



HB 372

Criminal Law - Drug Paraphernalia for Administration - Decriminalization

House Judiciary Committee; hearing: Jan 19, 2021

SUPPORT

Chairman Clippinger and the members of the House Judiciary Committee,

My name is Malik Burnett and I am a physician fellow in addiction medicine at the University of Maryland Medical Center. I would like to thank you for the opportunity to provide written testimony today on behalf of the Maryland DC chapter of the American Society of Addiction Medicine (MDDCSAM) whose members are physicians and other health providers who treat people with substance use disorders.

MDDCSAM is supportive of HB372, a bill to decriminalize drug paraphernalia in the state of Maryland as **passage of this bill** has the effect of **increasing the adoption and fidelity of syringe service programs** in counties across the state, **providing clarity for law enforcement officers** on how to handle individuals who possess drug paraphernalia for personal use, and **lowering the stigma associated with drug use** in the community.

Since 2016, the state of Maryland has allowed for the expansion of syringe service programs (SSPs) and to date there are currently 16 active programs in the state. These programs provide access to clean needles, cookers, sterilization equipment, water and other supplies which are currently classified as drug paraphernalia. Individuals who participate in these programs have reduced incidence of infectious disease and skin and soft tissue infections and have an opportunity to be linked to treatment and start the process of recovery. Unfortunately, these same individuals are currently subject to arrest and criminal prosecution for being in possession of the equipment obtained from these legal and lifesaving programs unless/until they can prove the equipment was obtained from an SSP. **Passage of this bill will eliminate the risk of arrest and criminal prosecution for these citizens**, and increase the likelihood of their participation in these morbidity and mortality reducing programs.

Furthermore, as a member of the MDH Standing Advisory Committee on Opioid Disease Prevention and Outreach, I evaluate new applications for SSPs around the state and it is clear that the current criminalization of drug paraphernalia creates legal ambiguity in the strategies that SSPs can use to disseminate clean supplies. Some SSPs endeavor to go out into the community to

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make contact with people who use drugs who are otherwise difficult to reach in order to both establish a relationship and reduce the harms associated with drug use. Under the current statute, these “mobile SSP” strategies create a burden of proof requirement for volunteers and employees at SSPs, who would have to show their affiliation with a program in the event of an interaction with law enforcement during these community outreach efforts. **These legal ambiguities have had the effect of stifling innovation and slowing adoption of the Maryland Syringe Service program in counties around the state. Passage of this bill would eliminate this burden.**

Finally, as a practical matter, Maryland law currently allows for the “sale of needles and syringes or other paraphernalia” by pharmacies without a prescription to patients “showing proper identification and indication of need.”¹ Given the legal ability for individuals to purchase paraphernalia from pharmacies, it is appropriate and proper that the criminal code conform to allow individuals to possess these same items. **Passage of this bill would create clarity for law enforcement officers and has the potential to increase the adoption of successful strategies like Law Enforcement Assisted Diversion within the criminal justice community.**

Overall, the Maryland General Assembly has taken a proactive role in passing legislation which lowers the stigma associated with drug use within the state. This legislation is very much within the spirit of this effort and why the MDDCSAM is supportive of its passage.

¹ Md. Code Regs. 10.13.08.01

Sincerely,

G. Malik Burnett MD, MBA, MPH
Board Member, Maryland DC Society of Addiction Medicine
