

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 896 (Delegate Bromwell, *et al.*)
 Health and Government Operations

Finance

Joint Committee on Behavioral Health and Opioid Use Disorders

This bill establishes the 10-member Joint Committee on Behavioral Health and Opioid Use Disorders, which has 5 members from the Senate and 5 members from the House of Delegates. The committee has oversight over the Prescription Drug Monitoring Program and State and local programs to treat and reduce behavioral health and opioid use disorders. The purposes of the committee are to (1) review the final report of the Governor’s Heroin and Opioid Emergency Task Force; (2) review and monitor the activities of the Governor’s Inter-Agency Heroin and Opioid Coordinating Council; (3) *monitor* the effectiveness of specified programs, policies, and practices (listed below); (4) review the extent to which health insurance carriers in the State are complying with federal and State mental health and addiction parity laws; and (5) identify areas of concern and, as appropriate, recommend corrective measures to the Governor and the General Assembly.

The bill takes effect June 1, 2015, and terminates May 31, 2021.

Fiscal Summary

State Effect: The bill’s requirements may necessitate special studies and evaluations that require contractual consulting support, as discussed below. If so, general fund expenditures for the Department of Legislative Services (DLS) increase by approximately \$100,000 in *each* year that such contractual services are necessary. The timing of any such special studies and evaluations (and, thus, the timing of their related costs) will be determined by the committee. However, any expense reimbursements for committee members and staffing costs for DLS are assumed to be minimal and absorbable within existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The programs, policies, and practices to be monitored by the committee include (1) the State’s behavioral health system; (2) the State Overdose Prevention Plan; (3) local overdose prevention plans; (4) strategic planning practices to reduce prescription drug abuse in the State; (5) efforts to enhance overdose response statutory laws, regulations, and training; (6) local overdose fatality review teams; and (7) efforts to expand use of the Prescription Drug Monitoring Program by the Department of Health and Mental Hygiene (DHMH).

Current Law/Background:

Legislative Oversight

Several joint committees of the General Assembly are established in statute. The Joint Committee on Health Care Delivery and Financing, the Joint Committee on Welfare Reform, and the Joint Committee on Access to Mental Health Services were repealed by Chapter 464 of 2014. Some of the remaining statutory joint committees have oversight duties that necessitate cooperation from other entities and their authorizing statutes include provisions requiring cooperation. For example, the Insurance Commissioner and the Workers’ Compensation Commission must cooperate fully with the Joint Committee on Workers’ Compensation Benefit and Insurance Oversight, keep the committee fully informed as to the condition of workers’ compensation benefits and workers’ compensation insurance in Maryland, and submit an annual report to the committee. Likewise, the Secretary of Labor, Licensing, and Regulation; Secretary of Transportation; and Executive Director of the Maryland Port Administration have to cooperate fully with the Joint Committee on the Port of Baltimore and keep the committee fully informed as to issues affecting the Port of Baltimore. The Department of Labor, Licensing, and Regulation has to report to the Joint Committee on Unemployment Insurance Oversight on the condition of unemployment insurance in Maryland. The Governor’s Interagency Council on Homelessness has to cooperate fully with the Joint Committee on Ending Homelessness, keep the committee fully informed as to its priorities and progress, and submit an annual report to the committee – when the committee is established on June 1, 2015, per Chapter 427 of 2014.

Through its Office of Policy Analysis, DLS is responsible for conducting periodic evaluations of approximately 70 regulatory entities and activities specified in statute under the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most entities evaluated are also subject to termination. The sunset review process traditionally begins with a preliminary evaluation conducted by DLS on behalf of the Legislative Policy Committee (LPC), although a few entities are subject to direct full evaluation. LPC decides whether to waive an entity from further (or full)

evaluation. If waived, legislation to reauthorize the entity typically is enacted. Otherwise, a full evaluation usually is undertaken the following year. The Maryland Program Evaluation Act specifically establishes that, during a required evaluation, the unit under evaluation (or responsible for the governmental activity under evaluation) must promptly provide any information that DLS or a committee of the General Assembly requests and must otherwise cooperate with DLS to carry out the requirements of the law.

Likewise, the Office of Legislative Audits (OLA) within DLS conducts fiscal/compliance audits of each unit of State government (except for units in the Legislative Branch) at least once every three years. "Unit" includes each State department, agency, unit, and program, including each clerk of court and each register of wills. Each agency or program may be audited separately or as part of a larger organizational unit of State government. Performance audits (which evaluate the efficiency, effectiveness, and economy with which resources are used; determine whether desired program results are achieved; and determine the reliability of performance measures) or financial statement audits are conducted when authorized by the Legislative Auditor, when directed by the Joint Audit Committee or the Executive Director of Legislative Services, or when otherwise required by law. Also, if the General Assembly (by resolution) or the Joint Audit Committee directs it to, OLA must conduct an audit or review of a corporation or association to which the General Assembly has appropriated money or that has received funds from an appropriation from the State Treasury. OLA may audit any county officer or unit that collects State taxes, and it has to review any audit report prepared by a county, municipality, taxing district, or community college under specified provisions of law. Finally, OLA has to conduct an audit of each local school system at least once every six years to evaluate the effectiveness and efficiency of the financial management practices of the local school system and a performance audit of the Board of Liquor License Commissioners for Baltimore City at least once every three years.

