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## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB 784 - Criminal Law - Use or Possession of a Controlled Dangerous Substance**

**De Minimis Quantity**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 03/07/2022**

The Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report on Senate Bill 784.

SB 784 notably dictates that a finding of guilt under Md Code, Crim Law § 5-601 involving the use or possession of a de minimis quantity of a controlled dangerous substance would be a civil offense subject to fees, not criminal conviction nor incarceration.

Permitting persons with de minimis quantity of controlled dangerous substances to face civil penalties instead of criminal convictions or incarceration, reclassifies substance use and addiction as the public health crisis it is, not an action in need of punishment but of treatment.

Unfortunately, overdoses have increased, in Maryland, with an especially notable uptick during the COVID-19 pandemic.<sup>1</sup> Marylander's struggle with addiction demonstrates that simply caging drug users in jail and punishing them has failed. A failure that this bill recognizes by removing drug addiction from the criminal system and into the realm of public health.

There are a few examples of the positive results of decriminalizing, or reducing the

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<sup>1</sup> <https://www.baltimoresun.com/health/bs-hs-overdose-rate-maryland-coronavirus-pandemic-20210113-rl13kzzv3jd6he2bf44wah5cbm-story.html>

criminalization of drug use. In 2014, California voters defeloned possession of illegal drugs for personal use. In just one year, the jail population decreased from 51, 151 to 46, 384. The average cost for an inmate in California is \$64, 642. With 4,767 fewer inmates, California saved \$308 million dollars in 2015 after defeloning possession of drugs for personal use.<sup>2</sup>

Portugal decriminalized drug possession in 2001. The drug use rates are far lower than in the United States. Between 1997 and 2012, the use of drug treatment programs rose by 60%. The drug overdose rates dropped from 80 to 16 in 10 years. The percentage of people in prison for drug violations dropped 20% within 14 years. Within 13 years, the number of HIV cases decreased from 1,575 to 78 cases. The number of AIDS cases decreased from 626 to 74 cases. Portugal's success with drug decriminalization provides Maryland a clear example of a better way to deal with drug addiction.<sup>3</sup>

Moving the concerns of addiction and use of drugs from the criminal justice realm and putting it into the public health realm is critical to decreasing mass incarceration and improving Maryland. Such a move will not only make it easier for people struggling with addiction to connect with their community and feel less ostracized, but it will also decrease the stigma of drug use. Decreasing the stigma, and decriminalizing de minimis possession, will make drug users feel more encouraged to seek treatment and support, which in turn will make recovering and healthy living within their communities more likely.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 784.**

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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<sup>2</sup> [https://www.ppic.org/wp-content/uploads/content/pubs/report/R\\_316MB3R.pdf](https://www.ppic.org/wp-content/uploads/content/pubs/report/R_316MB3R.pdf); <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending>.

<sup>3</sup> <https://www.nytimes.com/2020/10/05/upshot/portugal-drug-legalization-treatment.html>; <https://drugpolicy.org/issues/drug-decriminalization>; <https://transformdrugs.org/blog/drug-decriminalisation-in-portugal-setting-the-record-straight>.