

Kevin Testimony.pdf

Uploaded by: Anita Puckett

Position: FAV

IN SUPPORT OF SB0604 – CRIMINAL LAW -DISTRIBUTION OF HEROIN OR FENTANYL
CAUSING SERIOUS BODILY INJURY OR DEATH (VICTORIA, SCOTTIE, ASHLEIGH, AND
YADER'S LAW)

My son Kevin, died from illicit fentanyl poisoning on July 27 2021 at the young age of 27. Kevin was a kind, bright, handsome, and hard-working young man whose life was cut short because a drug dealer sold him something other than what he intended to take. This is the very definition of poisoning.

Kevin suffered from substance use disorder (SUD), Kevin first started using heroin at the age of 18, went to rehabilitation centers several times, and had many months of sober time in the 9 years he was in the grasp of SUD. Kevin always wished to be recovered and whole and he never quit trying to achieve that. Kevin had not used heroin the last 2 years of his life. He was on methadone therapy for several months prior to entering a rehabilitation facility to get off of methadone (methadone was not a treatment course that helped Kevin and I do have strong opinions on it and how it is handled in Maryland, but that is for a different forum). When he left that facility, he went directly into a recovery home that was known to him and was a well-run home, which there aren't many of in the state of Maryland. He was thriving at this home for almost a year when he relapsed. Kevin had not relapsed very long when he received 100% fentanyl instead of heroin. What Kevin wasn't aware of is that in the almost 2 years that he hadn't used heroin, illicit fentanyl flooded this country and totally infiltrated the heroin supply. All Kevin's chances of recovery were stolen from him the night a criminal drug dealer, unknowingly to Kevin, gave him illicit fentanyl.

There was no investigation that I am aware of. In fact, detectives didn't even bother to reach out to us with any questions. This is almost understandable when you consider that most DA's in the state of MD do not want to prosecute these cases. My son is gone, but this dealer is likely still peddling their poison and actively murdering people with it. The dealers continue to murder with impunity because there is no deterrent to their actions. They are quite literally getting away with murder. All drug related deaths SHOULD be investigated and there must be strong laws put in place to prosecute dealers that sell this poison. I often wonder how many unknowing victims have been poisoned by this same drug dealer since they killed my son.

My husband and I lost our son, his sister and brother lost their sibling, his grandparents lost their grandson, and his nieces and nephews lost their uncle. There are no more memories to be made with Kevin, that was stolen from us. The baby of our family was poisoned by illicit fentanyl, supplied by a drug dealer that has no regard for human life. Our family has been devastated by Kevins death, and the fact that his case has not been investigated and the dealer not prosecuted adds to that devastation. My family, along with thousands of other Maryland families deserve justice for our children. Everyone matters or nobody matters, which is it? Marylanders need this bill to pass to save lives and receive justice for the senseless poisoning of our children, by criminal drug dealers. We are losing a whole generation to illicit fentanyl poisoning. Right now, Maryland politicians have an opportunity to support a bill that can help prevent the increasing deaths from this poison in our state. Maryland families need your support instead of the ongoing failure to hold these criminals responsible for their actions. Drug dealers should not be getting away with murder as they currently are in Maryland. Please pass this bill, make a positive step in protecting your constituents.

Sincerely,

Anita Puckett
Cecil County, MD

Lvof.org

SB0604 2.12.2025 V.S.A.Y. Law Fentanyl.pdf

Uploaded by: Debbie Santini

Position: FAV

Senate Bill 0604

HB1398

Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

Committee – Judicial Proceedings

Date – February 12th, 2025

Position – Favorable /In Favor of

Hello, my name is Debbie Santini and I am in favor of the Senate Bill 0604. My son Jesse Byrd died of fentanyl poisoning on February 16th 2022 in Stella 'Recovery' house on Marda Lane in Annapolis. I am in favor of putting drug dealers and traffickers in prison and to increase incarceration time.

My son was in a car accident on December 21st 2011. He was taken to Shock Trauma and had emergency surgery. He was given opioids for the pain after surgery. Jesse was 16. At no time during my son's hospital stay did any doctor or nurse ever say to me- Mom, this is what we're giving your child for pain. It's highly addictive and these are the signs you need to be aware of. I was not aware of the dangers of opioids at that time and fentanyl wasn't even in my vocabulary. Then became the battle of addiction.

There was no criminal investigation into my son's death. 10 people were in that house at the time Jesse died – only 4 were interviewed by Annapolis City Police. **My son was poisoned to death by illicit fentanyl.** This is murder, plain and simple. Fentanyl deaths need to be looked at as drug induced homicides and investigated as crimes. Fentanyl is a Weapon of Mass Destruction. We have lost hundreds of thousands of lives in our country due to illicit fentanyl poisonings, most stemming from the previous administration that allowed this deadly poison to come through our open

borders. That is unacceptable! These drug dealers and traffickers have committed murder and devastated countless lives and destroyed families.

My child did not want to die! He was happy! Jesse had made a list of priorities he wanted to work on but wasn't given the opportunity to accomplish because illicit fentanyl took that away from him. Instead of planning my sons 27th birthday I had to plan his funeral.

Jesse was a sweet, kind, humble and beautiful young man with a smile that would light up any room! That light is gone from this world and mine and my family has not been the same since! Jesse's life mattered and it *still* matters!

I am in favor of putting drug dealers and traffickers in prison and to increase incarceration time. I believe whole heartedly by locking these people up that are distributing poison to our youth and endangering the lives of all American citizens, it will save lives.

It won't bring my child back but it may just save one of yours.

Thank you,
Debbie Santini
Lost Voices of Fentanyl
PO Box 44
Woodbine, MD 21797
410-913-5638

Edith Montalvan and Isis.pdf

Uploaded by: Edith Montalban

Position: FAV

Edith Montalvan
Glenmont, Montgomery County, MD.

And:

Isis Flores
Aspen Hill, Montgomery County, MD.

February 12, 2025

FAVORABLE: SB SB604 and HB HB1398: Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death - Victoria, Scottie, Ashleigh, and Yader's Law.

My name is Edith Montalvan and I am the mother of Ashleigh Edwards, a 16-year-old student at John F. Kennedy School, who tragically passed away on January 14, 2023 due to a fentanyl overdose. I am also speaking on behalf of Isis Flores from Aspen Hill. Isis's son is Yader Rosa Flores, a 16-year-old who passed away due to a fentanyl overdose on November 10, 2022. Isis and I are both mothers who lost our children due to poison of fentanyl. Isis's testimony is attached too.

Fentanyl is killing our children. It is important that we take action to combat this crisis that is claiming the lives of so many young people. There is no greater pain for a mother than losing her child, much less in such a tragic way.

Addiction is a disease, and our immigrant community lacks the necessary resources and support to help those affected by this disease. I'm thankful to Montgomery County for stepping up in providing treatment centers for youth using fentanyl; however, at the State level, you have the power to help us by tightening the laws to curb the sale and distribution of this lethal drug.

No one will bring my daughter back to me. No one will bring Yader back to his mom Isis. We are not asking for punishment to those using the drug. I'm asking you to go after those bringing this poison to our community, targeting the most vulnerable.

Please use your legislative power to stop the distribution and prevent another innocent victim like Ashleigh and another grieving mother like me. I appreciate your attention and support in our fight against this lethal drug. Thank you very much.

Isis Flores
Aspen Hill, Montgomery County, Maryland

February 12, 2025

FAVORABLE: SB SB604 and HB HB1398 (Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death - Victoria, Scottie, Ashleigh, and Yader's Law.

My name is Isis Flores, and I want to talk to you about the devastating loss that we have suffered in our family. Yader Rosa Flores, my 16-year-old son, passed away due to a fentanyl overdose on November 10, 2022. His departure left a huge void in our lives and led us to discover the reality of this destructive drug. I am sending you this letter to be the voice of so many victims like Yader, who have lost their lives at the hands of drug dealers who distribute this deadly drug in our communities. It is necessary that justice be served for all the young people who have been victims of this tragedy.

That is why I call on those responsible for legislating in our state to take stricter measures against those who traffic and distribute fentanyl and heroin. We ask that severe penalties be applied to these criminals and that all necessary support be provided to the authorities to stop them. It is essential that the voice of the victims be heard, and that decisive action be taken to end this scourge that is taking the lives of our youth. As a mother who has suffered this tragedy, I urge you again that the law be changed and that those responsible for bringing this poison to our streets be relentlessly pursued.

In the name of Yader, an innocent teenager who lost his life for taking a fentanyl pill without understanding that it would kill him. I trust that together we can make a difference and prevent more families from experiencing this painful loss. Thank you.

H1398 - SB604 Written Testimony Carroll County St

Uploaded by: Haven Shoemaker, Jr.

Position: FAV



House Bill (HB) 1398 & Senate Bill (SB) 604
Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)

DATE : February 12, 2025
COMMITTEE: House Judiciary & Senate Judicial Proceedings
POSITION: **FAVORABLE**

Dear Chairman and Committee Members:

PURPORTED PURPOSE: HB1398 and SB604 create a separate crime for dealing heroin and/or fentanyl or drugs laced with either that results in the death or serious bodily injury to another. These Bills would make it a felony to deal these deadly drugs when there is a fentanyl overdose or poisoning death and impose a penalty of up to 20 years imprisonment.

CURRENT STATE OF THE LAW

Currently, case law hampers the ability to prosecute drug dealers who cause a death. In *State v. Thomas*, 464 Md. 133 (2019), Maryland's highest court held that a distributor of heroin may be convicted of gross negligence involuntary manslaughter if there is sufficient evidence to prove that the distributor's conduct was both the actual and legal cause of a buyer's fatal overdose. The Court further held that the evidence must be reviewed on a case-by-case basis to determine the degree of gross negligence required and whether a sufficient causal connection exists between such gross negligence and the fatal overdose of a buyer. *Id.* at 211. In order to convict a dealer under *Thomas*, a prosecutor has to prove that the dealer's actions were wanton and reckless because of the dangers inherent in the distribution and consumption of heroin of unknown potency carrying with it a high degree of risk to human life. *Id.* at 164-65, 169, 211.

The standard set forth in *Thomas* is an extremely difficult standard to prove and given the deadly nature of the threat of fentanyl, which these days is cut into almost every illegal drug. Therefore, a legislative fix is needed, so pushers of poison who kill can be charged with more than mere drug distribution. *Thomas* also does not deal with cases where someone might not die from an overdose, but instead, suffers serious bodily injury – this statute does.

FENTANYL FACTS

- According to the federal Drug Enforcement Administration (DEA), 2 milligrams or 0.00007 ounces is enough to kill you; the average housefly weighs 12 milligrams.¹

¹ <https://www.jacksoncountycombat.com/818/Get-The-Fentanyl-Facts#seeit> (last visited February 7, 2025).

- Illicit fentanyl, primarily manufactured in foreign clandestine labs and smuggled into the United States through Mexico, is being distributed across the country and sold on the illegal drug market. Fentanyl is being mixed in with other illicit drugs to increase the potency of the drug, sold as powders and nasal sprays, and increasingly pressed into pills made to look like legitimate prescription opioids.²
- DEA analysis has found counterfeit pills ranging from .02 to 5.1 milligrams (more than twice the lethal dose) of fentanyl per tablet, and 42% of pills tested for fentanyl contained at least 2 mg of fentanyl, a potentially lethal dose.³
- According to the CDC, synthetic opioids (like fentanyl) are the primary driver of overdose deaths in the United States. Comparison between 12 months-ending January 31, 2020 and the 12 months-ending January 31, 2021 during this period: overdose deaths involving opioids rose 38.1 percent, and overdose deaths involving synthetic opioids (primarily illicitly manufactured fentanyl) rose 55.6 percent and appear to be the primary driver of the increase in total drug overdose deaths.⁴
- In Maryland in 2023 there were 2,586 deadly overdoses and Fentanyl was involved in nearly 80% of them.⁵

PROVISIONS OF THE BILLS

- Provides a separate 20-year penalty for directly dealing heroin or fentanyl or drugs mixed with them or synthetic versions of heroin or fentanyl that results in death or serious bodily injury.
- The Bills provide no mandatory minimum, but in a 2024 Gonzales poll, 83% of Marylanders supported a 10-year mandatory sentence for such conduct.⁶
- Provides that anyone in the distribution chain may be prosecuted.
- Enables prosecution where the death or injury occurred or where the drugs were dealt.
- Contains a “Good Samaritan” provision for those who seek treatment for someone who is experiencing an overdose.

HB1398 and SB604 provide an additional tool to deter and prosecute the purveyors of deadly poison in the State of Maryland, and I respectfully request a favorable report on both.

Haven N. Shoemaker, Jr.
Carroll County State’s Attorney

² <https://www.dea.gov/resources/facts-about-fentanyl#:~:text=Two%20milligrams%20of%20fentanyl%20can%20be%20lethal%20depending,mg%20of%20fentanyl%2C%20considered%20a%20potentially%20lethal%20dose> (last visited February 7, 2025)

³ *Id.*

⁴ *Id.*

⁵ <https://foxbaltimore.com/news/local/carroll-county-states-attorney-wants-to-get-tougher-on-drug-dealers> (last visited February 7, 2025).

⁶ <https://htv-prod-media.s3.amazonaws.com/files/gonzales-poll-part-1-maryland-statewide-february-2024-65cb9fcf5b1e3.pdf> (last visited February 7, 2025).

SB604Fentanyl.pdf

Uploaded by: Justin Ready

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 12, 2025

SB 604 – Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader’s Law)

Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

This bill seeks to create a new crime for the distribution of heroin or fentanyl which results in the death or serious bodily injury of another, which carries a maximum sentence of 20 years in imprisonment. In the bill, “distribute” does NOT include the sharing of heroin or fentanyl without remuneration or the exchange of goods or services. This bill is strictly targeting drug dealers who sell heroin or fentanyl to others.

Under current law, in most cases, outside of charging a drug dealer with “distributing a controlled dangerous substance,” it is almost impossible for State’s Attorneys to hold a drug dealer accountable for selling a lethal product.

Additionally, this bill includes a good Samaritan provision. A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person experiencing a medical emergency after using heroin or fentanyl is immune from criminal prosecution under the bill if evidence for the criminal prosecution was obtained solely as a result of medical assistance being conducted.

This bipartisan, common-sense legislation is a much-needed change to allow prosecutors to hold those accountable who knowingly sell poison to the public, resulting in the death of around 200 people across the United States every day. Over 30 states including California have already passed similar legislation that holds drug dealers accountable when they sell a lethal product that kills someone.

I respectfully request a favorable report on Senate Bill 604.

Testimony .pdf

Uploaded by: Linda Lee Hickerson

Position: FAV

Good afternoon ladies and gentlemen,

I submit to you my written testimony in consideration and support of the bill before you for your approval.

My name is Linda Lee Hickerson, and I am looking for your support for Bill SB604 is entitled Victoria, Scottie, Ashleigh & Yader's law. My great nephew Scott "Scottie" Broadfoot, Jr. was a victim of fentanyl poisoning who died at the age of 21. Gone too soon, dearly loved, missed and never forgotten. Sadly, this is the first of many testimonies you will read and hear today, so I pray you understand how desperately we need this law so that our law enforcement, prosecutors and judges can have the support they need to be able to take these murderers to court, sentence them and provide much deserved justice for the families. The use of this drug is at epidemic proportions and the number of deaths attributed to it is alarming and still climbing. I stood with Scott as he read the autopsy report of his firstborn seeing not one but two types of fentanyl in Scottie's system. Research shows Fentanyl the size of a salt or sugar crystal can kill. He had struggled with substance abuse but didn't deserved to die. He was given tainted drugs putting an end to his short life. So lets call it what it was. Murder. And someone should have to pay for his death with their freedom. You have the power to effect change. This law will provide consequences and repercussions where there are currently none in place. My niece, nephew and so many others have not received justice and yet those who distributed this deadly drug are free to live their lives and continue to be a menace to society. My niece and nephew will never forget getting that knock on the door from the police in the wee hours of the morning hearing the tragic and devastating news of Scottie's death. Scott has used his grief, turning it into motivation for energy to fight this battle when many may just give up and move on with their lives. But Scott has proven to be a warrior in this battle, so I implore you to join forces with him and so many others grieving the loss of their loved ones.

My sincere thanks to Delegate Chris Tomlinson and Senator Justin Ready for their amazing support in presenting this bill! The need for this law is greatly needed for the safety of our citizens. Please, put your signature of support to pass this bill. Lives depend on it.

Thank you!

Linda Lee Hickerson

SB 604 - MoCo_Elrich_FAV (GA 25.pdf

Uploaded by: Marc Elrich

Position: FAV



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

February 12, 2025

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Marc Elrich
County Executive

RE: Senate Bill 604, *Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader’s Law)*

Support

I am writing to express my support for Senate Bill 604, *Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader’s Law)*. The bill would prohibit an individual from distributing heroin or fentanyl that results in the death or serious bodily injury to another. The penalty upon conviction would increase from 10 years in jail to up to 20 years in jail – in alignment with federal law. The bill would further allow for the prosecution of a person to be brought in either the County where the drug violation occurred or in the County where the death or serious injury from the drug occurred. The bill includes the names of two Montgomery County teenagers, Yader Rosa Flores and Ashleigh Edwards, who were lost to drug overdoses in 2022 and 2023, respectively.

Like the rest of the United States, Montgomery County has seen an increase in fentanyl overdose deaths that have had a heartbreaking impact on many families in our communities. While the deaths attributed to fentanyl have shown decreases in the last year based on provisional data from the Centers for Disease Control’s National Center for Health Statistics, there are still expected to be more than 100,000 overdose deaths in the United States this year. And it’s no wonder. The Drug Enforcement Administration reports that fentanyl can be approximately 50 times more potent than heroin and 100 times stronger than morphine.

This is a serious issue, and individuals trafficking in deadly synthetic opioids must understand there will be criminal penalties for being involved in the distribution of what can lead to a fentanyl-induced death or serious bodily injury. To be clear, however, the overdose crisis is complicated and will require more than enhanced penalties to deal with it. I would urge that in addition to this penalties legislation, that the State continue to focus on substance abuse disorder efforts including expanding medication-assisted treatment, enhanced linkages to care, and increased funding for counseling and behavioral therapy. Maryland families deserve that.

To that end, I urge that the Committee adopt a favorable report on Senate Bill 604.

MC Council Letter in Support of SB604-HB1398.pdf

Uploaded by: Natali Fani-González

Position: FAV



MONTGOMERY COUNTY COUNCIL

ROCKVILLE, MARYLAND

FAVORABLE

SB 604/HB 1398 Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh and Yader's Law)
Senate Judicial Proceedings Committee / House Judiciary Committee

February 10, 2025

Chairs and Members of the Committee:

We are writing **in support of SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh and Yader's Law)**, sponsored by Senators Jeff Waldstreicher and Justin Ready. **Also its companion HB 1398.**

Fentanyl is unlike any drug we have seen; unlike most opiates, fentanyl can be lethal with the first use. In Montgomery County, we are providing several prevention-focused initiatives intended to help youth and young adults avoid opioids and other substances altogether, including treatment centers for youth with substance-use disorder, but that is not enough.

Victoria, Scottie, Ashleigh and Yader's Law is named in honor of Victoria Garofolo, Scottie Broadfoot Jr., Ashleigh Edwards, and Yader Rosa Flores who passed away as the result of a fentanyl overdose. Both Ashleigh and Yader were from Montgomery County.

For Ashleigh, she was only 15 years old in 2023; for Yader, he was 16 years old back in 2022; for Victoria, she was 18 years old in 2022; and for Scottie, he was 21 years old back in 2019. In most cases, outside of charging the drug dealer with "distributing a controlled dangerous substance", it is almost impossible for State's Attorneys to hold a drug dealer accountable for selling a lethal product that results in the death of an individual.

The legislation would allow the prosecution of the sale of fentanyl or heroin distribution that resulted in the death or serious bodily harm of an individual in the same jurisdiction, even if the sale and death don't occur in the same jurisdiction. The legislation would not penalize individuals with behavioral and mental health conditions, those helping under Good Samaritan law principles, individuals providing medical assistance, or those distributing the drugs without monetary gain or payment. The legislation also would remove a procedural hurdle to prosecuting this crime in

situations where the sale of the fentanyl happens in one jurisdiction and the death or serious bodily injury happens in another.

We need to update our criminal procedures to go after those selling these drugs and killing our children. Senate Bill 604/House Bill 1398 represents a crucial step in holding drug distributors accountable and preventing further tragedies caused by these dangerous substances in our communities.

The overdose crisis is a health issue and also an organized crime issue. We know from law enforcement that every overdose that happens in Maryland can be traced to organized fentanyl dealers – these dealers prey on those in our most vulnerable communities, including young individuals like Victoria, Scottie, Ashleigh and Yader.

Over 30 states already have similar laws in place that allow prosecutors to hold opioid drug dealers accountable who sell a product that kills their customer. We urge the Maryland State Legislature to pass SB 604/HS 1398.

Respectfully,



Natali Fani-González
District 6 Councilmember



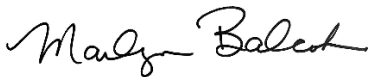
Dawn Luedtke
District 7 Councilmember



Sidney Katz
District 3 Councilmember



Gabriel Albornoz
At-Large Councilmember



Marilyn Balcome
District 2 Councilmember



Evan Glass
At-Large Councilmember



Andrew Friedson
District 1 Councilmember

SB604 Written Testimony - Picerno.pdf

Uploaded by: Nick Picerno

Position: FAV



DEPARTMENT OF POLICE

Marc Elrich
County Executive

Marc R. Yamada
Chief of Police

FAVORABLE
SB 604 Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury
or Death
(Victoria, Scottie, Ashleigh and Yader's Law)

Senate Judicial Proceedings Committee

March 10, 2025

My name is Nicholas Picerno, and I am a Captain with the Montgomery County Police Department (MCPD). I currently serve as the Director of the Special Operations Division. Previously, I spent three years as the Director of the Special Investigations Division, where I supervised several investigatory units, including our Drug Enforcement Section. I also spent several years in our Homicide Unit as both a Detective and a Supervisor, giving me firsthand experience in conducting and overseeing overdose investigations. Montgomery County Police is proud to have one of the nation's most robust overdose response programs. We have collaborated with major cities across the United States and internationally to develop overdose response protocols that hold drug dealers accountable. I am proud of our agency's efforts in advancing these investigations. I am also deeply proud of the families of overdose victims, who have demanded accountability for those whose actions led to the deaths of their loved ones. This cause is why I became involved in this area of legislation, and it is why I remain committed to addressing this crisis.

