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HB 1398

February 18, 2025

TO: Members of the House Judiciary Committee

FROM: Nina Themelis, Director of Mayor's Office of Government Relations

RE: House Bill 1398 – Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death (Victoria, Scottie, Ashleigh, and Yader's Law)

POSITION: **Unfavorable**

Chair Clippinger, Vice Chair Bartlett, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **opposes** House Bill (HB) 1398.

The BCA fully supports the intent of this bill: to save lives by preventing overdose deaths. However, we are concerned that HB 1398 will unintentionally undermine the State's existing efforts to combat the overdose crisis. The bill increases penalties for exchanging heroin and/or fentanyl for money, goods, or services when the use of that heroin or fentanyl results in serious injury or death. **This would likely have the unintended consequence of leading to more people using drugs alone, rather than with the person they obtained the drugs from. If someone uses opioids alone and experiences an overdose, there is no one to call emergency response services or administer naloxone.** This is why public health approaches to preventing overdose deaths emphasize never using alone.^{i,ii,iii}

Systematic reviews of other state laws similar to what HB 1398 seeks to establish found that the majority of people charged have been family or friends of the deceased, rather than "kingpins."^{iv} Thus, the laws fail to target those who they purport to deter and instead further traumatize people already dealing with a tragic loss. There is ample research showing that attempts to deter drug use through increased criminalization can have far-reaching adverse effects. For example, studies show that after an opioid-related drug seizure, overdoses are two-times higher for a week within 500 meters that seizure.^v Perhaps most relevant to the purpose of this bill, **research clearly shows that imprisonment (whether for drug offenses or otherwise) leads to significantly higher risk of drug overdose after release.**^{vi,vi} Taken together, this research shows us that laws like what HB 1398 seeks to establish can lead to more people using drugs alone (putting them at greater risk of fatal overdose), criminalize the already traumatized family and friends of the deceased, and lead to more overdoses among their same social circle and beyond. In contrast, research shows that access to naloxone and public health initiatives like syringe service programs are more effective at reducing overdose deaths and addressing substance use disorders.^{vii}

Higher imprisonment rates do not correlate with a decrease in drug use, overdose deaths, and drug-related arrests.^{iv} Rather, imprisonment creates additional obstacles to overcoming addiction, such as making it harder to gain employment, pursue higher education, and obtain housing.^{viii,ix,x} Because the BCA stands firmly with saving lives and preventing harm, we recommend a public health, rather than criminal, approach to addressing the overdose crisis. As such, the BCA respectfully requests an **unfavorable** report on HB 1398.

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- ⁱ Saint Louis County Department of Public Health. (n.d.). Harm Reduction. Retrieved from <https://stlouiscountymo.gov/st-louis-county-departments/public-health/substance-use-resources/harm-reduction/>
- ⁱⁱ New York State Office of Addiction Services and Supports. (n.d.). Harm Reduction. Retrieved from <https://oasas.ny.gov/harm-reduction>
- ⁱⁱⁱ Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County. (n.d.). Harm Reduction. Retrieved from <https://www.adamhsc.org/resources/finding-help/by-service/harm-reduction>
- ^{iv} Drug Policy Alliance. (2017). An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane. Retrieved from [Overdose Death Is Not Murder Report.pdf](#)
- ^v Bradley Ray, Steven J. Korzeniewski, George Mohler, Jennifer J. Carroll, Brandon del Pozo, Grant Victor, Philip Huynh, and Bethany J. Hedden: Spatiotemporal Analysis Exploring the Effect of Law Enforcement Drug Market Disruptions on Overdose, Indianapolis, Indiana, 2020–2021. *American Journal of Public Health* 113, 750_758, <https://doi.org/10.2105/AJPH.2023.307291>
- ^{vi} Binswanger IA, Stern MF, Deyo RA, et al. Release from prison--a high risk of death for former inmates [published correction appears in *N Engl J Med*. 2007 Feb 1;356(5):536]. *N Engl J Med*. 2007;356(2):157-165. doi:10.1056/NEJMsa064115
- ^{vii} “Summary of Information on The Safety and Effectiveness of Syringe Services Programs (SSPs) | CDC.” *Centers for Disease Control and Prevention*, <https://www.cdc.gov/spp/syringe-services-programs-summary.html>.
- ^{viii} The Pew Charitable Trusts. (March 2018). *More Imprisonment Does Not Reduce State Drug Problems: Data show no relationship between prison terms and drug misuse* [Issue Brief]. https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf
- ^{ix} The Massachusetts Department of Public Health. (2016). *An Assessment of Opioid Related Deaths in Massachusetts (2013-2014)*. <https://www.mass.gov/files/documents/2016/09/pg/chapter-55-report.pdf>
- ^x Volkow ND. Addiction should be treated, not penalized. *Neuropsychopharmacology*. 2021;46(12):2048-2050. doi:10.1038/s41386-021-01087-2