

Dear Representative Williamson and Members of the House Committee on Judiciary,

My name is Michael Gilbert, and I am writing in regards to HB 2797, also known as Taylor's Law. I am an epidemiologist with a professional focus on evaluation of drug-related public policy, and an Oregon resident who has lost numerous loved ones to drug overdose. I encourage you to oppose passage of HB 2797 on grounds that it proposes a costly and ineffective response to the tragedy facing Oregon's communities, that it imposes new and unnecessary risks to public health and safety, and that it represents an unfortunate misuse of political and fiscal capital that could otherwise be effectively directed in service of a better Oregon.

One critical shortcoming of the proposed legislation is that its construction of a target population is both poorly defined and liable to unfortunate and foreseeable negative consequences. The language of the Bill identifies individuals 'convicted of the unlawful delivery or manufacture of a controlled substance that results in the death of another person from the use of the controlled substance' as the target population, which in practice may apply to bystanders, housemates, spouses and other associates implicated in a given case. In other States where such statutes exist, enhanced sentencing requirements have been applied in ways that are inconsistent with the intent of their authors, and have led to the the imprisonment of individuals who are themselves the bereaved friends and family members of people lost to overdose.^{1 2 3} These sentencing requirements also pose serious impediments to bystander willingness to call upon emergency services in the event of an overdose, and may undermine the effectiveness of Oregon's Good Samaritan laws. In cases where people have engaged in the collective purchase of controlled substances, the provisions of the proposed Bill would undermine incentives to engagement with life-saving emergency services in response to overdose events. If the intent of this legislation is to provide solace to the bereaved and justice for the dead, I would implore you to recognize that it risks causing unnecessary death and suffering for which no amount of incarceration will provide relief. Taylor's loss is tragic, and we should do everything we can to ensure that risks facing people who use drugs are attenuated rather than exacerbated, lest more families be left to grieve.

A second critical shortcoming of the proposed legislation is that it would incur significant costs to the State without countervailing benefits to public health or safety. Mandatory minimum sentencing statutes consistently fail to achieve intended outcomes across measures of deterrence, incapacitation, or public health impact. The failures of mandatory minimum sentences to deter illicit distribution of controlled substances or confer health and safety benefits at either individual or population levels are well documented in the criminal justice and epidemiological literature.^{4 5 6} An area of particular concern is that these policies do not prove to be cost-effective for their intended

¹ Beletsky, L (2018) America's Favorite Antidote: Drug-Induced Homicide in the Age of the Overdose Crisis. Available at <http://dx.doi.org/10.2139/ssrn.3185180>

² Tonry, M (2009) The Mostly Unintended Effects of Mandatory Penalties: Two Centuries of Consistent Findings, 38 Crime & Justice 65

³ Mascharka, C. (2000). Mandatory minimum sentences: Exemplifying the law of unintended consequences. Florida State University Law Review, 28, 935.

⁴ Pew Charitable Trusts (2015) Public Safety Aspects of the Heroin Abuse Epidemic, available at <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/07/public-safety-aspects-of-the-heroin-abuse-epidemic>.

⁵ Gaskins, S. (2004). Women of circumstance: The effects of mandatory minimum sentencing on women minimally involved in drug crimes. American Criminal Law Review, 41(4), 1533–1554

⁶ Meierhoefer, B. S. (1992). The general effect of mandatory minimum prison terms. Washington, DC: Federal Judicial Centre.

purposes⁷, while alternate statutory opportunities such as the authorization of safer consumption spaces remain unpursued in Oregon's legislature despite growing evidence of their efficacy and cost-effectiveness.^{8 9 10}

I hope that the House Committee on Judiciary will recognize the shortcomings of this Bill and prevent its passage into law in favor of more efficacious opportunities to learn from Taylor's loss and support the safety and wellbeing of all Oregonians.

Sincerely,

Michael Gilbert, MPH

⁷ Caulkins, J., Rydell, C. P., Schwabe, W., & Chiesa, J. (1997). Mandatory minimum drug sentences: Throwing away the key or the taxpayers' money? Santa Monica: RAND Corporation.

⁸ Irwin, Amos, et al. Mitigating the heroin crisis in Baltimore, MD, USA: a cost-benefit analysis of a hypothetical supervised injection facility. *Harm reduction journal* 14.1 (2017): 29.

⁹ Bayoumi, Ahmed M., and Gregory S. Zaric. The cost-effectiveness of Vancouver's supervised injection facility. *Cmaj* 179.11 (2008): 1143-1151.

¹⁰ Jozaghi, Ehsan, Andrew A. Reid, and Martin A. Andresen. A cost-benefit/cost-effectiveness analysis of proposed supervised injection facilities in Montreal, Canada. *Substance abuse treatment, prevention, and policy* 8.1 (2013): 25.