I fully recognize that the fentanyl overdose crisis in our community cannot be solved solely through enforcement strategies. While it is undoubtedly a public health issue, it is also a transnational and organized crime issue. Every overdose in Maryland can be traced to organized fentanyl distribution networks. While federal agencies play a role in combating narcotic distribution, local law enforcement cannot rely solely on federal authorities to investigate overdose-related cases in our communities.

The fentanyl crisis is unprecedented because fentanyl is unlike any drug we have encountered before. The Drug Enforcement Administration warns that "one pill can kill"—a statement that is tragically accurate. The most common method of fentanyl distribution is in pill form, where fentanyl is pressed into counterfeit tablets mixed with inert or benign

Chief J. Thomas Manger Public Safety Headquarters - 100 Edison Park Drive Gaithersburg, Maryland 20878
www.montgomerycountymd.gov - www.mymcpnews.com - ChiefMCPD@montgomerycountymd.gov

montgomerycountymd.gov/311



301-251-4850 TTY

substances. In Montgomery County, over 80% of suspected Oxycodone tested in our police lab has been identified as fentanyl.

There was a time when these pills were considered "counterfeit" because individuals unknowingly consumed fentanyl, believing it was another drug. However, over the past five years, we have learned that this is outdated thinking. Today, evidence shows that many individuals purchase fentanyl in pill form with full knowledge of what they are buying—and those selling it know exactly what they are distributing.

This legislation acknowledges the evolving landscape of illegal fentanyl distribution. Many jurisdictions refer to overdose investigations as "drug-induced homicides." Those who sell fentanyl know the risks associated with their product. This legislation strikes a balance between legitimate social concerns—such as protections under the Good Samaritan law and cases of distribution without remuneration—while ensuring that actual drug dealers are held accountable.

I want to thank the sponsors of this legislation, Senators Waldstreicher and Ready, as well as Montgomery County Councilmember Natalie Fani-González. Their efforts to advance this legislation demonstrate not only their commitment to their constituencies and communities but also their recognition that the overdose crisis transcends political divides. Their work is proof that one can be compassionate toward those suffering from addiction and mental health struggles while also recognizing that there are individuals who exploit society's most vulnerable members.

Finally, I want to express my gratitude to the survivors. You will hear both written and oral testimony from those who have been directly impacted by the fentanyl crisis. I cannot pretend to understand the depth of their emotional suffering, but their loss is a tragedy that only they can truly memorialize. Their courage in sharing their experiences deserves our deepest appreciation.

On behalf of Police Chief Marc Yamada, we respectfully request that you issue a favorable report.

SB0604-JPR-OPP.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 604

February 12, 2025

TO: Members of the Senate Judicial Proceedings Committee

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

RE: Senate Bill 604 – Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

POSITION: Unfavorable

Chair Clippinger, Vice Chair Bartlett, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **opposes** Senate Bill (SB) 604.

The BCA fully supports the intent of this bill: to save lives by preventing overdose deaths. However, we are concerned that SB 604 will unintentionally undermine the State's existing efforts to combat the overdose crisis. The bill aims to increase penalties for distributing heroin or fentanyl when the use of that heroin and fentanyl results in death or serious injury. In practice, this would likely result in people using drugs alone. This is more dangerous than using drugs with another person. If someone uses opioids alone, there is no one to call emergency response services or administer naloxone (commonly known as "Narcan") in the event that they overdose. This is why public health approaches to preventing overdose deaths emphasize never using alone.^{i,ii,iii}

Imprisonment does not deter drug use or overdose – rather, it creates additional obstacles to overcoming addiction, such as making it harder to gain employment, pursue higher education, and obtain housing.^{iv,v,vi} Higher imprisonment rates do not correlate with a decrease in drug use, overdose deaths, and drug-related arrests.^{vii} In fact, studies show that drug overdoses are two-times higher for a week within 500 meters of an opioid-related drug seizure.^{viii} Perhaps most relevant to the purpose of this bill, **research clearly shows that imprisonment (whether for drug offenses or otherwise) leads to significantly higher risk of drug overdose after release.**^{ix} In contrast, research shows that access to naloxone and public health initiatives like syringe service programs are more effective at reducing overdose deaths and addressing substance use disorders.^x

Because the BCA stands firmly with saving lives and preventing harm, we recommend a public health, rather than criminal, approach to addressing the overdose crisis. As such, the BCA respectfully requests an **unfavorable** report on SB 604.

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- ⁱ Saint Louis County Department of Public Health. (n.d.). Harm Reduction. Retrieved from <https://stlouiscountymo.gov/st-louis-county-departments/public-health/substance-use-resources/harm-reduction/>
- ⁱⁱ New York State Office of Addiction Services and Supports. (n.d.). Harm Reduction. Retrieved from <https://oasas.ny.gov/harm-reduction>
- ⁱⁱⁱ Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County. (n.d.). Harm Reduction. Retrieved from <https://www.adamhsc.org/resources/finding-help/by-service/harm-reduction>
- ^{iv} 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
- ^v 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>
- ^{vi} Volkow ND. Addiction should be treated, not penalized. *Neuropsychopharmacology*. 2021;46(12):2048-2050. doi:10.1038/s41386-021-01087-2
- ^{vii} Bradley Ray, Steven J. Korzeniewski, George Mohler, Jennifer J. Carroll, Brandon del Pozo, Grant Victor, Philip Huynh, and Bethany J. Hedden: Spatiotemporal Analysis Exploring the Effect of Law Enforcement Drug Market Disruptions on Overdose, Indianapolis, Indiana, 2020–2021. *American Journal of Public Health* 113, 750_758, <https://doi.org/10.2105/AJPH.2023.307291>
- ^{viii} Binswanger IA, Stern MF, Deyo RA, et al. Release from prison--a high risk of death for former inmates [published correction appears in *N Engl J Med*. 2007 Feb 1;356(5):536]. *N Engl J Med*. 2007;356(2):157-165. doi:10.1056/NEJMsa064115
- ^{ix} “Summary of Information on The Safety and Effectiveness of Syringe Services Programs (SSPs) | CDC.” *Centers for Disease Control and Prevention*, <https://www.cdc.gov/ssp/syringe-services-programs-summary.html>.

MCPA - MSA SB 604 -Fentanyl Penalties-Support.pdf

Uploaded by: Samira Jackson

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chair and
Members of the Senate Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 12, 2025

RE: **SB 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)**

POSITION: SUPPORT

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) SUPPORT SB 604. This bill would prohibit an individual from distributing heroin or fentanyl that results in the death or serious bodily injury of another. It increases the penalty for the distribution of fentanyl and fentanyl mixtures to not exceeding 20 years and would allow for the prosecution of a person to be brought in the County where the drug violation occurred or in the County where the death or serious injury from the drug occurred.

Substances cut or laced with fentanyl are now the leading cause of overdose deaths. What were once counterfeit pills taken by accident have grown into a market where individuals are purposefully making and dealing fentanyl pills and selling them to individuals who are willing purchase them. This legislation recognizes this new landscape and puts penalties in place to deter such behavior. Individuals who deal fentanyl know these pills may kill individuals, yet they are still very willing to sell them. As such, there should also be consequences for their actions.

Many times, fentanyl pills are bought in one jurisdiction and ingested in another. This cross jurisdictional matter could affect where charges are brought and where the prosecution occurs. This bill attempts to address these issues by allowing prosecution in either jurisdiction.

Families across Maryland have dealt with heartbreaking situations of loved ones dying due to fentanyl overdose. SB 604 imposes accountability on the bad actors who deal fentanyl and provides justice for the family.

MCPA and MSA strongly **SUPPORT** SB 604 and urge the Committee to give the bill a **FAVORABLE** report.

532 Baltimore Boulevard, Suite 308
Westminster, Maryland 21157
667-314-3216 / 667-314-3236

SB0604 – Victoria, Scottie, Ashleigh, and Yader's

Uploaded by: Tim Weber

Position: FAV

SB0604 – Victoria, Scottie, Ashleigh, and Yader’s Law

Dear Sirs,

I am writing to express my strong support for SB0604 – Victoria, Scottie, Ashleigh, and Yader’s Law. As a professional dedicated to working with individuals struggling with substance use disorders—many of whom are in recovery from opioid addiction—I see firsthand the urgent need for this legislation.

I also bring a personal perspective to this issue. I am a person in long-term recovery from heroin addiction, having remained abstinent and in recovery since November 2003. In my professional role, I work daily with individuals battling addiction, and I witness the escalating dangers they face—dangers that have only intensified with the prevalence of fentanyl.

Over the years, I have escorted countless individuals from programs under the Carroll County State’s Attorney’s Office to be tested before entering treatment. Initially, many were unaware they had been using fentanyl. Today, that is no longer the case—many know, yet they continue to use, illustrating the devastating grip of addiction. This underscores the critical need to address those who knowingly distribute these lethal substances.

I firmly believe that those selling fentanyl-laced drugs are well aware of the high probability that their product will cause overdoses or death. In my years of experience, I have seen far too many lives lost or permanently altered due to severe overdoses. While I recognize that some individuals may share substances among friends, this bill is not about them. It is about those who profit from selling fentanyl, fully aware of its deadly effects yet indifferent to the consequences.

Here in Carroll County, individuals frequently travel out of the county to purchase fentanyl and bring it back, sometimes sharing it with friends. However, the larger concern lies with the extensive network of drug dealers across Maryland who knowingly distribute fentanyl with no regard for human life. Many of these individuals do not even use the drug themselves—they sell purely for profit. This bill has the potential to deter these dealers and, in doing so, prevent the ripple effect that fuels further distribution.

My goal has always been to help people find a path to recovery and lead productive lives, just as I have been fortunate enough to do. But fentanyl has changed everything. It has made addiction deadlier than ever, and we must take decisive action against those who knowingly perpetuate this crisis.

I urge you to support SB0604 – Victoria, Scottie, Ashleigh, and Yader’s Law to help protect our communities and save lives. Thank you for your time and consideration. Please do not hesitate to reach out if you would like to discuss this issue further.

Sincerely,

Tim Weber, CPP

Certified Prevention Professional

Carroll County State’s Attorney’s Office

SB604_OAG_Albert_FAV.pdf

Uploaded by: Jared Albert

Position: FWA



CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement

PETER V. BERNIS
General Counsel

CHRISTIAN E. BARRERA
Chief Operating Officer

ANTHONY G. BROWN
Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

February 10, 2025

TO: The Honorable Will Smith
Chair, Judicial Proceedings Committee

FROM: Jared Albert
Deputy Chief, Criminal Division, Office of the Attorney General

RE: Senate Bill 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law) – **Support with Amendments**

The Office of the Attorney General (OAG) supports **Senate Bill 604** - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law) and urges the Committee to issue a favorable with amendments report. **Senate Bill 604** creates a new criminal offense for distributing heroin or fentanyl, or a chemical analogue of those, "the use of which results in the death or serious bodily injury of another." The offense is a felony which carries a sentence of up to 20 years which must be consecutive to any other sentence.

This bill would be an important tool in how we address the opioid epidemic. As of 2019, according to data from the Prescription Drug Abuse Policy System, 24 states and the federal government have laws which punish the distribution or delivery of drugs which result in a death. See <https://pdaps.org/datasets/drug-induced-homicide-1529945480-1549313265-1559075032>.

The Maryland Department of Health has published preliminary data from 2024. See <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx>. That data shows that in 2024, there were 1,553 total overdose deaths. The major driving force in this increase is the proliferation of fentanyl. Of the 1,553 total overdose deaths, 1,189 (approximately 76%) involved fentanyl.

Senate Bill 604 allows Maryland to join 24 states and the federal government, including neighbors such as Pennsylvania, Delaware, and the District of Columbia, in making it illegal to distribute heroin or fentanyl the use of which results in the death or serious bodily injury of another. The federal version is punishable by a 20-year mandatory minimum. *See* 21 U.S.C. § 841(b).

In light of the severity of the opioid epidemic in Maryland, prosecutors need another tool at our disposal to seek justice for those who die from fatal overdoses. Most of the time, there is insufficient evidence to determine who distributed the drugs that the victim took which resulted in their death. However, when we are able to pinpoint who sold the drugs that led to the victim losing their life, the person who distributed those drugs should be subject to punishment above and beyond the ordinary punishment for simply selling drugs or possessing drugs with the intention to distribute them. This bill will bring greater accountability to those who sell fentanyl within our communities and would provide a justified enhancement of their maximum possible sentence.

In *State v. Thomas*, 464 Md. 133, 180 (2019), the Supreme Court of Maryland, in a 4-3 opinion, affirmed a conviction for manslaughter for a man who distributed heroin which caused a fatal overdose. However, in light of the narrow holding in *Thomas*, and in light of the limited 10-year penalty for manslaughter, *see* Maryland Annotated Code, Criminal Law Article, Section 2-308, this bill provides a sorely needed new avenue to seek justice for fatal overdose victims.

While the OAG supports the majority of the bill, **Senate Bill 604** contains two provisions not present in last year's bill that the OAG believes should be removed. First, **Senate Bill 604** only applies if the distribution was done for "remuneration or the exchange of goods or services." It seems the purpose of this provision is to not to include friends who "share" fentanyl with one another. However, this addition would create an unnecessary hurdle to conviction and would be overinclusive. For example, just last month, OAG prosecuted a fatal overdose where the fentanyl was given to the decedent for free as a "tester" from the drug dealer. Exempting that type of conduct simply because the decedent did not pay for the drugs would lead to anomalous results.

Senate Bill 604 also contains a Good Samaritan amnesty provision, subsection (g) of proposed § 5-602.1, which says that if the drug dealer calls 911 or otherwise "assists with the provision of medical assistance," then the drug dealer cannot be charged "if the evidence for the criminal prosecution was obtained solely as a result of the person seeking, providing, or assisting with the provision of medical assistance." OAG believes this provision should be removed. When someone overdoses and dies, the person who distributed drugs to them should be held accountable, regardless of whether that person also tried to get them medical help. Furthermore, the existing Good Samaritan law in Section 1-210 of the Criminal Procedure Article does not cover drug distribution under Criminal Law 5-602. It would be inconsistent to add Good Samaritan amnesty for this more serious offense. Finally, under Section 1-210(a)(2) of the Criminal Procedure Article, someone who helps during an overdose already is already able to argue that it is a "mitigating factor," making this additional protection unnecessary.

For the foregoing reasons, the Office of the Attorney General urges a favorable with amendments report on **Senate Bill 604**.

cc: Judicial Proceedings Committee Members

SB 604 - MSAA FWA.pdf

Uploaded by: Patrick Gilbert

Position: FWA



Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

FAX 410-203-9891

Rich Gibson
President

Steven I. Kroll
Coordinator

DATE: **February 10, 2025**

BILL NUMBER: **SB 604**

POSITION: **Favorable with Amendment**

The Maryland State's Attorneys' Association (MSAA) supports Senate Bill 604 with the inclusion of three minor amendments that clarify the language used by the bill, harmonize the bill with existing provisions relating to similar conduct, and better tailor the application of the bill to the interests that animated it.

SB 604 criminalizes the distribution of heroin or fentanyl if such distribution results in the death or serious bodily injury of another, providing an important tool for prosecutors to target and dismantle the drug distribution networks that are destroying our communities. The prosecution of overdose homicide cases is currently governed exclusively by caselaw, by cases like *State v. Thomas*, 464 Md. 133 (2019) and its progeny. Codifying the elements and scope of these offenses clarifies and streamlines their prosecution, while signaling to those that would sell heroin or fentanyl the seriousness with which Maryland takes these offenses.

The first amendment suggested by MSAA is a clarifying one – SB 604 applies to conduct that results in death or serious bodily injury, without defining the latter term. While this term is defined elsewhere – MD. CODE ANN., TRANSP. § 20-102(c) – MSAA recommends either explicitly defining the term in the statute, linking the term to the definition in the Transportation Article, or using the largely coextensive term “serious physical injury” as defined in MD. CODE ANN., CRIM. LAW § 3-201 (d).

Second, MSAA urges this Committee to revisit the “Good Samaritan” provision, appearing on line 6 of page 3. While MSAA supports the purpose behind this provision – saving a life is and ought to be the priority here – MSAA recognizes that this provision goes far beyond similar provisions in Maryland law. Enacting this as written would create a statutory incongruity, whereby misdemeanor possession offenses would be covered by the existing Good Samaritan provision appearing in MD. CODE ANN., CRIM. PROC. § 1-210, and felony heroin or fentanyl distribution offenses that result in death or serious bodily injury would be covered by the provision in this bill, but every other felony drug offense (including distribution of other drugs that result in death or serious bodily injury) would not be covered.

Finally, MSAA suggests removing the clause that restricts the bill's application to those that distributed the heroin or fentanyl for profit, appearing on line 23 of page 1. The harm caused by the conduct addressed by this bill – the death or serious bodily injury of another – occurs independent of whether the offender sold the drugs or gave them away. Removing this artificial limitation on the bill's applicability ensures the bill accomplishes its objective – holding accountable those whose distribution of heroin or fentanyl kills or seriously injures another.

SB0604_MHAMD_Unfav.pdf

Uploaded by: Ann Geddes

Position: UNF

**Senate Bill 604 – Criminal Law – Distribution of Heroin or Fentanyl Causing
Serious Bodily Injury or Death**

Senate Judicial Proceedings Committee

February 12, 2025

Position: Oppose

Mental Health Association of Maryland (MHAMD) 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 and substance use disorders (collectively referred to as behavioral health). We appreciate the opportunity to provide this testimony in opposition of SB 604.

SB 604 would increase the prison sentence for distributing heroin or fentanyl to a person who then experiences serious bodily injury or death, if the person distributing the opioid receives remuneration for the drug. The bill would provide immunity from prosecution to those who seek medical assistance for an individual experiencing an overdose, if the evidence was obtained solely as a result of a person seeking medical assistance.

MHAMD opposes SB 604 because it has consistently been shown that laws that increase criminal penalties for drug distribution have no positive impact – they do nothing to prevent overdose, save lives, deter drug use, deter drug distribution, or reduce the presence of fentanyl in the drug supply. They do not deter kingpin distributors.¹

While we appreciate the effort in the bill to exempt from the increased penalty a person sharing an opioid, the legislation would still have the effect of largely impacting people with an opioid use disorder rather than career drug dealers. It is not uncommon for a co-user to receive some form of remuneration when sharing drugs, or for low-level dealers to themselves have a drug addiction.² These individuals need treatment, not lengthy imprisonment.

Despite the legislation's attempt to apply the Good Samaritan Law to the provisions of the bill, it would nonetheless have a chilling effect on people's willingness to call 911 in the event of observing an overdose, potentially *increasing* the number of overdose deaths. People who use drugs would be discouraged from reporting overdoses and seeking care as stories of people

¹ Amy Lieberman. Tougher criminal penalties won't end overdose deaths. The National Network for Public Health Law (June 2022). <https://www.networkforphl.org/news-insights/tougher-criminal-penalties-wont-end-overdose-deaths/>

² Rethinking the "drug dealer:" harsh penalties for drug supply are counterproductive says new report. Drug Policy Alliance (December 2019). <https://drugpolicy.org/news/rethinking-drug-dealer-harsh-penalties-drug-supply-are-counterproductive-says/>

being charged with harsher penalties circulate in the community. People know that protections can be easily circumvented by law-enforcement officers and prosecutors.

There are several evidence-based interventions to reduce drug overdose deaths. In 2021, 2,460 Marylanders lost their lives to an overdose. In 2023, just two years later, the number of lives lost decreased to 1,689, a decrease of 31%.³ Maryland's existing efforts to address the drug overdose epidemic have been working. These have included:

- Naloxone distribution
- The Good Samaritan Law
- Peer recovery services
- Medications for opioid use disorder, like suboxone and methadone
- Easy-to-access treatment services

Harsher penalties for opioid distribution have no evidence-base. They do not reduce drug overdoses. It is misguided to impose ever-increasing prison sentences for heroin or fentanyl distribution, when Maryland can continue to invest in proven strategies that have been shown to work.

For this reason, MHAMD opposes SB 604 and urges an unfavorable report.

³ <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx>

Baltimore City Directorate - 2025 SB 604 UNF - Dru

Uploaded by: Ashley Archie

Position: UNF



BALTIMORE CITY

SUBSTANCE ABUSE DIRECTORATE

OFFICERS

Ashley Archie
President
HeL Recovery Center

Sean Augustus
President-Elect
UPC Inc./Recovery
Network

Joan Sperlein
Secretary
Institutes for Behavior
Resources, Inc.

Toni Maynard-Carter
Treasurer
Johns Hopkins
Hospital Broadway
Center

Senate Judicial Proceedings Committee February 12, 2025

Senate Bill 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law) **Oppose**

The Baltimore City Substance Abuse Directorate (Directorate), writes to respectfully oppose Senate Bill 604, a law that creates a new criminal penalty related to overdose deaths that we believe will not achieve its intended goal. The Directorate is a member organization composed of Substance Use Disorder (SUD) treatment programs located in Baltimore City. We strongly believe that this bill will discourage people from seeking various public health services, and will also discourage people from calling 911 when someone they're with is overdosing.

The approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. It has contributed significantly to the over incarceration of Black and brown people throughout our state and country. We urge the General Assembly to instead focus on proven solutions that prevent overdose, including harm reduction strategies, evidence-based treatment, and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The numbers here in Baltimore City are staggering. Unfortunately, SB 604 is counterproductive despite being well-intended. Laws like SB 604 seek to prevent overdoses by using harsh penalties as a deterrent. SB 604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years, and will cost the state much more money to keep people in prison longer.

