

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 801 (Senator Jackson)
 Budget and Taxation and Judicial Proceedings

Correctional Services – Medication–Assisted Treatment

This bill repeals the requirement that the State fund the program of opioid use disorder (OUD) screening, evaluation, and treatment of incarcerated individuals as provided in the State budget. Instead, the Secretary of Health, in consultation with the Office of Overdose Response (OOR) – formerly the Opioid Operational Command Center – must provide each county a grant from the Opioid Restitution Fund (ORF) equal to the costs incurred by the county for a medication-assisted treatment (MAT) program during the preceding fiscal year. Each county must submit a related report to OOR by October 1 each year, as specified. A report submitted by October 1, 2025, may include prior year commitments not previously fulfilled by State funding. If a county fails to submit the required report, its grant must be reduced, as specified. The bill also repeals the requirement that each local correctional facility make available at least one formulation of each U.S. Food and Drug Administration (FDA) approved full opioid agonist, partial opioid agonist, and long-acting opioid antagonist used for the treatment of OUDs.

Fiscal Summary

State Effect: No effect in FY 2025. General fund expenditures increase by \$170,900 in FY 2026 for the Maryland Department of Health (MDH) to hire staff to implement the grant program; future year expenditures reflect inflation and ongoing costs. Beginning in FY 2026, special fund expenditures increase by approximately \$11.3 million annually to provide grants. In FY 2026 only, special fund expenditures could be significantly higher, as discussed below. Revenues are not affected.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0.17	0.17	0.17	0.18
SF Expenditure	0	11.30	11.30	11.30	11.30
Net Effect	\$0.00	(\$11.47)	(\$11.47)	(\$11.47)	(\$11.48)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: County revenues increase – in total – by an estimated \$11.3 million annually beginning in FY 2026 from grants provided for MAT programs. Local revenues from ORF for other purposes could be affected, as discussed below. County expenditures are not materially affected, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: The authorized uses of ORF are expanded to include grants to counties for the implementation of MAT programs.

Each county must submit a report by October 1 each year, to OOR on the number of days each incarcerated individual was provided a service under a MAT program during the previous fiscal year. If a county fails to submit the required report, the Secretary must deduct 20% of any grant awarded for each 30 days or part of 30 days that the report is not submitted.

Current Law: Chapter 532 of 2019 established programs of OUD screening, evaluation, and treatment in local correctional facilities and in the Baltimore Pre-trial Complex.

Screenings, Assessments, and Evaluations

Each local correctional facility must assess the mental health and substance use status of each incarcerated individual using evidence-based screenings and assessments to determine if the medical diagnosis of an OUD is appropriate and if MAT is appropriate. If a required assessment indicates OUD, an evaluation of the incarcerated individual must be conducted by a specified health care practitioner, and information must be provided to the incarcerated individual describing medications used in MAT.

Treatment

MAT must be available to an incarcerated individual for whom such treatment is determined to be appropriate. Each local correctional facility must make available at least one formulation of each FDA-approved full opioid agonist, partial opioid agonist, and long-acting opioid antagonist used for the treatment of OUDs.

Each local correctional facility must:

- following an assessment using clinical guidelines for MAT, make medication available, as specified, or begin withdrawal management services prior to administration of medication;
- make available and administer medications for the treatment of OUD;
- provide behavioral health counseling for incarcerated individuals diagnosed with OUD consistent with therapeutic standards for such therapies in a community setting;
- provide access to a health care practitioner who can provide access to all FDA-approved medications, as specified; and
- provide on-premises access to peer recovery specialists.

If an incarcerated individual received medication or MAT for OUD immediately preceding or during the individual's incarceration, a local correctional facility must continue the treatment after incarceration or transfer unless (1) the incarcerated individual voluntarily discontinues the treatment, verified through a written agreement that includes a signature or (2) a health care practitioner determines that the treatment is no longer medically appropriate.

In addition, before the release of an incarcerated individual diagnosed with OUD, a local correctional facility must develop a plan of reentry that:

- includes information regarding post-incarceration access to medication continuity, peer recovery specialists, other supportive therapy, and enrollment in health insurance plans;
- includes any recommended referrals by a health care practitioner to medication continuity, peer recovery specialists, and other supportive therapy; and
- is reviewed and, if needed, revised by a health care practitioner or peer recovery specialist.

Funding for Medication-assisted Treatment

As provided in the State budget, the State must fund the program of OUD screening, evaluation, and treatment of incarcerated individuals.

