

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 1440

(Delegate Wells, *et al.*)

Environment and Transportation

Finance

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Maryland Transit Administration - Disabled Reduced Fare Program - Opioid  
Treatment Program Patients

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This bill requires the Maryland Transit Administration (MTA) to make monthly transit passes available to opioid treatment programs for use by patients of the programs who qualify for MTA's Disabled Reduced Fare Program. The passes may be issued to patients on site at opioid treatment programs by staff. MTA must adopt regulations to establish the process by which participating opioid treatment programs may issue transit passes under the bill. In consultation with participating opioid treatment programs, MTA must submit a report to the Governor and the General Assembly by December 1, 2021, and by each December 1 thereafter, on the status of the bill's implementation. **The bill takes effect July 1, 2020.**

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Fiscal Summary

**State Effect:** MTA can prepare the required annual report using existing budgeted resources. Making transit passes available for use by opioid treatment program patients is not anticipated to materially affect State operations or finances, as discussed below.

**Local Effect:** Expenditures increase for local health departments (LHDs) with participating opioid treatment programs to purchase transit passes from MTA. Revenues increase correspondingly as the passes are sold to patients, as discussed below.

**Small Business Effect:** Minimal, as discussed below.

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## Analysis

**Bill Summary:** The transit passes must be made available to an opioid treatment program at a reduced price that reflects the price of a monthly pass under the Disabled Reduced Fare Program as of October 1, 2020, less any cost savings MTA experiences from having participating opioid treatment programs issue the transit passes directly to patients.

**Current Law/Background:** MTA is a modal unit within the Maryland Department of Transportation, and it operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, Baltimore Metro subway, commuter buses, Maryland Area Regional Commuter trains, and mobility/paratransit vehicles. MTA offers reduced fares for various individuals, including people with disabilities and senior citizens (age 65 or older). **Exhibit 1** shows MTA's standard fares compared to those charged for individuals with disabilities and senior citizens.

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**Exhibit 1**  
**Maryland Transit Administration Standard Fares**  
**As of February 2020**

	<u>Regular Fare</u>	<u>Senior/Disability Fare</u>
One-way Pass	\$1.90	\$0.90
Day Pass/1-day Pass	4.40	2.20
Weekly/7-day Pass	21.00	-
Monthly/31-day Pass	74.00	22.00

Note: MTA does not currently offer a senior/disability fare discount for its weekly transit pass.

Source: Maryland Transit Administration

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According to the [U.S. Department of Health and Human Services](#), drug addiction, including an addiction to opioids, is a disability under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Section 1557 of the Affordable Care Act, when the drug addiction substantially limits a major life activity. Therefore, most or all patients in an opioid treatment program are likely already eligible for MTA's Disabled Reduced Fare Program under current law.

For more information about the opioid crisis, please see the **Appendix – Opioid Crisis**.

**State Revenues:** As discussed above, most or all patients in an opioid treatment program are likely already eligible for reduced transit fares under current law. Accordingly, the bill *does not* expand eligibility for MTA’s Disabled Reduced Fare Program.

Even so, the bill likely results in more patients learning about and ultimately choosing to purchase monthly transit passes. As passes are made available for purchase to opioid treatment programs for patients, Transportation Trust Fund (TTF) revenues (1) decrease to the extent that patients would have otherwise paid full price for transit passes and (2) increase to the extent that patients would not have purchased transit passes absent the bill. While a reliable estimate of the net effect on TTF revenues cannot be made, MTA advises, and the Department of Legislative Services concurs, that it is not likely to be material.

**Local/Small Business Effect:** There are approximately five LHDs with opioid treatment services programs operating at this time. In addition, various treatment programs are operated by small businesses in the State. Expenditures increase for LHDs and small business treatment programs who choose to purchase transit passes at a discounted rate from MTA pursuant to the bill. This analysis assumes that opioid treatment programs then sell the transit passes to patients at the same discounted rate; therefore, revenues for opioid treatment programs increase correspondingly. To the extent that opioid treatment programs provide the transit passes to patients at no cost, those revenues are foregone.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 705 (Senators Carter and West) - Finance.