SB 604 has some protections for those reporting overdoses, but they do not apply to all scenarios. If SB 604 passes, it is likely that some who report overdoses will get prosecuted for homicide. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic. We hope to see Maryland continue taking steps to support harm reduction approaches and remove criminalization as a barrier to recovery. We ask that the Judicial Proceedings Committee give SB 604 an unfavorable report.

Sincerely,

Ashley Archie, LCSW-C
President

MCF_UNFAV_SB604.pdf

Uploaded by: Ashley Tauler

Position: UNF



February 12, 2025

Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION

SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)

The Maryland Coalition of Families: Maryland Coalition of Families (MCF) is a statewide nonprofit organization that provides family peer support services at no cost to families who have a loved one with mental health, substance use, or problem gambling disorder. Using their personal experience as parents, caregivers, and other loved ones, our staff provide emotional support, resource connection, systems navigation, support groups, and educational training and workshops.

Maryland Coalition of Families strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.



DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

Maryland Coalition of Families served nearly 5,000 Families last year; 15% of those families have a loved one with substance use and co-occurring disorders. Losing a loved one to an overdose is tragic and traumatic and an experience no family should have to endure. The provisions outlined in SB 604 could potentially discourage someone from calling for help during an overdose and contribute to an increase in deaths by overdose.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. **Maryland Coalition of Families urges the Senate Judicial Proceedings Committee to oppose SB 604.**

Ashley Tauler, CA
Policy and Advocacy Manager
Family Peer Support Specialist
Maryland Coalition of Families
atauler@mdcoalition.org
Cell: 202.993.4685

BSCHmidtSB604.pdf

Uploaded by: Beth Schmidt

Position: UNF

February 12, 2025

**Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION**

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

I am the mother of a child that suffered from substance use disorder. My eldest son, Sean, died on December 16, 2013, just two days after his 23rd birthday. His death was the result of 100% pure fentanyl poisoning. He thought he was getting heroin, to hold him over until he his treatment bed was available.

I, Barbara Beth Schmidt strongly oppose SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

11 years ago 100% pure fentanyl in Maryland was unheard of. Sean was waiting for a treatment bed to open, he had been substance free for a little less than 2 years. Unfortunately, an acquaintance reached out to him for a "connection" in the city and for reasons he will never be able to tell us, he decided to go along and introduce this person to his connection. There were 2 other people with Sean when he died. The dealer gave them 3 capsules of drugs, Sean's was the only with 100% pure fentanyl, he is the only one that died. The people with him did not reach out for help right away, they were afraid they would get in trouble. I believe if this bill is passed they would be right and even less people will call for help. My son did not supply these people with the deadly drug and they did not supply him either-it was the dealer in the city. My fear is, if this law were to be passed, if my son had survived and his friends did not, would he have been charged with their deaths? We currently have laws in Maryland that we can use to

prosecute, I truly believe we do not need a new law and that by passing this many innocent lives will be negatively impacted, not just those that have no regard for the lives of our loved ones.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. I, Beth Schmidt **urge the Senate Judicial Proceedings Committee to oppose SB 604.**

Beth Schmidt, CFPS
Director of Training and Education
Maryland Heroin Awareness Advocates, Inc.
410-456-9918
bschmidt.mhaa@gmail.com

MC Federation of Families Testimony SB 604 Unfavor

Uploaded by: Celia Serkin

Position: UNF



Montgomery County Federation of Families for Children's Mental Health, Inc.
Colesville Professional Center
13321 New Hampshire Avenue, Terrace B
Silver Spring, MD 20904
301-879-5200 (phone number)
301-879-0012 (fax number)
info@mcfof.org (email)
www.mcfof.org (website)

February 12, 2025

Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION

SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)

I am Celia Serkin, Executive Director of the Montgomery County Federation of Families for Children's Mental Health, Inc. (MC Federation of Families), a family peer support organization serving diverse families in Montgomery County who have children, youth, and/or young adults with mental health, substance use, or co-occurring challenges. Our Certified Family Peer Specialists are parents who have raised or are currently raising children with these challenges. I am a Montgomery County resident and have two children, now adults, who have struggled since childhood with mental health challenges. My son has debilitating depression. My daughter has co-occurring challenges.

MC Federation of Families strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB 604 is counterproductive despite being well-intended. Laws like SB 604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB 604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB 604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB 604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB 604 has some protections for those reporting overdoses, but they do not apply to all scenarios. If SB 604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

I have personally lost loved ones due to overdoses and witnessed these tragedies at my work and in the community. My ex-husband, the father of my children, died from an overdose. A young lady with co-occurring challenges in her thirties who was like a second daughter to me died because of her addiction. Two adult sons of one of our employees died from an overdose. We need proven solutions that prevent overdose like evidence-based treatment and education rather than new harsh penalties that will have unattended negative consequences.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. **MC Federation of Families urges the Senate Judicial Proceedings Committee to oppose SB 604.**

SB0604_UNF_MedChi_Criminal Law - Distribution of H

Uploaded by: Christine Krone

Position: UNF



The Maryland State Medical Society
1211 Cathedral Street
Baltimore, MD 21201-5516
410.539.0872
Fax: 410.547.0915
1.800.492.1056
www.medchi.org

Senate Judicial Proceedings Committee

February 12, 2025

Senate Bill 604 – *Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)*

POSITION: OPPOSE

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, opposes Senate Bill 604. “Drug-induced homicide” (DIH) laws aim to deter drug distribution through enhanced criminal penalties for drug distribution leading to a fatal overdose. This legislation proposes adding an additional prison sentence of up to 20 years, on top of the existing 30-year sentence for distributing heroin and fentanyl. Criminal penalties of up to 50 years in prison will not have a significant deterrent effect when 30-year sentences have not. The logic of increasing prison sentences to address drug addiction has been tried before and has failed, leading only to mass incarceration that disproportionately impacts communities of color and increases state prison costs. Harsher penalties have never been shown to be effective, and judges and prosecutors already have the tools to enhance charges and increase sentencing.

Instead, MedChi encourages the State to bolster community-based programs, public education campaigns, and expanded treatment and recovery services to raise awareness about opioid misuse and provide support for individuals recovering from addiction. By focusing on both prevention and treatment, Maryland can reduce the impact of the opioid crisis, while promoting public health and safety. We urge an unfavorable vote.

For more information call:

Christine K. Krone
J. Steven Wise
Danna L. Kauffman
Andrew G. Vetter
410-244-7000

ACR 2025_SB 604_DIH_UNFAVORABLE.docx.pdf

Uploaded by: Clayton Appleby

Position: UNF



February 12, 2025

**Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION**

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

My name is **Clayton Appleby**, and I am a **Certified Peer Recovery Specialist** with over eight years of experience in the field and ten years of lived experience in recovery.

Clayton Appleby, of ACR, strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

In 2017, I lost my best friend to an overdose. In 2020, I was contacted for questioning about his associates—an experience that I found deeply unhelpful and even harmful. Instead of offering support to those struggling with addiction, these approaches risk pushing people further away from recovery and into isolation. I have seen firsthand that punitive measures do not work. The individuals most affected by this bill are often those in active addiction, not large-scale traffickers, and they need access to evidence-based treatment, not more time behind bars. In addition to its harmful consequences, this bill contradicts the Whole Life Recovery principles that guide evidence-based approaches at Addiction Connections Resource (ACR). ACR recognizes that recovery is a long-term process requiring sustained support, access to treatment, and harm reduction strategies—not punitive measures that isolate individuals and discourage help-seeking behavior."

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. Clayton Appleby, of Addiction Connections Resource, urges the Senate Judicial Proceedings Committee to oppose SB 604.

SB 604_DIH_BHSB_UNFAVORABLE.pdf

Uploaded by: Dan Rabbitt

Position: UNF

February 12, 2025

Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION

SB 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

Behavioral Health System Baltimore (BHSB) is a nonprofit organization that serves as the local behavioral health authority (LBHA) for Baltimore City. BHSB works to increase access to a full range of quality behavioral health (mental health and substance use) services and advocates for innovative approaches to prevention, early intervention, treatment and recovery for individuals, families, and communities. Baltimore City represents nearly 35 percent of the public behavioral health system in Maryland, serving over 100,000 people with mental illness and substance use disorders (collectively referred to as “behavioral health”) annually.

Behavioral Health System Baltimore strongly opposes SB604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death. This bill would add a penalty enhancement of up to 20 additional years to the existing penalty of up to 30 years in prison for distributing fentanyl in the event of a fatal overdose. Prison sentences of up to 50 years will not achieve justice or prevent overdose. The General Assembly should work to support evidence-based overdose prevention interventions instead of diverting scarce state resources to longer prison sentences for drug offenders.

The overdose epidemic has been devastating to families and communities across Maryland. About 2,500 people died of fatal overdose in the state each year from 2018-2023, including close to 1,000 who died in Baltimore City.¹ This tremendous heartache understandably leads families to seek answers and accountability. BHSB shares this concern and is firmly committed to doing everything we can to prevent overdose and reduce the prevalence of fentanyl on our streets. We must ensure, however, that the actions we take do not cause more harm than good. SB604 does not pass that test.

This legislation would not prevent overdose, reduce drug use, deter drug dealing, or change the composition of the drug supply in Maryland. The long prison sentences in the bill would instead cost Maryland millions when the state can least afford it. The Department of Legislative Services estimates one year in state prison costs \$80,000 and that eight prosecutions under SB604 would occur each year. Distribution of fentanyl currently results in a nine-year prison sentence on average, so if SB604 led to eight individuals receiving a twenty-year average sentence, that would be more than \$12 million added to state prison costs every year.²

SB604 would also worsen the racial disparities that exist in Maryland and Baltimore’s criminal justice system. There is significant prosecutorial discretion in bringing charges through a bill like SB604. This has resulted in significant disparities regarding who is prosecuted in other states. Approximately half of all prosecutions are of Black individual while they make up much less than half of the population. There were also almost no reported cases of a prosecutor seeking a drug-induced homicide charge when the decedent was Black.³ This is very troubling when the rates of overdose in the Black community have been skyrocketing. The Baltimore area has seen White overdose rates decline 21% since 2017 while Black rates rose 63%. More Black Marylanders died of overdose than White ones in 2023.⁴ BHSB worries that disparities in who is charged and whose deaths are investigated would perpetuate racial injustice.

Lastly, BHSB worries that SB 604 could increase the number of fatal overdoses in our state by undermining our Good Samaritan law. This law provides limited protection for those seeking medical assistance in good faith. If SB604 were to pass, there would undoubtedly be stories that would circulate of individuals prosecuted for the death of someone who overdosed. The experience of other states shows that family and friends are most frequently prosecuted under these sorts of laws. These prosecutions also frequently garner press coverage. Coverage and stories of friends and family receiving harsh penalties and liability for an overdose would discourage people who use drugs from reporting overdoses. This is true regardless of the protections provided under SB604. The Good Samaritan protections and SB604 are simply incompatible. Maryland must prioritize saving lives and encourage vulnerable individuals to report overdoses.

Maryland is beginning to see a reduction in overdoses thanks to our investments in public health interventions. We should stay the course and resist the temptation to return to levying harsher penalties to attempt to address intractable problems like addiction. Such approaches may be satisfying but they are counterproductive. **BHSB urges the Senate Judicial Proceedings Committee to oppose SB 604.**

For more information, please contact BHSB Policy Director Dan Rabbitt at 443-401-6142

Endnotes:

¹ MDH Overdose Data Portal. Accessed January 2025 at <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx>

² Maryland State Commission on Criminal Sentencing Policy. Average Sentences for Common Offenses (FY23). Available at <https://msccsp.org/Files/Reports/AvgsentencesFY23.pdf>

³ Health in Justice Action Lab. Analysis of Drug-Induced Homicide Charges Dataset. Accessed January 2025 at <https://www.healthinjustice.org/drug-induced-homicide>.

⁴ MDH Overdose Data Portal. Accessed January 2025 at <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx>

MD SB0604_ LEAP OPPOSITION.pdf

Uploaded by: Diane Goldstein

Position: UNF



LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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Staffordshire Moorlands, England
LEAP UK

Date: February 10, 2025

Re: SB 0604: Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

Position: OPPOSE

To: The Maryland Senate: Judicial Proceedings Committee

Distinguished Members of the Committee,

My name is Diane Goldstein, and I served for 21 years with the Redondo Beach Police Department in California. I am also the Executive Director of the Law Enforcement Action Partnership (LEAP), a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience. Our mission is to make communities safer by focusing law enforcement resources on the greatest threats to public safety, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and working toward healing police-community relations.

I am writing today to express my opposition to SB 604 because I know, both professionally and personally, that punitive approaches to drug policy do not reduce overdose deaths or improve public safety. My brother died from an overdose, and I understand the devastating impact addiction can have on individuals and families. Like many who have lost loved ones, I want solutions that will save lives. However, SB 604 will not accomplish that goal. Instead, it will push drug use further underground and burden the criminal justice system with individuals who need treatment rather than incarceration.

Research consistently demonstrates that laws like SB 604 fail to reduce overdose or address addiction and instead create unintended consequences that make the crisis worse. [A 2024 report by the Drug Policy Alliance](#) found no evidence that increasing criminal penalties for drug distribution has reduced overdose deaths. Instead, these policies drive people away from life-saving resources, increase fear of seeking

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Formerly known as Law Enforcement Against Prohibition

medical help, and divert law enforcement resources.

While overdose deaths have declined in the past year, this is not the result of harsher drug laws. According to Centers for Disease Control and Prevention (CDC) data, [overdose deaths in the U.S. decreased by approximately 14% from June 2023 to June 2024](#). [Experts credit this decline](#) to expanded access to naloxone, increased addiction treatment availability, and harm reduction initiatives, not punitive drug policies. If we want to build on this progress, we must invest in what works.

Another major concern with SB 604 is that it fails to target the root of drug trafficking networks and instead disproportionately penalizes individuals who sell drugs to sustain their addictions. An article in the *American Criminal Law Review* (2023) highlights that [similar laws have not been effective in dismantling large-scale drug supply chains](#). Instead, they primarily result in the incarceration of individuals who are often substance users themselves.

This bill would impose severe penalties on individuals regardless of their intent or knowledge. A person would not have to know that the drugs they sold contained fentanyl, nor would they have to intend harm to be charged with a serious felony. Someone selling a small amount to support their addiction could receive the same sentence as a high-level trafficker.

I know that fentanyl is a specific concern for lawmakers, and understandably so. But this synthetic opioid has become so widespread in the illicit drug supply that these penalties could apply to anyone involved in selling drugs. The U.S. Drug Enforcement Administration (DEA) reports that [fentanyl is now a dominant component of the street opioid market](#), no longer just an occasional contaminant. It is frequently mixed into other substances without the seller or user's knowledge, making it nearly impossible for individuals at the lowest levels of distribution to know what they are selling.

[Decades of punitive drug policies have not reduced overdose deaths](#) or dismantled drug trafficking networks. If increased criminal penalties were an effective solution, we would not still be facing the crisis today. SB 604 will not improve public safety or prevent fatal overdoses.

Rather than repeating past approaches that have failed, Maryland should focus on proven strategies. Expanding access to treatment, investing in harm reduction services, and strengthening community-based interventions have been shown to save lives and improve public health outcomes. These approaches address the root causes of substance use rather than cycling individuals through the criminal justice system.

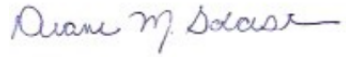
For these reasons, I urge you to oppose SB 604 and instead support policies that focus on prevention, treatment, and public safety,

Thank you for your time and consideration.

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Respectfully,

A handwritten signature in blue ink, appearing to read "Diane M. Goldstein".

Lt. Diane Goldstein (Ret.)
Redondo Beach Police Department
Executive Director, The Law Enforcement Action Partnership

SB 604 DIH JPR EES statement v.1.pdf

Uploaded by: Eric Sterling

Position: UNF

STATEMENT OF
Eric E. Sterling, J.D.¹
SUBMITTED TO
THE MARYLAND SENATE
COMMITTEE ON JUDICIAL PROCEEDINGS
HON. WILLIAM C. SMITH, JR., CHAIR
HON. JEFF WALDSTREICHER, VICE CHAIR
FEBRUARY 12, 2025

IN OPPOSITION TO
SB604 – Criminal Law –
Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

Chair Smith, Vice Chair Waldstreicher, Distinguished Senators, I oppose SB604, as introduced, and urge you to give it an unfavorable report.

I wrote a very similar bill for the U.S. Congress in circumstances similar to the ones we are facing today – a growing epidemic of deaths associated with increased distribution of a new form of illegal drug. In the summer of 1986, after the shock and outrage at the cocaine induced death of Maryland basketball star Len Bias, I wrote the law providing for harsh punishment for distribution of drugs that result in a death. I was the Assistant Counsel to the U.S. House of Representatives Judiciary Committee’s Subcommittee on Crime responsible for developing the “Narcotics Penalties and Enforcement Act of 1986” (H.R. 5394, 99th Cong. (Sec. 107 provided a special term of imprisonment for offenses resulting in death or serious bodily injury). H.R. 5394 was enacted as Subtitle A of Title I of the “Anti-Drug Abuse Act of 1986” (P.L.99-570, Oct. 27, 1986), with amendments). That law is most famous, or infamous, for its mandatory minimum sentences for crack cocaine and powder cocaine, the ratio of 1 to 100 by weight to trigger the minimums, and the resulting very long sentences and extraordinary racial disparity in punishment under those provisions. The law provided these mandatory minimums for quantities of heroin, cocaine, crack, PCP, LSD, marijuana, and little noticed at the time, fentanyl. **That law also included a mandatory 20-year sentence, up to life imprisonment for distribution “if death or serious bodily injury results from the use of such substance.”**

After 38 years, with the number of fatal drug overdoses growing almost ten-fold, one can fairly say that it has been an ineffective tool for saving lives.

I think the General Assembly can accomplish the bill’s purposes more effectively with other strategies. If you do report a bill law to punish persons who distribute heroin and fentanyl which results in death, then I encourage you to draft it with more explicit statements regarding the necessary state of mind to convict, and to choose a punishment that is consistent with Maryland law and more appropriate than a maximum of 20 years, as I outline below.

Before I go further, as a resident of District 18, I want to commend Vice Chair Waldstreicher, the sponsor, and my Senator, for his unflagging sensitivity to the concerns of his constituents. In District 18 we are proud that Senator Waldstreicher has been one the leaders in the General Assembly for making our justice system more just, especially in the area of racial justice. Senator Waldstreicher's essential leadership to expand the ability of Marylanders to expunge old and minor criminal records is just one example of his commitment..

The problem:

The number of opioid overdoses we are experiencing is shocking. In Montgomery County, there were 138 fatal overdoses reported for 2023 (74 are reported for 2024 for Montgomery County on the Maryland Department of Health dashboard (Jan. 10, 2025), concentrated in Rockville and Silver Spring)(most likely preliminary data and an undercount). In 2010, when I was appointed to the Montgomery County Alcohol and Other Drug Addiction Advisory Council (AODAAC), my recollection is that the number of fatal overdoses county-wide was closer to 30.

The most effective ways to reduce the numbers of fatal overdoses in the short term are public health approaches to expand treatment capacity; improve accessibility to treatment; reduce the stigma around addiction, treatment, and recovery; increase the support for people in recovery, especially with strong peer recovery programs; and increase harm reduction outreach in appropriate communities to expand the availability of naloxone.

Consistent with the public health approach, in 2024, the Montgomery County Behavioral Health and Crisis Services team, noticing an increase in overdoses among Hispanic and African-American males in parts of the county undertook an emergency outreach effort in the Aspen Hill/Glenmont/Wheaton corridor to reach youth using fentanyl, and to their families. In February 2024, the Montgomery County Council appropriated \$3.1 million in Opioid Abatement funds for treatment, harm reduction, prevention, community engagement and management.

Positive Features of SB604:

I want to commend Senator Waldstreicher for two important salutary features of the bill.

First, the SB604 would expand significantly the coverage of the 2014 "Good Samaritan" law which is intended to increase the number of calls for emergency medical services at the time of an opioid overdose. Since the possession of heroin and fentanyl is illegal, the use of the drugs is typically secretive and done either alone or with others who are also illegally possessing and using the drugs. The Good Samaritan law was limited only to provide immunity to those charged with possession or administration of controlled dangerous substances (CDS) (Md. Crim. Proc. Sec. 1-210, Seeking medical assistance for another who ingested or used alcohol or drugs). SB604 would expand the Good Samaritan law's application to immunity from prosecution for an offense involving distribution. This is an important expansion. Following this approach to increase the number of calls for emergency services for opioid overdoses, the text of subsection

(g) of SB 604 should be made an amendment to Criminal Law section 5-602 (Distributing, possessing with intent to distribute, or dispensing controlled dangerous substance) as a new subsection. (The General Assembly should commission a study of how the Good Samaritan law is perceived by persons who are using drugs to assess its effectiveness in increasing calls to 9-1-1 and ways it can further be improved.)

Second, SB604 limits the definition of the term “distribute” to eliminate the sharing of CDS between persons using drugs. This is an attempt to recognize the reality that persons ingesting drugs are often peers and sharing and are not the distributors of drugs the General Assembly is seeking to punish more severely than those who use. This important exclusion, to be effective, needs to revise the exclusion that the sharing is “without remuneration of the exchange of goods and services.” The reality is that sharing is not always purely gratuitous, and may frequently involve providing rides, food, shelter, reimbursement, or services such as cooking, cleaning, laundry, storage of goods, or sex. With such exchange of goods or services being common, this exclusion will severely limit its applicability and lead to unjust prosecutions and sentences.

SB604 is unlikely to deter or save lives

Nevertheless, while these are important efforts to mitigate the harshness of the sentences, with its proposed maximum of an additional consecutive sentence of up to 20 years – SB604 is unlikely to save the lives of the men and women it is intended to protect.

For over 38 years, there has been a Federal enhanced penalty for death or serious bodily injury that results from distribution of a controlled substances of a minimum of 20 years up to life imprisonment which applies to ANY quantity of any Schedule I or II substance – including heroin and fentanyl -- that is distributed (21 U.S.C.841(b)(1)(C)). These penalties have been Federal law since Oct. 1986. As we can see, the threat of long prison sentences have had negligible effect on the increase in the distribution of fentanyl or on the number of tragedies associated with use of opioids.

