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POSITION ON PROPOSED LEGISLATION

BILL: SB 532 Criminal Law - Overdosing in Public - Prohibition

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/20/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 532.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 532.

This proposed legislation is criminalizing the act of overdosing in public. The criminalization of an act that occurs without intent or control from an individual who may or may not be an addict is overreaching and punitive. Moreover, creating a law that criminalizes overdosing will create an introduction of more individuals to the already burdened criminal justice system. Overdosing is a medical term and creates a medical emergency. This begs the question of who is determining that the individual is overdosing? Is it an officer arriving on the scene? Is it the determination of the paramedic or the doctor at the hospital?

Drug addiction is a very complex issue and overdosing is a serious matter and it is best addressed by medical professionals. It is also not uncommon for an individual to overdose and not be a drug addict. The reality is an individual may experiment with drugs or abuse drugs unaware that the drugs are laced with other unknown substances. The reason why an individual overdoses encompasses more than just what can be observed on the surface level, therefore, authorizing a court to refer an individual to drug court or substance abuse treatment without discussion with the individual or absent any in depth analysis of the individuals' circumstances results in a coerced plan of action.

Furthermore, drug courts have procedures and protocols and they are not a court that can accept individuals without the consent of the individual. This proposed legislation appears to give an individual an option to either accept drug court or substance abuse rather than a punitive penalty, however, drug court and substance abuse programs can be punitive in nature if 1) the individual is not an addict; 2) the individual is already in a program and has relapsed (therefore, no need for court involvement) and 3) the individual wants to have a trial and wants to challenge the allegation, however, they are forced to drug court to avoid a conviction.

Ultimately, this proposed legislation will not stop overdosing and criminalizing overdosing forces individuals into a criminal justice system instead of keeping it a medical issue.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 532.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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