HOUSE BILL 1084

E5 5lr3426
SB 801/24 – B&T & JPR CF SB 942

By: **Delegates Pena–Melnyk, Cullison, and White Holland**
Introduced and read first time: February 5, 2025
Assigned to: Judiciary and Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Correctional Services – Medication–Assisted Treatment Funding

FOR the purpose of repealing the requirement that each local correctional facility make available at least one formulation of certain Food and Drug Administration–approved opioid medications used for the treatment of opioid use disorders; requiring the Maryland Secretary of Health to provide annually each county a grant equal to the costs incurred by the county for the implementation of a certain medication–assisted treatment program; authorizing the Governor to include in the annual budget bill an appropriation for the purpose of providing grants under certain circumstances; expanding the authorized uses of the Opioid Restitution Fund; and generally relating to medication–assisted treatment for incarcerated individuals.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 9–603
Annotated Code of Maryland
(2017 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–331
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

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

Article – Correctional Services

9–603.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

(a) (1) Subject to paragraph (2) of this subsection, the requirements under this section shall apply to:

(i) local detention centers in the following counties by January 1, 2020:

1. Howard County;

2. Montgomery County;

3. Prince George's County; and

4. St. Mary's County; and

(ii) local detention centers in six additional counties by October 1, 2021.

(2) (i) The Governor's Office of Crime Prevention and Policy, the Maryland Department of Health, and the Maryland Correctional Administrators Association shall evaluate the implementation of the requirements of this section and determine a schedule to add additional counties, provided that the provisions of this section shall apply to all local detention centers and the Baltimore Pre–trial Complex by January 2023.

(ii) If the Baltimore Pre–trial Complex has not fully implemented the provisions of this section by January 2023, the Department of Public Safety and Correctional Services shall report to the Senate Finance Committee and the House Judiciary Committee, in accordance with § 2–1257 of the State Government Article, on the status and timeline of implementation.

(iii) Funding for the program at the Baltimore Pre–trial Complex shall be as provided in the State budget.

(b) (1) In this section the following words have the meanings indicated.

(2) "Health care practitioner" means an individual who is licensed, certified, or otherwise authorized to practice under the Health Occupations Article.

(3) "Incarcerated individual" means an individual confined within a local correctional facility.

(4) "Medication" means a medication approved by the federal Food and Drug Administration for the treatment of opioid use disorder.

(5) "Medication–assisted treatment" means the use of medication, in combination with counseling and behavioral health therapies, to provide a holistic approach to the treatment of opioid use disorder.

(6) "Opioid use disorder" means a medically diagnosed problematic pattern of opioid use that causes significant impairment or distress.

(7) "Peer recovery specialist" means an individual who has been certified by an entity approved by the Maryland Department of Health for the purpose of providing peer support services, as defined under § 7.5–101(n) of the Health – General Article.

(c) An incarcerated individual in a State or local correctional facility shall be placed on a properly supervised program of methadone detoxification if:

(1) a physician determines that the incarcerated individual is a person with an opioid use disorder;

(2) the treatment is prescribed by a physician; and

(3) the incarcerated individual consents in writing to the treatment.

(d) (1) Each local correctional facility shall conduct an assessment of the mental health and substance use status of each incarcerated individual using evidence–based screenings and assessments, to determine:

(i) if the medical diagnosis of an opioid use disorder is appropriate; and

(ii) if medication–assisted treatment is appropriate.

(2) If an assessment conducted under paragraph (1) of this subsection indicates opioid use disorder, an evaluation of the incarcerated individual shall be conducted by a health care practitioner with prescriptive authority authorized under Title 8, Title 14, or Title 15 of the Health Occupations Article.

(3) Information shall be provided to the incarcerated individual describing medication options used in medication–assisted treatment.

(4) Medication–assisted treatment shall be available to an incarcerated individual for whom such treatment is determined to be appropriate under this subsection.

(5) **[**Each local correctional facility shall 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 opioid use disorders.

(6)**]** Each pregnant woman identified with an opioid use disorder shall receive evaluation and be offered medication–assisted treatment as soon as practicable.