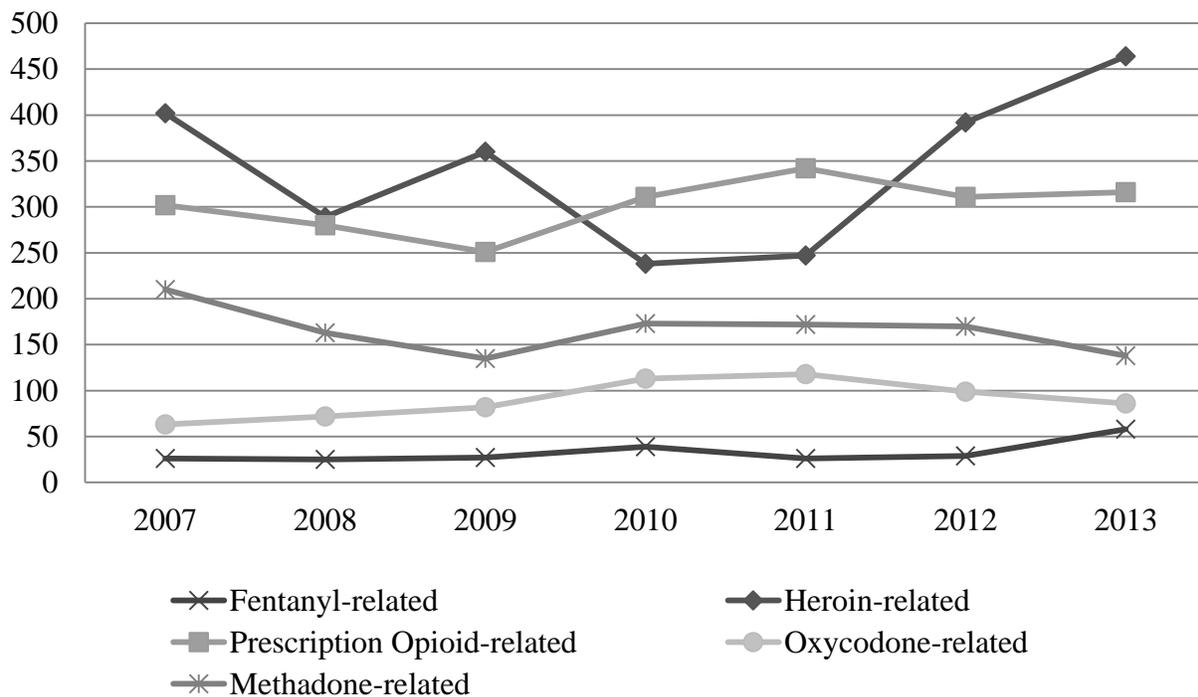
Except as prohibited by the federal Internal Revenue Code, during an examination by OLA, the employees or authorized representatives of OLA have access to and may inspect the records, including confidential records, of any unit of State government or of a person or other body receiving State funds, with respect to any matter under jurisdiction of the office. Each officer or employee of the unit or body subject to examination has to provide any information that the Legislative Auditor determines to be needed for the examination of that unit or body.

Recent Trend in Deaths and Statewide Efforts to Combat Misuse and Overdoses

DHMH's 2013 report, titled *Drug and Alcohol-Related Intoxication Deaths in Maryland*, indicated that drug- and alcohol-related intoxication deaths in Maryland totaled 858 in 2013, a 7% increase from 2012, and an 88% increase since 2011. Increases in the number of heroin-, fentanyl-, and alcohol-related deaths contributed to the overall increase. Heroin and fentanyl are both types of opioids. The overall number of prescription opioid-related deaths remained stable between 2012 and 2013, while the number of oxycodone- and methadone-related deaths fell between 2012 and 2013, particularly among White men.

Heroin-related deaths increased from 392 in 2012 to 464 in 2013, an 18% increase. The number of fentanyl-related deaths also doubled between 2012 and 2013, increasing from 29 to 58. There has also been a dramatic increase in heroin-related emergency visits in Maryland, and all but a small number were the result of heroin overdoses. **Exhibit 1** shows trends in drug- and alcohol-related intoxication deaths in Maryland from 2007-2013.