**Information Source(s):** Maryland Department of Transportation; Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2020  
rh/lgc Third Reader - March 17, 2020

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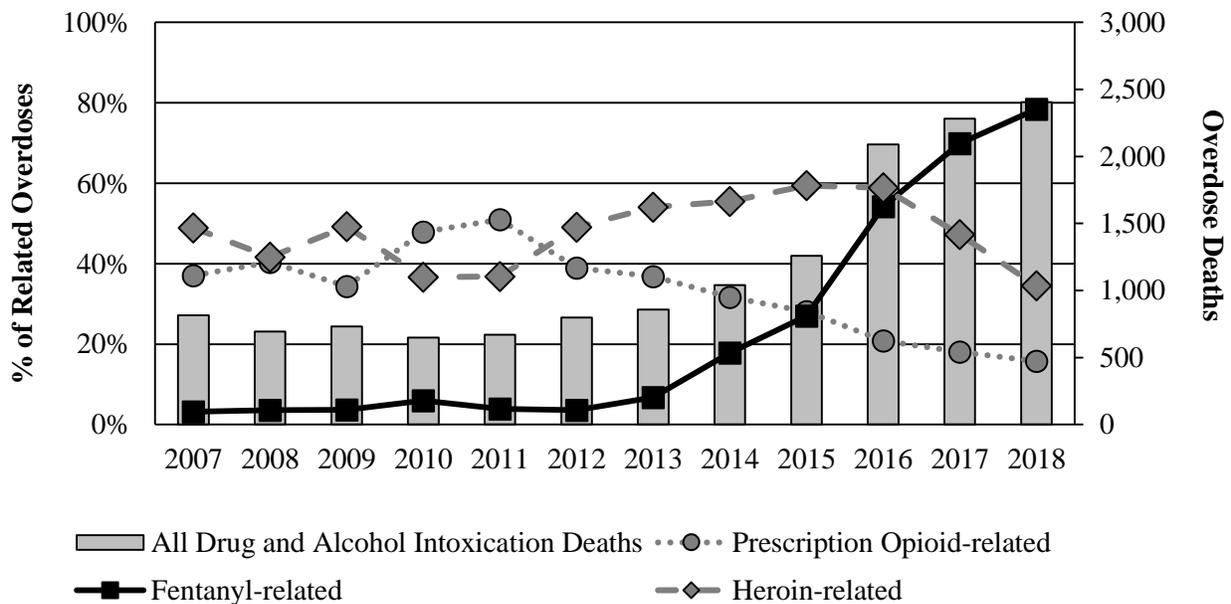
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## Appendix – Opioid Crisis

### *Opioid Overdose Deaths*

Maryland ranks among the top five states for the highest rates of opioid-related overdose deaths. In 2018, the State experienced the deadliest year on record for overdose deaths, due almost exclusively to the continued presence of fentanyl. **Exhibit 1** shows the total overdose deaths in the State since 2007 and the prevalence of prescription opioids, fentanyl, and heroin in contributing to overdose deaths.

