title 14 has specific language for criminal enforcement.¹ However, Title 14 is silent as to civil enforcement. Limiting our enforcement power to situations that rise to the level of a crime renders Title 14 practically unenforceable and as a result significantly hinders compliance.

A criminal violation of Title 14 requires that it is a willful and knowing violation. As a practical matter, this means that to bring a criminal charge resulting from a business' failure to file a required

¹ E.L. § 14-107.

statement, we would need evidence that a decision-maker at the company specifically directed the company not to file the disclosure. This type of evidence is simply not available in most cases. Instead, what we typically see is that the company was negligent in failing to file the disclosure, or there is no specific evidence regarding the reason the company failed to file the disclosure. Thus, the criminal *mens rea* requirement is not met.

Civil enforcement, on the other hand, would permit us to civilly cite the business entity when it has not complied with the requirements of Title 14. It does not require us to see into the minds of the individual officers or decision makers to evaluate why they did not file the required disclosure.

It is our understanding that the drafters of Title 14 intended the Office of the State Prosecutor to have both civil and criminal enforcement power. This intention is congruent with the fact that we have both civil and criminal enforcement power in the analogous Title 13, which regulates the filing of campaign finance reports.² In fact, the proposed language in section 14-107.1 of the bill mirrors the language from Title 13 discussing our civil enforcement power.³

Importantly, Title 14 provides that the State Board may impose late fees in the same amount and manner as provided under Title 13.⁴ The imposition of late fees necessitates a civil enforcement mechanism. As Title 14 currently stands, there is no ability take any enforcement action when late fees are not paid. As a result, fees go uncollected.

Title 14 is an important tool promoting transparency and integrity in government contracting. The amendments associated with SB 332 provides a much needed fix which will enable Title 14 to be enforced in a meaningful way.

As always, our office is available for any questions concerning this legislation. Please reach out to myself or Deputy State Prosecutor Sarah David at 443-652-6689 or sarah.david@maryland.gov.

Sincerely,

Charlton T. Howard
Maryland State Prosecutor

² See E.L. § 13-603-604.

³ E.L. §13-604.

⁴ E.L. § 14-107 (c).