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## TESTIMONY IN OPPOSITION OF HOUSE BILL 1398

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

Judiciary Committee

February 18, 2025

**Social Work Advocates for Social Change strongly opposes HB 1398**, 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 the intention of this bill is 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<sup>1</sup>.** While the desire to address this crisis is understandable, HB 1398 is a step in the wrong direction. The proposed law would expand already severe penalties for drug distribution and sharing, adding 20 additional years of prison time for those convicted in overdose cases. However, studies have shown that these harsher prison sentences do nothing to reduce the rates of overdose and drug use, instead contributing to the endless cycle of mass incarceration that disproportionately impacts marginalized communities<sup>2</sup>.

**Despite altruistic aims, evidence from other states with drug-induced homicide laws shows how HB 1398 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<sup>3</sup>. 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<sup>4</sup>. HB 1398 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 resources.

**Drug-induced homicide laws such as HB 1398 also exacerbate existing racial**

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<sup>1</sup> 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](https://health.maryland.gov/vsa/Documents/Overdose/2021_AnnualIntoxDeathReport.pdf)

<sup>2</sup> 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."

<sup>3</sup> Health Injustice Action Lab. *Drug-Induced Homicide*. 2025, [www.healthinjustice.org/drug-induced-homicide](http://www.healthinjustice.org/drug-induced-homicide). Accessed 7 Feb. 2025.

<sup>4</sup> 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](http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4049&context=dlj). Accessed 7 Feb. 2025.

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**inequities in drug sentencing.** National data shows that in states where drug-induced homicide laws exist, Black defendants were more likely to be charged and prosecuted and often faced longer sentences compared to their white counterparts, despite white and Black people using drugs at the same rate<sup>5</sup>. If passed, HB 1398 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 HB 1398 will do little to disrupt 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 in regards to 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 HB 1398.**

*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.*

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<sup>5</sup> Drug Policy Alliance. Drug-Induced Homicide Laws Fact Sheet. Aug. 2024, [www.drugpolicy.org/wp-content/uploads/2024/08/DPA-DIHLawFactSheet-InDesign-Interactive.pdf](http://www.drugpolicy.org/wp-content/uploads/2024/08/DPA-DIHLawFactSheet-InDesign-Interactive.pdf). Accessed 7 Feb. 2025.