Since 1986, some states have adopted similar “drug-induced homicide” laws. I have occasionally been contacted by attorneys and journalists working on such cases. As reported to me, overwhelmingly, these penalties, and in some states even the threat of the capital punishment, are applied to the friends, associates or family of the deceased or to the lowest level distributors operating at a local or neighborhood level.

I appreciate the grief and anger that families have when a loved one dies from a drug overdose. My family believes that my youngest first cousin, Clifford Sterling, died from a heroin overdose after he relapsed many years ago. The shame and stigma around such deaths often leads families to an unwillingness to acknowledge the cause of death – that has been the case in my family. My objections to SB604 are neither academic nor theoretical. I have attended International Overdose Awareness Day memorials in Rockville and met similar families.

In reality, the 20-year prison term that this bill proposes as “justice” for these tragedies would be an empty promise. There are too many cases. Few, if any, persons will be identified or prosecuted as the source or distributor of the heroin or fentanyl. According to the latest data from the [dashboard](https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx) of the Maryland Department of Health (<https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx>), statewide in **CY 2024 there were 1189 were fentanyl-related fatal** overdoses out of a total of 1553. For what fraction of those fatalities would the Committee expect that the enhanced penalties authorized by SB604 would be imposed? For the 1189 families who want some measure of justice for the tragic death of their loved one, how many should expect that those who organized or masterminded the production, importation, and wholesale distribution of the drugs that killed their loved ones are going to be sentenced under SB604 or even investigated or prosecuted?

This bill, if implemented as intended, will be phenomenally expensive.

The Fiscal Note of March 3, 2024, for SB1075 (2024), last session’s version of this bill, reported the then-current average total cost per incarcerated person in Maryland as \$5,110 per month, or \$61,320 annually. Using FY 2023 prosecution data and estimating that 5% of those convicted of distributing narcotics would be sentenced under SB604, the Department of Legislative Services estimated eight individuals annually would be sentenced to the maximum consecutive 20-year penalty. Eight prisoners per year at \$61,320 each is \$490,560. That sum does not appear to be very large, except that it would repeat and grow every year for the next 20 years for a total of \$9,811,200 for the sentencing of one cohort of 8 defendants per year. If enacted, after 10 years, **in 2035 alone, imprisonment of 8 prisoners per year under this bill would cost \$4,905,600** (in 2024 dollars). However, the **cumulative cost over ten years (2025-2035) of incarcerating just 8 persons convicted of this new offense by the end of 2035 would be \$26,980,800 in 2024 dollars.**

The proposed punishment exceeds the culpability of most of the defendants

The proposed punishment for being the “perpetrator” of these tragic deaths is severely out of line compared to the penalties for those responsible for other tragic losses of life with similar levels of knowledge, intent and culpability.

In Maryland law, other deaths – undoubtedly tragic – involving acts of negligence or recklessness carry much lower penalties than a 20-year sentence consecutive to other long sentences.

In Manslaughter by Vehicle — Criminal Negligence, the killing of another by operating a vehicle or vessel in a criminally negligent manner is subject to up to 3 years imprisonment. Criminally negligent means with respect to a result or circumstance that the person should be aware, but fails to perceive, that the person’s conduct creates a substantial and unjustifiable risk that such result will occur and the failure to perceive constitutes a gross deviation from the standard or care that would be exercised by a reasonable person. (Md. Crim Law sec. 2-210(c).

That failure to fail to perceive a *substantial and unjustifiable risk that the [fatal] result* will occur sounds very much like the situation with lower-level distributors of fentanyl –they don't *know* that there is fentanyl, and they are criminally negligent – perhaps grossly negligent – in distributing the drugs.

A more serious version of this offense -- when one kills another by operating a vehicle in a *grossly negligent manner*, the maximum imprisonment is only up to 10 years (1st offense) Md. Crim Law. sec. 2-209.

In a case involving drugs: if someone kills another person while driving a vehicle impaired by CDS, they can be imprisoned by up to 5 years. Md. Crim. Law sec. 2-506. The 20 year maximum set forth in SB604 -- for most of the persons who are likely to be charged -- seems excessive compared to the penalties for killing someone in those other circumstances.

What is the conduct of the likely defendants?

A key feature about the drug traffic that this legislation does not and cannot address is the introduction of fentanyl into the drug supply. The nation's supply of illegal opioids is contaminated by fentanyl long before it gets to Maryland – it is almost always introduced in Mexico. I am not aware of any cases in which a person in the State of Maryland added fentanyl into the drugs they were distributing. If so, those might be the persons worthy of such long sentences and would be so sentenced under existing law. But such persons are unlikely to be identified and prosecuted in Maryland. Indeed, if such defendants could be identified, the State's Attorney could refer them to the U.S. Attorney to prosecute and obtain a mandatory minimum sentence in federal prison of 20 years at no cost to the Maryland taxpayers.

Most distributors of illegal opioids based in or operating in local neighborhoods do not control the purity of the product they are distributing, do not test for the presence of fentanyl, and may lack knowledge of the presence of fentanyl. SB604 does not provide a fundamental feature of the criminal law, a statement of criminal intent or state of mind regarding the conduct and circumstances. The typical drug seller is reckless regarding the likelihood that they may be distributing fentanyl-laced opioids. Recklessness, like negligence, is a lower level of criminal state of mind than intentional or knowing. (Of course, there are drug dealers who know or have reason to believe that they are distributing fentanyl – they are not singled out in SB604).

This bill is unlikely to deter any conduct (other than calling 9-1-1 to save a life)

Any assertion that this new 20-year offense will in any way deter the distribution of heroin or fentanyl is fanciful: every person who shares or distributes such drugs right now *knows* that they face a long sentence if they are caught.

Both low-level and high-level distributors of opioids are already subject to long Federal and Maryland sentences. SB604, will not change their behavior. First, a simple distribution (Md. Criminal Law § 5-602, Distributing, possessing with intent to distribute, or dispensing controlled

dangerous substance) of a narcotic like heroin or fentanyl, already carries prison sentence of up to 20 years for a first offense (Md. Crim. L. § 5-608 (a)). If a second offense after a serious first offense, a prison sentence of up to 25 years can be imposed (Md. Crim. L. § 5-608 (c)).

If fentanyl or its analogues are distributed in a first offense, current law provides for an additional consecutive sentence of 10 years (Md. Crim. L. § 5-608.1 (b)). And Maryland has a mandatory minimum sentence of 5 years imprisonment for the distribution of 5 pure grams or more of fentanyl or a mixture weighing more than 28 grams that contains *a detectable amount* of fentanyl (and these amounts can be cumulated by any number of transactions that occur in a 90 day period) (Md. Crim. L. § 5-612).

Higher-level distributors (drug kingpins: “an organizer, supervisor, financier, or manager who acts as a coconspirator in a conspiracy to manufacture, distribute, dispense, transport in, or bring into the State a controlled dangerous substance”) are further subject to a mandatory minimum of 20 years imprisonment up to 40 years. Very simply, the likelihood is miniscule that SB604, if enacted with its 20-year additional sentence, will deter anyone from selling fentanyl or heroin.

Likelihood of unjust prosecution of associates of the deceased

What is likely is that those who will be prosecuted under this new section are persons who were using drugs or sharing their drugs or who sold the small quantity of drugs that triggered the fatal overdose. These are going to be the family members of the deceased, perhaps close friends or drug sharing acquaintances, or persons prevailed upon by the deceased who is desperate to use. These are not the high-level distributors. Many of those who are sentenced for this kind of offense could have been, in fact, the person who died. I think we all agree in 2025 that low-level drug offenders, most of whom have serious substance use disorders, do not deserve a two-decade term of imprisonment.

Likelihood of unjust prosecution due to randomness and infrequency

Sadly, as the 2024 Fiscal Note suggests in the hypothesis that only 8 cases might be brought annually under SB604, the most prominent feature of these prosecutions will be their relative infrequency and randomness. Infrequent, random prosecution with harsh punishment out of thousands of similar offenders is more of an injustice than justice.

Exacerbating unwarranted racially disparate sentencing

Finally, there is the danger of continuing and exacerbating the racial disproportionality in the investigation, arrest, prosecution, sentencing and imprisonment in drug cases. In Maryland, this has been well established, and was documented by the 2023 report of the Maryland State Commission on Criminal Sentencing Policy, “An Assessment of Racial Differences in Maryland Guidelines-Eligible Sentencing Events.” **According to the report, 77.6 percent of the persons sentenced for felony narcotics offenses were Black, and 19.7% were White** (figure 9, p. 26). **For drug offenses that carry a mandatory minimum sentence, Black defendants were 89.5% and White defendants were 7.9%** (figure 20, p. 38).

For all these reasons, I urge an unfavorable report.

¹ Eric E. Sterling was Executive Director of the Criminal Justice Policy Foundation (1989-2020). He has lived in Maryland 32 years and the 18th legislative district over 27 years. From 1979 to 1989 he was Assistant Counsel, U.S. House of Representatives Committee on the Judiciary responsible for drug abuse matters among many other issues. From 2013 to 2017, on the appointment of Gov. Martin O'Malley, he served on the Maryland Medical Cannabis Commission and chaired its Policy Committee. In Montgomery County, he served for 10 years on the Alcohol and Other Drug Abuse Advisory Council including three years as chair. From 2022 to 2024, he was Chair the Montgomery County Advisory Commission on Policing. He received a B.A. from Haverford College in 1973, and a J.D. from Villanova University Law School in 1976.

Good_Trouble_Church_2025_SB 604_DIH_UNFAVORABLE.pdf

Uploaded by: Gregory Frailey

Position: UNF

February 12, 2025

**Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION**

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

A grass-roots, faith expansive community coming together in the name of healing and human flourishing, Good Trouble Church is a ministry centering love and freedom, leadership and liberation, community care, and sacred ceremony. Started by those who have been made vulnerable by systemic racism and the war on drugs, Good Trouble Church places harm reduction at the center of everything we do.

Good Trouble Church strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. **Good Trouble Church urges the Senate Judicial Proceedings Committee to oppose SB 604.**

Thank You,
Greg Frailey
Harm Reduction Lead, Good Trouble Church
gregfrailey@gmail.com
717-798-1764

SB 604 Distribution of Heroin or Fentanyl CCJR OPP

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TESTIMONY IN OPPOSITION TO SENATE BILL 604

TO: Members of the Senate Judicial Proceedings Committee

FROM: Center for Criminal Justice Reform, University of Baltimore School of Law

DATE: February 10, 2025

The University of Baltimore School of Law's Center for Criminal Justice Reform ("Center") is dedicated to supporting community-driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Center strongly opposes Senate Bill 604.

This bill creates a new criminal offense for distributing heroin, fentanyl, or a chemical analogue of those, "the use of which results in the death or serious bodily injury of another." The new offense is a felony which carries a sentence of up to 20 years. SB 604 intrudes on judicial discretion by depriving judges of the ability to order concurrent sentences based on unique facts and circumstances for each individual case.

Under Md. Code, Crim. Law § 5-602, a person guilty of manufacturing, possessing with intent to distribute, or distributing a controlled substance is guilty of a felony and is subject to imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both. Under Md. Code, Crim. Law § 5-608.1, additional carceral penalties already exist when heroin, fentanyl, or their analogues are involved. Section 5-608.1 creates a separate criminal offense for individuals found guilty of possessing, distributing, or possessing with the intent to distribute heroin, fentanyl, or their analogues. Under § 5-608.1, individuals are subject to imprisonment up to 10 years—again to be served consecutively to any other sentence. Therefore, without Senate Bill 604, an individual who sells heroin to another person may be sentenced to serve 30 years in prison under current law. Senate Bill 604 would allow that individual to serve up to 50 years in prison if the person who purchased the heroin experienced a serious bodily injury or death.

The Center recognizes the devastation and gravity of the pernicious harms of substance abuse, addiction, and overdose in Maryland, particularly those relating to fentanyl and heroin. Like all states, Maryland has seen countless lives lost and families destroyed. It is because of this devastation, and not in spite of it, that the Center opposes this bill. The Center joins the proponents of SB 604 in agreeing that we must take action to confront these compounding public health crises. However, it is overwhelmingly clear that SB 604 is not the answer. SB 604 will not only fail to make our communities safer; it will profoundly and disparately exacerbate the harms of the criminal justice system and distract policymakers from needed investments in treatment and more effective responses.

The Center strongly opposes SB 604 for four primary reasons: (1) Senate Bill 604's vague and overly broad language will result in variable and extreme enforcement, (2) no research exists to indicate that laws like SB 604 reduce opioid-related harms, including severe bodily injury and death, (3) this law will needlessly cost Maryland more money when cost-effective and empirically proven interventions exist, and (4) this law will exacerbate racial disparities in drug-related prosecutions. Appropriately, much has been said about the urgent need for a "public health" response to substance abuse, addiction, and overdose. Instead, Senate Bill 604 doubles down on the failures of the War on Drugs and runs counter to evidence and lived realities of communities suffering with the burden of addiction. We cannot afford to and should not make these same mistakes again.

I. SENATE BILL 604 IS SUSCEPTIBLE TO BROAD AND VARIABLE INTERPRETATION, RESULTING IN DISPARATE AND EXTREME ENFORCEMENT

The vague, conflicting text of Senate Bill 604 will produce variable and extreme enforcement of its provisions. First, this is especially true because Maryland law does not define "serious bodily injury." The broad definition of "serious bodily injury" under federal law corroborates these concerns. Under 21 U.S.C. § 802(25), "serious bodily injury" is defined as a bodily injury that involves "(a) A substantial risk of death; (b) Protracted and obvious disfigurement; or (c) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty." Here, the federal definition is instructive. Anyone who distributes controlled substances in Maryland resulting in serious bodily injury or death is already subject to enhanced federal penalties, including a 20-year mandatory term of imprisonment. Federal law confirms that the definition of "serious bodily injury" is extraordinarily broad. Despite the fact that legislation like Senate Bill 604 is often referred to as a "drug-induced *homicide*" law, the reality is that SB 604 would enhance criminal liability and penalties when one friend sold heroin to another friend who experienced a non-fatal overdose or who experienced extended kidney, liver, or respiratory failure.

Second, Senate Bill 604 contains no *mens rea* requirement. A defendant need not know that the controlled substance contained fentanyl or heroin to be criminally liable under this bill. Under Senate Bill 604, a high school student who had stolen what he believed to be an Adderall pill from his parents' medicine cabinet and sold that pill to his classmate could be subject to 50 years in prison if that pill actually contained heroin or fentanyl and his classmate overdosed or died as a result.

Third, despite purported protections in Senate Bill 604, this legislation would inevitably be used to prosecute the friends, family, and partners of people who experience serious bodily injury or death as a result of their substance use. Senate Bill 604 fundamentally misunderstands the nature of drug use, sharing, and transactions among people who use or abuse drugs, including those suffering from substance use disorder. Frequently, friends or family members who use drugs will pool their money and have one person go buy drugs. Later on, they meet and divide the drugs. Often, the person who gives someone the drugs that lead to an overdose is not a drug dealer but rather a fellow user or addict.

Fourth and moreover, the purported “sharing exception” in the bill is undermined by the drafting of subsection (D). On the one hand, the proposed bill language provides that sharing heroin or fentanyl without remuneration or exchange of goods is exempt from prosecution. At the same time, subsection (D) states that if possession of heroin, fentanyl, or their analogues “is transferred more than once prior to the occurrence of the death or serious bodily injury, each person who distributed or *delivered* the [heroin, fentanyl, or their analogues] shall be considered to have violated this section.” (emphasis added). By including “deliver[y],” subsection (D) could result in those who shared drugs by *delivering* them in the chain of distribution without remuneration or exchange of goods being subject to two more decades of prison time.

II. NO RESEARCH EXISTS TO INDICATE THAT LEGISLATION LIKE SB 604 REDUCES OPIOID-RELATED HARMS, INCLUDING SEVERE BODILY INJURY AND DEATH

The existing research suggests there is no proof that criminalization reduces opioid use or its related harms, including serious bodily injury, and death.”¹ In fact, research shows that criminalization only increases drug-related harms.² Alarming, a 2023 study in Colorado found that “increasingly punitive drug possession policies for fentanyl possession ... could lead to increased deaths from opioid overdose.”³ Additionally, an analysis of the impact of a conviction in an opioid-related death prosecution in Haywood, North Carolina in 2018, indicates that these laws are detrimental to public health.⁴ In another study, El Sabawi et. al. (2023) conclude, while “the number of [drug-induced homicide] charges filed increased exponentially from 2009 to 2016 [this is] in the absence of any meaningful evidence that such charges produced positive public health impacts.”⁵

Significantly, the authors of the only longitudinal quantitative study finding that such laws resulted in a statistically significant reduction in opioid-related deaths⁶ were forced to rescind the publication of their findings in 2023.⁷ A review of this study revealed a host of methodological

¹ See, Alexandra Savinkina, et. al., *Mortality, Incarceration and Cost Implications of Fentanyl Felonization Laws: A Modeling Study*, 121 INT’L J. DRUG POLICY, 1, 7 (2023) (noting, criminalization has not been proven to reduce drug use or its sequelae)); See also, *More Imprisonment does Not Reduce State Drug Problems*, The Pew Charitable Trusts, Mar. 8, 2018, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems#:~:text=More%20Imprisonment%20Does%20Not%20Reduce%20State%20Drug%20Problems%20%7C%20The%20Pew%20Charitable%20Trusts> (last visited Feb. 4, 2025); See also, Nora D. Volkow, *Addiction Should be Treated, Not Penalized*, 46 NEUROPSYCHOPHARMACOLOGY, 2048 (2021); See also, Jeffrey P. Bratberg, et. al., *Support Don’t Punish: Drug Decriminalization is Harm Reduction*, 63 J. AMER. PHARMACISTS ASSOC. 442-229 (2023).

² Bratberg, et. al., *supra* note 1.

³ Savinkina, *supra* note 1 at 7.

⁴ See Jennifer J. Carroll, et. al. *Drug Induced Homicide Laws May Worsen Opioid Related Harms: An Example from Rural North Carolina* 97 INT’L J. DRUG POLICY, 1-6 (2021).

⁵ El-Sabawi, et. al, *supra* note 5, at 1384.

⁶ Youngeon Lee, et. al., *Longitudinal Study on Deterrent Effect of Drug-Induced Homicide Law on Opioid-Related Mortality Across 92 Counties and the District of Columbia in the U.S.*, 52 J DRUG ISSUES, 131-143 (2022).

⁷ Youngeon Lee, et. al., *Retracted: Longitudinal Study on Deterrent Effect of Drug-Induced Homicide Law on Opioid-Related Mortality Across 92 Counties and the District of Columbia in the U.S.*, 52 J DRUG ISSUES, 131-143 (2022).

issues, including problems with the data set, sampling strategies, and modeling decisions.⁸ While research into the causes and outcomes of drug abuse, addiction, and overdose should continue,⁹ there is consensus that longer prison sentences, which SB 604 proposes, have not resulted in a reduction in self-reported drug use, drug overdose deaths, or drug arrests.¹⁰

In sum, given all the evidence that these laws do not decrease opioid-related harms, including serious bodily injury and death, SB 604 is a well-intentioned, yet misguided, remedy to this public health crisis that is devastating the lives of Marylanders and their families. As discussed below, criminalization undermines a host of other empirically proven solutions to reduce opioid-related harms that Maryland should implement or expand.

III. RATHER THAN PURSUING COST-EFFECTIVE SOLUTIONS THAT ARE EMPIRICALLY PROVEN TO WORK, SB 604 WILL WASTE MARYLAND’S LIMITED FISCAL RESOURCES

Senate Bill 604 will unequivocally cost Maryland more money without addressing the overdose epidemic and the public health challenges associated with substance use at a time in which the State is experiencing a well-documented and unprecedented fiscal crisis of 3 billion dollars. This budgetary crisis is further compounded by uncertainties surrounding the fiscal impact of the federal actions of the Trump administration. To address the budget crisis, the Moore administration is proposing deep cuts to State-funded resources and services, including education and the developmental disabilities administration, among others.

Senate Bill 604 will only intensify these economic woes. This assertion is not speculation. The fiscal and policy note that accompanied the identical 2024 version of this bill¹¹ stated, “the cumulative general fund expenditures may increase significantly as a result of the bill’s incarceration penalty due to people being committed to State correctional facilities for longer periods of time.”¹² Based on last year’s estimates “state costs could increase by \$645,120 for each annual cohort of defendants sentenced under the bill’s increased penalty.”¹³ A ten-year projection of costs, based on these estimates, would cost the State more than **\$6 million**. Also, the increased costs cited in the fiscal policy note support the conclusions of the aforementioned Colorado study, which likewise found that these policies “could lead to... substantially increased costs.”¹⁴

⁸ See Jennifer J. Carroll, et. al., *A Discussion of Critical Errors in a Longitudinal Study on the Deterrent Effect of Drug-Induced Homicide Laws on Opioid-Related Mortality Across 92 Counties and the District of Columbia in the United States*, 15 WORLD MED. & HEALTH POLICY, 587-612 (2022).

⁹ *Id.* at 5; See also Meghan Peterson, et. al., “One Guy Goes to Jail, Two People are Ready to Take His Spot”: Perspectives on Drug-Induced Homicide Laws Among Incarcerated Individuals, 70 INT’L. J. DRUG POLICY, 47-53 (2019); See also, Taleed El-Sabawai et. al., *Drug Induced Homicide Laws and False Beliefs about Drug Distributors: Three Myths That Are Leaving Prosecutors Misinformed*, 60 AM. CRIM. L. REV., 1381 (2023). See also, Brandon Morrissey, et. al., *Prosecuting Overdose: An Exploratory Study of Prosecutorial Motivations for Drug-Induced Homicide Prosecutions in North Carolina*, 125 INT’L J. DRUG POLICY, (2024).

¹⁰ *More Imprisonment does Not Reduce State Drug Problems*, *supra* note 1; See also, Volkow, *supra* note 1.

