

# HOUSE BILL 794

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By: **Delegate Rosenberg**

Introduced and read first time: February 3, 2022

Assigned to: Appropriations and Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Opioid Restitution Fund Advisory Council**

3 FOR the purpose of establishing the Opioid Restitution Fund Advisory Council in the  
4 Maryland Department of Health to provide specific findings and recommendations  
5 regarding the allocation of money from the Opioid Restitution Fund; altering the  
6 permissible uses for the Fund and the requirement that the Governor consult with  
7 certain persons to identify recommended appropriations from the Fund; and  
8 generally relating to the Opioid Restitution Fund Advisory Council.

9 BY adding to

10 Article – Health – General

11 Section 7.5–901 through 7.5–905 to be under the new subtitle “Subtitle 9. Opioid  
12 Restitution Fund Advisory Council”

13 Annotated Code of Maryland

14 (2019 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, without amendments,

16 Article – State Finance and Procurement

17 Section 7–331(a) through (c) and (e)

18 Annotated Code of Maryland

19 (2021 Replacement Volume)

20 BY repealing and reenacting, with amendments,

21 Article – State Finance and Procurement

22 Section 7–331(f) and (j)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2021 Replacement Volume)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
4 That the Laws of Maryland read as follows:

5 **Article – Health – General**

6 **SUBTITLE 9. OPIOID RESTITUTION FUND ADVISORY COUNCIL.**

7 **7.5–901.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (B) “COUNCIL” MEANS THE OPIOID RESTITUTION FUND ADVISORY  
11 COUNCIL.

12 (C) “FUND” MEANS THE OPIOID RESTITUTION FUND ESTABLISHED UNDER  
13 § 7–331 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

14 **7.5–902.**

15 THERE IS AN OPIOID RESTITUTION FUND ADVISORY COUNCIL IN THE  
16 DEPARTMENT.

17 **7.5–903.**

18 (A) THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

19 (1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE  
20 PRESIDENT OF THE SENATE;

21 (2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE  
22 SPEAKER OF THE HOUSE;

23 (3) THE DEPUTY SECRETARY FOR BEHAVIORAL HEALTH, OR THE  
24 DEPUTY SECRETARY’S DESIGNEE;

25 (4) THE DEPUTY SECRETARY FOR HEALTH CARE FINANCING, OR  
26 THE DEPUTY SECRETARY’S DESIGNEE;

27 (5) THE EXECUTIVE DIRECTOR OF THE OPIOID OPERATIONAL  
28 COMMAND CENTER, OR THE EXECUTIVE DIRECTOR’S DESIGNEE;

1           **(6) THREE INDIVIDUALS APPOINTED BY THE GOVERNOR:**

2                   **(I) ONE OF WHOM REPRESENTS A COMMUNITY-BASED OPIOID**  
3 **TREATMENT PROGRAM;**

4                   **(II) ONE OF WHOM REPRESENTS A COMMUNITY-BASED**  
5 **SUBSTANCE USE DISORDER AND MENTAL HEALTH TREATMENT PROGRAMS; AND**

6                   **(III) ONE OF WHOM IS A PUBLIC HEALTH EXPERT ENGAGED IN**  
7 **HARM REDUCTION SERVICES; ~~AND~~**

8           **(7) THREE INDIVIDUALS APPOINTED BY THE SECRETARY:**

9                   **(I) ONE OF WHOM IS AN INDIVIDUAL IN RECOVERY FROM A**  
10 **SUBSTANCE USE DISORDER;**

11                   **(II) ONE OF WHOM IS A FAMILY MEMBER OF AN INDIVIDUAL**  
12 **WHO HAS EXPERIENCED AN OVERDOSE; AND**

13                   **(III) ONE OF WHOM IS AN INDIVIDUAL DISPROPORTIONATELY**  
14 **IMPACTED BY SUBSTANCE USE DISORDERS AND DISPARITIES IN ACCESS TO CARE;**  
15 **AND**

16                   **(8) ONE INDIVIDUAL DESIGNATED BY THE EXECUTIVE DIRECTOR OF**  
17 **THE MARYLAND ASSOCIATION OF COUNTIES.**

18           **(B) MEMBERS APPOINTED BY THE GOVERNOR AND BY THE SECRETARY**  
19 **UNDER SUBSECTION (A) OF THIS SECTION SHALL, TO THE EXTENT PRACTICABLE:**

