February 27, 2020

The Honorable President and Members

of the Baltimore City Council

Attn: Executive Secretary

Room 409, City Hall

100 N. Holliday Street

Baltimore, Maryland 21202

Re: City Council Bill 20-188R – Informational Hearing – Syringe Service Expansion

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 20-188R for form and legal sufficiency. This resolution is for the purpose of inviting representatives from the Health Department, the Baltimore Police Department, the Fire Department, the Mayor’s Office of Criminal Justice and the Law Department to explain the status of syringe service programs in the City and the State.

Baltimore’s needle and syringe exchange program began in 1994 when the General Assembly passed statutory authority for a pilot program to be administered by the City Health Department entitled “AIDS Prevention Sterile Needle and Syringe Exchange Pilot Program.” Maryland Code, Health Gen. §§ 24-801 – 809. The program provides for the exchange of hypodermic needles and syringes for sterile ones with the approval of an oversight committee appointed by the Mayor. §§ 24-802, 24-804. The program also provides for linkage to training, preventative education and drug treatment services, disease testing, wound care and referrals to overdose response programs to assist participants and staff. The Director of the program, appointed by the City Health Commissioner, must submit all plans and protocols to the Commissioner prior to implementation. § 24-805. The Baltimore City Health Department is charged with developing program evaluation with the advice and approval of the oversight committee. § 24-806. The Health Department is required to report annually to the oversight committee, the Governor and the General Assembly on the quantity of needles exchanged as part of the program. § 24-806 (d). Staff and participants are immunized from liability under state law for possessing or distributing drug paraphernalia when that possession is in connection with authorized conduct that is part of the program. § 24-808. However, staff and participants are not immunized from laws prohibiting the redistribution of needles or laws “prohibiting or regulating the use, possession, dispensing, distribution or promotion of controlled dangerous substances, dangerous drugs … or any conspiracy or attempt to commit any of those offenses” except with regard to residue contained in a needle exchanged as part of the program. § 24-809.

In 2016, the Opioid – Associated Disease Prevention and Outreach Act was enacted, authorizing local health departments and community-based organizations statewide to establish syringe exchange (or service) programs (SSPs) as part of a prevention and outreach program. Maryland Code, Health Gen. §§ 24-901 *et. seq*. A local program must be authorized by the Maryland Department of Health. § 24-902. The provisions of the 2016 law are similar to the authorization for the pilot program previously implemented for AIDS prevention, providing immunity for staff and participants for the possession of drug paraphernalia as part of the program but not from laws regulating the use or possession or distribution of drugs. §§ 24-908, 909. The Maryland Department of Health website states that there are currently 9 active SSPs in the state.

Maryland law also permits the sale of syringes without a prescription. COMAR 10.13.08.01.

A resolution is an appropriate way for the City Council of Baltimore to conduct an investigative hearing. *See, e.g., Inlet Assocs. v. Assateague House Condominium,* 313 Md. 413, 428 (1988). Therefore, the Law Department approves this Resolution for form and legal sufficiency.

Very truly yours,

Ashlea Brown

Assistant Solicitor

cc: Andre M. Davis, City Solicitor

Dana P. Moore, Deputy City Solicitor

Matthew Stegman, Mayor’s Office of Government Relations

Caylin Young, Director of Legislative Services

Elena DiPietro, Chief Solicitor

Victor Tervala, Chief Solicitor

Hilary Ruley, Chief Solicitor