

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

My name is Morgan Carroll and I am a resident of District 46 in Baltimore City, Maryland. **I am writing to you today in strong opposition to HB 1398.** In November of 2022 I lost my father, Dennis Carroll, to a fatal overdose. Losing a father before you even turn thirty is an unthinkable tragedy and yet I am not alone in this experience. I have had three close friends lose their fathers to this disease much the same and this suffering collectively grows across our state as more lives are lost each day. **But this is not a problem we can arrest our way out of.** What our state needs are proven methods to reduce overdose deaths, not more laws that target those suffering from addiction. Despite the argument that it is the intent of the bill to target high level dealers, the realities are already well documented. 25 of the 32 drug-induced prosecutions identified by the New Jersey Law Journal in the early 2000s involved friends of the deceased who were not regularly selling drugs.¹ Of those charged in southeastern Wisconsin, 90% were family/friends of the deceased or people with their own substance use disorder who sold to support their own addiction.² We must not pass a bill based on intent when the actual implementation has already been proven in 20 other states — **the reality of the data outweighs good intentions.**

Losing my father has been devastating, but losing both of my parents would have been unbearable. My mother was in active addiction with my father at the time of his death. If drug-induced homicide laws were in place at this time, the data shows it is very likely that she would have been arrested for his death. Luckily this was not the case and my mom is now on a path to recovery and healing that would have been impossible had she been thrown into the criminal justice system.

The sponsors of this bill state that this is about accountability — **I would take my father's life over accountability any day.** My dad could have been saved had he used at an Overdose Prevention Site. He could have been saved if there was a person nearby who had Naloxone and the expertise to administer it. I would rather advocate for the things that would have saved my father's life than hold the person accountable after his death. We should be focusing on saving lives like my dad Dennis, Victoria, Scottie, Ashley, and Yader, not on punishing those "responsible" after they've passed. Holding people accountable won't bring anyone back, and it

¹ LaSalle, L. (2017) *An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane*. The Drug Policy Alliance. https://drugpolicy.org/wp-content/uploads/2023/05/Overdose_Death_Is_Not_Murder_Report.pdf

² Butler, J., Fuhrmann, M., Jacobus, R., Komar, L., Krinsky, M., Nayak, M., Neath, S., and Nidiry, R. (2022) *Issues at a Glance: Drug-Induced Homicide Prosecutions*. Fair and Just Prosecution. <https://fairandjustprosecution.org/wp-content/uploads/2022/07/FJP-Drug-Induced-Homicide-Brief.pdf>

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wont stop more people from dying. **Addiction is the culprit and that is what we must focus our resources on.**

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. I 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. It doesn't matter if the intention is not to prosecute friends, family, and companions. That split second where they debate the recent news they've heard about this new DIH law, **that split second of "do I call or do I not" – that is the difference between life and death for someone overdosing.**

The General Assembly should focus on investments in prevention and treatment rather than new harsh penalties. This is what will save lives and protect other Marylanders from the pain of losing a loved one to this deadly disease.

I urge an unfavorable report on HB 1398.

Respectfully,

Morgan H. Carroll