20                   **(1) REFLECT THE GEOGRAPHIC REGIONS OF THE STATE;**

21                   **(2) BE REPRESENTATIVE OF AT-RISK POPULATIONS; AND**

22                   **(3) REFLECT THE ETHNIC, GENDER, AND CULTURAL DIVERSITY OF**  
23 **THE STATE.**

24           **(C) THE COUNCIL SHALL DESIGNATE A CHAIR FROM AMONG THE**  
25 **MEMBERSHIP OF THE COUNCIL.**

26           **(D) (1) (I) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR**  
27 **OR THE SECRETARY UNDER SUBSECTION (A) OF THIS SECTION IS 2 YEARS.**

28                   **(II) THE TERMS OF THE MEMBERS APPOINTED BY THE**  
29 **GOVERNOR AND THE SECRETARY UNDER SUBSECTION (A) OF THIS SECTION ARE**

1 STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE  
2 COUNCIL ON OCTOBER 1, 2022.

3 (III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE  
4 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

5 (IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
6 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED  
7 AND QUALIFIES.

8 (2) A MEMBER APPOINTED BY THE GOVERNOR OR THE SECRETARY  
9 UNDER SUBSECTION (A) OF THIS SECTION MAY SERVE FOR A MAXIMUM OF TWO  
10 CONSECUTIVE TERMS.

11 (3) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS  
12 SUBSECTION, ALL MEMBERS SERVE AT THE PLEASURE OF THE GOVERNOR.

13 (E) A MEMBER OF THE COUNCIL:

14 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE  
15 COUNCIL; BUT

16 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
17 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

18 (F) WITH THE CONSENT OF THE COUNCIL, THE CHAIR MAY DESIGNATE  
19 ADDITIONAL INDIVIDUALS WITH RELEVANT EXPERTISE TO SERVE ON A COMMITTEE  
20 OF THE COUNCIL IN AN ADVISORY CAPACITY.

21 7.5-904.

22 (A) (1) THE COUNCIL MAY ADOPT PROCEDURES NECESSARY TO DO  
23 BUSINESS, INCLUDING THE CREATION OF COMMITTEES.

24 (2) THE COUNCIL MAY CONSULT WITH STATE AGENCIES TO CARRY  
25 OUT THE DUTIES OF THE COUNCIL.

26 (3) THE COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR.

27 (4) A MAJORITY OF THE VOTING MEMBERS OF THE COUNCIL IS A  
28 QUORUM.

1           **(B) ~~THE BEHAVIORAL HEALTH ADMINISTRATION~~ OPIOID OPERATIONAL**  
2 **COMMAND CENTER SHALL PROVIDE APPROPRIATE STAFF NECESSARY TO SUPPORT**  
3 **THE FUNCTIONS OF THE COUNCIL.**

4 **7.5-905.**

5           **ON OR BEFORE NOVEMBER 1 EACH YEAR, THE COUNCIL SHALL PROVIDE**  
6 **SPECIFIC FINDINGS AND RECOMMENDATIONS IN WRITING TO THE GOVERNOR AND**  
7 **THE SECRETARY REGARDING THE ALLOCATIONS OF MONEY FROM THE FUND FOR**  
8 **EXPENDITURES CONSISTENT WITH USES OF THE FUND AND CONSIDERING THE**  
9 **FOLLOWING CRITERIA:**

10           **(1) THE NUMBER OF PEOPLE PER CAPITA WITH A SUBSTANCE USE**  
11 **DISORDER IN A JURISDICTION;**

12           **(2) DISPARITIES IN ACCESS TO CARE IN A JURISDICTION THAT MAY**  
13 **PRECLUDE PERSONS;**

14           **(3) THE NUMBER OF OVERDOSE DEATHS PER CAPITA IN A**  
15 **JURISDICTION;**

16           **(4) THE PROGRAMS, SERVICES, SUPPORTS, OR OTHER RESOURCES**  
17 **CURRENTLY AVAILABLE TO INDIVIDUALS WITH SUBSTANCE USE DISORDERS IN A**  
18 **JURISDICTION; AND**

19           **(5) DISPARITIES IN ACCESS TO CARE AND HEALTH OUTCOMES IN A**  
20 **JURISDICTION.**

21                           **Article – State Finance and Procurement**

22 **7-331.**

23           (a) In this section, “Fund” means the Opioid Restitution Fund.

24           (b) There is an Opioid Restitution Fund.

25           (c) The purpose of the Fund is to retain the amount of settlement revenues  
26 deposited to the Fund in accordance with subsection (e)(1) of this section.

27           (e) The Fund consists of:

28           (1) all revenues received by the State from any source resulting, directly or  
29 indirectly, from any judgment against, or settlement with, opioid manufacturers, opioid  
30 research associations, or any other person in the opioid industry relating to any claims  
31 made or prosecuted by the State to recover damages for violations of State law; and

1 (2) the interest earnings of the Fund.

