

Bill Number: HB 190
Maryland States Attorneys Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS
ASSOCIATION IN OPPOSITION TO HOUSE
BILL 190 – CRIMINAL PROCEDURE –
MEDICAL EMERGENCY – IMMUNITY

The Maryland States Attorneys Association is opposed to House Bill 190 as a measure which will provide criminal immunity to individuals who are causing great harm to the citizens of the State of Maryland.

House Bill 190 would significantly increase the reach of the current law which provides immunity from prosecution for drug possession for individuals who call for medical assistance for another. The statute as it exists right now reaches a proper balance in ensuring that individuals receive medical assistance and that others are not discouraged from getting that assistance based upon the fear that they will be charged for possessing the drugs which may have brought on the medical emergency. The Bill aims to amend this statute to include immunity from prosecution for Distribution of Controlled Dangerous Substances or any misdemeanor related to the response of authorities to the medical emergency. This is many steps too far from the appropriate balance already established.

If the police and medical personnel respond to an overdose of a child and discover upon their arrival that an adult has sold the child fentanyl without the knowledge of the child then this Bill says that the adult cannot be prosecuted for selling the drugs to the child if that person tries to resuscitate the child or dials 911 when the overdose occurs. Though we should aim to not discourage people from seeking help in a medical emergency, we should also aim to discourage individuals from dealing drugs.

In addition, the inclusion of immunity from all misdemeanors creates a wide variety of injustices which could occur. For example, as a hypothetical scenario- an individual who is drunk decides he is less drunk than his friend and decides to drive. He crashes the car in a single vehicle accident which causes serious injury to his friend. He calls 911. The police and EMT's respond and it is obvious that the caller is very drunk. A literal reading of this statute with the amendments would arguably mean that the driver cannot be charged or prosecuted for the misdemeanor of DUI.

Subsection (c) of the statute with this Bills amendments would absolve an individual from criminal prosecution for being a drug dealer or committing any misdemeanor when that person receives medical treatment and evidence is seen of a crime while he is getting medical treatment. In taking this to an extreme, what happens if a person while out in public suffers a medical emergency after ingesting drugs or alcohol and a stranger calls 911. The person who is undergoing the medical emergency is found by medical personnel and he then assaults them after they have

helped him. The police then discover that he has a large amount of heroin and cash on him which makes it readily apparent that he is a drug dealer. It appears this Bill will now say that the person cannot be arrested, charged or prosecuted for assaulting the EMT's and for being a drug dealer. Can this be what is intended by this legislation?

There are an innumerable number of other scenarios where an injustice will occur if we expand the immunity of Criminal Procedure Section 1-210 beyond that which it is already. The Maryland States Attorneys Association asks for an unfavorable report.