

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 1060

(Senator Miller, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

Heroin and Opioid Education and Community Action Act of 2017 (Start Talking Maryland Act)

This bill (1) requires the State Board of Education to expand an existing program in the public schools to encompass drug addiction and prevention education (specifically heroin and opioids); (2) requires each local board of education to establish a policy requiring each public school to store naloxone and authorize school personnel to administer it; (3) requires each local board of education or local health department (LHD) to hire a county or regional community action official or to develop an equivalent program; (4) requires the Governor to include a general fund appropriation of at least \$3.0 million in the fiscal 2019 budget for the Maryland State Department of Education (MSDE) to award grants to local boards of education to implement the bill's policy and training requirements; (5) requires each institution of higher education in Maryland that receives State funding to establish a policy that addresses heroin and opioid addiction and prevention, including awareness training for incoming students, obtaining and storing naloxone, and training of campus police (or other designated personnel); (6) requires certain institutions of higher education to offer instruction in substance use disorders; and (7) requires MSDE to convene a workgroup and submit a report on behavioral and substance abuse disorder services in public schools.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: General fund expenditures for MSDE increase by at least \$3.0 million in FY 2019 and potentially significantly more to assist local boards of education with the purchase of naloxone kits and other requirements. Higher education expenditures may increase beginning in FY 2018 to obtain naloxone or another overdose-reversing medication and for required training. General fund expenditures may increase for the Department of Health and Mental Hygiene (DHMH), as discussed below. Revenues are not affected. **This bill establishes a mandated appropriation for FY 2019.**

Local Effect: Potential significant increase in expenditures for local boards of education or LHDs under contract with school boards to provide naloxone and any associated training and to hire community action officials and implement program requirements, as discussed below. The local boards may receive grant funding to mitigate a portion of these costs in FY 2019. Expenditures further increase for local community colleges to meet the bill's requirements. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Public Schools: The bill establishes that a local board of education must consult with a county superintendent before any change in the hiring or termination of personnel in connection with a school health services program.

The State Board of Education must implement a program of drug addiction and prevention education in schools that includes instruction related to heroin and opioid addiction and prevention, including information relating to the lethal effect of fentanyl. This instruction must be delivered in the following grade bands: (1) third grade through fifth grade; (2) sixth grade through eighth grade; and (3) ninth grade through twelfth grade. The instruction must be delivered as a stand-alone unit in the program.

Each local board of education, in accordance with school health guidelines and State laws and regulations, must authorize a school nurse, school health services personnel, and other school personnel to administer naloxone or another overdose-reversing medication to a student or other person on school property who is reasonably believed to be experiencing an opioid overdose. The policy must include (1) a provision requiring all public schools to obtain and store naloxone or another overdose-reversing medication and (2) a requirement that each public school develop a method for parental or guardian notification of the policy. The bill exempts school nurses, other school health services personnel who are licensed or certified under the Health Occupations Article, and other school personnel who comply with the bill's requirements and who respond in good faith to a student's overdose emergency from personal liability for any act or omission in the course of responding to the emergency, except for willful or grossly negligent acts.

Each local board of education or LHD, by local agreement, must hire a sufficient number of either county or regional community action officials or develop and implement a program that provides the community relations and education functions that would be

performed by community action officials. Such an official must (1) coordinate school-based community forums and coordination with law enforcement and (2) conduct specified public relations efforts.

MSDE must disburse grants authorized by the Governor's appropriation in the fiscal 2019 budget based on the enrollment count of students in public schools in the State from the prior fiscal year. A local board of education must use its best efforts to implement the bill's requirements *before* receiving the grant funding that is awarded in fiscal 2019. By October 1 of each year, each public school must submit specified reports to MSDE on each incident at the school that required the use of naloxone or another overdose-reversing medication on a form developed and disseminated by MSDE. MSDE must submit this information to the General Assembly in a report by December 1 of 2018, 2019, and 2020.