2 (f) The Fund may be used only to provide funds for:

3 (1) **PROGRAMS, SERVICES, SUPPORTS, AND RESOURCES FOR**  
4 **EVIDENCE-BASED SUBSTANCE USE DISORDER PREVENTION, TREATMENT,**  
5 **RECOVERY, OR HARM REDUCTION THAT HAVE THE PURPOSE OF:**

6 (I) improving access to medications proven to prevent or reverse an  
7 overdose;

8 [(2)] (II) supporting peer support specialists and screening, brief  
9 intervention, and referral to treatment services for hospitals, correctional facilities, and  
10 other high-risk populations;

11 [(3)] (III) increasing access to medications that support recovery from  
12 substance use disorders;

13 [(4)] (IV) expanding the Heroin Coordinator Program, including for  
14 administrative expenses;

15 [(5)] (V) expanding access to crisis beds and residential treatment  
16 services **FOR ADULTS AND MINORS**;

17 [(6)] (VI) expanding and establishing safe stations, mobile crisis response  
18 systems, and crisis stabilization centers;

19 [(7)] (VII) supporting the [Health Crisis Hotline] **BEHAVIORAL HEALTH**  
20 **CRISIS HOTLINE**;

21 [(8)] (VIII) organizing primary and secondary school education campaigns  
22 to prevent opioid use, including for administrative expenses;

23 [(9)] (IX) enforcing the laws regarding opioid prescriptions and sales,  
24 including for administrative expenses;

25 [(10)] (X) research regarding and training for substance use treatment and  
26 overdose prevention, including for administrative expenses; and

27 [(11)] (XI) supporting and expanding other evidence-based interventions  
28 for overdose prevention and substance use treatment;

29 (2) **EVIDENCE-INFORMED SUBSTANCE USE DISORDER PREVENTION,**  
30 **TREATMENT RECOVERY, OR HARM REDUCTION PILOT PROGRAMS OR**

1 DEMONSTRATION STUDIES THAT ARE NOT EVIDENCE-BASED IF THE OPIOID  
2 RESTITUTION FUND ADVISORY COUNCIL, ESTABLISHED UNDER § 7.5-902 OF THE  
3 HEALTH – GENERAL ARTICLE:

4 (I) DETERMINES THAT EMERGING EVIDENCE SUPPORTS THE  
5 DISTRIBUTION OF MONEY FOR THE PILOT PROGRAM OR THAT THERE IS A  
6 REASONABLE BASIS FOR FUNDING THE DEMONSTRATION STUDY WITH THE  
7 EXPECTATION OF CREATING AN EVIDENCE-BASED PROGRAM; AND

8 (II) APPROVES THE USE OF MONEY FOR THE PILOT PROGRAM  
9 OR DEMONSTRATION STUDY; AND

10 (3) EVALUATIONS OF THE EFFECTIVENESS AND OUTCOMES  
11 REPORTING FOR SUBSTANCE USE DISORDER ABATEMENT INFRASTRUCTURE,  
12 PROGRAMS, SERVICES, SUPPORTS, AND RESOURCES FOR WHICH MONEY FROM THE  
13 FUND WAS USED, INCLUDING EVALUATIONS OF THE IMPACT ON ACCESS TO HARM  
14 REDUCTION SERVICES OR TREATMENT FOR SUBSTANCE USE DISORDERS AND THE  
15 REDUCTION IN DRUG-RELATED MORTALITY.

16 (j) The Governor shall:

17 (1) develop key goals, key objectives, and key performance indicators  
18 relating to substance use treatment and prevention efforts;

19 (2) at least [once] **TWICE** annually, consult with [substance use treatment  
20 and prevention stakeholders, including consumers, providers, families, and advocates,]  
21 **THE OPIOID RESTITUTION FUND ADVISORY COUNCIL** to identify recommended  
22 appropriations from the Fund; and

23 (3) report on or before November 1 each year, in accordance with § 2-1257  
24 of the State Government Article, to the General Assembly on:

25 (i) an accounting of total funds expended from the Fund in the  
26 immediately preceding fiscal year, by:

- 27 1. use;
- 28 2. if applicable, jurisdiction; and
- 29 3. budget program and subdivision;

30 (ii) the performance indicators and progress toward achieving the  
31 goals and objectives developed under item (1) of this subsection; and

1 (iii) the recommended appropriations from the Fund identified in  
2 accordance with item (2) of this subsection.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
4 appointed members of the Opioid Restitution Fund Advisory Council shall expire as follows:

5 (1) one member appointed by the Governor and one member appointed by  
6 the Secretary of Health in 2023;

7 (2) one member appointed by the Governor and one member appointed by  
8 the Secretary of Health in 2024; and

9 (3) one member appointed by the Governor and one member appointed by  
10 the Secretary of Health in 2025.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2022.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.