Exhibit 1
Unintentional Intoxication Deaths in Maryland
2007-2013



Source: Department of Health and Mental Hygiene

In light of this alarming trend, there are several major statewide efforts underway to reduce heroin- and fentanyl-related opioid overdoses. The Overdose Response Program, established in DHMH by Chapter 299 of 2013, is intended to expand access to Naloxone, a life-saving medication that can safely and effectively reverse overdoses related to heroin and pharmaceutical opioids, by training and certifying individuals to administer Naloxone. Chapter 299 allows family members, friends, and associates of opioid users to legally obtain a prescription for Naloxone in their own names. There is also a statewide effort to train first responders to administer Naloxone. In 2013, all counties and Baltimore City submitted local overdose prevention plans at the request of DHMH. Chapter 650 of 2014 authorized the establishment of local fatality review teams to promote cooperation and coordination among agencies, develop plans, and recommend changes to prevent drug overdose deaths.

On June 27, 2014, Governor O'Malley issued Executive Order 01.01.2014.11, which created the Overdose Prevention Council to advise and assist agencies in a coordinated, statewide effort to reduce overdoses. Maryland StateStat was tasked with calculating progress toward the goal of reducing overdose deaths by 20% by the end of 2015. DHMH also launched an aggressive public awareness campaign in June 2014 to encourage Maryland residents to fight against opioid overdoses.

The Department of State Police is augmenting enforcement against the drug trade crimes by addressing inter-jurisdictional and cross-border distribution. The Prescription Drug Monitoring Program, established by Chapter 166 of 2011, and fully launched in December 2013, aims to reduce prescription drug misuse by creating a secure database of all Schedule II-V controlled dangerous substances prescribed and dispensed in Maryland. The Prescription Drug Monitoring Program is subject to evaluation under the Maryland Program Evaluation Act; the program was evaluated in 2013 and is subject to a full evaluation in 2017.

Chapter 401 of 2014, the "Good Samaritan Law," established that a person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person experiencing a medical emergency after ingesting or using alcohol or drugs must be immune from criminal prosecution for specified violations if the evidence for the criminal prosecution was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance. Additionally, a person who experiences a medical emergency after ingesting or using alcohol or drugs must be immune from criminal prosecution for certain violations if the evidence for the criminal prosecution was obtained solely as a result of another person's seeking medical assistance. The law also establishes that the act of seeking, providing, or assisting with the provision of medical assistance for another person may be used as a mitigating factor in a criminal prosecution. The violations covered by Chapter 401 include possession, but not distribution, of a controlled dangerous substance.

State Fiscal Effect: Although not specified, it is assumed that DLS provides staffing support for the committee. Any expense reimbursements for committee members and staffing costs are assumed to be minimal and absorbable within existing budgeted resources. General fund expenditures for DLS are likely minimal to the extent that the bill's monitoring and review requirements are fulfilled by having State agencies, advocacy groups, health insurance carriers, and other related entities report to the committee so that the committee may then draw conclusions from this information and make recommendations.

However, the bill establishes that the committee must monitor the *effectiveness* of the programs specified and *review* the extent to which health insurance carriers are *complying* with specified laws. Thus, the bill could alternatively be interpreted as necessitating that the committee undertake evaluations to be able to assess both effectiveness and compliance. Under this interpretation, DLS can likely handle one or two such evaluations to determine the *effectiveness* (or *compliance*) of the specified programs, policies, and practices each year (over the interim) with existing resources. Even so, contractual services may be necessary to the extent that the committee must obtain more in-depth information to adequately monitor, oversee, or review the specified programs, policies, and practices. Expenditures for DLS increase by approximately \$100,000 in each year that such contractual services are necessary to develop a methodology to determine effectiveness (or compliance) and to collect and analyze data. The timing and necessity of any such contractual services (and, thus, the timing of their related costs) will be determined by the committee. Moreover, obtaining the data to conduct any effectiveness or compliance evaluations could prove problematic as there is no requirement for entities to cooperate with the committee.

DLS notes that staffing duties may be problematic while the Maryland General Assembly is in session. DLS also notes that access to certain data may be restricted or otherwise problematic – for example, data necessary to determine health insurance carrier compliance with federal and State mental health and addiction parity laws. This estimate assumes data necessary to monitor and review the specified programs, policies, and practices.

Additional Comments: The bill does not provide for cooperation of the entities subject to monitoring and review.

Additional Information

Prior Introductions: None.

Cross File: SB 607 (Senator Klausmeier, *et al.*) - Finance.

Information Source(s): Governor's Office of Crime Control and Prevention, Department of Health and Mental Hygiene, Maryland Association of Counties, Maryland Association of County Health Officers, University System of Maryland, Department of Legislative Services

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