

HEALTH CARE FOR THE HOMELESS TESTIMONY
IN SUPPORT OF
HB 488 – Criminal Law – Use or Possession of a Controlled
Dangerous Substance – De Minimus Quantity

House Judiciary Committee
February 2, 2021



Health Care for the Homeless supports HB 488, which would decriminalize the use or possession of small quantities of certain controlled dangerous substances. We are in support of the bill 1) as a necessary harm reduction measure to address drug use as a public health crisis rather than a criminal issue and 2) because low-level, non-violent drug offenses are top charges that saddle people with criminal records for life, preventing them from obtaining housing and employment.

Drug use as a public health crisis

Baltimore’s fatal overdose rate, in particular, is higher than ever before, with a 500% increase between 2011 and 2018.¹ Persons experiencing homelessness have higher rates of substance abuse disorders (SUD), poorer health and higher mortality rates by opioid overdose than other populations, the issue of addressing overdoses is particularly pertinent for the population that Health Care for the Homeless serves.² Simply, we must start addressing the use of drugs as the public health crisis that it is and completely shift the use of drugs out of the realm of the criminal justice system.

Continuing to criminalize the use of drugs is antithetical to treatment. Stigma is an enormous barrier to treatment. People without homes are denied care by the medical community because they are stereotyped as “drug seeking” or “difficult.” These have proven false and counterproductive narratives to address the overdose crisis. As such, continuing to criminalize users of drugs is antithetical to any effort to destigmatize drug use and increase access to the public health system. The importance of drug decriminalization is being increasingly recognized by the public health community.³ It is time for the state of Maryland to do the same.

Criminal charges related to drug use have lifelong consequences

Criminal records create almost insurmountable barriers to obtaining employment, housing, education, and other critical resources like social safety net programs.⁴ One of the top five (5) charges on Baltimore City’s

¹ Natanya Robinowitz, MSPH, The Abell Foundation, *The Whole is Greater Than the Sum of Its Parts: Overdose prevention sites, Barcelona, Baltimore, and the need for a comprehensive approach to the overdose crisis* (Nov. 2019), available at <https://www.abell.org/publications/whole-greater-sum-its-parts> (Abell Report). We should also note that overdose rates in Baltimore have been higher than the national average for decades. *See id.*

² *See* National Health Care for the Homeless Council, *Medication-Assisted Treatment: Buprenorphine in the HCH Community* (May 2016).

³ Among such organizations are World Health Organization and American Public Health Association. *See* Abell Report.

⁴ *See* American Public Health Association, *Housing and Homelessness as a Public Health Issue* (Nov. 2017), available at <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue>.

Homeless Docket is drug possession (not marijuana).⁵ There is a clear connection between people experiencing homelessness and getting criminally charged for low-level, non-violent drug possession.

As another example of the importance of decriminalizing activity that disproportionately impacts people experiencing homelessness, charges for violation of the open container law were the most common misdemeanor charges we saw in our clients – charges that prevent them from being eligible for public housing assistance. This law was also among the top 5 charges on Baltimore City’s Homeless Docket.⁶ During the 2019 legislative session, the Maryland General Assembly (MGA) passed legislation to decriminalize the open container law.⁷ This law will have an enormous impact on our client’s eligibility for housing. We applaud the MGA and the work of the recently convened Task Force to Study Crime Classification and Penalties.⁸ We urge the Task Force to take into consideration bills like HB 193 and we strongly urge the General Assembly to realize the importance of decriminalizing the use and possession of drugs, as they did for the open container law in 2019.

Unsurprisingly, Baltimore City’s Homeless Docket report also showed that three (3) of the top 5 services received through the Homeless Docket were health care treatment, mental health treatment, and substance use treatment.⁹ It is time for Maryland to fully recognize that addressing the use of substances must take a public health approach. Therefore, the use and possession of small amounts of substances must necessarily be dealt with in the public health system and not in the criminal justice system.

For these reasons, Health Care for the Homeless strongly urges a favorable report for HB 488.

Health Care for the Homeless is Maryland’s leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County. For more information, visit www.hchmd.org.

⁵ United Way of Central Maryland, *Docket for Homeless Persons: Five-Year Report, June 2013 – June 2018*, available at http://www.hprplaw.org/penn_station/folders/get_legal_help/docket_for_homeless_persons_and_veterans_treatment_docket/2018_DocketForHomelessPersons_FINALe.pdf (DHP Report).

⁶ See DHP Report.

⁷ See HB 88/Ch. 578, http://mgaleg.maryland.gov/2019RS/chapters_noln/Ch_578_hb0088E.pdf.

⁸ See <https://msa.maryland.gov/msa/mdmanual/26excom/html/10crimclass.html> and accompanying Ch. 372, http://mgaleg.maryland.gov/2019RS/chapters_noln/Ch_372_hb0542T.pdf.

⁹ See DHP Report.