Institutions of Higher Education: Each institution of higher education that receives State operating or capital funding must establish a policy on heroin and opioid addiction and prevention that requires (1) each institution to require incoming full-time students to participate in in-person awareness training, unless in-person training is impracticable, in which case such training must be conducted electronically; (2) each institution to provide incoming part-time students with educational resources on heroin and opioid addiction and prevention; (3) each institution to obtain and store naloxone or another overdose-reversing medication; and (4) training for campus police or other designated personnel on symptom recognition, medication administration procedures, and follow-up emergency procedures. Requirements relating to awareness training for incoming full-time students and obtaining and storing naloxone or another overdose-reversing medication do not apply to (1) the University of Maryland, University College; (2) the University of Maryland Center for Environmental Science; or (3) an off-campus location of an institution of higher education.

The bill exempts campus police and other designated personnel who have been trained and who respond in good faith from personal liability for any act or omission in the course of responding to a student's overdose emergency, except for willful or grossly negligent acts.

By October 1 of each year, each institution of higher education must submit a report on each incident that required the use of naloxone or another overdose-reversing medication to the Maryland Higher Education Commission (MHEC). MHEC must submit this information to the General Assembly in a report by December 1 of 2018, 2019, and 2020.

Finally, each institution of higher education that awards a degree that an individual may use to meet the educational requirements for State licensure as a physician, advanced practice nurse, dentist, physician assistant, or podiatrist must offer instruction in substance use disorders, effective treatment, and pain management.

Maryland State Department of Education Workgroup: The workgroup must consist of local health officers, behavioral and substance abuse disorder counselors and therapists, and specified representatives of education associations and interested stakeholders. The workgroup must (1) evaluate programs that provide behavioral and substance abuse disorder services in public schools; (2) develop proposals to expand the evaluated programs to other jurisdictions, including recovery schools; and (3) submit a report to the General Assembly by December 1, 2017, with its findings and recommendations.

Current Law: State law does not establish drug education or training requirements for institutions of higher education. However, the State Board of Education must develop and implement a program of drug education in public schools, which must be started before the sixth grade in each public school by teachers who are trained in the field of drug education. The board must establish standards for how to determine if a teacher is considered “trained” for the purposes of this requirement. The program must be coordinated with other State agencies that are responsible for drug abuse education and control.

Each local board of education must provide adequate school health services, instruction in health education, and a healthful school environment. MSDE and DHMH must jointly develop public standards and guidelines for school health programs and offer assistance to local boards and LHDs in implementation. Each local board must designate a school health services program coordinator, or the board may authorize the LHD to designate the school health services program coordinator. The local board must grant the school health services program coordinator the authority to (1) implement State and local health policies in public schools; (2) ensure that public schools adhere to local health services guidelines; and (3) communicate State and local health policies to the parents and guardians of students.

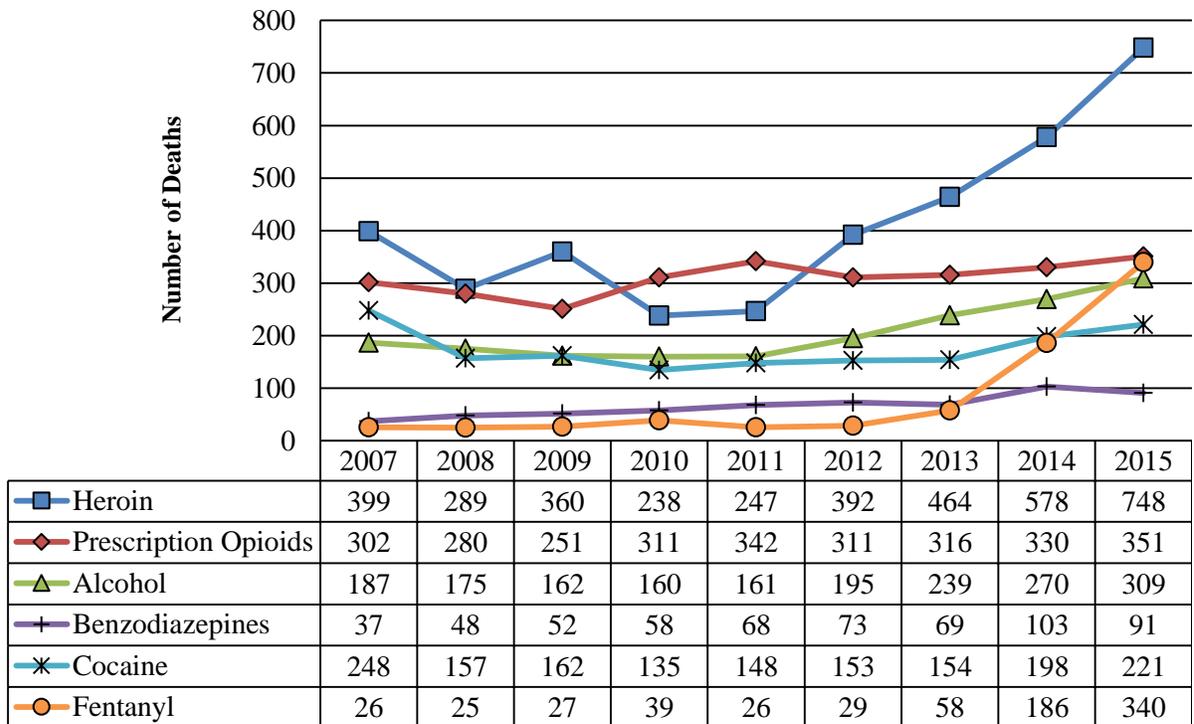
Background:

