

**House Bill 1398 – Criminal Law – Distribution of Heroin or Fentanyl Causing  
Serious Bodily Injury or Death**  
House Judiciary Committee  
February 18, 2025  
**Position: Oppose**

Mental Health Association of Maryland (MHAMD) is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health and substance use disorders (collectively referred to as behavioral health). We appreciate the opportunity to provide this testimony in opposition to HB 1398.

HB 1398 would increase the prison sentence for distributing heroin or fentanyl to a person who then experiences serious bodily injury or death, if the person distributing the opioid receives remuneration for the drug. The bill would provide immunity from prosecution to those who seek medical assistance for an individual experiencing an overdose, if the evidence was obtained solely as a result of a person seeking medical assistance.

MHAMD opposes HB 1398 because it has consistently been shown that laws that increase criminal penalties for drug distribution have no positive impact – they do nothing to prevent overdose, save lives, deter drug use, deter drug distribution, or reduce the presence of fentanyl in the drug supply.<sup>1</sup>

While we appreciate the effort in the bill to exempt from the increased penalty a person sharing an opioid, the legislation would still have the effect of largely impacting people with an opioid use disorder rather than career drug dealers. It is not uncommon for a co-user to receive some form of remuneration when sharing drugs, or for low-level dealers to themselves have a drug addiction.<sup>2</sup> These individuals need treatment, not lengthy imprisonment.

Despite the legislation's attempt to apply the Good Samaritan Law to the provisions of the bill, it would nonetheless have a chilling effect on people's willingness to call 911 in the event of observing an overdose, potentially *increasing* the number of overdose deaths. People who use drugs would be discouraged from reporting overdoses and seeking care as stories of people

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<sup>1</sup> Amy Lieberman. Tougher criminal penalties won't end overdose deaths. The National Network for Public Health Law (June 2022). <https://www.networkforphl.org/news-insights/tougher-criminal-penalties-wont-end-overdose-deaths/>

<sup>2</sup> Rethinking the "drug dealer:" harsh penalties for drug supply are counterproductive says new report. Drug Policy Alliance (December 2019). <https://drugpolicy.org/news/rethinking-drug-dealer-harsh-penalties-drug-supply-are-counterproductive-says/>

being charged with harsher penalties circulate in the community. People know that protections can be easily circumvented by law-enforcement officers and prosecutors.

There are several evidence-based interventions to reduce drug overdose deaths. In 2021, 2,460 Marylanders lost their lives to an overdose. In 2023, just two years later, the number of lives lost decreased to 1,689, a decrease of 31%.<sup>3</sup> Maryland's existing efforts to address the drug overdose epidemic have been working. These have included:

- Naloxone distribution
- Peer recovery services
- Medications for opioid use disorder, like suboxone and methadone
- Easy-to-access treatment services

In addition, the legislature should seriously consider establishing safe-consumption sites, which also have been shown to reduce drug overdose deaths.

Harsher penalties for opioid distribution have no evidence-base. They do not reduce drug overdoses. It is misguided to impose ever-increasing prison sentences for heroin or fentanyl distribution, when Maryland can invest in proven strategies that have been shown to work.

For this reason, MHAMD opposes HB 1398 and urges an unfavorable report.

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<sup>3</sup> <https://health.maryland.gov/dataoffice/Pages/mdh-dashboards.aspx>