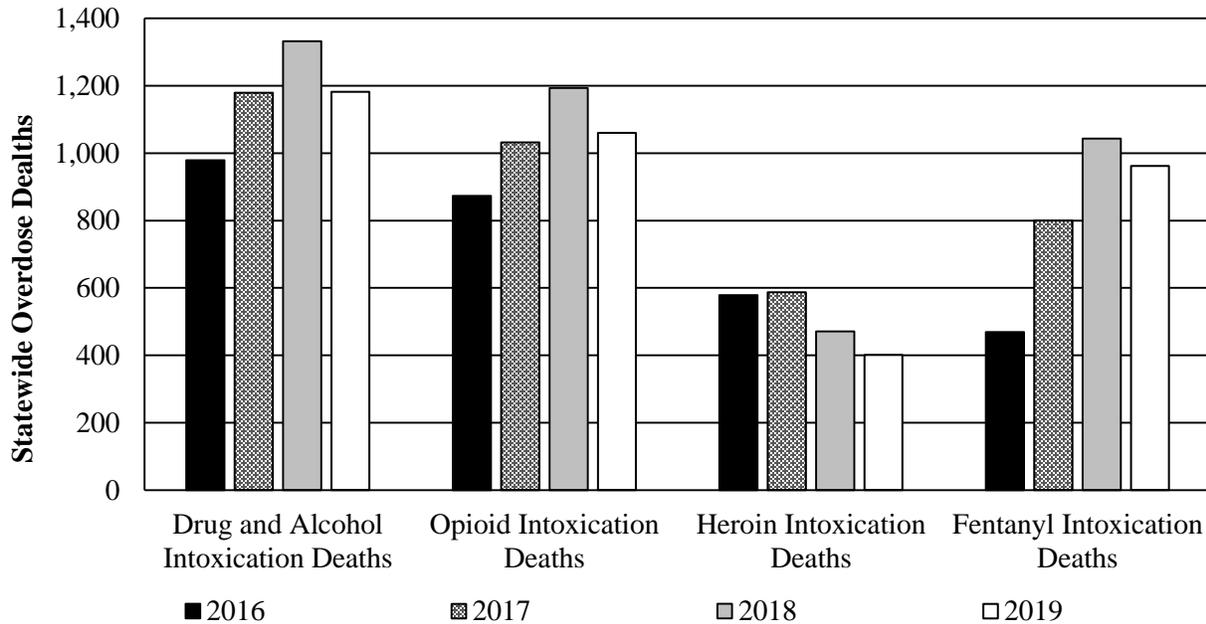
**Exhibit 1**  
**Overdose Deaths and Substance Prevalence**  
**Calendar 2007-2018**



Source: Maryland Department of Health

Preliminary data for 2019 suggests that 2018 may have been the peak of the opioid epidemic. Data published by the Opioid Operational Command Center indicates that the total number of overdose deaths in Maryland for the first six months of 2019 was lower than the number of deaths at the same point in 2018. **Exhibit 2** shows the total overdose deaths, overdoses involving opioids, and deaths involving heroin and fentanyl for the first six months of the last four years.

**Exhibit 2**  
**Overdose Deaths, First Six Months**  
**Calendar 2016-2019**



Source: Maryland Department of Health

Although the data for the first six months of 2019 shows a decrease in fentanyl-related overdose deaths relative to 2018, fentanyl-related deaths are still well above 2017 levels. Furthermore, overdose deaths for heroin and fentanyl are not mutually exclusive, as law enforcement often finds fentanyl mixed into heroin. Nearly 30% of all overdose deaths in the State in 2018 involved both heroin and fentanyl.

*Maryland Actions to Address the Opioid Crisis*

*Legislative Response:* The General Assembly has passed numerous acts to address the State’s opioid crisis, including prevention, treatment, overdose response, and prescribing guidelines.

- Chapters 571 and 572 of 2017, the Heroin and Opioid Prevention Effort and Treatment Act, require the Governor’s proposed budget for fiscal 2019 through 2021 to include specified rate adjustments for community behavioral health providers; require development of a plan to increase provision of treatment; expand

access to naloxone; require the Maryland Department of Health (MDH) to distribute evidence-based information about opioid use disorders to health care facilities and providers that provide treatment; and prohibit health insurance carriers from applying a prior authorization requirement for certain substance use disorder treatment drugs.

