

Senate Bill 532 Criminal Law – Overdosing in Public - Prohibition

Senate Judicial Proceedings Committee

March 7, 2023

Position: OPPOSE

The Mental Health Association of Maryland is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health, mental illness and substance use. We appreciate this opportunity to present testimony in strong opposition of Senate Bill 532.

SB 532 criminalizes overdosing in public places with a maximum of 60 days in jail, a fine of up to \$500 or both, with the option, not requirement, of a referral to drug court or a substance abuse treatment program. It categorizes overdosing in public as a misdemeanor offense.

The passage of SB 532 would set back years of both harm reduction and stigma reduction efforts aimed at reducing overdoses in Maryland. Data has long showed that increased incarceration and criminal justice involvement do not translate into reduced drug use, arrests, or overdose deaths.¹ Incarceration contributes to tolerance loss, limited access to Medication-Assisted Treatment and Naloxone, and disruptions to health care and social supports.²

A multitude of factors contribute to the complex public health emergency that is the opioid overdose crisis, one of which is access to care. In 17 of Maryland's counties, the ratio of population to mental health providers comes in below the national average of 350:1, with many of those providers not providing substance use care. In Maryland's Eastern Shore, Queen Anne's County ratio is 840:1, and Caroline County is 2,230:1. In Western Maryland, Garrett County's ratio is 610:1.³ Additionally, substance use care providers do not universally accept all insurances, or patients without insurance, further reducing access to care. Referrals to substance uses care can only be utilized if the resources exist.

Beyond the immediate impact of involvement in the criminal justice system following a major health event, SB 532 would have a negative long-term impact on individuals who have just experienced an overdose. With a misdemeanor on record, individuals risk losing access to employment opportunities, college admissions, rental apartments, and more due to a misdemeanor showing on a background check. It increases risks for individuals who are legally residing in the United States but have not yet gained citizenship. It penalizes a person who has just been through a traumatic experience, and excessively impacts them for years to come.

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SB 532 allows significantly more harm to be caused to individuals who have experienced an overdose in the immediate aftermath and in the years following. It increases the impact of stigma towards substance use disorders, does not take into account the availability of care, was not designed with evidence-based practices in mind. For these reasons, MHAMD opposes SB 532 and urges an unfavorable report.

¹<https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems>

²<https://www.vera.org/publications/overdose-deaths-and-jail-incarceration/national-trends-and-racial-disparities>

³<https://www.countyhealthrankings.org/>