¹¹ S.B. 1075, 2024 Leg., 446th Sess. (Md. 2024).

¹² Dept. of Legis. Serv., Fiscal and Policy Note, First Reader, S.B. 1075, 2024 Leg., 446th Sess. (Md. 2024) at 5.

¹³ *Id.* at 7.

¹⁴ Savinkina, *supra* note 1 at 7.

It is worth noting that the 2024 fiscal and policy note for identical legislation supposes that only eight individuals would be prosecuted annually under this provision. There were more than 1,600 fentanyl-related deaths in Maryland from July 2023 through June 2024.¹⁵ There were presumably additional heroin-related deaths during that year and even more serious bodily injuries caused by fentanyl or heroin. The fiscal and policy note's financial projection either illustrates the likely arbitrary, minimal enforcement of SB 604 against less than 1% of fentanyl-related deaths or seriously underestimates the profound financial impact of the enforcement of this legislation.

Therefore, enacting SB 604 is a misguided solution, particularly when there are cost-effective and empirically proven solutions to reduce opioid deaths, including alternative sentencing drug courts, increased naloxone access, fentanyl test strip distribution, and syringe service programs.¹⁶ There are also, as noted above, substantial punitive penalties already on the books. Despite the well-documented spike in overdoses and overdose deaths, there are recent reasons to be hopeful about our course. Earlier this month the Maryland Department of Health reported “a steep decline in opioid overdose deaths in 2024 compared to the previous year,¹⁷” citing data from Maryland's Overdose Data Dashboard showing 1,553 reported fatal overdoses in 2024, which is a 38% decrease from the 2,511 fatal overdoses in 2023.¹⁸ We all share an urgent and common goal to reduce opioid-related harms in Maryland. Given the reality of our limited fiscal resources, our legislative efforts should be directed toward expanding these scientifically proven and impactful solutions that will improve the lives of Marylanders.

IV. SENATE BILL 604 WILL LIKELY EXACERBATE RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM

Discriminatory enforcement of drug-related offenses has produced extreme, well-documented racial disparities throughout the criminal justice system. Despite the fact that Black people comprise 13% of the United States' population, “[they] comprise 29% of those arrested for drug law violations, nearly 35% of those incarcerated in state or federal prison for any drug law violations, and roughly 35% of those incarcerated in state prison for possession only.”¹⁹ Maryland's racialized enforcement of the War on Drugs is similarly alarming and intolerable. According to a study by the ACLU, “between 2018-2019, 96% of all marijuana possession charges were filed against Black people in Baltimore City, even though Black people only represent around 60% of the city's population,” and “[e]ven though Black people only made up about 65% of the

¹⁵ United States Drug Enforcement Agency, *U.S. Attorney's Office and DEA Announce Fentanyl Overdose Task Force*, Oct. 28, 2024, <https://www.dea.gov/press-releases/2024/10/28/us-attorneys-office-and-dea-announce-fatal-fentanyl-overdose-task-force>.

¹⁶ Amir Razaghizad, et. al., *The Effect of Overdose Education and Naloxone Distribution: An Umbrella Review of Systematic Reviews*, 111 AMR. J PUB. HEALTH, 1516, 1517 (2021); See also, *More Imprisonment*, *supra* note 1.

¹⁷ Scott Maucione, *Maryland Sees Steep Drop in Opioid Overdose Deaths*, WYPR, Feb. 5, 2025, <https://www.wypr.org/wypr-news/2025-02-05/maryland-sees-steep-drop-in-opioid-overdose-deaths>.

¹⁸ *Id.*

¹⁹ Drug Policy Alliance, *An Overdose Death is Not Murder: Why Drug-Induced Homicide Laws are Counterproductive and Inhumane*, Nov. 2017, https://drugpolicy.org/wp-content/uploads/2023/05/Overdose_Death_Is_Not_Murder_Report.pdf.

population [in Prince George’s County]” 90% [of the people charged with possession of marijuana over 10 grams there] were Black.”²⁰

Senate Bill 604, if enacted, is susceptible to broad and variable interpretation, which would allow for disparate enforcement based on geography, race and socioeconomic status of the “dealer” and “purchaser,” or the political whims of individual prosecutors. Enforcement of criminal laws like SB 604 in other jurisdictions confirms that Maryland should be concerned about racially disparate and discriminatory enforcement under this legislation. For example, “[i]n McHenry County, Illinois, a county that has a [B]lack population of under 2%, prosecutors have brought [drug-induced homicide] cases against four [B]lack men from Chicago, which totals 35% of their 11 drug-induced homicide cases.”²¹ In Hennepin County, Minnesota, “[a]t the very least, [...] 72% of [the county attorney’s drug-induced homicide] prosecutions have been against [B]lack people despite a [B]lack population of 13% in the county in 2016.”²²

For the foregoing reasons, the Center for Criminal Justice Reform urges an unfavorable report on Senate Bill 604.

²⁰ Neydin Milian & Yanet Amanuel, Let’s Not Repeat a Racist Past: The War On Drugs, ACLU of Maryland, Mar. 18, 2021, <https://www.aclu-md.org/en/news/lets-not-repeat-racist-past-war-drugs>.

²¹ Drug Policy Alliance, *supra* note 21.

²² *Id.*

SB604 DIH Unfavorable Marian House.pdf

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Position: UNF



Marian House

Women moving from dependence to independence

February 12, 2025

Senate Judicial Proceedings Committee

TESTIMONY IN OPPOSITION

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

Marian House is a nonprofit transitional-housing and recovery program that has been helping women move from dependence to independence for over 40 years in Baltimore City. We serve many members of our community affected by substance use disorder (SUD), providing them and their children quality long-term housing while they recover and reclaim their independence.

Marian House strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. The approach of using longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdoses such as evidence-based treatment and education.

The overdose epidemic has been a tragedy that has claimed the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdoses and ending this crisis. Unfortunately, SB 604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, attempt to prevent overdoses by imposing harsh penalties as a deterrent. SB 604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective as a deterrent than 30 years. While the deterrent effect of SB 604 will be negligible, it will increase mass incarceration and state prison costs.

DIH laws like SB 604 also have unintended consequences. Such prosecutions will discourage people who use drugs from reporting potentially reversible overdoses due to fear of harsh criminal penalties. SB 604 includes some protection for those reporting overdoses, but they do not apply to all scenarios. If SB 604 passes, it is likely that some individuals who report overdoses will be prosecuted under DIH laws. This would discourage countless others from reporting overdoses, potentially increasing fatalities rather than reducing them.

Marian house works closely with Baltimore community members impacted by SUD, "loving them until they can love themselves". Beyond increasing mortality rates from overdoses, this bill would have direct negative consequences for many members of our community. Further criminalization and longer prison sentences will not help those struggling with addiction heal or make meaningful contributions to the community, and will make it more difficult to connect people in need with quality treatment.

The General Assembly should focus on investments in prevention and treatment rather than imposing harsher penalties. **Marian House urges the Senate Judicial Proceedings Committee to oppose SB 604.**

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Health Care for the Homeless - SB 604 OPP - DIH -

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Position: UNF

HEALTH CARE FOR THE HOMELESS TESTIMONY

OPPOSITION

SB 604 – Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

**Senate Judicial Proceedings Committee
February 12, 2025**



Health Care for the Homeless opposes SB 604 as a dangerous and misguided approach to address the opioid overdose epidemic that plagues our State. This bill prohibits an individual from distributing heroin or fentanyl or chemical analogues of heroin or fentanyl, the use of which results in the death or serious bodily injury of another. Our organization joins a number of health care providers and organizations advocating for vulnerable populations in opposing this 'drug-induced homicide' ("DIH") bill. This bill will not prevent overdose, deter drug distribution, or reduce the prevalence of fentanyl in the drug supply.

Health Care for the Homeless provides comprehensive and integrated health care, including a robust and growing program to address and treat opioid use disorder. We see firsthand how the overdose epidemic has ravaged our communities. About 2,500 people have died of a fatal overdose every year since 2018. Understandably, grieving families and an alarmed public demand action. However, as clinical experts in overdose prevention strategies, we know this bill will be counterproductive to preventing fatal overdoses in our State.

DIH laws like this bill aim to deter drug distribution through enhanced criminal penalties for drug distribution that leads to a fatal overdose. However, harsher penalties have never been shown to be effective. Furthermore, we are extremely concerned that the bill will lead to other unintended consequences by leading people who use drugs further into the shadows and reducing the likelihood that potentially reversible overdoses are reported. This chilling effect is more likely to increase fatalities and heartbreak rather than making any public health improvement. According to our Harm Reduction Manager, Molly Greenberg, RN:

Our clients experience stigma at every turn, often leading to internalized shame, disengagement with healthcare, and isolation from all of the systems and people who have abandoned them. Loneliness and fear are proven to be associated with overdose, so our number one responsibility is to create an environment in which people feel they will be met with compassion at every single encounter. Thoughtful overdose prevention strategies moves us away from dehumanizing punitive practices and towards a culture of connection and healing in a way that is meaningful to each individual person.

The further criminalization of substance use prevents individuals from seeking supportive services. When there is less fear of punishment or arrest by police, individuals feel safer accessing treatment.

Maryland has made great strides in putting in place effective overdose prevention strategies. Let's not move backwards. Instead, Maryland should recommit to their commitment to reframing

substance use as a public health issue, not a criminal one. **As a health provider that sees how crucial and life-saving harm reduction and decriminalization are for the clients we serve, Health Care for the Homeless urges the committee to issue an unfavorable report on SB 604.**

Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We deliver medical care, mental health services, state-certified addiction treatment, dental care, social services, housing support services, and housing for over 12,000 Marylanders annually at sites in Baltimore City and Baltimore County.

Our Vision: Everyone is healthy and has a safe home in a just and respectful community.

Our Mission: We work to end homelessness through racially equitable health care, housing and advocacy in partnership with those of us who have experienced it.

For more information, visit www.hchmd.org.

OppositionMdSenateBill604-2025LegislativeSession.p

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Position: UNF

February 12, 2025

**Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION**

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

Dear Honorable Senators:

My name is John Griffin. I would like to share my thoughts regarding the upcoming consideration of Senate Bill 604 with you. I oppose passage of the proposed bill because I believe it will not solve the problem of narcotics distribution like heroin and fentanyl in Maryland. Instead it will target the wrong people, those who are mid-level street dealers who in many cases don't even know that what they are selling contains heroin or fentanyl, and not the "kingpin" manufacturers and distributors. Consequently, passage of this bill will only exacerbate an already overwhelming problem with the practice of over-prosecution and mass-incarceration that is so prevalent in Maryland.

I spent 15 1/2 years in Maryland prison convicted of a crime that I did not commit. While that is a story outside the context of this testimony, during my prison time I studied Maryland law extensively to see how it works. I also got to know a lot of drug users and street dealers. I myself am not a street dealer, nor am I a drug user. But my observation of street dealers and drug users in prison is that the vast majority of them do not possess the intent to kill—they do not have murderous hearts. Most often they come from very broken families and desperate economic circumstances, and they turn to selling drugs in an effort to make easy money to try to get ahead in life. It's all they know. Most of them have dreams and aspirations to become productive citizens, they just don't know how to get there and there are no positive role models in their homes and neighborhoods to show them how.

Many of these street dealers sell crack cocaine, not heroin or fentanyl. They have no intention to sell heroin or fentanyl. They often do not know that fentanyl is present in the crack they're selling because they are not part of the "cutting" process that is used to dilute the pure crack into sellable doses. The manufacturers and distributors do that and they use fentanyl to cut the crack cocaine into smaller doses, but they often don't tell the dealers what substances they're using to cut the crack. Additionally, the clientele of street dealers are drug users, and more often than not drug users indulge in multiple drugs and purchase them from multiple dealers. Therefore, it is entirely possible that a scenario like the following could occur: a drug user purchases heroin/fentanyl from dealer A and then purchases crack cocaine from dealer B in a separate transaction unrelated to dealer A, consumes both purchases on the same day and then dies of an overdose, and dealer B gets caught. When the toxicology report reveals the presence of fentanyl in the decedent and dealer B gets charged and convicted under this new bill, he is going to prison with an enhanced penalty for a death that was not his fault based on an improper presumption of intent to distribute fentanyl, a level of intent which he didn't actually possess.

I am not an attorney, but in my opinion allowing such a scenario to occur will most definitely perpetuate mass incarceration and undermine the "Good Samaritan" law. Plus, it will give prosecutors a tool which will allow them to circumvent due process and convict people unfairly without a proper burden of proof. More specifically, I believe that the way this bill is written will violate the constitutional rights to due process of law because the required level of *mens rea* will be simply presumed upon a defendant as opposed to being properly determined by evidence in court, and possibly double jeopardy as well, should it pass into law. If this bill is passed, I think that it will set up an unfair legal precedent where the intent to distribute heroin/fentanyl will be presumed upon a defendant, if those substances are found in the victim, even though the defendant may have not known heroin/fentanyl was present. Very often street

dealers are not aware of all the chemicals that are present in the drugs they are selling, because they are not told what substances the manufacturer used to "cut" the drugs. Yes it is true that a street dealer is already breaking the law by selling illicit drugs in the first place, and that criminal act should not be excused or condoned in any way. But to presume the intent to distribute fentanyl just because it was found in the victim to support a conviction with an enhanced penalty without due process is wrong.

Furthermore, targeting average dealers with DIH prosecutions will not slow the sale of drugs. For every drug dealer that is caught and imprisoned, there are two more ready in the wings to step in and take his place. Consequently, the flow of drug money will not slow. If the Maryland Legislature wants to get serious about ebbing the flow of drugs—especially heroin and fentanyl—into the State, then it needs to draft legislation that targets the manufacturers and the distributors who import the drugs into Maryland. If we support bills that stop the flow of drugs before they get to the dealers, then the money flow will be interrupted sufficiently to make drug dealing far less lucrative. Plus, if police agencies are appropriately funded so they can provide the street coverage necessary to deter drug sales (especially in Baltimore City), then street dealers will lose interest because the money is not there to outweigh the legal risk of performing that kind of work.

I believe that as a society our legal resources are much better spent on pushing for legislation that specifically targets the drug manufacturers and distributors who utilize fentanyl in their distribution process, with the goal of stopping the flow of fentanyl into the State. If the local dealers lose access to the drugs they're selling, then they will lose interest in selling them because the money isn't there. We as a society need to invest more resources into programs like peer recovery support (I am a Certified Peer Recovery Specialist, and in my experience peer recovery support works very well to reeducate drug users/dealers and help them with recovery), community health outreach, medication assisted treatment for opioid use disorder, and naloxone distribution. Drug users and dealers need to see that there is hope for them to break the otherwise endlessly repeating cycle of the drug lifestyle. We as a society have a moral obligation to stop pursuing legislation and laws that unfairly target marginalized people as a band-aid towards creating a "better society". The "tough on crime politic" simply doesn't work if the legislation it produces is misguided. That fact has been proven time and again. We are smarter than that, better than that. So we need to pursue common sense legislation, not emotionally driven legislation designed to exact retribution on the wrong people.

Sincerely yours,

John Griffin

DIH SB 604 UNFAV MDDCSAM.pdf

Uploaded by: Joseph Adams, MD

Position: UNF



MDDCSAM is the Maryland state chapter of the American Society of Addiction Medicine whose members are physicians and other health providers who treat people with substance use disorders.

SB 604:

Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

Judicial Proceedings Committee

Feb 12, 2025

UNFAVORABLE

Thank you, Chairman Smith, Vice Chairman Waldstreicher, and members of the committee.

The treatment and prevention of addiction and overdose in Maryland is at a crossroads. One path leads to increased penalties and incarceration despite decades of ineffectiveness and harms of these measures.

These deterrence-focused measures may seem sensible, but when they apply to people with addictions, who are not “dealers” per se, they are not compatible with evidence-based measures needed to reduce overdose.

Each life cut short by overdose is a tragedy. No parent should have to experience this.

This is why we oppose this bill.

Some parents will advocate for SB 604 believing that it will save lives through long mandatory sentences, for those who distribute drugs resulting in death. The strong desire to take action after such a devastating loss is completely understandable. And it may seem to make sense that incarcerating drug dealers in large enough numbers, for decades, may reduce the drug supply.

Unfortunately, at least half of people sentenced under similar Drug-Induced Homicide (DIH) laws elsewhere are not drug dealers, but **friends and family of the decedent who also suffer from addiction**. It would be impossible to incarcerate enough people to make any difference. Each person incarcerated would be immediately replaced, since **sharing and exchanging drugs is very common, almost universal, among the population of drug users**.

The great majority of people with addictions share and exchange drugs with others to help them avoid intolerable withdrawal symptoms, or to avoid these symptoms themselves. **The drug-related death of a friend or family member is unpredictable. Drug potency changes. Using illicit opioids is inherently dangerous. The drug supply will always meet the demand.**

Other parents who have lost loved ones to overdose are opposed to this bill because the evidence indicates that it **is more likely to increase, not decrease, overdose.**

Long sentences may be appropriate for professional drug dealers, but not if large numbers of people who use drugs are also caught up, by chance, by this law, simply for behavior common in this population.

Advocates of long sentences often point to cases of individuals who “got clean” while incarcerated. Yet, decades of incarceration are devastating to individuals, their chances of recovery, and to their families. Many of the lifesaving programs and providers that treat substance use disorders become unavailable to those incarcerated.

The futility of mass incarceration is clear when we consider that people with addiction have already lost everything: jobs, relationships, finances, and health – yet continue to use drugs until they get the appropriate help.

ANNOTATED BIBLIOGRAPHY:

“Half of those charged with drug-induced homicide were not, in fact, “dealers” in the traditional sense, but friends and partners to the deceased” . . . There is a “broad misclassification of friends, partners, family members, and others as 'dealers.' ”

Leo Beletsky (Northeastern University) “America’s Favorite Antidote: Drug-induced Homicide In The Age Of The Overdose Crisis,” 2019. Utah Law Review 833 (2019). Volume 2019 | Number 4 Article 4
<https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1219&context=ulr>

“There is not a shred of evidence that [DIH] laws are effective at reducing overdose fatalities.”

“Drug war proponents have been repeating the deterrence mantra for over 40 years, and yet drugs are cheaper, stronger, and more widely available than at any other time in US history.

“Research consistently shows that neither increased arrests nor increased severity of punishment for drug law violations reduces either use or sales.

“The only behavior that is deterred by drug induced homicide prosecutions is the seeking of life-saving medical assistance. The most common reason people cite for not calling 911 in the event of an overdose is fear of police involvement, notwithstanding ‘Good Samaritan laws’ which are undermined by DIH laws.”

An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane. Drug Policy Alliance November 2017. <https://perma.cc/U2PT-MXYV>

"Unduly long prison terms are counterproductive for public safety. . ."

"The excessive nature of punishment in the U.S. is not based on a rational analysis of incarceration and the fundamental objectives of sentencing policy. Moreover, unduly long prison terms are counterproductive for public safety."

IBID: An Overdose is Not Murder, Drug Policy Alliance.

Report: Long-Term Sentences: Time to Reconsider the Scale of Punishment. November 5, 2018.

The Sentencing Project. (The article appears in the UMKC Law Review, Vol. 87:1.)

<https://www.sentencingproject.org/reports/long-term-sentences-time-to-reconsider-the-scale-of-punishment/>

"According to deterrence theory, [incarceration] ought to have had a deterrent effect, but, instead, the recidivism rate for drug offenders between 2005 and 2010 was 76.9% within five years of release."

Bureau of Justice Statistics, "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010" (2014).

[https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-30-states-2005-patterns-2005-2010-update#:~:text=Supplemental%20Tables%20\(Most%20serious%20commitment,\(CSV\)%20have%20been%20added.&text=About%20two%20thi,ds%20\(67.8%25\).were%20arrested%20within%205%20years.](https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-30-states-2005-patterns-2005-2010-update#:~:text=Supplemental%20Tables%20(Most%20serious%20commitment,(CSV)%20have%20been%20added.&text=About%20two%20thi,ds%20(67.8%25).were%20arrested%20within%205%20years.)

"... at least among those with drug-related charges, incarceration and supervision seemed not to deter subsequent illegal behavior."

"A 2010 study found that variations in prison and probation time had no detectable effects on rates of recidivism; meaning that changing the length of someone's prison or probation sentence did not noticeably impact their likelihood of committing another crime after release.

Donald Green and Daniel Winik, "Using Random Judge Assignments to Estimate the Effects of Incarceration and Probation on Recidivism among Drug Offenders," *Criminology*

48, no. 2 (2010): 357–387, doi: 10.1111/j.1745-9125.2010.00189.x/abstract

A large body of evidence demonstrates that neither increased arrests nor increased severity of criminal punishment for drug-related offenses have resulted in less use (demand) or fewer sales (supply). In 2011, for instance, researchers found that changes in hard drug arrest rates did not predict changes in [injection drug use] population rates.

Samuel R. Friedman et al., "Drug Arrests and Injection Drug Deterrence," *American Journal of Public Health* 101, no. 2 (2011): 344–249, doi: 10.2105/ AJP.2010.191759. 242. Pew Charitable Trusts,

A recent 50-state study found no relationship between state drug imprisonment rates and drug use or overdose deaths.

Pew Charitable Trusts, "Letter to The President's Commission on Combating Drug Addiction and the Opioid Crisis RE: The Lack of a Relationship between Drug Imprisonment and Drug Problems" (June 2017), <http://www.pewtrusts.org/en/research-and-analysis/speeches-and-testimony/2017/06/www.pewtrusts.org/~media/assets/2017/06/the-lack-of-a-relationshipbetween-drug-imprisonment-and-drug-problems.pdf>.

"Numerous scholars of drug policy assert that the incarceration of drug offenders ... has little or no impact on drug distribution." According to "the replacement effect, the market responds to the demand for drugs by replacing drug sellers sent to prison with either new recruits or by the increased drug selling of dealers already in the market. As a result, the incapacitation effect found for some other offenses is largely nullified in the case of drug dealing. In fact, there is indirect evidence that the incarceration of drug dealers has actually contributed to an increase in crime."

