



## POSITION ON PROPOSED LEGISLATION

BILL: HB 0190

POSITION: Support

DATE: 1/18/22

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on HB 0190.

My name is Elizabeth Hilliard and I am an Assistant Public Defender with the Maryland Office of the Public Defender.

I support this bill because I believe this bill will save lives. We must shift the focus from criminalizing drug use and the life saving measures Marylanders take in emergency situations and stop charging and prosecuting Victims of addiction.

Drug overdose deaths continue to be a crisis in Maryland and across the country. In Maryland, the number of drug and opioid involved deaths related harms continue to increase.<sup>1</sup> Moreover, the number of overdose deaths have jumped in Maryland likely due to the coronavirus pandemic, because the pandemic has been a source of economic distress, anxiety, and those with substance abuse issues who need of in-person support and treatment plans are no longer able to receive it.<sup>2</sup>

Good Samaritan laws are written to encourage bystanders to assist in emergency situations without fear. This is important because in emergency situations, such as drug overdoses, seconds count and making the choice to aid someone in calling for help in a life-threatening situation can be the difference between whether someone lives or dies.

Maryland's current Good Samaritan law currently covers any kind of overdose, but does not provide the clarity needed to protect the victim of the overdose or medical emergency from with the same immunity from arrest, charge, and prosecution as the person calling for help. Many times, because of the lack of clarity, law enforcement officers do not uniformly apply the law, causing confusion within the process.

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<sup>1</sup> See Figure 1.1. National Institute on Drug Abuse, Maryland Opioid—Involved Deaths and Related Harms, National Institutes of Health (Apr. 3, 2020), <https://www.drugabuse.gov/drug-topics/opioids/opioid-summaries-by-state/maryland-opioid-involved-deaths-related-harms>.

<sup>2</sup> Hallie Miller, Overdose deaths jump in Maryland, likely due to coronavirus pandemic, health officials say, BALTIMORE SUN (Jan. 31, 2021), <https://www.baltimoresun.com/health/bs-hs-overdose-rate-maryland-coronavirus-pandemic-20210113-rl13kzzv3jd6he2bf44wah5cbm-story.html>.

For example, a public defender in Frederick reported that a police officer used the Good Samaritan law to avoid arrest in an underage drinking case, but not for other Maryland Public Defender clients in Frederick. However, in Anne Arundel County, a public defender reported that multiple cases of children in schools that overdosed on an illegal substance were charged and prosecuted. Children are often scared to ask for help, but in these emergency situations need to know that they are protected if they take the life saving measure of calling 911 for help. With this law and further education, officers can more uniformly apply the Good Samaritan law.

Moreover, this distinction is important because if our public health objective is to reduce the number of those harmed by drug use in both children and adults, we should focus on funding access and resources to drug treatment programs, rather than focusing on criminalizing those that need help.<sup>3</sup> Gov. Larry Hogan said in a statement, “The COVID-19 pandemic has created additional challenges for people suffering from substance use disorder . . . . People are hurting and we must continue to increase access to care . . . .”<sup>4</sup> In times of great distress, where the entire country is battling an opioid epidemic during a pandemic, we must also not add to the issue of mass incarceration, especially when Marylanders are engaging in life saving measures. Lastly, penalizing Marylanders for saving a person’s life by calling for help in a drug overdose situation is inherently counterproductive to safeguarding public health. People will not call emergency services if they believe that they will be prosecuted for their involvement in the emergency situation. However, by creating an environment where Marylanders know they will not be arrested, detained, or prosecuted for another offense – which was the intent of the original bill – Marylanders will be much more likely to make the call that would save someone else’s or their own life.

For these reasons, the Maryland Office of the Public Defender urges a favorable report on HB 0190.

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<sup>3</sup> Chloe Cockburn, *Criminalizing Drug Users Is Killing People*, ACLU (Feb. 12, 2014), <https://www.aclu.org/blog/smart-justice/sentencing-reform/criminalizing-drug-users-killing-people>. <sup>4</sup> Miller, *supra* note 2.

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