



Senate Judicial Proceedings Committee

March 7, 2023

Senate Bill 464 - Criminal Law - Fentanyl and Fentanyl Analogues - Penalty

OPPOSE

NCADD-Maryland respectfully opposes the increased penalty proposed in Senate Bill 464. The crisis of opioid overdoses is one we know the entire community is affected by and is trying to respond to. NCADD-Maryland appreciates that the intent of the sponsor and supporters of this bill is to help address this serious problem. For too many decades we have tried to arrest and prosecute our way out of drug addiction. And we have failed.

Instead of creating more and longer criminal penalties, we need a bigger and stronger array of positive tools in our work to address substance use disorders, provide better interventions, and reduce the demand for opioids and other drugs. In recent years, Maryland has made progress with things like making the life-saving drug naloxone more available, expanding syringe services programs, and certifying peer recovery specialists.

Another positive step was the creation of the state's Good Samaritan law. Our number one reason for opposing this proposal is because we believe it will unintentionally undermine the Good Samaritan law. Because "distribution" could mean one person sharing the heroin they bought that day with their friend, this enhanced penalty will confuse the message in the community about the need to call for help if someone is experiencing an overdose.

The Good Samaritan message right now is clear: Don't run – call 911. With passage of this legislation, an asterisk would have to added: *But not if you were the one who bought the drugs that day.

There are additional policies and programming that this General Assembly should support, including:

- Passing legislation (again) to decriminalize the possession of drug paraphernalia (SB 762);
- Passing legislation to clarify that people experiencing an overdose will not have their probation or parole violated if someone calls 911 for help (SB 546); and
- Passing legislation to allow local communities to open Overdose Prevention Sites (SB 618).

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We know the intent of this bill is to get to the higher level dealers. We know that in practice, this bill will be used to pile on charges to put pressure on people who also have substance use disorders, and will in effect lead to longer sentences for those who really need help. While the overdose crisis pulls at our hearts and we instinctively want to lock up people who sell or share drugs with our loved ones, policy makers like yourselves understand that we cannot arrest our way out of the disease of addiction. This is true about the overdose crisis as well.

NCADD-Maryland believes that additional charges and longer penalties attached to opioid overdose deaths will actually result in fewer people calling 911 in emergency situations. A public health crisis demands a public health response, not a proposal for enhanced criminal penalties. There is much we can do together to reduce opioid overdoses and deaths. This proposal will not accomplish that goal.

We ask for an unfavorable report on Senate Bill 464.