Roger K. Przybylski Correctional and Sentencing Reform for Drug Offenders Research Findings on Selected Key Issues September 2009. RKC Group. Lakewood, Colorado.
Funded by the Colorado Criminal Justice Reform Coalition
https://www.ccjrc.org/wp-content/uploads/2016/02/Correctional_and_Sentencing_Reform_for_Drug_Offenders.pdf

". . . The main effect of imprisoning people who sell drugs "is merely to open the market for another seller."

Anne Morrison Piehl, Bert Useem and John J. DiIulio, Jr., "Right-Sizing Justice: A Cost Benefit Analysis of Imprisonment in Three States," Center for Civic Innovation at the Manhattan Institute, Civic Report No. 8 (1999), https://www.manhattan-institute.org/pdf/cr_08.pdf.

"The major reason for 911 calls being delayed or not made at all was concern over police presence."

Baca CT et al. What Heroin Users Tell Us About Overdose, Journal of Addictive Diseases 26, no. 4 (2008): 63-68, doi:10.1300/J069v26n04_08

In Baltimore, one of the most common reasons for delaying the 911 call was fear of police involvement.

Robin A. Pollini et al., "Response to Overdose Among Injection Drug Users," American Journal of Preventive Medicine 31, no. 3 (2006): 261-264, doi: 10.1016/j.amepre.2006.04.002

"As people addicted to opioids transition to or enter the illicit heroin market, they are met with the same "arrest and incarcerate" policies that have been widely recognized as ineffective at reducing drug use, causing high rates of relapse, recidivism and re-incarceration.

Global Commission on Drug Policy website, <http://www.globalcommissionondrugs.org/>

Respectfully, Joseph A. Adams, MD, FASAM

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Position: UNF



February 10, 2025

Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION

SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)

Vilomah Foundation strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law).

The Vilomah Memorial Foundation is a national not-for-profit organization that provides peer grief support and other resources to families who are grieving a substance-related or other stigmatized death. Losing a child is a primal injustice—one that defies politics, ideology, and rhetoric. No punishment can erase our loss; no sentence can undo the failures that led to it. What legislators can do is vote against legislation that would increase these preventable deaths. This legislation seeks to double down on the very punitive policies that contribute to overdose deaths. More punishment will not prevent overdoses—it will only create more grieving families while leaving the real problems unaddressed. If lawmakers truly want to express their condolences for our losses, it must be reflected in their voting record—not in hollow words and performative sympathy.

This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

Families already struggle with immense guilt, constantly questioning if they could have done more. Criminalization magnifies this pain, reinforcing the false narrative that our loved ones were responsible for their own deaths rather than victims of failed drug policies, inadequate healthcare, and a toxic, unregulated supply created by prohibition. Families mourning an overdose loss are often excluded from traditional

bereavement spaces, left isolated and ashamed. Rather than receiving compassion and support, many are manipulated into believing that harsher penalties will bring justice, pushed to advocate for the very policies that harmed their own children. But when punishment inevitably fails to stop overdoses, when another struggling person is incarcerated, when another family is left grieving, the realization sets in: we have been used. It is a grotesque betrayal—a system that failed our children now using our grief to justify harming others, perpetuating the very cycle that took them from us.

We refuse to let our children's deaths be used as political currency to justify more cruelty, more incarceration, and more suffering. We urge you to reject this bill and instead invest in evidence-based solutions that actually prevent overdose deaths—harm reduction, access to treatment, and compassionate care. Punitive drug laws did not save our children. They left them without options, pushed them into the shadows, and criminalized their struggles instead of offering help. Lawmakers have a choice: uphold the status quo of stigma, suffering, and loss, or break the cycle and fight for policies that save lives rather than condemn them. We urge you to vote against this bill.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. The Vilomah Foundation urges the Senate Judicial Proceedings Committee to oppose SB 604.

Senate testimony.pdf

Uploaded by: Keely Fitzpatrick

Position: UNF

February 12, 2025

Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION

SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

(Victoria, Scottie, Ashleigh, and Yader's Law)

I strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education. The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs. DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic. The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties.

Thank you,

Keely Fitzpatrick

SB604_PJC_Unfavorable LB Sign.pdf

Uploaded by: Levi Bradford

Position: UNF



Levi Bradford, Staff Attorney
Robin McNulty, Institutional Giving Manager
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 272
BradfordL@publicjustice.org

**Senate Bill 604: Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)**

Hearing before the Senate Committee on Judicial Proceedings, February 12, 2025

Position: UNFAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. The PJC provides advice and representation to low-income clients, advocates before legislatures and government agencies, and collaborates with community and advocacy organizations; we actively incorporate anti-racism and racial equity goals into our advocacy work. The **PJC opposes SB 604** Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death. This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer prison sentences to address problems related to drug use has been tried before and has failed.

The overdose epidemic has tragically cost the lives of thousands of Marylanders. The General Assembly should focus on proven solutions that prevent overdose like evidence-based treatment and education to bring an end to this crisis. Laws like SB 604, often called drug-induced homicide (DIH) laws, claim to prevent overdose by using harsh penalties as a deterrent. SB 604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. Incarceration cannot treat a health crisis. Proponents of DIH laws claim they are intended to target “dealers” and cartels; in reality, law enforcement often targets “low level offenders” and people who use drugs.

DIH laws like SB 604 have other unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB 604 only offers limited protections for those reporting overdoses, and it is likely that some who report overdoses will be prosecuted. This will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities.

For these reasons, the Public Justice Center urges **the House Judiciary Committee to issue SB 604 an unfavorable report**. Thank you for your consideration of our testimony.

For more information, please contact:

Levi Bradford, Staff Attorney
Education Stability Project
Public Justice Center
410-625-9409, ext. 272
bradfordl@publicjustice.org

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

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Uploaded by: Lydia Watts

Position: UNF

Testimony in Opposition to
SB 604 Criminal Law – Distribution of Heroin or Fentanyl Causing
Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

Presented by Lydia C. Watts, Esq., Executive Director, the Rebuild, Overcome, and Rise
(ROAR) Center at University of Maryland, Baltimore

February 10, 2025

My name is Lydia Watts. I am the Executive Director of the Rebuild, Overcome, and Rise (ROAR) Center at the University of Maryland, Baltimore. I am submitting this written testimony in opposition to **SB 604 Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)**. The views expressed herein are mine as an expert in the field and are not the views of the University of Maryland, Baltimore. ROAR provides wrap-around services to victims of crime in Baltimore City. Since June 2019 when ROAR started providing services, we have assisted over 840 people, all of whom are survivors of crime ranging from homicides, non-fatal shootings, rapes, assaults, intimate partner violence, and more. Some of the people we have helped have experienced the loss of a loved one to an accidental overdose.

There is no question that losing a loved one to a death by overdose is devastating for all impacted and that the damage wreaked upon families and whole communities by the easy access to deadly street-drugs is immeasurable. *However, creating criminal offenses to charge those who sold the drugs that led to a death or serious bodily injury does not meet the needs of those most impacted and criminalizes the wrong players in this ecosystem of deadly drugs.* Most people who would be charged under this created offense are completely unaware of the substances within their product that can result in death or serious bodily injury. They are often engaging in the distribution of drugs due to their own difficult life experiences and are street-level dealers who are not responsible for the deadly substances being put into the product they are selling.

Despite the commonly recited tropes about crime victims wanting more strict sentences and jail time for those who caused harm, most victims of all types of crime are not looking for more arrests and prosecutions. They are looking for the support they so desperately need and even support for those who hurt them rather than creating more and greater penalties for those who have caused them harm.¹ This is part because the incarceration of someone does not address the struggles experienced by survivors, but also because of the impact that overcriminalization and mass incarceration of disenfranchised communities – especially Black men and women – has only caused greater harm.

¹ Crime Survivors Speak, *The First-Ever National Survey of Victims' Views on Safety and Justice*, Alliance for Safety and Justice. <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>

The rate of death by overdose – especially among the Black community - is high in Baltimore City (and similarly situated cities across the country) because of the devastating impact of intergenerational trauma, institutionalized/structural racism, decades upon decades of zero investment in the neighborhoods that were decimated through the racist practices of redlining, and an embarrassing lack of investment in our city’s youth and families. The family members of overdose victims turn to programs like ROAR instead of seeking criminal prosecution of the person who sold their loved one the drugs that caused their death or injury because they want support for themselves and their families – often put into chaos by the untimely death or disability of their loved one. They want to live in safe and affordable housing in a neighborhood that is not fraught with daily overdoses. They want jobs that pay them a decent wage. They want transportation options that are reliable and efficient so that they can get their children to school and themselves to work. They want to send their kids to school knowing that they are safe and getting the best education possible. And they want to heal from the traumas they have endured and become more at peace with themselves and their lives.

Speaking from a personal perspective, the vast majority of the survivors with whom I have worked over the past 30+ years have not favored the criminal justice response to their victimization (non-scientifically, I would say over 90%). **SO, WHAT DO CRIME VICTIMS WANT?**²

- First and foremost, assistance with finding *safe and affordable housing*, especially if they have been victimized at or near their homes and/or are living in parts of the city in which there are high rates of overdoses;
- Easy to access, long-term, and *culturally appropriate counseling* (including group counseling);
- *Non-judgmental and timely assistance in navigating* the complex and bureaucratic systems, such as public benefits, medical/mental health/substance use disorder care, housing, juvenile justice, foster care, etc.
- *Legal Assistance* to minimize the impact of the victimization on housing, employment, education, safety, immigration status, financial security, and privacy/dignity.
- *Autonomy in decision-making* about their experience;
- *Increased support for a diversity of service options*, including more located within communities and at venues unaffiliated with formal justice system processes.³
- *Access to job support, transitional housing and other longer-term resources necessary for stabilization and mitigation of risk.*⁴

² Warnken, Heather and Lauritsen, Janet, Who Experiences Violent Victimization and Who Accesses Services?, Center for Victim Research, Findings from the National Crime Victimization Survey for Expanding Our Reach, April 2019. https://ncvc.dspacedirect.org/bitstream/item/1270/CVR%20Article_Who%20Experiences%20Violent%20Victimization%20and%20Who%20Accesses%20Services.pdf?sequence=1; and Crime Survivors Speak, The First-Ever National Survey of Victims’ Views on Safety and Justice, Alliance for Safety and Justice. <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>. See page 27, Box 3: “Invest in evidence-based services that protect crime survivors and stop the cycle of victimization.”

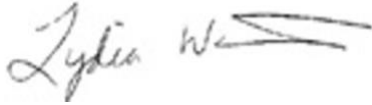
³ Warnken, Heather, Untold Stories of California Crime Victims, Research and Recommendations on Repeat Victimization and Rebuilding Lives, April 2014 (page 19).

⁴ Same report in footnote 3 (page 25).

Without meaningful support to get these needs met and investments in communities to make these wishes a reality, these survivors often experience trauma for years, even the rest of their lives, while trying their best to survive and “deal with” that trauma.

**Lydia Watts, Executive Director of the ROAR Center at University of Maryland,
Baltimore urges the Senate Judicial Proceedings Committee to oppose SB 604.**

Sincerely,

A handwritten signature in cursive script, appearing to read "Lydia Watts", followed by a horizontal flourish.

Lydia C. Watts, Esq., MPH
Executive Director
Rebuild, Overcome, and Rise (ROAR) Center
University of Maryland, Baltimore

Additional Information about Race and the Criminal Justice System That Would be Exacerbated by the Passage of SB 604

Dating back to 1993, Kimberle Crenshaw wrote: “Women of color [in work cited, the author is referring to survivors of intimate partner violence] are often reluctant to call the police, a hesitancy likely due to a general unwillingness among people of color to subject their private lives to the scrutiny and control of a police force that is frequently hostile. There is also a more generalized community ethic against public intervention, the product of a desire to create a private world free from the diverse assaults on the public lives of racially subordinated people.”⁵ “[F]or some people subjected to abuse, the criminal justice system – indeed, any state system – is not a safe and comfortable place within which to seek justice. People of color, who are already overrepresented in the criminal justice system, may have concerns about approaching the state for assistance, fearing that the state will intervene punitively against their partners or against them.”⁶ And their fears are often warranted. Sometimes calling the police results in homelessness for victims of intimate partner violence,⁷ or in their own arrest. These same fears are present – perhaps even heightened – for survivors of gun and other forms of community violence.

Black men are over-represented among those accused of and convicted of violent crime though there is no evidence to suggest that men of color are more prone to violence than white men,⁸ though the media certainly portrays otherwise.⁹ The perception of men – particularly young men – of color as inherently more violent has inexorably and negatively shaped lives, communities, history, and political landscapes.¹⁰ Not only are young men of color disproportionately

⁵ Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1257 (1993).

⁶ Leigh Goodmark, “Law and Justice are Not Always the Same”: Creating Community-Based Justice Forums for People Subjected to Intimate Partner Abuse”, Florida State University Law Review Vol. 42:707, 720 (year?).

⁷ There have been many housing authorities across the country who were exposed in the early 2000s for evicting domestic violence victims for violating the policy that no illegal activity could take place on public housing property, and since she called the police for help, the housing authority was alerted that a crime had occurred – an assault against the victim who is now getting evicted as a result. This practice is still occurring today on privately owned properties. See Jenny Kutner, “Domestic Violence Victims can be Evicted for Calling the Police”, July 14, 2016, <https://mic.com/articles/148484/domestic-violence-victims-can-be-evicted-for-calling-police-here-s-why#.oJfYfDbSK>.

⁸ Kim Farbota, *Black Crime Rates: What Happens When Numbers Aren't Neutral*, January 19, 2016, http://www.huffingtonpost.com/kim-farbota/black-crime-rates-your-st_b_8078586.html.

⁹ In *Tough Guise: Violence, Media and the Crisis in Masculinity*, Jackson Katz and Jeremy Earp argue that the media provide an important perspective on social attitudes – and that while the media are not the cause of violent behavior in men and boys, they do portray male violence as a normal expression of masculinity. Earp, Jeremy and Jackson Katz. *Tough Guise: Violence, Media & the Crisis in Masculinity* (study guide). Media Education Foundation, 1999. In 1999, Children Now, a California-based organization that examines the impact of media on children and youth, released a report entitled Boys to Men: Media Messages About Masculinity. The report observes that... non-white male characters are more likely to experience personal problems and are more likely to use physical aggression or violence to solve those problems. Boys to Men: Media Messages About Masculinity. Children Now, 1999. <http://mediasmarts.ca/gender-representation/men-and-masculinity/how-media-define-masculinity>, last visited 8.23.16.

¹⁰ “This far-reaching form of stereotyping and oppression—what Toni Morrison and others call the “white gaze”—has shaped individual lives and collective histories within communities of color.” David J. Knight, *Beyond the Stereotypical Image of Young Men of Color*, The Atlantic, January 5, 2015. <http://www.theatlantic.com/education/archive/2015/01/beyond-the-stereotypical-image-of-young-men-of-color/384194/>

represented among those accused of using violence, but also of being victims of violence.¹¹ Yet, their needs as victims of crime, and the commensurate trauma that often comes with victimization, are largely ignored, thereby exacerbating the devastating impact of the continued assault of structural racism.

Since men of color are *perceived* as more prone to be violent, it is likely that they will adopt behaviors to support that perception or assumption. Michelle Alexander in *The New Jim Crow* poses the question, “Are we willing to demonize a population, declare a war against them, and then stand back and heap shame and contempt upon them for failing to behave like model citizens while under attack?”¹² She goes on to say “[t]here is nothing abnormal or surprising about a severely stigmatized group embracing their stigma... Indeed, the act of embracing one’s stigma ...is a political act – an act of resistance and defiance in a society that seeks to demean a group based on an inalterable trait... [E]mbracing the stigma of criminality is an act of rebellion – an attempt to carve out a positive identity in a society that offers them little more than scorn, contempt, and constant surveillance.”¹³ The “dance” - or “minstrel show” as Alexander calls it¹⁴ - of men of color acting “ghetto”, violent, posturing to gain some sense of respect and control, plays perfectly into stereotypes and implicit racism that men of color are in fact more violent.

It is important to note, that rates of incarceration have skyrocketed for women during this same time period, at even greater and more astonishing rates.¹⁵ “There are 14 times more women in jail in this country today than there were in the 1970s... [And] women typically become incarcerated after experiencing gender-based trauma throughout their lives. About eight in ten [incarcerated women] have experienced domestic partner abuse. A large majority has survived sexual violence.”¹⁶ Again, women of color are disproportionately represented among the incarcerated. Many of these women are in jail or prison because a violent partner forced them into illegal activity, most typically assisting in some portion of a drug exchange, but also in sex work.¹⁷ Other times, women may engage in illegal activity to survive in an environment that does not support poor mothers well, if at all. Over the past 20 years, public benefits have been dramatically cut, affordable housing stock has plummeted, and childcare costs and other costs of living have soared. Livable wages are almost non-existent for those working in certain sectors of

¹¹ Danielle Sered, *Young Men of Color and the Other Side of Harm*, Vera Institute of Justice, December 2014. <http://archive.vera.org/sites/default/files/resources/downloads/young-men-color-disparities-responses-violence.pdf>

¹² Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010), p. 170.

¹³ Id at p. 171.

¹⁴ Alexander writes about how the media portrays men of color as caricatures of “racial stereotypes and images associated with the era of mass incarceration – an era in which black people are criminalized and portrayed as out-of-control, shameless, violent, over-sexed and generally underserving.” Id at pg. 173.

¹⁵ Coker & Macquoid, *Opposing Hyper-Incarceration*, *supra* note 15 at 588 (2015).

¹⁶ Micelle Chen, *Why Are There So Many Women in Jail? The number of women in jails has skyrocketed over the past four decades*, <https://www.thenation.com/article/why-are-there-so-many-women-in-jail/>, August 22, 2016.

¹⁷ “Survivors who were forced into criminal activity by abusive partners could also be eligible for alternative sentencing under the legislation [Domestic Violence Survivors Justice Act, passed in May 2016 in New York state]. Advocates stress that abusers often use violence to coerce survivors into committing crimes like robbery or drug trafficking.” Melissa Jeltsen, *Should Domestic Violence Victims go to Prison for Killing Their Abusers?*, May 26, 2016, http://www.huffingtonpost.com/entry/domestic-violence-prison-legislation_us_573deaa3e4b0aee7b8e94236.

our economy. Working in illegal economies may literally feel like the only choice to financially support oneself and a family.¹⁸

All of this is true also for those selling and buying street-drugs through the State of Maryland. To criminalize those caught in this matrix of racism and poverty will only compound the harm.

¹⁸ “Particularly for women, their interactions with the justice system are often the result of survival efforts,” said Liz Swavola of the Vera Institute of Justice, one of the report’s principal authors. “They are predominantly women of color, and they are overwhelmingly poor.” Rebecca McCray, *There are More Women in U.S. Jails Than Ever Before*, August 17, 2016, <http://www.takepart.com/article/2016/08/16/women-jails?cmpid=tp-twtr>. “Women often become involved with the justice system as a result of efforts to cope with life challenges such as poverty, unemployment, and significant physical or behavioral health struggles.” Vera Institute of Justice, *Overlooked: Women and Jails in an Era of Reform*, August 2016.

SB604 DIH unfavorable .pdf

Uploaded by: Melissa Rothstein

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

HANNIBAL KEMERER
CHIEF OF STAFF

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/12/2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 604. Rather than rely on data and best practices to address the overdose crisis, Senate Bill 604 relies on a punitive response that has proven ineffective in the past and dangerously creates the likelihood of more overdoses and other harm.

The opioid epidemic has led to a shocking and tragic number of overdoses. While overdose fatalities in Maryland decreased dramatically this past year – from 2,500 in 2023 to 1,553 in 2024¹ -- this crisis continues to devastate families and communities, with Baltimore holding the tragic distinction of being the nation's deadliest city.² Especially troubling are the racial disparities; while Black individuals report using and selling drugs at similar rates to white people, they experience overdoses and drug-related prosecutions at much higher rates. For example, between 2017 and 2023, fatal overdoses in Maryland increased by 65% among Black people while decreasing by 25% among

¹ Maryland Department of Health, Overdose Dashboard, <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx#Overdose>.

² Alissa Zhu, Jessica Gallagher and Meredith Cohn, *They entered treatment. Drugs, overdoses and deaths followed.* The Baltimore Banner, 12/20/2024, <https://www.thebaltimorebanner.com/community/public-health/baltimore-opioid-drug-treatment-investigation-AOTRDIBQAJGHEFCLJ3NW2J5JN4/>.

white people.³ In 2019, Black people made up 12% of the US population but accounted for 27% of adult drug arrests.⁴

OPD does not support any punitive response to the public health issues related to substance abuse and overdose, but not only does this bill seek to expand the criminalization of substance use, it is also unnecessary and duplicative of existing law. The incarceration and accountability sought by this bill is already available under current law. People who provide drugs can already be prosecuted and convicted of involuntary and grossly negligent manslaughter.⁵ In the leading case, *State v. Thomas*, the Supreme Court recognized the inherent dangerousness of selling heroin justified a manslaughter conviction based on the sale of four bags of heroin to someone who ultimately died of an overdose.⁶ This conviction was in addition to convictions for distribution and reckless endangerment. Senate Bill 604 seeks to add another charge with the requirement of a consecutive sentence to all other counts, *removing judicial discretion* in a wide range of circumstances that are not appropriate for a blanket term.

This inflexible approach to harsh sentencing is particularly inappropriate given that prosecutions under this provision will inevitably focus predominantly on other individuals who use substances.⁷ People with substance use disorders often share or sell drugs to support their addiction and/or to help people they know stay out of withdrawal.⁸ Analyses of existing drug-induced homicide statutes around the country have found that the majority of resulting prosecutions do not

³ Maryland Department of Health, Overdose Dashboard, <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx#Overdose>.

⁴ Pew Charitable Trusts, Issue Brief: Drug Arrests Stayed High Even as Imprisonment Fell From 2009 to 2019 (2022), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/02/drug-arrests-stayed-high-even-as-imprisonment-fell-from-2009-to-2019>.

