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HB1398

**Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death
(Victoria, Scottie, Ashleigh, and Yader's Law)
Hearing of the House Judiciary Committee
February 18, 2025, 1:00 PM**

UNFAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. The PJC provides advice and representation to low-income clients, advocates before legislatures and government agencies, and collaborates with community and advocacy organizations; we actively incorporate anti-racism and racial equity goals into our advocacy work. The PJC has a longstanding commitment to civil rights-based reform in the criminal legal system.

The **PJC opposes HB1398** Criminal Law - Distribution of Heroin or Fentanyl Causing Serious Bodily Injury or Death. This bill would create a new enhanced penalty of up to 20 years in prison for those found responsible 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.

The overdose epidemic has tragically cost the lives of thousands of Marylanders. The General Assembly should focus on proven solutions that prevent overdose, like evidence-based treatment and education, to bring an end to this crisis. Laws like HB1398, often called drug-induced homicide (DIH) laws, claim to prevent overdose by using harsh penalties as a deterrent. HB1398 proposes up to 20 additional years for those convicted of distributing heroin or fentanyl that results in a fatal overdose. Distributing fentanyl already carries a penalty of up to 30 years in prison¹. Incarceration cannot treat a health crisis. Proponents of DIH laws claim they are intended to target “dealers” and cartels; in reality, law enforcement often targets “low level offenders” and people who use drugs².

¹ PDAPS. “Drug Induced Homicide Laws,” January 2019. <https://pdaps.org/datasets/drug-induced-homicide-1529945480-1549313265-1559075032>; Drug Policy Alliance. “An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane.”

² Phillips, Kaitlin. “From Overdose to Crime Scene: The Incompatibility of Drug-Induced Homicide Statutes with Due Process.”

DIH laws like HB1398 have other unintended consequences. DIH prosecutions will discourage people who use drugs from reporting potentially reversible overdoses for fear of harsh criminal penalties. HB1398 only offers limited protections for those reporting overdoses, and it is likely that some who report overdoses will be prosecuted. This will discourage scores of others who use drugs from reporting overdose, potentially increasing the number of fatalities. In other words, the opposite of what the bill purports to achieve.

For these reasons, the Public Justice Center urges **the House Judiciary Committee to issue HB1398 an unfavorable report**. Thank you for your consideration of our testimony. If you have any questions, please contact Debra Gardner at 410-625-9409 x 228 or gardnerd@publicjustice.org.