Opioid Restitution Fund

Chapter 537 of 2019 established ORF, a special fund to retain any revenues received by the State relating to specified opioid judgments or settlements, which may be used only for opioid-related programs and services. Chapter 270 of 2022 specifies that ORF may be used

for programs, services, supports, and resources for evidence-based substance use disorder (SUD) prevention, treatment, recovery, or harm reduction that have the purpose of currently authorized outcomes and activities. ORF may also be used for:

- evidence-informed SUD prevention, treatment recovery, or harm reduction pilot programs or demonstration studies that are not evidence based if the advisory council (discussed below) determines that emerging evidence supports funding or that there is a reasonable basis for funding with the expectation of creating an evidence-based program and approves the use of money for the pilot program or demonstration study; and
- evaluations of the effectiveness and outcomes reporting for SUD abatement infrastructure, programs, services, supports, and resources for which the fund is used.

In fiscal 2023, ORF revenues totaled \$57.9 million, and expenditures (largely in the form of grants) totaled \$26.9 million. This funding included \$7.8 million in grants to local health departments and detention facilities to screen and treat OUD among incarcerated individuals. The fiscal 2025 budget as introduced includes \$81 million in grants from opioid settlement funds to local governments and community organizations for opioid abatement efforts. However, the fiscal 2025 budget as introduced does not include any funding to local correctional facilities for MAT programs.

State Expenditures:

Maryland Department of Health Administrative Costs

General fund expenditures increase by \$170,855 in fiscal 2026, which accounts for a delayed implementation date of July 1, 2025 (as the first reports from local jurisdictions are not due until October 1, 2025). This estimate reflects the cost of hiring two grants specialists to review reports from each jurisdiction and issue grants to cover the operating costs of MAT programs at 23 local correctional facilities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$155,781
Operating Expenses	<u>15,074</u>
Total FY 2026 MDH GF Expenditures	\$170,855

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Opioid Restitution Fund

Under current law, the State is required to fund MAT programs at local correctional facilities. The Maryland Association of Counties (MACo) reports that, while all 23 local correctional facilities have implemented MAT programs, the State has yet to effectively allocate resources to local correctional facilities to cover the costs of such programs. As noted above, the fiscal 2025 budget as introduced does not include any funding to local correctional facilities for MAT programs.

MACo further advises that the majority of local correctional facility MAT programs range in cost from \$200,000 to \$500,000 annually (with the exception of Baltimore County, whose program costs \$2.7 million annually), with the statewide cost for all programs totaling \$11.3 million annually.

Thus, beginning in fiscal 2026, MDH special fund expenditures from ORF increase by approximately \$11.3 million annually to award grants to counties to fund MAT programs at local correctional facilities. If a county submits its annual report late, MDH must reduce the grant award by 20% for each 30 days or portion of 30 days that the report is late; to the extent this occurs, special fund expenditures are reduced.

The bill authorizes counties to include (and requires MDH to fund) requests for prior year commitments not previously fulfilled by State funding in the first annual report (due by October 1, 2025). Thus, for fiscal 2026 only, special fund expenditures increase further, by an indeterminate but likely significant amount, to cover prior year commitments not previously fulfilled by State funding.

Special fund expenditures from ORF for other grants or services may be reduced under the bill as a result of the requirement to fund annual grants to counties. To the extent that this occurs, the overall increase in special fund expenditures from ORF is lower.

This analysis does not reflect any State funding that might otherwise be provided to local correctional facilities for MAT programs in future years. As noted above, while the State is required to fund such programs, there is no funding for this specific purpose in the fiscal 2025 budget as introduced, and the extent to which funding would have been provided in future years in the absence of the bill is unknown.

Local Fiscal Effect: County revenues increase significantly from grants provided by the State to reimburse the costs of operating MAT programs in local correctional facilities. As discussed above, across all counties, grants are estimated to total \$11.3 million annually. As the MAT programs are already established, county expenditures are not materially affected.

To the extent that fewer funds are available from ORF for other purposes as a result of the bill, local revenues from ORF for other purposes may decrease.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1031 (Delegate J. Lewis) - Judiciary and Health and Government Operations.

Information Source(s): Maryland Association of County Health Officers; Prince George's County; Maryland Association of Counties; Office of the Attorney General; Governor's Office of Crime Prevention and Policy; Department of Budget and Management; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2024
rh/jc

Analysis by: Amber R. Gundlach

Direct Inquiries to:
(410) 946-5510
(301) 970-5510