

HB 1398 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death

Position: UNFAVORABLE

February 14, 2025

The Honorable Luke Clippinger

Chairman, House Judiciary Committee

100-01 Taylor House Office Building

Annapolis, MD 21401

Dear Chairman Clippinger and members of the House Judiciary Committee,

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 HB 1398 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 HB 1398 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 HB 1398. 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