(e) Each local correctional facility shall:

(1) following an assessment using clinical guidelines for medication–assisted treatment:

(i) make medication available by a qualified provider to the incarcerated individual; or

(ii) begin withdrawal management services prior to administration of medication;

(2) make available and administer medications for the treatment of opioid use disorder;

(3) provide behavioral health counseling for incarcerated individuals diagnosed with opioid use disorder consistent with therapeutic standards for such therapies in a community setting;

(4) provide access to a health care practitioner who can provide access to all FDA–approved medications for the treatment of opioid use disorders; and

(5) provide on–premises access to peer recovery specialists.

(f) If an incarcerated individual received medication or medication–assisted treatment for opioid use disorder immediately preceding or during the incarcerated individual's incarceration, a local correctional facility shall 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.

(g) Before the release of an incarcerated individual diagnosed with opioid use disorder under subsection (d) of this section, a local correctional facility shall develop a plan of reentry that:

(1) includes information regarding postincarceration access to medication continuity, peer recovery specialists, other supportive therapy, and enrollment in health insurance plans;

(2) includes any recommended referrals by a health care practitioner to medication continuity, peer recovery specialists, and other supportive therapy; and

(3) is reviewed and, if needed, revised by a health care practitioner or peer recovery specialist.

(h) The procedures and standards used to determine substance use disorder diagnosis and treatment of incarcerated individuals are subject to the guidelines and regulations adopted by the Maryland Department of Health.

[(i) As provided in the State budget, the State shall fund the program of opioid use disorder screening, evaluation, and treatment of incarcerated individuals as provided under this section.**]**

(I) (1) SUBJECT TO SUBSECTION (J) OF THIS SECTION, FOR EACH FISCAL YEAR THE SECRETARY OF HEALTH THROUGH THE OFFICE OF OVERDOSE RESPONSE SHALL PROVIDE EACH COUNTY A GRANT EQUAL TO THE COSTS INCURRED BY THE COUNTY FOR THE IMPLEMENTATION OF A MEDICATION–ASSISTED TREATMENT PROGRAM IN ACCORDANCE WITH THIS SECTION DURING THE PRECEDING FISCAL YEAR.

(2) THE SECRETARY OF HEALTH, IN CONSULTATION WITH THE OFFICE OF OVERDOSE RESPONSE, SHALL PROVIDE A GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION FROM:

(I) THE OPIOID RESTITUTION FUND ESTABLISHED UNDER § 7–331 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(II) ANY MONEY APPROPRIATED IN THE STATE BUDGET FOR THE PURPOSE OF PROVIDING GRANTS UNDER THIS SUBSECTION.

(3) FUNDS DISTRIBUTED UNDER THIS SUBSECTION MAY BE REDUCED BY THE AMOUNT OF AN AWARD FROM THE GOVERNOR'S OFFICE OF CRIME PREVENTION AND POLICY OR THE MARYLAND DEPARTMENT OF HEALTH, OR A FEDERAL AWARD FOR THE SAME PURPOSES.

(J) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, EACH COUNTY SHALL SUBMIT TO THE OFFICE OF OVERDOSE RESPONSE A REPORT ON:

(I) THE NUMBER OF DAYS EACH INCARCERATED INDIVIDUAL WAS PROVIDED A SERVICE UNDER A MEDICATION–ASSISTED TREATMENT PROGRAM IN ACCORDANCE WITH THIS SECTION DURING THE PREVIOUS FISCAL YEAR;

(II) THE TOTAL ITEMIZED COSTS INCURRED FOR MEDICATION–ASSISTED TREATMENT SERVICES BY EACH LOCAL CORRECTIONAL FACILITY; AND

(III) ANY OTHER INFORMATION THAT THE OFFICE OF OVERDOSE RESPONSE REQUIRES.

(2) IF A COUNTY FAILS TO SUBMIT THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WHEN DUE, THE SECRETARY OF HEALTH SHALL DEDUCT AN AMOUNT EQUAL TO 20% OF ANY GRANT AWARDED UNDER SUBSECTION (I) OF THIS SECTION FOR EACH 30 DAYS OR PART OF 30 DAYS AFTER THE DUE DATE THAT THE INFORMATION WAS NOT SUBMITTED.

