



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 Yaders Law)

My name is Rachel and I am a co-manager of a syringe service program and harm reduction group called Baltimore Harm Reduction Coalition. I work with hundreds of your constituents every week who already face unjust, targeted criminalization that is unduly punitive and inhumane.

I strongly oppose HB 1398 - Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yaders Law). This bill would create a new enhanced penalty of up to 20 years in prison for those found presumably 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. 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 needs to 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 presumably 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.



This legislation as written, and ultimately in intention, is unclear, vague, and makes many uninformed assumptions about overdose, liability, and who is most at risk of harm. This leaves too much room for a law like this to be inconsistently enforced, causing wider consequences than intended or necessary.

Finding a distinction between people who distribute drugs and those who are at risk of death by overdose is a difficult line to draw. There is overlap between and among these populations, who are ultimately people using the tools that are accessible to them to survive. Legislation, community education, and funding should be directed towards supportive resources for communities that are historically limited in access to healthy resources.

Prosecution and harsh penalties do not prevent drug overdose. Prosecution does not change the current drug supply that leads to the preventable deaths of Marylanders. Instead, it further criminalizes and ostracizes members of our society who deserve the dignity of being offered the opportunities to support themselves and their families healthily and sustainably, instead of being further criminalized and isolated from society.

I, Rachel Luce, strongly urge the House Judiciary Committee to oppose HB1398. Please feel free to contact me with any questions.

Thank you for your consideration,
Rachel Luce