Opioid Deaths: In February 2015, the Governor issued two executive orders establishing the Governor’s Inter-Agency Heroin and Opioid Coordinating Council and the Heroin and Opioid Emergency Task Force to establish a coordinated statewide and multijurisdictional effort to prevent, treat, and significantly reduce heroin and opioid abuse. Additionally, Chapter 464 of 2015 established the Joint Committee on Behavioral Health and Opioid Use Disorders. The joint committee is required to monitor the activities of the coordinating council and the effectiveness of the State Overdose Prevention Plan; local overdose prevention plans and fatality review teams; strategic planning practices to reduce prescription drug abuse; and efforts to enhance overdose response laws, regulations, and training. In January 2017, the Governor issued another executive order establishing an Opioid Operational Command Center within the coordinating council to facilitate coordination and sharing of data among State and local agencies. On March 1, 2017, the Governor declared a state of emergency in response to the opioid epidemic in the State and announced a supplemental budget of \$50.0 million in new funding over a five-year period

to support Maryland’s prevention, recovery, and enforcement efforts. On March 31, 2017, the Governor issued an executive order extending the declared state of emergency an additional 30 days (until April 30, 2017).

According to DHMH’s 2016 report, *Drug and Alcohol-Related Intoxication Deaths in Maryland*, drug- and alcohol-related intoxication deaths in Maryland increased for the fifth year in a row, totaling 1,259 deaths in 2015 – a 21% increase since 2014 and an all-time high. Of all intoxication deaths, 1,089 deaths (86%) were opioid related, including deaths related to heroin, prescription opioids, and nonpharmaceutical fentanyl. Opioid-related deaths increased by 23% between 2014 and 2015 and have more than doubled since 2010. Heroin- and fentanyl-related deaths have risen particularly sharply. The number of heroin-related deaths increased by 29% between 2014 and 2015 and has more than tripled between 2010 and 2015. The number of fentanyl-related deaths increased by 83% between 2014 and 2015 and has increased nearly twelvefold since 2012. **Exhibit 1** shows trends in drug- and alcohol-related intoxication deaths in Maryland from 2007 through 2015.

Exhibit 1
Total Number of Drug- and Alcohol-related Intoxication Deaths
By Selected Substances in Maryland
2007-2015



Source: Department of Health and Mental Hygiene

Preliminary data from DHMH indicates that the number of intoxication deaths increased at an even steeper rate in 2016, with 1,468 deaths from January through September 2016 compared to 904 deaths during the same period in 2015 (a 62% increase). Additionally, for January through September 2016, the number of heroin-related deaths increased 72%, and the number of fentanyl-related deaths increased nearly fourfold compared to the same period in 2015.

