



February 23, 2022

Senate Judicial Proceedings Committee
TESTIMONY IN SUPPORT with AMENDMENT

SB 568- Health Records and Reports of Overdoses- Limitations on Use in Criminal Investigations and Prosecution

Behavioral Health System Baltimore (BHSB) a nonprofit organization that serves as the local behavioral health authority (LBHA) for Baltimore City. BHSB works to increase access to a full range of quality behavioral health (mental health and substance use) services and advocates for innovative approaches to prevention, early intervention, treatment and recovery for individuals, families, and communities. **Baltimore City represents nearly 35 percent of the public behavioral health system in Maryland, serving over 77,000 people with mental illness and substance use disorders (collectively referred to as “behavioral health”) annually.**

Behavioral Health System Baltimore supports with the sponsor amendment SB 568- Health Records and Reports of Overdoses- Limitations on Use in Criminal Investigations and Prosecution. This bill prohibits overdose information reported by an emergency medical services (EMS) provider or by the Maryland Institute for Emergency Medical Service Systems (MIEMSS) from being obtained by a law enforcement officer as part of a criminal investigation or prosecution.

In 2018, the General Assembly passed legislation that requires emergency medical service providers, or medics to report overdose information to overdose mapping applications. The statute specified that the information reported by an emergency medical service provider to these mapping applications may not be used for a criminal investigation or prosecution. The language however has created an ambiguity by being interpreted as allowing the same information to be accessed from 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.

SB 568 with the 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 would be obtained from medic-created records, may be used for a criminal investigation or prosecution. Closing this loophole will result in fewer fatal overdoses due to less fear of police involvement for overdose victims and their associates.

Fatal 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. Research has found that many people are known to delay or refrain from calling 911 due to fear of arrest or prosecution at an overdose scene.¹ BHSB supports SB 568 because it provides the technical clarification to uphold the original intent of previous legislation to shield overdose victim’s emergency records and therefore continuing to reduce the fear that discourages people from calling 911 at the scene of an overdose. **As such, BHSB urges the Senate Judicial Proceedings Committee to support SB 568 with the sponsor’s amendment.**

¹ Latimore. A, Bergstein. R, *International Journal of Drug Policy*, “Caught with a body” yet protected by law? Calling 911 for opioid overdose in the context of the Good Samaritan Law, November 2017