(K) (1) THE GOVERNOR MAY INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE MARYLAND DEPARTMENT OF HEALTH FOR THE PURPOSE OF PROVIDING GRANTS UNDER SUBSECTION (I) OF THIS SECTION.

(2) AN APPROPRIATION UNDER THIS SUBSECTION MAY BE USED ONLY TO PROVIDE FUNDING EQUAL TO THE COSTS INCURRED BY A COUNTY FOR THE IMPLEMENTATION OF A MEDICATION–ASSISTED TREATMENT PROGRAM IN ACCORDANCE WITH THIS SECTION.

[(j)**] (L)** On or before November 1, 2020, and annually thereafter, the Governor's Office of Crime Prevention and Policy shall report data from individual local correctional facilities to the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

(1) the number of incarcerated individuals diagnosed with:

(i) a mental health disorder;

(ii) an opioid use disorder;

(iii) a non–opioid substance use disorder; and

(iv) a dual diagnosis of mental health and substance use disorder;

(2) the number and cost of assessments for incarcerated individuals in local correctional facilities, including the number of unique incarcerated individuals examined;

(3) the number of incarcerated individuals who were receiving medication or medication–assisted treatment for opioid use disorder immediately prior to incarceration;

(4) the type and prevalence of medication or medication–assisted treatments for opioid use disorder provided;

(5) the number of incarcerated individuals diagnosed with opioid use disorder;

(6) the number of incarcerated individuals for whom medication and medication–assisted treatment for opioid use disorder was prescribed;

(7) the number of incarcerated individuals for whom medication and medication–assisted treatment was prescribed and initiated for opioid use disorder;

(8) the number of medications and medication–assisted treatments for opioid use disorder provided according to each type of medication and medication–assisted treatment options;

(9) the number of incarcerated individuals who continued to receive the same medication or medication–assisted treatment for opioid use disorder as the incarcerated individual received prior to incarceration;

(10) the number of incarcerated individuals who received a different medication or medication–assisted treatment for opioid use disorder compared to what the incarcerated individual received prior to incarceration;

(11) the number of incarcerated individuals who initiated treatment with medication or medication–assisted treatment for opioid use disorder who were not being treated for opioid use disorder prior to incarceration;

(12) the number of incarcerated individuals who discontinued medication or medication–assisted treatment for opioid use disorder during incarceration;

(13) **[**a review and summary of the percent of days, including the average percent, median percent, mode percent, and interquartile range of percent, for incarcerated individuals with opioid use disorder receiving medication or medication–assisted treatment for opioid use disorder as calculated overall and stratified by other factors, such as type of treatment received**]** **THE AVERAGE NUMBER OF DAYS INCARCERATED INDIVIDUALS RECEIVED MEDICATION–ASSISTED TREATMENT IN ACCORDANCE WITH THIS SECTION**;

(14) the number of incarcerated individuals receiving medication or medication–assisted treatment for opioid use disorder prior to release;

(15) the number of incarcerated individuals receiving medication or medication–assisted treatment prior to release for whom the facility had made a prerelease reentry plan;

(16) a review and summary of practices related to medication and medication–assisted treatment for opioid use disorder for incarcerated individuals with opioid use disorder before October 1, 2019;

(17) a review and summary of prerelease planning practices relative to incarcerated individuals diagnosed with opioid use disorder prior to, and following, October 1, 2019; **[**and**]**

(18) THE TOTAL ITEMIZED COSTS INCURRED FOR MEDICATION–ASSISTED TREATMENT SERVICES BY EACH LOCAL CORRECTIONAL FACILITY; AND

[(18)**] (19)** any other information requested by the **[**Maryland Department of Health**] OFFICE OF OVERDOSE RESPONSE** related to the administration of the provisions under this section.

[(k)**] (M)** Any behavioral health assessment, evaluation, treatment recommendation, or course of treatment shall be reported to the Governor's Office of Crime Prevention and Policy and also include any other data necessary to meet reporting requirements under this section.

Article – State Finance and Procurement

7–331.

(a) In this section, "Fund" means the Opioid Restitution Fund.

(b) There is an Opioid Restitution Fund.

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

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of this subtitle.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

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

(2) the interest earnings of the Fund.