Public Schools: According to a November 2016 *Baltimore Sun* article, several school systems in Maryland have begun stocking naloxone and training nurses in its administration. According to the article, Anne Arundel County stocks naloxone in all public schools; Harford County and Carroll County stock naloxone in middle and high schools; and Baltimore County stocks naloxone in high schools and alternative schools. School resource police officers in Howard County currently carry naloxone, and the county is developing a training program for nurses. Baltimore City is also developing a plan to stock naloxone and train nurses in its administration. The article further reported that it cost Anne Arundel County \$12,500 to stock 125 schools with naloxone (which equates to \$100 per kit).

State Expenditures:

Maryland State Department of Education: The bill requires the Governor to appropriate at least \$3.0 million in general funds in the fiscal 2019 budget for MSDE to award grants to local boards of education to implement the bill's requirements on policies and training on heroin and opioid addiction and prevention. Therefore, general fund expenditures for MSDE increase by at least \$3.0 million in fiscal 2019. General fund expenditures potentially exceed \$3.0 million to assist local boards of education with the purchase of naloxone kits.

MSDE advises that it must hire one full-time employee to implement the bill's requirements relating to (1) the development of a specific program for heroin and opioid addiction; (2) creating, disseminating, and collecting overdose reports; (3) compiling this information into an annual report for three years; (4) disbursing the required grants; and (5) convening the required workgroup and completing associated requirements. However, the Department of Legislative Services (DLS) advises that MSDE can likely handle these requirements with existing resources, as these responsibilities fall within MSDE's current scope of work. Staff may need to be temporarily diverted from other tasks in order to provide support for the workgroup and prepare the required reports.

Department of Health and Mental Hygiene: The bill requires each local board of education to establish a policy that requires each public school to obtain and store naloxone or another overdose-reversing medication. According to the Maryland Association of County Health Officers (MACHO), some LHDs oversee the school nurse programs for local school

districts. Thus, under the bill, these schools would obtain naloxone through LHDs. The Behavioral Health Administration (BHA) within DHMH advises that LHDs receive funding to cover the cost of naloxone kits – funding is awarded based on need and the amount of BHA funds available. BHA advises that its cost for a naloxone kit is \$75.

Therefore, to the extent the bill requires LHDs to provide naloxone kits for public schools and the LHDs are not reimbursed by the local board of education, general fund expenditures for DHMH increase, potentially significantly, beginning in fiscal 2018 due to increased demand for naloxone through LHDs.

Maryland Higher Education Commission: The bill requires each institution of higher education to submit a report on each incident involving the use of naloxone to MHEC, which must then submit this information in an annual report for three years. MHEC advises that it can handle these requirements with existing resources.

Higher Education Institutions: The bill requires institutions of higher education to establish a policy that requires (1) each higher education institution to require incoming full-time students to participate in in-person or electronic heroin and opioid addiction and prevention awareness training and to provide educational resources to incoming part-time students and (2) each institution to obtain and store naloxone or another overdose-reversing medication. Further, campus police or other designated personnel must receive training in overdose response and treatment.

St. Mary's College of Maryland advises that, while the college does not have a specific policy on heroin and opioid addiction, the college does include alcohol and drug addiction and prevention in new student orientation. Further, employees of the college's health center are trained in recognizing heroin addiction and overdose and are trained in naloxone administration, which the college already stores on campus.

The University System of Maryland (USM) advises that the bill has no impact. USM did not provide details; however, a September 2016 *Diamondback* article reported that University of Maryland, College Park Campus police currently carry naloxone and are trained in naloxone administration and that the university health center also stocks naloxone.

To the extent the other USM institutions, Morgan State University, and Baltimore City Community College do not currently stock naloxone or another overdose-reversing medication, and to the extent campus police or other designated personnel are not already trained in proper administration of overdose-reversing medication, higher education expenditures increase beginning in fiscal 2018. However, the bill does not specify the quantities of naloxone or other types of overdose-reversing medications that must be stocked, nor does it specify training parameters for campus police or other designated

personnel – each institution must adopt its own policy. Therefore, any impact depends on the individual policies adopted by each institution, which cannot be reliably estimated at this time.

