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SB0532

March 7, 2023

TO: Members of the Judicial Proceedings Committee

FROM: Nina Themelis, Interim Director of Mayor's Office of Government Relations

RE: Senate Bill 532 – Criminal Law – Overdosing in Public – Prohibition

POSITION: Oppose

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **opposes** Senate Bill (SB) 532.

SB 532 will prohibit a person from overdosing in certain public places or on a public conveyance. A person who violates this law will be subject to imprisonment and/or a fine. A court may refer a person who violates this law to drug court or a substance abuse treatment program in lieu of imprisonment and/or a fine. The BCA firmly believes that overdose and addiction should be treated as chronic diseases and not a crime. Imprisonment does not deter drug use or overdose as a result of drug use – rather, it would create additional obstacles to overcoming addiction.^{1,2} Forced drug rehabilitation does not guarantee success in overcoming addiction, and in some instances can increase an individual's chances of experiencing an overdose.²

Drug addiction and overdose should be treated as a chronic disease, not one that can be cured with a few weeks of intensive treatment. When someone starts taking a drug or substance, their body will build up a tolerance, which will lead to the person ingesting a larger quantity of drugs to avoid experiencing withdrawal symptoms.³ In most cases, drug overdoses are unintentional, with some drugs being mixed with fentanyl or another drug that can lead to an overdose.⁴

¹ The Pew Charitable Trusts. (March 2018). *More Imprisonment Does Not Reduce State Drug Problems: Data show no relationship between prison terms and drug misuse* [Issue Brief]. https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf

² The Massachusetts Department of Public Health. (2016). *An Assessment of Opioid Related Deaths in Massachusetts (2013-2014)*. <https://www.mass.gov/files/documents/2016/09/pg/chapter-55-report.pdf>

³ Mission Harbor Behavioral Health. (n.d.). *Legal and Illegal Drug Overdose: Guide to Signs, Symptoms, and Help*. <https://sbtreatment.com/overdose/>

⁴ Drug Enforcement Administration (DEA). (November 2021). *How Do Drug Overdoses Happen? Get Smart About Drugs*. Retrieved from <https://www.getsmartaboutdrugs.gov/consequences/how-drug-overdoses-happen>

Studies have shown that imprisonment does not deter individuals from using drugs that can result in an overdose.¹ Imprisonment for drug-related charges has contributed to the mass incarceration problem in the United States, burdened people with criminal records that make it difficult to gain employment and has had uneven success in helping people overcome substance abuse disorders.

Researchers found that drug courts, designed to reduce incarceration and provide necessary treatment, struggle to meet medical and human rights standards.⁵ Few communities have adequate treatment facilities, insurance plans often will not finance effective treatment programs, and the criminal justice objectives of drug courts often overrule the medical needs of the patient in ways that threaten the rights and health of participants.⁵ Furthermore, a 2016 report by the Massachusetts Department of Public Health found that people who were involuntarily committed were more than twice as likely to die of an opioid-related overdose than those who chose to go into treatment on their own.²

For these reasons, the BCA respectfully requests an **unfavorable** report on SB 532. The BCA believes this legislation will negatively impact individuals battling drug addiction. Criminalizing health risks associated with a complex disease like addiction undermines the work that our state has done over nearly a decade. Thus, we urge this committee to report on SB 532 unfavorably and prevent this population from being further stigmatized.

⁵ Executive Summary on Drug Courts in the United States. (June 2017). Physicians for Human Rights. Retrieved from https://phr.org/wp-content/uploads/2017/06/phr_drugcourts_executivesummary.pdf