



JUSTICE FOR ALL

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN OPPOSITION TO SENATE BILL 532: CRIMINAL LAW –
OVERDOSING IN PUBLIC - PROHIBITION

March 7, 2023

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Chair Smith, and distinguished members of the Committee, thank you for the opportunity to testify in opposition to Senate Bill 532.

I am Heather Heiman, the Project Manager for the Human Trafficking Prevention Project at Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest pro bono civil legal service provider to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in various civil legal matters. In FY22, MVLS volunteers and staff lawyers provided legal services to 7,652 people across the State.

In fiscal year 2017, MVLS started the Human Trafficking Prevention Project (HTPP), a co-grant project through the Governor's Office of Crime, Control, and Prevention with the University of Baltimore School of Law Human Trafficking Prevention Project Legal Clinic. The HTPP at MVLS is a pro bono project that provides post-conviction relief such as expungement, shielding, and vacatur, as well as assistance with consumer, housing, and family law matters to those who meet the legal definition of a victim of human trafficking, and others who are at high risk for exploitation. Since its inception, the HTPP at MVLS has served over 200 clients, many of whom have a history of substance use and addiction. For the reasons explained below, MVLS respectfully requests that the Committee returns an unfavorable report on SB 532.

Senate Bill 532 prohibits a person from overdosing in a public place, including, parks, parking areas, streets, or businesses, subjecting them to a misdemeanor conviction, 60 days imprisonment, or a fine not exceeding \$500. Alternatively, those violating this proposed law may be referred to drug court or a local substance abuse treatment program. MVLS strongly opposes SB 532 because it will disproportionately impact people experiencing poverty, Black and Brown communities, and survivors of human trafficking, and others who may use substances as a coping mechanism for trauma.. It will also complicate help-seeking and medical response in situations where a person has overdosed, and impose a criminal record on vulnerable individuals, further impacting their ability to seek treatment, secure safe housing, or find stable employment.

Senate Bill 532 contradicts everything we learned from the failed "War on Drugs." Excessive criminalization of addiction has done nothing to reduce the drug trade or the consumption of illicit substances. Instead, it has overflowed our prisons and rendered entire communities, primarily Black and Brown and poor communities, unemployable due to the collateral consequences of criminal convictions, despite drug use being just as common, if not more so, among those of economic privilege.

With SB 532, Maryland would be taking a significant step backward by criminalizing overdosing in public, primarily impacting those experiencing homelessness or engaging in street-based survival.

Moreover, SB 532 is also in direct opposition to Maryland's Good Samaritan Law (Md. Ann. Code Art. § CR 1-210), which the General Assembly passed to provide immunity to:

“A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person reasonably believed to be experiencing a medical emergency after ingesting or using alcohol or drugs”

The Good Samaritan Law encourages people to provide or summon aid during a drug or alcohol emergency, which prevents overdose deaths. Any new or increased penalties for someone involved in a drug-related emergency undermines the spirit of the Good Samaritan Law.

Furthermore, this legislation will only *increase* the harms that the most vulnerable people using drugs face by introducing another route toward arrest, incarceration, and the collateral consequences of a criminal record.

While collateral consequences apply to all people with a criminal record, these effects disproportionately impact survivors of human trafficking, given that substance use is both a common predictor of *and* a reaction to this horrific crime. Many trafficking survivors reported self-medicating to cope with past trauma and were trafficked directly due to this addiction. Individuals who have survived a trafficking experience often begin using substances to cope with what has happened to them. These survivors are at increased risk of overdose-related death if they or the people around them do not feel comfortable calling for help when a drug-related emergency arises, or if they anticipate that there will be a punitive law enforcement response as opposed to emergency medical treatment. Additionally, individuals arrested as a direct result of their substance use will then find themselves put at heightened risk of re-exploitation because of the barriers criminal records present when one is seeking safe housing or gainful employment.

We cannot arrest our way out of Maryland's drug crisis.

While SB 532 seeks to mitigate its harm by allowing those arrested for public overdoses to be "sentenced" to drug court or a local drug treatment program, this protection only exists on paper. In reality, SB 532 would worsen outcomes for the most vulnerable people who use drugs, including survivors of human trafficking. We cannot afford to take such a huge step backward when we are finally beginning to see evidence that a public health response to this crisis is far more helpful than a harmful punitive response that has thoroughly failed its stated intention.

For these reasons, MVLS opposes Senate Bill 532. We respectfully request an unfavorable report.