The bill also requires institutions of higher education to report each incident that involved the use of naloxone or another overdose-reversing medication to MHEC. Specified institutions of higher education must also offer instruction in substance use disorders, effective treatment, and pain management. These requirements can likely be handled with existing resources.

Local Fiscal Effect:

Local Health Departments: As noted above, the bill requires each local board of education to establish a policy that requires each public school to obtain and store naloxone or another overdose-reversing medication. Some LHDs oversee the school nurse programs for local school districts. Thus, under the bill, these schools would obtain naloxone through LHDs.

Therefore, to the extent the bill requires LHDs to provide naloxone kits for public schools, expenditures for LHDs increase, potentially significantly, beginning in fiscal 2018 due to increased demand for naloxone through LHDs. Some of these expenditures may be covered by funds from BHA. MACHO additionally advises LHDs may also be required to provide training in naloxone administration, which also results in an operational and potential fiscal impact. However, MACHO was unable to estimate the extent of this impact. Expenditures also increase if LHDs are required to hire community action officials or develop an equivalent program, instead of local boards of education, which depends on any agreement reached in each jurisdiction.

Local Boards of Education: Beginning in fiscal 2018, expenditures increase for local boards of education that do not already stock naloxone or another overdose-reversing medication in public schools and that do not already have school nurses, other school health services personnel, or other school personnel trained in the administration of such medication. However, in fiscal 2019, MSDE must award grants to local boards of education to implement the bill's requirements relating to heroin and opioid policies and training; grants must be awarded based on the enrollment count of students in public schools in the State for the prior fiscal year. Therefore, such expenditures may be offset by the MSDE grants beginning in fiscal 2019.

The bill also requires each local board of education or LHD to hire either county or regional community action officials or develop an equivalent program. DLS notes that any grants MSDE awards under the bill do not cover the hiring of community action officials (the bill specifies that the grants are only for policy and training implementation). Thus, local expenditures increase, potentially significantly, for local boards to hire community action

officials or develop an equivalent program. Costs may be significantly less for those counties that may coordinate with neighboring counties to hire regional community action officials. Each county may also choose to have the LHD, instead of the local board of education, hire community action officials or develop the program.

Finally, local expenditures may also increase to incorporate any new heroin and opioid education program in public schools that is developed by MSDE in accordance with the bill's requirements. The extent of this impact depends on the specific program requirements, as established by MSDE. However, the bill requires the program to be a stand-alone unit within any existing drug education program and requires that the program be established within specified grade bands. Thus, to the extent the program cannot be incorporated into existing drug education programs, expenditures may increase for schools to implement the program.

The bill requires each public school to report each incident that involved the use of naloxone or another overdose-reversing medication to MSDE. This requirement can likely be handled with existing resources.

Local Community Colleges: As for other institutions of higher education, each of the 15 locally controlled community colleges in Maryland must establish a policy to provide incoming students with awareness training or educational resources on heroin and opioid addiction and prevention and that requires each community college to obtain and store naloxone or another overdose-reversing medication. Further, campus police or other designated personnel must receive training in overdose response and treatment. To the extent such practices are not already in place, local community college expenditures increase beginning in fiscal 2018 to meet the bill's requirements. The bill's reporting requirement relating to the use of naloxone or another overdose-reversing medication can likely be handled with existing resources.

Additional Comments: The Maryland Independent College and University Association (MICUA) advises that most, if not all, of MICUA campuses already have mandatory substance abuse awareness programs, overdose-reversing medications on campus, and trained campus police. MICUA advises that any additional costs for specific training on naloxone administration are expected to be minimal. It is assumed the bill's requirements related to (1) reporting incidents involving use of naloxone or another overdose-reversing medication and (2) certain institutions offering instruction in substance use disorders, effective treatment, and pain management can be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1082 (Delegate Bromwell, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Association of County Health Officers; Baltimore, Carroll, Harford, and Montgomery counties; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Higher Education Commission; Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Maryland Independent College and University Association; Department of Budget and Management; Department of Health and Mental Hygiene; *Baltimore Sun*; *Diamondback*; Department of Legislative Services

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