

Testimony of the Human Trafficking Prevention Project

BILL NO: Senate Bill 568
TITLE: Health Records and Reporting of Overdoses – Limitations on Use in Criminal Investigation or Prosecution
COMMITTEE: Judicial Proceedings
HEARING DATE: February 23, 2022
POSITION: **FAVORABLE WITH SPONSOR AMENDMENTS**

Senate Bill 568 with sponsor amendments would mend a loophole in Maryland’s current overdose data collection law by clarifying that no information contained within an overdose victim’s medical records may be used for criminal investigations or prosecutions. The Human Trafficking Prevention Project at the University of Baltimore School of Law supports this bill because it will reduce the risk of overdose for people who trade sex, including trafficking survivors, many of whom are using drugs to cope with the trauma of their trafficking experience.

Drug overdoses continue to be a serious public health challenge in Maryland. The number of opioid-related deaths increased by 20% between 2019 and 2020, and preliminary data indicates a continued increase in 2021. In 2018, Maryland enacted a law requiring emergency service providers to report overdose information to overdose mapping applications in an attempt to gather concrete public health data on overdoses occurring within the state. In an attempt to prevent the use of this data from being examined by law enforcement and used for prosecutorial purposes, the statute specified that the “[o]verdose information reported by an emergency medical services provider” to these mapping applications “may not be used for a criminal investigation or prosecution.”¹

Despite this specified ban on use of the overdose data, various criminal justice actors have interpreted this as merely preventing law enforcement from taking the medic-reported information *directly from the mapping applications*, while still allowing them to obtain the same information from the separately maintained, medic-created medical records concerning these overdoses. **This undermines the intended benefits of the law, which is to protect the privacy of the overdose victim rather than subjecting them to increased police scrutiny and potential prosecution.** Senate Bill 568 with sponsor amendments would correct this ambiguity by clarifying that no data from the mapping system *or* from the overdose patient’s medical records, such as that which could be obtained from medic-created records, may be used for a criminal investigation or prosecution. Closing this loophole will result in fewer overdoses due to less fear of police involvement for overdose victims and their associates.

While this legislation that will reduce the harms that all people using drugs face, it is of particular import to women who trade sex, given the link between drug among at-risk women who practice sex work,² including survivors of human trafficking. Many trafficking survivors report self- medicating to cope with past trauma and were trafficked as a direct result of this addiction, while those who have survived a trafficking experience often begin using substances as a means to cope with what has happened to them. Women who trade sex, including those who have survived or are experiencing trafficking, are put at increased risk of overdose if they or the people around them do not feel comfortable calling for help when a drug-related emergency arises.

Senate Bill 598 will reduce this potential harm by clarifying that neither mapping data on overdoses nor the same data retrieved from the overdose victim’s medical records may be used in criminal investigations or prosecutions. This commonsense bill will improve the health outcomes of all persons who use drugs, including trafficking survivors. For these reasons, the Human Trafficking Prevention Project at the University of Baltimore School of Law supports Senate Bill 598 with sponsor amendments. We respectfully urge a favorable report.

¹ MD CODE ANN., HEALTH-GEN. § 13-3602(e) (West, 2018).

² See generally Payam Roshanfekr et. al., *Drug Use and Sex Work Among At-Risk Women: A Qualitative Study of Initial Risk Factors* Iran J Psychiatry Behav. Sci. (June 2015); Saba Rouhani, et. al., *High Willingness to Use Overdose Prevention Sites Among Female Sex Workers in Baltimore, Maryland*, Drug Alcohol Depend. (July 2020).