

SENATE BILL 801

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By: **Senator Jackson**

Introduced and read first time: February 2, 2024

Assigned to: Budget and Taxation and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Medication–Assisted Treatment**

3 FOR the purpose of repealing the requirement that each local correctional facility make
4 available at least one formulation of certain Food and Drug
5 Administration–approved opioid medications used for the treatment of opioid use
6 disorders; requiring the Maryland Secretary of Health to annually provide each
7 county a grant equal to the costs incurred by the county for the implementation of a
8 certain medication–assisted treatment program; expanding the authorized uses of
9 the Opioid Restitution Fund; and generally relating to medication–assisted
10 treatment for incarcerated individuals.

11 BY repealing and reenacting, with amendments,
12 Article – Correctional Services
13 Section 9–603
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – State Finance and Procurement
18 Section 7–331
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2023 Supplement)

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

23 **Article – Correctional Services**

24 9–603.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (i) local detention centers in the following counties by January 1,
4 2020:

- 5 1. Howard County;
- 6 2. Montgomery County;
- 7 3. Prince George's County; and
- 8 4. St. Mary's County; and

9 (ii) local detention centers in six additional counties by October 1,
10 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) if medication–assisted treatment is appropriate.

18 (2) If an assessment conducted under paragraph (1) of this subsection
19 indicates opioid use disorder, an evaluation of the incarcerated individual shall be
20 conducted by a health care practitioner with prescriptive authority authorized under Title
21 8, Title 14, or Title 15 of the Health Occupations Article.

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

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

26 (5) [Each local correctional facility shall make available at least one
27 formulation of each FDA–approved full opioid agonist, partial opioid agonist, and
28 long–acting opioid antagonist used for the treatment of opioid use disorders.

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

31 (e) Each local correctional facility shall:

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

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

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

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

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

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

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

15 (f) If an incarcerated individual received medication or medication–assisted
16 treatment for opioid use disorder immediately preceding or during the incarcerated
17 individual’s incarceration, a local correctional facility shall continue the treatment after
18 incarceration or transfer unless:

19 (1) the incarcerated individual voluntarily discontinues the treatment,
20 verified through a written agreement that includes a signature; or

21 (2) a health care practitioner determines that the treatment is no longer
22 medically appropriate.

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

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

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

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

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

4 (i) **(1)** [As provided in the State budget, the State shall fund the program of
5 opioid use disorder screening, evaluation, and treatment of incarcerated individuals as
6 provided under this section.] **SUBJECT TO SUBSECTION (J) OF THIS SECTION, FOR**
7 **EACH FISCAL YEAR THE SECRETARY OF HEALTH SHALL PROVIDE EACH COUNTY A**
8 **GRANT EQUAL TO THE COSTS INCURRED BY THE COUNTY FOR THE**
9 **IMPLEMENTATION OF A MEDICATION-ASSISTED TREATMENT PROGRAM IN**
10 **ACCORDANCE WITH THIS SECTION DURING THE PRECEDING FISCAL YEAR.**

11 **(2) THE SECRETARY OF HEALTH, IN CONSULTATION WITH THE**
12 **OPIOID OPERATIONAL COMMAND CENTER, SHALL PROVIDE A GRANT UNDER**
13 **PARAGRAPH (1) OF THIS SUBSECTION FROM THE OPIOID RESTITUTION FUND**
14 **ESTABLISHED UNDER § 7-331 OF THE STATE FINANCE AND PROCUREMENT**
15 **ARTICLE.**

16 **(J) (1) (I) ON OR BEFORE OCTOBER 1 EACH YEAR, EACH COUNTY**
17 **SHALL SUBMIT TO THE OPIOID OPERATIONAL COMMAND CENTER A REPORT ON**
18 **THE NUMBER OF DAYS EACH INCARCERATED INDIVIDUAL WAS PROVIDED A SERVICE**
19 **UNDER A MEDICATION-ASSISTED TREATMENT PROGRAM IN ACCORDANCE WITH**
20 **THIS SECTION DURING THE PREVIOUS FISCAL YEAR.**

21 **(II) A REPORT SUBMITTED BEFORE OCTOBER 1, 2025, MAY**
22 **INCLUDE PRIOR YEAR COMMITMENTS NOT PREVIOUSLY FULFILLED BY STATE**
23 **FUNDING.**

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

29 **[(j)] (K)** On or before November 1, 2020, and annually thereafter, the Governor's
30 Office of Crime Prevention, Youth, and Victim Services shall report data from individual
31 local correctional facilities to the General Assembly, in accordance with § 2-1257 of the
32 State Government Article, on:

33 (1) the number of incarcerated individuals diagnosed with:

34 (i) a mental health disorder;

35 (ii) an opioid use disorder;

- 1 (iii) a non-opioid substance use disorder; and
- 2 (iv) a dual diagnosis of mental health and substance use disorder;
- 3 (2) the number and cost of assessments for incarcerated individuals in local
4 correctional facilities, including the number of unique incarcerated individuals examined;
- 5 (3) the number of incarcerated individuals who were receiving medication
6 or medication-assisted treatment for opioid use disorder immediately prior to
7 incarceration;
- 8 (4) the type and prevalence of medication or medication-assisted
9 treatments for opioid use disorder provided;
- 10 (5) the number of incarcerated individuals diagnosed with opioid use
11 disorder;
- 12 (6) the number of incarcerated individuals for whom medication and
13 medication-assisted treatment for opioid use disorder was prescribed;
- 14 (7) the number of incarcerated individuals for whom medication and
15 medication-assisted treatment was prescribed and initiated for opioid use disorder;
- 16 (8) the number of medications and medication-assisted treatments for
17 opioid use disorder provided according to each type of medication and medication-assisted
18 treatment options;
- 19 (9) the number of incarcerated individuals who continued to receive the
20 same medication or medication-assisted treatment for opioid use disorder as the
21 incarcerated individual received prior to incarceration;
- 22 (10) the number of incarcerated individuals who received a different
23 medication or medication-assisted treatment for opioid use disorder compared to what the
24 incarcerated individual received prior to incarceration;
- 25 (11) the number of incarcerated individuals who initiated treatment with
26 medication or medication-assisted treatment for opioid use disorder who were not being
27 treated for opioid use disorder prior to incarceration;
- 28 (12) the number of incarcerated individuals who discontinued medication or
29 medication-assisted treatment for opioid use disorder during incarceration;
- 30 (13) a review and summary of the percent of days, including the average
31 percent, median percent, mode percent, and interquartile range of percent, for incarcerated
32 individuals with opioid use disorder receiving medication or medication-assisted treatment
33 for opioid use disorder as calculated overall and stratified by other factors, such as type of
34 treatment received;

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

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

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

9 (17) a review and summary of prerelease planning practices relative to
10 incarcerated individuals diagnosed with opioid use disorder prior to, and following, October
11 1, 2019; and

12 (18) any other information requested by the Maryland Department of
13 Health related to the administration of the provisions under this section.

14 **[(k)] (L)** Any behavioral health assessment, evaluation, treatment
15 recommendation, or course of treatment shall be reported to the Governor’s Office of Crime
16 Prevention, Youth, and Victim Services and also include any other data necessary to meet
17 reporting requirements under this section.

18 **Article – State Finance and Procurement**

19 7–331.

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

21 (b) There is an Opioid Restitution Fund.

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

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

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

28 (e) The Fund consists of:

29 (1) all revenues received by the State from any source resulting, directly or
30 indirectly, from any judgment against, or settlement with, opioid manufacturers, opioid
31 research associations, or any other person in the opioid industry relating to any claims
32 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 evidence-based
4 substance use disorder prevention, treatment, recovery, or harm reduction that have the
5 purpose of:

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

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

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

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

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

19 (vii) supporting the behavioral health crisis hotline;

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

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

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

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

28 (2) evidence-informed substance use disorder prevention, treatment
29 recovery, or harm reduction pilot programs or demonstration studies that are not
30 evidence-based if the Opioid Restitution Fund Advisory Council, established under §
31 7.5-902 of the Health – General Article:

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

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

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

11 **(4) GRANTS TO COUNTIES FOR THE IMPLEMENTATION OF A**
12 **MEDICATION-ASSISTED TREATMENT PROGRAM UNDER TITLE 9, SUBTITLE 6 OF THE**
13 **CORRECTIONAL SERVICES ARTICLE.**

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

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

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

19 (2) For settlement funds received in accordance with the final distributor
20 agreement of July 21, 2021, with McKesson Corporation, Amerisource Bergen Corporation,
21 and Cardinal Health Incorporated, as amended, the Janssen settlement agreement of July
22 21, 2021, as amended, or any other opioid-related court or administrative judgment or
23 settlement agreement involving the State and one or more of its political subdivisions:

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

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

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

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

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

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

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

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

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

14 (j) The Governor shall:

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

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

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

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

24 1. use;

25 2. if applicable, jurisdiction; and

26 3. budget program and subdivision;

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2024.