



March 7, 2023

The Honorable William C. Smith, Jr.
Chairman, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

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

Dear Chair Smith and Senate Judicial Proceedings Committee members,

Baltimore Harm Reduction Coalition (BHRC) is an advocacy organization that mobilizes community members for the health, dignity, and safety of people targeted by the war on drugs and anti-sex worker policies. As a certified Overdose Response Program, Naloxone distributor, and syringe service program, we have provided essential health care services across the state for years. BHRC opposes Senate Bill 464 - Criminal Law - Fentanyl and Fentanyl Analogues - Penalty, which would increase the maximum prison term for fentanyl distribution and manufacturing from 10 to 20 years.

As our community and loved ones continue to face a deadly overdose epidemic, increasing severity of incarceration—as SB464 proposes—will do nothing to save lives. During 2021, drug and alcohol related intoxication deaths in Maryland reached a staggering 2,824 fatalities.¹ Maryland legislators have taken laudable steps to reduce the devastation of the overdose crisis. The General Assembly has approved measures to expand access to the life-saving medication naloxone, increase behavioral health treatment, and establish syringe services programs throughout the state. These essential policies have increased opportunities for health and safety, but SB464 would be a drastic step back for Maryland.

BHRC opposes Senate Bill 464 because it would deepen the negative impacts on communities devastated by the drug war by increasing police interaction, arrest, and incarceration. The federal government has already continued to perpetuate the deadly drug war by instituting unnecessarily high maximum prison sentences for fentanyl possession, Maryland need not follow suit. The United States has had the highest levels of incarceration in the world for decades,² yet has also remained a global leader in overdose deaths.³ Under federal sentencing guidelines, a person convicted of certain possession charges related to fentanyl can already face a maximum of 40 years in prison.⁴ There is no exception for people with a criminal history clear of fentanyl possession or violent crimes, therefore creating another pathway for young, poor Black men

¹ Opioid Operational Command Center (2022). Maryland Overdose Dashboard.

² Peter Wagner and Wendy Sawyer, States of Incarceration: The Global Context 2018 (Northampton, MA: Prison Policy Institute, 2018), <https://perma.cc/MH72-JKX7>

³ Leonard D. Schaeffer Center for Health Policy and Economics. (2019). American Drug Overdose Death Rates the Highest Among Wealthy Nations <https://healthpolicy.usc.edu/article/american-drug-overdose-death-rates-the-highest-among-wealthy-nations/>

⁴ United States Sentencing Commission (2021). Fentanyl and Fentanyl Analogues: Federal Trends and Trafficking Patterns. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2021/20210125_Fentanyl-Report.pdf

to lose their lives to incarceration across the country. Committing more of our resources to longer sentences for low-level sellers does not reduce the supply or demand for drugs.

Severe sentencing policy is grounded in the false promise that harsher penalties would deter or discourage the sale and use of drugs. And after decades of arresting and locking up people for selling, drug prices have plummeted further increasing accessibility.⁵ As the U.S. experienced with drug war policies of the 1970s and 1980s, by 1995, one in every three African American males aged 20 to 29 was either incarcerated or on probation. During this period, the overdose rate continued to skyrocket across the United States and particularly in Maryland. If Maryland doubles the potential sentence length for charges related to fentanyl possession, this will further marginalize communities who have been targeted by drug-related policing for decades.

As a leader in drug policy grounded in life-saving harm reduction practices, Maryland must accept that criminalization for drug-related charges has never and will never reduce the overdose rate. **We ask that the Senate Judicial Proceedings Committee give SB464 an unfavorable report.**

For more information about Baltimore Harm Reduction Coalition or our position, please contact our Director of Mobilization, Rajani Gudlavalleti at Rajani@BaltimoreHarmReduction.org

⁵ The Orange County Register. (January 2023). Harsher penalties for fentanyl will not save lives. <https://www.ocregister.com/2023/01/18/harsher-penalties-for-fentanyl-will-not-save-lives/?emci=a2c6e18f-6eab-ed11-994d-00224832eb73&emdi=269356a6-bbab-ed11-994d-00224832eb73&ceid=9301555>