⁵ See, e.g., *State v. Thomas*, 464 Md. 133, 211 A.3d 274 (2019); *McCauley v. State*, 245 Md. App. 562 (2020); *Tolen v. State*, 242 Md. App. 288 (2019).

⁶ 464 Md. 133 (2019).

⁷ Although proposed Crim. Law 5-602.1 (A) of this bill seeks to exempt from prosecution the sharing without remuneration or exchange of goods, proposed Crim Law 5-602 (D) states that “each person who distributes or delivers heroin or fentanyl shall be considered to have violated this section.” This language will sweep into the law individuals who share, sell, or trade drugs to feed their own addiction. Most of the time, the person who ultimately provides the drugs that lead to an overdose is not a drug dealer but rather a fellow addict.

⁸ Susan G. Sherman, et al., *Drug Users’ Involvement in the Drug Economy: Implications for Harm Reduction and HIV Prevention Programs*, 79 J. Urban Health 266 (2002), <https://doi.org/10.1093/jurban/79.2.266> (among participants who had used heroin, cocaine, or crack cocaine in the last 6 months, 44% were involved in the drug economy, and those who reported daily use of drugs were even more likely to be involved in the drug economy); Kora DeBeck, et al., *Income Generating Activities of People who Inject Drugs*, 91 Drug Alcohol Depend. 50 (2007), [10.1016/j.drugalcdep.2007.05.003](https://doi.org/10.1016/j.drugalcdep.2007.05.003) (53% of participants, who were people who injected drugs, were engaged in prohibited economies, such as drug selling or sex work; 47% said they would no longer engage in those economies if they didn’t need money for drugs).

charge high-level distributors, but focus on the last person to touch the drugs – friends and family members who are the lowest person on the distribution chain, who may share drugs with no intention to sell.⁹ Examples from a review of these laws are:

- In New Jersey, 25 of 32 cases involved charging friends of the decedent who did not sell drugs in a significant way;
- In Wisconsin, 90% of cases charged friends, relatives, or a low-level dealer who was likely to be selling to support their own use.; and
- In six Illinois counties, the person most likely to be charged was the last person who was with the decedent.¹⁰

In addition to being ineffective at reducing drug use or distribution, laws like Senate Bill 604 **deter life-saving actions** by targeting the very people who are in the best position to summon help when an overdose occurs. They undermine Good Samaritan Laws, which protect individuals from arrest and prosecution of certain crimes when seeking medical attention for someone experiencing a medical emergency, such as an overdose. Studies have shown that the most cited reason people do not call for help during an overdose is fear of the police and arrest.¹¹ Senate Bill 604 will make people even more reluctant to call 911 and secure life-saving response services for people they use with, based on the fear, and reality, that they will be charged with a felony.

Punitive responses to the public health issues related to overdose do not work. As the number of drug-related prosecutions and resulting incarceration dramatically increased from the “War on Drugs,” so did the rate of fatal overdose. States with higher drug imprisonment rates do not exhibit lower rates of drug use or overdose.¹² In fact, by decreasing supply through prosecution and sentencing without addressing the demand of addiction with treatment services, these laws make society more dangerous. Studies show that the increased criminalization of substance misuse and

⁹ Health in Justice Lab, Drug Induced Homicide, <https://www.healthinjustice.org/drug-induced-homicide> (last accessed Feb. 7, 2025); Rosa Goldensohn, *They Shared Drugs. Someone Died. Does that Make them Killers?*, N.Y. Times (May 25, 2018); Lindsay LaSalle, An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane 42 (2017), https://drugpolicy.org/wp-content/uploads/2023/05/Overdose_Death_Is_Not_Murder_Report.pdf.

¹⁰ LaSalle, *supra* note 7.

¹¹ Stephen Koester et al., *Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose?*, 48 Int J Drug Policy 115 (2017), [10.1016/j.drugpo.2017.06.008](https://doi.org/10.1016/j.drugpo.2017.06.008).

¹² Pew Charitable Trusts, Issue Brief: More Imprisonment Does Not Reduce State Drug Problems (2018), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems>

sales increases violent and property crime and diverts limited resources away from addressing these offenses.¹³

Moreover, the reliance on incarceration will increase rather than reduce fatal overdoses. Multiple studies confirm that drug overdose is the leading cause of death after release from incarceration.¹⁴ In fact, the risk of a fatal overdose is more than 12 times higher within two weeks of release from jail or prison than at other times.¹⁵ A study from North Carolina showed a 40-fold increase in the odds of an opioid overdose in the first two weeks after release.¹⁶

A criminal legal system approach to this public health crisis of fatal overdoses will be costly, dangerous, and divert substantial resources from more effective measures. OPD estimates that defense costs alone will equal more than one million dollars per year.¹⁷ State's Attorneys and law enforcement should focus on enforcement of fraud, abuse and discrimination in health settings, documented issues in Baltimore,¹⁸ rather than using its limited resources on homicide charges for low-level dealers and shared users who are most likely to be connected to the drugs ingested in an overdose, but have no intent to sell.

¹³ Jared Grossi, The Relationship between the War on Drugs and Crime (May 3, 2020), <https://ssrn.com/abstract=3591798>.

¹⁴ Elizabeth L.C. Merrall, et al., Meta-analysis of drug-related deaths soon after release from prison. 105 *Addiction* 1545 (2010), <https://doi.org/10.1111/j.1360-0443.2010.02990.x>; Ingrid A. Binswanger, et al., *Release from Prison — A High Risk of Death for Former Inmates*, 356 *N. Engl. J. Med.* 157 (2007), <https://www.nejm.org/doi/full/10.1056/NEJMsa064115>.

¹⁵ New data: Solitary confinement increases risk of premature death after release, online at: https://www.prisonpolicy.org/blog/2020/10/13/solitary_mortality_risk/; ACLU, *Overjailed and Untreated* (201), available online at https://www.aclu.org/wp-content/uploads/legal-documents/20210625-mat-prison_1.pdf; <https://www.sciencedirect.com/science/article/abs/pii/S2949875923000218?via%3Dihub>.

¹⁶ Shabbar I. Ranapurwala, et al., *Opioid Overdose Mortality Among Former North Carolina Inmates: 2000–2015*, 108 *Am. J. Pub. Health* 1207 (2018), <https://doi.org/10.2105/AJPH.2018.304514>.

¹⁷ This estimate presumes that, if passed, this charge would be applied to one person in 70% of fatal overdoses for fentanyl or heroin. The law provides for multiple people to be prosecuted along the distribution chain, and theoretically could be applied in every overdose. We further assumed that 90% of people charged would also be accused of other offenses, and the increased effort would average 3 hours per case to account for the increases in factual elements to litigate, likelihood of trial due to sentencing exposure, and increased legal arguments. The remaining 10% of estimated cases in which other charges do not apply would require the effort of a high felony, which the national workload standards for public defense estimates as 99 hours per case. The additional time needed for both existing and additional cases total 15,259 hours, which is equivalent to 7 additional attorneys. The Maryland workload standards call for one secretary or clerk for every three attorneys and one social worker for every 8 attorneys. Thus, the fiscal impact for OPD would total the costs for 7 felony public defenders, three secretaries, and one social worker.

¹⁸ Alissa Zhu, Jessica Gallagher & Meredith Cohn, *They entered treatment. Drugs, overdoses and deaths followed*. The Baltimore Banner, December 20, 2024, <https://www.thebaltimorebanner.com/community/public-health/baltimore-opioid-drug-treatment-investigation-AOTRDIBQAJGHEFCLJ3NW2J5JN4/>.

More broadly, focusing effort and funding on services that are demonstrated to reduce drug use and overdose, such as evidence-based prevention programs, treatment services in the community and during incarceration, and harm reduction efforts like Naloxone distribution, are more effective approaches to the overdose crisis. Through grant-funded projects, OPD has incorporated peer recovery services in its representation in select jurisdictions, which has served more than 500 public defender clients with a drug addiction, connecting them to treatment programs, social service resources, and financial assistance while providing ongoing support, advocacy and education on harm reduction and recovery pathways. These clients report better wellbeing and have lower recidivism and overdose rates. State funds that would be required for the prosecution, defense, and incarceration under Senate Bill 604 would be better spent on supporting and expanding these types of programs.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 398.

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

**Authored by: Melissa Rothstein, Chief of External Affairs,
melissa.rothstein@maryland.gov, 410-767-9853.**

NCADD-MD - 2025 SB 604 UNF - Drug Induced Homicide

Uploaded by: Nancy Rosen-Cohen

Position: UNF



Senate Judicial Proceedings Committee

February 12, 2025

**Senate Bill 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)
Oppose**

NCADD-Maryland respectfully opposes the increased penalty proposed in Senate Bill 604. 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. And it's paying off.

Just last week, Governor Moore announced an historic decrease in the number of overdose deaths in Maryland. While the number is still too high, we are excited to be on the right path, and we believe Maryland should double down on the health interventions that are working, and not revert to old policies that have proven to fail.

We are appreciative that this bill includes a Good Samaritan exclusion. It is important that we do not inadvertently discourage people from calling 911 for help. We are also appreciative that the bill has language intended to exclude the sharing of drugs in the definition of distribution. We are not, however, convinced it will be effective. When two people pool their money to purchase drugs to share, we believe law enforcement will still be able to arrest people by claiming that money changed hands.

We know the intent of this bill is to get to the higher level dealers. We also 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 drugs to our loved ones, we have to look at a long history that shows we cannot arrest our way out of the disease of addiction. This is true about the overdose crisis as well.

NCADD-Maryland 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 respectfully ask for an unfavorable report on Senate Bill 604.

MD SB0604_Franklin LEAP Unfavorable.pdf

Uploaded by: Neill Franklin

Position: UNF



LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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Det. Sgt. Neil Woods, Fmr.
Staffordshire Moorlands, England
LEAP UK

Date: February 12, 2025

Re: SB 604

Position: OPPOSE

STATEMENT OF
MAJOR STANFORD “NEILL” FRANKLIN, [i]
Maryland State Police (Ret.)
ON BEHALF OF THE
LAW ENFORCEMENT ACTION PARTNERSHIP [iii]

SUBMITTED TO
THE MARYLAND SENATE
COMMITTEE ON JUDICIAL PROCEEDINGS
HON. WILLIAM C. SMITH, JR., CHAIR
HON. JEFF WALDSTREICHER, VICE CHAIR

IN OPPOSITION TO
SB604 – Criminal Law –
Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

Chair Smith, Vice Chair Waldstreicher, Distinguished Senators, on behalf of the Law Enforcement Action Partnership (LEAP), we oppose SB604 and urge you to give it an unfavorable report because it will:

- Be ineffective in saving lives;
- Would undermine Maryland’s “Good Samaritan” legislation passed in 2014;
- Be phenomenally expensive (DLS estimates predict \$4.9 million per year in 2035 and growing);
- Be ineffective in deterring the distribution of fentanyl and heroin;
- Lead to unjust punishment for persons suffering from serious substance use disorders and low-level drug distributors; and
- Disproportionately adversely impact racial minorities as applied.

LEAP greatly appreciates your intention and leadership, Vice Chair Waldstreicher, in introducing this bill that attempts to reduce the enormous number of fentanyl and heroin overdoses. Unfortunately, the mechanism will be ineffective because it simply would punish even more harshly than current law those who distribute those drugs. Every law enforcement officer and prosecutor appreciate legislation that is inspired by the desire to save lives. All of us at LEAP, having made criminal justice our life's work, have worked with survivors and victims of horrendous crimes, and we appreciate, far more than is commonly understood, the grievous losses they have endured, and understand that they are never adequately addressed by the justice system.

I am sure that you all agree that no matter how appealing and well-intentioned a legislative concept may be, it must be tested against the likelihood that it will be effective, that it will not be counterproductive, and that it advances the cause of justice.

SB604 has clearly been drafted with an attempt to minimize the potential of discouraging persons present at an overdose from calling 9-1-1 for emergency medical response because of a justifiable fear of prosecution for distribution. But the immunity from prosecution of those acting in good faith in subsection (g) is such a narrowly drawn exception that it will not be relied upon to summon help and will be ineffective at saving lives. As drafted, it is an invitation to further investigate and eventually prosecute "the person seeking, providing, or assisting with the provision of medical assistance," that is the person who is most likely – in the moment – to know the circumstances and location of the overdose victim to speed the emergency medical response to potentially save the victim's life. If that person must determine – was I getting food, shelter, reimbursement, sex, etc. from the person who is overdosing? – in order to conclude, I can call 9-1-1 and not get in trouble. That is not a setup for a rapid, life-saving response.

SB604 also attempts to exclude from its harsh penalties those who are using drugs with the person who died from an overdose, that is "sharing of heroin or fentanyl. . . without remuneration or the exchange of goods or services." In these sharing situations, a person who obtains and shares the drugs is reimbursed for the expense, either with money, shelter, transportation, food, or sex. Drug use among the user population is very much transactional. As drafted these features are too narrow and inadequate to achieve their just and life-saving objectives. I also believe it will undermine the current Good Samaritan provision in a sense that people involved in the sharing process, as hesitant as they are now, would certainly be more hesitant to summon help under SB604 if passed. One must consider how the new law is perceived by the people the law is targeting, not by those who draft and support it.

This bill, if implemented as intended, will be phenomenally expensive. The Fiscal Note of March 3, 2024, for SB1075 (2024), last session's version of this bill, reported the then-current average total cost per incarcerated person in Maryland as \$5,110 per month, or \$61,320 annually. Using FY 2023 prosecution data and estimating that 5% of those convicted of distributing narcotics would be sentenced under SB604, the Department of Legislative Services estimated eight individuals annually would be sentenced to the maximum consecutive 20-year penalty. Eight prisoners per year at \$61,320 each is \$490,560. That sum does not appear to be very large, except that it would repeat for the next 20 years for a total of \$9,811,200. **Every year that eight prisoners were sentenced, this bill would be creating an eventual expense of \$9,811,200 in 2024 dollars.** If enacted, after 10 years, **in 2035 alone, imprisonment under this bill would cost \$4,905,600** (in 2024 dollars). However, the cumulative cost over ten years of incarcerating just 8 persons convicted of this new offense by the end of 2035 would have been \$26,960,800.

Sadly, many of our law enforcement colleagues, in their passion to combat criminals, continue to rely on disproven concepts of drug trafficking and the behavior of men and women with serious opioid use disorders. One such concept is that low-level offenders, starting with people who use drugs, can be pressured with the threat of long sentences each in turn to inform on their supplier leading “up the chain” to successful investigation and prosecution of the most culpable high-level suppliers of drugs. In practice, this rarely occurs. Consequently, our courts and our prisons have large numbers of the lowest-level distributors who can be sentenced to 15 or 20 years, the kinds of long sentences that legislators envisioned for the most culpable offenders.

Let me also clarify a key feature about the drug traffic that this legislation does not and cannot address. The nation’s supply of illegal opioids is contaminated by fentanyl long before it gets to Maryland. Almost no distributor of illegal opioids based or operating in Maryland neighborhoods adds fentanyl to the drugs they are distributing or knows or controls the purity of the product they are distributing. In this sense, the offense in this bill lacks a fundamental feature of criminal law, the criminal intent. Implicitly, the typical defendant prosecuted under the bill may have been reckless regarding the probability that the product they distributed included fentanyl. Certainly, of course, there will be defendants who knew or who had reason to believe that they were distributing fentanyl. But there is no such explicit state of mind referenced in this bill.

Traditionally, acts of recklessness lack the intentionality that are characteristic of the greatest levels of culpability warranting long additional sentences. In Manslaughter by Vehicle, criminal negligence, the killing of another by operating a vehicle or vessel in a criminally negligent manner – is subject to up to 3 years imprisonment. Criminally negligent means with respect to a result or circumstance that the person should be aware, but fails to perceive, that the person’s conduct creates a substantial and unjustifiable risk that such result will occur and the failure to perceive constitutes a gross deviation from the standard or care that would be exercised by a reasonable person. (Md. Crim Law sec. 2-210(c)). If one kills another by operating a vehicle in a grossly negligent manner, you are subject to imprisonment of up to 10 years (1st offense) (Md. Crim Law. sec. 2-209). If you kill someone while driving a vehicle impaired by CDS, you can be imprisoned by up to 5 years. The 20 years here, for most of the persons who are likely to be charged, seems excessive compared to the penalties for killing someone in those other circumstances.

Regarding any assertion that this new offense will in any way deter the distribution of heroin or fentanyl: Every person who shares or distributes such drugs right now *knows* that they face a long sentence if they are caught. The addition of a new potential sentence enhancement, such as SB604, will not change their behavior – it will not deter those who are willing to risk the sentences that are already authorized in Maryland law (as well as those in Federal law). Both low-level and high-level distributors of opioids are already subject to long Maryland sentences. First, a simple distribution violation of Maryland Criminal Law § 5-602, “Distributing, possessing with intent to distribute, or dispensing controlled dangerous substance,” if a narcotic like heroin or fentanyl, now carries a prison sentence of up to 20 years for a first offense (Md. Crim. L. § 5-608 (a)). If second offense after a serious first offense, a prison sentence of up to 25 years (Md. Crim. L. § 5-608 (c)).

If fentanyl or its analogues are distributed in a first offense, current law provides for an additional consecutive sentence of 10 years (Md. Crim. L. § 5-608.1 (b)). Then there is currently already a mandatory minimum sentence of 5 years imprisonment for the distribution of 5 pure grams or more of fentanyl or a mixture weighing more than

28 grams that contains *a detectable amount* of fentanyl (and these amounts can be accumulated by any number of transactions that occur in a 90-day period) (Md. Crim. L. § 5-612).

And the higher-level distributors (grandly characterized as drug kingpins: “an organizer, supervisor, financier, or manager who acts as a co-conspirator in a conspiracy to manufacture, distribute, dispense, transport in, or bring into the State a controlled dangerous substance”) are further subject to a mandatory minimum of 20 years imprisonment up to 40 years. Very simply, the likelihood that SB604, if enacted, will deter anyone from selling fentanyl or heroin is close to zero.

The much greater likelihood is that those who will be prosecuted under this new section are persons who were using drugs or sharing their drugs or who sold the small quantity of drugs that triggered the fatal overdose. These are going to be the family members of the deceased, perhaps close friends or drug sharing acquaintances, or persons prevailed upon by the deceased who is desperate to use. I can recall two such Maryland cases in 2017 where I was designated as an expert witness for the defense. In both cases, the accused were friends of the deceased, and they were charged with murder. These were not the high-level distributors.

While SB604 relies on misconceptions of the malicious drug dealer, knowingly pushing fentanyl-tainted drugs on customers in hopes of getting them hooked, this is very rarely the case. Instead, many of those prosecuted for drug overdose deaths are themselves users and could have just as easily been the victim. The deceased, meanwhile, are typically individuals who have long struggled with opioid use disorder, and who in some cases may have deliberately sought out drugs containing fentanyl.

Additionally, as noted in the 2023 Maryland State Commission on Criminal Sentencing Policy report, “An Assessment of Racial Differences in Maryland Guidelines-Eligible Sentencing Events,” [iii] Blacks are arrested, prosecuted and sentenced at significantly higher rates than White individuals for similar drug offenses. As such, there is no reason to believe that the results of SB604 will be any different.

We must also consider the effects of the COVID-19 outbreak of 2020 where addiction and overdose death rates soared in just about every category in the United States and Canada. The increases are most likely attributed to changes in the illegal drug supply, increased use of substances to cope with stress, and less access to support services for people who use drugs. Post COVID-19, over the past couple of years, Canada has dramatically increased support services for people who use drugs, resulting in a significant downward trend of overdose deaths, without becoming overly aggressive with punitive drug laws.

We at LEAP strongly suggest learning from the successes in Canada by increasing the availability of drug user and mental health support services, establishing a meaningful number of overdose prevention sites, and continually working to remove the stigma associated with drug use. Environments conducive to alienating drug users from society, pushing them farther into the shadows of dangerous use habits, must be eliminated. We must continue working toward creating environments of connection for those who use drugs.

Hopefully, this committee agrees that low-level drug offenders, most of whom have serious substance use disorders, do not deserve a two-decade term of imprisonment. The most prominent feature of these prosecutions

will be their relative infrequency and randomness. It is not justice to randomly punish a handful of offenders out of a great mass of similarly situated persons.

I think we can all agree that in the overwhelming majority of these cases, the deceased has been using these drugs for some time or sought them out. The likelihood that the defendant prosecuted under a bill like SB604 is the allegorical drug “pusher” luring unsuspecting young people to try the lethal drug for the first time in order to “hook” them as customers is extremely small.

For these reasons, we ask that you oppose SB 604 and instead support policies aimed toward prevention, treatment, and public safety.

[i] Major Neill Franklin (Ret.) is a distinguished figure in law enforcement, boasting a remarkable 34-year career that includes notable positions within both the Maryland State Police and the Baltimore Police Department. Franklin's extensive service began with the Maryland State Police, where he dedicated 23 years of his life to public safety. His exceptional performance led him to be selected in 2000 by the Commissioner of the Baltimore Police Department to reconstruct and lead the Education and Training Section in Baltimore.

Throughout his tenure with the Maryland State Police, Franklin made significant contributions, notably serving as the commander of the Education and Training Division and the Bureau of Drug and Criminal Enforcement. He was instrumental in the creation and oversight of the first Domestic Violence Investigative Units for the Maryland State Police, showcasing his commitment to progressive policing practices.

Franklin's perspective on the War on Drugs was profoundly shaped by the community impacts he witnessed during his career. Influenced by former Baltimore Mayor Kurt Schmoke, who famously criticized the drug war's violent repercussions, Franklin became a staunch advocate for reform. This commitment was further fueled by the heartbreaking loss of his close friend, Maryland State Police Corporal Ed Toatley, who was killed during an undercover drug operation. This tragedy solidified his resolve to challenge and change ineffective drug policies.

In 2010, Franklin transitioned from active duty to leadership as the Executive Director of the Law Enforcement Action Partnership, a role he held for a decade until his retirement in 2020. Under his guidance, the organization worked towards reshaping public safety strategies and advocating for reformatory approaches to drug policy.