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

(1) programs, services, supports, and resources for evidence–based substance use disorder prevention, treatment, recovery, or harm reduction that have the purpose of:

(i) improving access to medications proven to prevent or reverse an overdose, including by supporting the initiative to co–locate naloxone with automated external defibrillators placed in public buildings under § 13–518 of the Education Article;

(ii) supporting peer support specialists and screening, brief intervention, and referral to treatment services for hospitals, correctional facilities, and other high–risk populations;

(iii) increasing access to medications that support recovery from substance use disorders;

(iv) expanding the Heroin Coordinator Program, including for administrative expenses;

(v) expanding access to crisis beds and residential treatment services for adults and minors;

(vi) expanding and establishing safe stations, mobile crisis response systems, and crisis stabilization centers;

(vii) supporting the behavioral health crisis hotline;

(viii) organizing primary and secondary school education campaigns to prevent opioid use, including for administrative expenses;

(ix) enforcing the laws regarding opioid prescriptions and sales, including for administrative expenses;

(x) research regarding and training for substance use treatment and overdose prevention, including for administrative expenses; and

(xi) supporting and expanding other evidence–based interventions for overdose prevention and substance use treatment;

(2) supporting community–based nonprofit recovery organizations that provide nonclinical substance use recovery support services in the State;

(3) evidence–informed substance use disorder prevention, treatment recovery, or harm reduction pilot programs or demonstration studies that are not evidence–based if the Opioid Restitution Fund Advisory Council, established under § 7.5–902 of the Health – General Article:

(i) determines that emerging evidence supports the distribution of money for the pilot program or that there is a reasonable basis for funding the demonstration study with the expectation of creating an evidence–based program; and

(ii) approves the use of money for the pilot program or demonstration study; **[**and**]**

(4) evaluations of the effectiveness and outcomes reporting for substance use disorder abatement infrastructure, programs, services, supports, and resources for which money from the Fund was used, including evaluations of the impact on access to harm reduction services or treatment for substance use disorders and the reduction in drug–related mortality**; AND**

(5) GRANTS TO COUNTIES FOR THE IMPLEMENTATION OF A MEDICATION–ASSISTED TREATMENT PROGRAM UNDER TITLE 9, SUBTITLE 6 OF THE CORRECTIONAL SERVICES ARTICLE.

(g) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(h) (1) Expenditures from the Fund may be made only in accordance with the State budget.

(2) For settlement funds received in accordance with the final distributor agreement of July 21, 2021, with McKesson Corporation, Amerisource Bergen Corporation, and Cardinal Health Incorporated, as amended, the Janssen settlement agreement of July 21, 2021, as amended, or any other opioid–related court or administrative judgment or settlement agreement involving the State and one or more of its political subdivisions:

(i) appropriations from the Fund in the State budget shall be made in accordance with the allocation and distribution of funds to the State and its political subdivisions:

1. as agreed on in the State–subdivision agreement of January 21, 2022, as amended; or

2. required under any other opioid–related court or administrative judgment or settlement agreement, or any similar agreement reached under an opioid–related court or administrative judgment or settlement agreement, involving the State and one or more of its political subdivisions; and

(ii) the Secretary of Health shall establish and administer a grant program for the distribution of funds to political subdivisions of the State in accordance with:

1. the State–subdivision agreement of January 21, 2022, as amended; or

2. the requirements of any other opioid–related court or administrative judgment or settlement agreement, or any similar agreement reached under an opioid–related court or administrative judgment or settlement agreement, involving the State and one or more of its political subdivisions.

(3) The Attorney General shall identify and designate the controlling version of any agreement or amendment described under paragraph (2) of this subsection.

(i) (1) Money expended from the Fund for the programs and services described under subsection (f) of this section is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the programs and services.

(2) Except as specified in subsection (f) of this section, money expended from the Fund may not be used for administrative expenses.

(j) The Governor shall:

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

(2) subject to subsection (h)(2) of this section, at least twice annually, consult with the Opioid Restitution Fund Advisory Council to identify recommended appropriations from the Fund; and

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

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

1. use;

2. if applicable, jurisdiction; and

3. budget program and subdivision;

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.