



February 18, 2025

**House Judiciary Committee
TESTIMONY IN OPPOSITION**

*HB 1398 - 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.

The Vilomah Memorial Foundation strongly opposes HB 1398 - 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, HB1398 is counterproductive despite being well-intended. Laws like HB1398, often called drug-induced homicide (DIH) laws, seek to prevent overdose by using harsh penalties as a deterrent. HB1398 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 HB1398 will be negligible, it will impact mass incarceration and state prison costs.

DIH laws like HB1398 also have unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. HB1398 has some protections for those reporting overdoses but they do not apply to all scenarios. If HB1398 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.

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.

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 Memorial Foundation urges the House Judiciary Committee to oppose HB1398.**