Franklin's expertise in policing has also been recognized in judicial settings, where he has served as an expert witness in both Maryland Circuit and federal district courts. His commitment to community engagement and reform extends beyond his professional duties; he has held positions on various boards, including the Youth & Police Initiative, the Alliance for Safety and Justice, the National Organization of Retired State Troopers, the Faith Based Community Council on Law Enforcement and Intelligence, and TurnAround Inc. among others.

Through his extensive service and advocacy, Major Neill Franklin has made a lasting impact on law enforcement practices and community safety initiatives, demonstrating a profound commitment to justice and reform.

[ii] The Law Enforcement Action Partnership (LEA) is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience. Our mission is to make communities safer by focusing law enforcement resources on the greatest threats to public safety and working toward healing police-community relations.

[iii] [2023 Maryland State Commission on Criminal Sentencing Policy report, “An Assessment of Racial Differences in Maryland Guidelines-Eligible Sentencing Events”](#)

Unfavorable DIH.pdf

Uploaded by: Samantha Kerr

Position: UNF



February 12, 2025

**Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION**

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

Baltimore Harm Reduction strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. **Baltimore Harm Reduction Coalition urges the Senate Judicial Proceedings Committee to oppose SB 604.**

Broken No More Opposition to SB604.pdf

Uploaded by: Samuel Snodgrass

Position: UNF



February 12, 2025

Senate Judicial Proceedings Committee

TESTIMONY IN OPPOSITION

SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

(Victoria, Scottie, Ashleigh, and Yader's Law)

Broken No More is an organization composed primarily of parents who have lost the one they love to overdose. Our mission is to honor those we have lost by doing all we can to keep other parents from suffering the same pain and grief of this horrific loss.

Broken No More strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis.

Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

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scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic.

Research has demonstrated that punitive drug laws such as DIH laws do not decrease drug use, drug sales, or overdose deaths. What DIH laws do accomplish is fear. And as noted above, during an overdose situation, fear kills. The passage of SB604 will not protect children from drug-related deaths but, instead, will increase them. And more parents will bury their children.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. **Broken No More urges the Senate Judicial Proceedings Committee to oppose SB 604.**

SB 604.pdf

Uploaded by: Sherrie Smith

Position: UNF

Senate Bill 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

Position: UNFAVORABLE

February 10, 2025

The Honorable William C. Smith, Jr., Esq.

Chairman, Senate Judiciary Proceedings Committee

Miller Senate Office Building, 2 East Wing

11 Bladen St., Annapolis, MD 21401

Dear Honorable William C. Smith, Jr., Esq.,

I am writing to you regarding Senate Bill 604 and am urging you not to pass this bill. In my opinion, this bill will do nothing to deter the use of fentanyl, cocaine, and/or heroin and will only serve to overwhelm an already overwhelmed justice system. Most importantly it will do nothing to stop or curb the use of any drug because it doesn't get to the heart of the problem of drug overdoses.

I am writing you not only as a concerned citizen but as a mother who lost her son to accidental fentanyl poisoning in recreational cocaine in August 2021. My son, Andrew, did not have an addiction. He does not fit the picture of what an "overdose" supposedly looks like. He was never in rehab. He had a college education and was working on his MBA at the University of Baltimore, was an athlete, held a full time job in finance and loved life. You always know when Andrew was in the house. He gave the best hugs. But because fentanyl was involved, that's how the ME classified his death. I never had to deal with a child who was in/out of rehab or had a history of drug abuse. What I had was one stinking lousy day when a Baltimore City detective came to my door to bring me the news of Andrew's passing. It's my understanding that Andrew's death is what the majority of "overdose" deaths are today, people who do not have addictions but want to get that "high."

Andrew didn't buy the cocaine the night he died, his friend bought it from someone in Baltimore, probably on the streets. The blessing in all this (if you can have a blessing) is that his friend called 911 and stayed with Andrew until the EMTs took him to the hospital where he became yet another statistical number. His friend answered all of the detective's questions about what happened. Thank you for the State's Good Samaritan law!

If SB 604 is passed, the person who sold Andrew's friend the cocaine could get 20 years in prison vs. the current 10 years. Putting this person in prison for 20 years will do absolutely nothing to stop the influx of either fentanyl or cocaine. If the State of Maryland is serious about

reducing the drug problems, Harm Reduction and Education are the absolute best ways to do that. I see the Maryland Department of Health is running ads on TV for Naloxone. Where are the ads for fentanyl strips which are legal? I believe whole-heartedly that if Andrew and his friend had fentanyl strips that awful night in August, Andrew would be here today.

I was informed about SB 604 by Jessie Dunleavy as she was one of the people who testified against this bill. To be extremely blunt, all this bill will do is go after the "low-hanging fruit," i.e. the person on the street selling the drugs and will not get to the heart of the issue. The person selling the drugs isn't necessarily the person who mixed the fentanyl with the cocaine. That person is farther up the food chain, if you will, and who knows how/where to find them if they can be found.

In many ways all this bill is a "feel good" bill that accomplishes nothing. The State's tax dollars should be spent in ways that get to the crux of the issue. Since locating the person who poisoned the cocaine is almost impossible, Harm Reduction and Education should be used. I've lost track of the number of people who told me that they, too, tried cocaine so this is a much bigger problem that another 10 years in prison won't solve.

After Andrew died, my daughter ran into a friend who owns a restaurant in Baltimore. The friend, upon learning about Andrew's death, told Lindsay that one of her servers recently passed away from accidental fentanyl poisoning in recreational cocaine. She told Lindsay that the hospitality industry has a high percentage of these deaths due to the fact that servers will work 2-3 jobs to make ends meet and will use cocaine to help them get through these shifts. The owner and Lindsay set up 2 harm reduction events in the owner's restaurant and everyone who attended was given a presentation and received a package of fentanyl strips and Naloxone when they left, all provided by the Maryland Department of Health.

Again, I urge to to vote against SB 604. We don't need stiffer sentences, we need programs such as the one that I described above. Stiffer sentences are equivalent to the "Just Say No" policies from the 1980s and 1990s which studies have shown were totally ineffective. But they were a "feel good" kinda thing.

Best regards,

Sherrie Burton Smith

103 S Cherry Grove Avenue

Annapolis, MD 21401

410-353-6992

SB604_Opposition.SOusterman.pdf

Uploaded by: susan ousterman

Position: UNF

February 10, 2025

Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION

SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)

I strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law).

My name is Susan Ousterman and I hope you will read my words before you vote on SB604. In 2020, I lost my son, Tyler, to an accidental overdose involving heroin, fentanyl, and xylazine. Tyler struggled with anxiety, and like many teenagers, he turned to substances in high school to cope. Unlike previous generations, he had easier access to prescription opioids than less addictive substances, which quickly led to dependence. He didn't want to be dependent and sought help. Instead of finding support, he was met with endless barriers—from bed shortages to inadequate healthcare and a punitive legal system that treated him as disposable rather than someone in need of care. Tyler's death was preventable, and I have dedicated my life to removing barriers to wellness and improving health outcomes to ultimately save other parents from living an incredibly painful life without their children. This bill would do the exact opposite.

I'll never forget the fear in Tyler's eyes the first time he experienced withdrawal when he realized he was dependent. Desperate for help, he came to me, and on the advice of our family doctor, I took him to the emergency room. Under any other circumstance, what followed would be considered medical negligence.

As we debated whether to send him to the only facility covered by Tricare, more than 400 miles away, Tyler grew sicker by the minute. Feeling like he had no other option, he purchased heroin to ease his symptoms and crashed his car on the way home. The next morning, he was on a flight to what would be his first of many 30-day rehab stays. The only real tool he was given was a single naltrexone injection, which insurance refused to cover once he returned home.

Tyler attempted to access treatment more than a dozen times over 6 years, only to face barrier after barrier in a system that seemed wholly apathetic to his chance at recovery. He was rarely offered medication, never received the mental health care he desperately needed, and endured excruciatingly long waits for services.

On one occasion, Tyler was denied entry to a detox center because his drug test came back negative. At the time, many facilities did not test for fentanyl, which he had been using. Determined to access care, he left, used drugs to ensure he would test positive, and overdosed in the lobby of the very facility where he had sought help. He was revived with naloxone—yet in another eye-opening display of the institutional flaws preventing his recovery, Tyler was still sent home due to a lack of available beds.

Tyler was even further harmed by a criminal legal system that punishes people who use substances rather than helping them find healthier coping skills. Being labeled a “criminal” only added to his feelings of shame and hopelessness. He was arrested for possession of an unused syringe—an act of harm reduction that should have been encouraged rather than criminalized. Fast forward two years with a few months of sobriety, he was incarcerated for two weeks due to an outstanding bench warrant after missing a probation appointment because he was undergoing open-heart surgery to treat the life-threatening condition he contracted from reusing syringes (Infective endocarditis).

As a condition of his release, he was forced into a county-approved recovery house that prohibited medical cannabis, a tool he found helpful in controlling his long-term opioid withdrawal symptoms. Left with no accessible or effective options, he returned to use shortly thereafter. When he attempted detox once again a couple of weeks later, he discovered that his Medicaid had been (unlawfully) terminated due to his incarceration. Because of his medical cannabis status, an incompetent state official, and conflicts between state and federal policies, he was also denied county funding for treatment. In desperation, we paid cash to a treatment facility, only to find out later it was fraudulent, as I now understand a significant portion of them are.

Tyler did not want to use drugs. He wanted to heal and make his family proud. He wanted to be a father. He felt no pleasure or “high” when he used. With hopeless desperation in his eyes, these are the frustrations he voiced to me a

week after he was denied help and just an hour before I found him deceased on the floor of a gas station bathroom two blocks from my home.

These are not isolated failures. Tens of thousands of people die unnecessarily each year due to the failures of our medical and legal systems. If we are serious about saving lives, we must shift from punishment to public health, from stigma to science. If you truly value our losses and are committed to saving lives, as many of you have stated, then your voting record must reflect that commitment.

I understand you may have heard from grieving parents who support harsher punishments. I have, too. Many blame a dealer, the border, or China for their child's death. Some say their child was "poisoned by fentanyl." These beliefs are shaped by decades of failed drug policy that taught parents like me to see our children's struggles as moral failings rather than health crises. The lack of bereavement services for families who lose loved ones to overdose leaves many unable to process their grief, and in their pain, they seek vengeance. But once they understand that punitive measures will only lead to more deaths, their views shift.

My heart goes out to the family of Laken Riley. I know the unbearable pain of losing a child. But in this country, we have created a hierarchy of victimhood, where some lives are deemed more valuable than others. My child's death was preventable, too—but not at the hands of a "criminal immigrant," not because of bad parenting, and not because he was morally deficient. He, and hundreds of thousands of others, died because lawmakers continue to prioritize punishment over treatment, incarceration over care, and stigma over science.

For decades, the moral failure narrative surrounding drug use has left parents like me questioning whether we did enough. But I no longer question it. I followed the rules society told me to follow, and my son is still dead. My parenting did not fail him. Our policies did.

We need immediate access to detox services and recovery medications, not more incarceration. We need to end discriminatory medical practices against people who use substances, not reinforce stigma. We need to improve the quality of treatment, not impose mandatory minimums and create more barriers to lifesaving research. Above all, we need drug policy rooted in evidence and compassion, recognizing that people use substances for a reason—most often to relieve pain, whether physical or psychological. These laws do not stop big drug dealers or cartels. They prosecute friends and family members who are just trying to survive. They are no different than our kids.

These punitive measures only push people into riskier behaviors, increase the likelihood that someone will die rather than call for help, and make our communities less safe. How many more Americans must die before we finally admit that the War on Drugs was a failure?

This bill would create a new enhanced penalty of up to 20 years in prison for those found liable for a fatal overdose. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to instead focus on proven solutions that prevent overdose like evidence-based treatment and education.

The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. The General Assembly should prioritize preventing overdose and bringing an end to this crisis. Unfortunately, SB604 is counterproductive despite being well-intended. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. SB604 proposes up to 20 additional years for those liable for distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like SB604 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. That will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities rather than improving the overdose epidemic. You may wonder why someone from Pennsylvania cares enough to submit testimony for this legislation, but I hope you understand that our community of grieving families transcends state borders. We are a family, forever bonded by unfathomable pain. Each time a law is passed in one state, another uses it as a precedent to pass one in their state.

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. I urge the Senate Judicial Proceedings Committee to oppose SB 604.

If you have any questions, please do not hesitate to reach out.

Sincerely,

Susan Ousterman
2747 Lafayette Avenue
Bensalem, PA 19020
(267)391-6038
sousterman@gmail.com

MASDP_Testimony_SB604_Unfavorable.pdf

Uploaded by: Thomas Higdon

Position: UNF

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

February 12, 2025

RE: Senate Bill 604 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law) – UNFAVORABLE

Dear Chair Smith and Members of the Senate Judicial Proceedings Committee,

I am writing on behalf of the **Maryland Alliance for Sensible Drug Policy (MASDP)** – a newly formed membership organization led by individuals with lived and living experience with substance use – to express our **strong opposition to Senate Bill 604, the proposed Drug-Induced Homicide (DIH) legislation**. As a survivor of addiction and the War on Drugs, I have witnessed firsthand the devastating impact of punitive drug policies on individuals, families, and communities. This bill represents a dangerous regression, reviving the failed prohibitionist approaches of the past and exacerbating the harms they have already inflicted.

There is no evidence that DIH laws prevent overdose deaths. Since 2011, states across the country have been jumping on the DIH bandwagon and the number of these laws has increased by more than 300%. If such laws were effective, we would expect to see a reduction in fatal overdoses. Yet, from 2003 to 2023 the age-adjusted rate of drug overdose deaths increased 252%. DIH laws are performative, offering a false promise of justice while failing to address the root causes of substance use disorder or the overdose crisis.

The reality is that most people who sell drugs are not dangerous traffickers or kingpins—they are individuals struggling with addiction, often selling substances simply to support their own survival. In states with DIH laws, studies have shown that half of those charged had minimal involvement in drug sales, frequently only sharing or facilitating access rather than engaging in large-scale distribution; most were friends, family members, and romantic partners of the deceased—people who are often devastated by the loss themselves. If this misguided bill were adopted, we can expect the same outcomes here in Maryland.

Furthermore, every harm we associate with illicit substances—overdose deaths, violence, contaminated drug supplies, and mass incarceration—is either caused or exacerbated by prohibitionist policies like DIH laws. Instead of criminalizing people who use drugs and those in their social circles, we should invest in proven public health strategies such as harm reduction services, expanded access to treatment, and community-based recovery support.

Please do not repeat the mistakes of the past by doubling down on punitive approaches that only cause more harm. **We respectfully urge the Senate Judicial Proceedings Committee to give Senate Bill 604 an unfavorable report.**

Thank you for your time and consideration.

Sincerely,

Thomas C. Higdon
Executive Director
Maryland Alliance for Sensible Drug Policy
thigdon@masdp.org
443-362-2764

SB604 written testimony.pdf

Uploaded by: Toni Torsch

Position: UNF



**Daniel Carl Torsch
Foundation**
New day. New beginning.

**Senate Judicial Proceedings Committee
TESTIMONY IN OPPOSITION 2/12/2025**

*SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)*

The Daniel Carl Torsch Foundation strongly opposes SB 604 Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law). This bill of another new penalty for those who are thought to and found liable for a fatal overdose will do nothing to reduce fatal overdoses. The intent behind this bill may be guided by profound grief and well-meaning but it will only cause more harm. This approach of using longer and longer prison sentences to address problems related to drug use has been tried before and has failed. We urge the General Assembly to focus on proven solutions that prevent an overdose like evidence-based programs, treatment and education.

While the intent of this bill is to target those involved in drug-related deaths, it primarily affects drug users – the low hanging fruit. Our outreach team are in Baltimore County and surrounding communities daily and to give you an example of a “drug deal” that we’ve seen: ***Jane goes to buy heroin capsules for herself and other friends, she hands out their share – they use and someone dies from an overdose – according to this bill, Jane can then be charged with homicide.*** The overdose epidemic has been a tragedy that has cost the lives of thousands of Marylanders. Laws like SB604, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. Distributing fentanyl already carries a penalty of up to 30 years in prison. The threat of 50 years in prison will be no more effective of a deterrent than 30 years. While the deterrent effect of SB604 will be negligible, it will impact mass incarceration and state prison costs.

SB604 will certainly have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. SB604 has some protections for those reporting overdoses but they do not apply to all scenarios. If SB604 passes, it is likely that some who report overdoses will get prosecuted for DIH. It will not take long for the communities to learn about the new penalty and will discourage scores of others who use drugs from reporting an overdose, most likely increasing the number of fatalities rather than improving the overdose epidemic.

It is our hope that you focus on investments in prevention and treatment rather than new harsh penalties. **The Daniel Carl Torsch Foundation urges the Senate Judicial Proceedings Committee to oppose SB 604.**

Toni Torsch, Director

SB 604 - Distribution - SWASC - UNF.pdf

Uploaded by: UM SWASC

Position: UNF

TESTIMONY IN OPPOSITION OF SENATE BILL 604

Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

Judicial Proceeding Committee
February 12, 2025

Social Work Advocates for Social Change strongly opposes SB 604, which would impose an additional penalty of up to 20 years in prison for those found liable for a fatal overdose resulting from the distribution of heroin or fentanyl. While this bill intends to prevent overdose deaths, the long history of criminalization as a deterrent to drug use has repeatedly proven this approach not only ineffective, but an active barrier to person-centered recovery efforts. **We strongly urge an unfavorable report on this bill in favor of evidence-based solutions that prioritize harm reduction, public health, and support for people who use drugs.**

The overdose crisis has devastated families and communities across Maryland, and it continues to claim thousands of lives each year.¹ While the desire to address this crisis is understandable, SB 604 is a step in the wrong direction. The proposed law would expand existing severe penalties for drug distribution and sharing, adding 20 additional years of prison time for those convicted in overdose cases. **Harsher prison sentences do nothing to reduce the rates of overdose and drug use, but rather contribute to the endless cycle of mass incarceration that disproportionately impacts marginalized communities.**²

Despite altruistic aims, evidence from other states with drug-induced homicide laws demonstrate SB 604 would ultimately hurt the people it purports to protect.

According to a national 2021 study, 50% of the people prosecuted under drug-induced homicide laws were friends, family, or romantic partners of the people who passed from overdose.³ The nature of trusted social circles that develop in response to illicit drug use means that the buying, selling, and trading of substances often happens within trusted peer networks of people who use drugs.⁴ **SB 604 would ultimately leave peer-level friends and family members who distribute drugs to trusted loved ones at risk of egregious criminal penalties when they should instead be offered treatment and**

¹ Maryland Department of Health. (2023, August). *Unintentional drug- and alcohol-related intoxication deaths in Maryland, 2021*. https://health.maryland.gov/vsa/Documents/Overdose/2021_AnnualIntoxDeathReport.pdf

² Morrissey, Brandon, Taleed El-Sabawi, and Jennifer J Carroll. "Prosecuting Overdose: An Exploratory Study of Prosecutorial Motivations for Drug-Induced Homicide Prosecutions in North Carolina."

³ Health Injustice Action Lab. *Drug-Induced Homicide*. 2025, www.healthinjustice.org/drug-induced-homicide. Accessed 7 Feb. 2025.

⁴ Cunningham, Sarah. "The Harmful Impact of Drug-Induced Homicide Laws on People Who Use Drugs." *Duke Law Journal*, vol. 69, no. 6, 2020, pp. 1171-1214, scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4049&context=dlj. Accessed 7 Feb. 2025.

resources.

Drug-induced homicide laws such as SB 604 exacerbate existing racial inequities in drug sentencing. National data shows that in states where drug-induced homicide laws exist, Black defendants were more likely to be charged, prosecuted, and often faced longer sentences compared to their white counterparts, despite white and Black people using drugs at the same rate.⁵ If passed, SB 604 would only add to the broader systemic issue of mass incarceration while disproportionately affecting marginalized communities and people of color.

Maryland should invest in solutions that prevent overdose and support individuals struggling with substance use disorders. Punitive laws like SB 604 will do little to disrupt the drug supply or target high-level dealers and will instead levy decades of jail time on individuals who use drugs and their loved ones who may use in community with them. Maryland must reject antiquated ideas of ever-increasing criminal penalties to combat the opioid crisis and turn instead to recovery efforts that meet people where they are regarding their substance use, combined with increased access to harm reduction services such as overdose prevention sites and syringe service programs.

Social Work Advocates for Social Change urges an unfavorable report on SB 604.

Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy, and to engage the communities impacted by public policy in the policymaking process.

⁵ Drug Policy Alliance. Drug-Induced Homicide Laws Fact Sheet. Aug. 2024, www.drugpolicy.org/wp-content/uploads/2024/08/DPA-DIHLawFactSheet-InDesign-Interactive.pdf. Accessed 7 Feb. 2025.

sb604.pdf

Uploaded by: Will Vormelker

Position: UNF

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
JUDGE
FREDERICK COUNTY
VICE-CHAIR



KELLEY O'CONNOR
ASSISTANT STATE COURT
ADMINISTRATOR
GOVERNMENT RELATIONS
AND PUBLIC AFFAIRS
P: (410) 260-1560

MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq., Staff
410-260-1523
RE: Senate Bill 604
Criminal Law – Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh and Yader's Law)
DATE: February 5, 2026
(2/12)
POSITION: Oppose only as to the provision on page 2, lines 28 through 30

The Maryland Judiciary has no position on the policy aims of this legislation and only opposes the provision on page 2, lines 28 through 30, which requires that a sentence imposed shall be consecutive. The Judiciary traditionally opposes legislation that includes mandatory provisions as they intrude on judicial discretion. The Judiciary believes it is important for judges to weigh the unique facts and circumstances for each individual case when imposing a sentence. Mandatory provisions prevent the judge from considering those unique factors. Recognizing that lawmakers are responsible for enacting penalties for crimes, judges are mindful of various mitigating factors in crafting a sentence that most appropriately fits the individual defendant and the crime.

cc. Hon. Jeff Waldstreicher
Judicial Council
Legislative Committee
Kelley O'Connor