- Chapters 573 and 574 of 2017, the Heroin and Opioid Education and Community Action Act (Start Talking Maryland Act), expand drug education in public schools to include heroin and opioid addiction prevention; require local boards of education to establish a policy requiring each public school to store naloxone and other overdose-reversing medication to be used in an emergency; and require institutions of higher education that receive State funding to establish a policy that addresses heroin and opioid addiction and prevention.
- Chapter 570 of 2017 requires a health care provider to prescribe the lowest effective dose of an opioid and a quantity that is no greater than that needed for the expected duration of pain severe enough to require an opioid that is a controlled dangerous substance, with specified exceptions.
- Chapter 149 of 2018 authorizes an emergency medical services provider or law enforcement officer to report an actual or suspected overdose to an appropriate information technology platform.
- Chapter 211 of 2018 requires MDH to identify a method for establishing a tip line for a person to report a licensed prescriber whom the person suspects is overprescribing certain medications.
- Chapters 215 and 216 of 2018 require a health care provider to advise a patient of the benefits and risks associated with a prescribed opioid or co-prescribed benzodiazepine.
- Chapters 439 and 440 of 2018 require a general hospice care program to establish a written policy for the collection and disposal of unused prescription medication and require a program employee to collect and dispose of a patient's unused medication on the death of the patient or the termination of a prescription.
- Chapter 532 of 2019 established programs for opioid use disorder screening, evaluation, and treatment (specifically medication-assisted treatment) in local correctional facilities and in the Baltimore Pretrial Complex. The programs must conduct a screening of the mental health and substance use status of each inmate as well as offer at least one formulation of each U.S. Food and Drug Administration approved full opioid agonist, partial opioid agonist, and long-acting opioid

antagonist used for the treatment of opioid use disorders. Phase-in of the programs begins January 1, 2020.

- Chapter 537 of 2019 established the Opioid Restitution Fund, a special fund that will retain any revenues received by the State relating to specified opioid judgments or settlements. The fund may be used only for specified opioid-related programs and services.

### *Legal Actions Related to the Opioid Crisis*

Nationwide, lawsuits have been filed against pharmaceutical manufacturers, pharmacies, and individual providers for fueling the opioid crisis, either for aggressively marketing opioids and downplaying the known addictive qualities of the drugs, or for failing to detect and report suspicious orders. In December 2017, the U.S. Judicial Panel on Multidistrict Litigation ordered the consolidation of the nearly 200 pending opioid-related cases into multidistrict litigation in the U.S. District Court for the Northern District of Ohio. Over 2,500 jurisdictions are part of the litigation, including 32 Maryland jurisdictions (16 counties and 16 cities). In September 2019, Purdue Pharma, one of the original defendants named in the lawsuit, filed for bankruptcy. Purdue Pharma has proposed a settlement worth \$3 billion plus future revenues from OxyContin sales. Attorney General Brian E. Frosh issued a statement rejecting Purdue Pharma's proposed settlement. In May 2019, the Attorney General filed charges against Purdue Pharma, the Sackler family (owners of Purdue Pharma), Rhodes Pharmaceuticals (an entity with ties to Purdue Pharma and the Sackler family), and related entities. The State's charges allege that Purdue Pharma and the Sackler family conducted an orchestrated marketing scheme designed to mislead Maryland health care providers, patients, insurers, officials, and others about the benefits of opioids while downplaying their risks. Any payments made to the State as a result of opioid litigation will be placed in the Opioid Restitution Fund.

### *Funding to Address the Opioid Crisis*

The fiscal 2020 budget has nearly \$710 million targeted toward addressing the opioid crisis in Maryland. Nearly \$700 million is budgeted in MDH, the vast majority of which is for substance use disorder treatment in Medicaid (\$622.5 million). Also included in MDH's fiscal 2020 budget is the second and final year of \$33 million in federal funds for the State Opioid Response Grant. The budget also contains \$3 million for the Behavioral Health Crisis Response Grant Program as mandated by the General Assembly, which will increase to \$4 million in fiscal 2021. Additional fiscal 2020 funding includes \$3 million in Department of Public Safety and Correctional Services support for medication-assisted treatment in State correctional facilities and \$725,000 between the Governor's Office of Crime Prevention, Youth, and Victim Services and the Department of State Police for various enforcement and treatment efforts.