



# House of Representatives

**File No. 665**

General Assembly

February Session, 2022

**(Reprint of File No. 124)**

Substitute House Bill No. 5044  
As Amended by House Amendment  
Schedule "B"

Approved by the Legislative Commissioner  
April 27, 2022

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET  
RECOMMENDATIONS REGARDING THE USE OF OPIOID LITIGATION  
PROCEEDS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2022*) As used in this section and  
2 sections 2 to 5, inclusive, of this act:

3 (1) "Commissioner" means the Commissioner of Mental Health and  
4 Addiction Services.

5 (2) "Committee" means the Opioid Settlement Advisory Committee  
6 established pursuant to section 3 of this act.

7 (3) "Department" means the Department of Mental Health and  
8 Addiction Services.

9 (4) "Evidence-based" means meeting one of the following evidentiary  
10 criteria for an activity, practice, program, service, support or strategy:

11 (A) Meta-analyses or systematic reviews have found the activity,  
12 practice, program, service, support or strategy to be effective; (B)  
13 evidence from a scientifically rigorous experimental study, including,  
14 but not limited to, a randomized controlled trial, demonstrates the  
15 activity, practice, program, service, support or strategy is effective; or  
16 (C) multiple observational studies from locations in the United States  
17 indicate the activity, practice, program, service, support or strategy is  
18 effective. As used in this subdivision, "effective" means helping persons  
19 avoid the development and progression of substance use disorders or  
20 drug-related harms, reducing the adverse consequences of substance  
21 use among persons who use substances, or managing, slowing the  
22 progression of, or supporting recovery from a person's substance use  
23 disorder or co-occurring mental health disorder.

24 (5) "Fund" means the Opioid Settlement Fund established pursuant  
25 to section 2 of this act.

26 (6) "Harm reduction" means a reduction of, or attempt to reduce, the  
27 adverse consequences of substance use, including, but not limited to, by  
28 addressing the substance use and conditions that give rise to such  
29 substance use. "Harm reduction" includes, but is not limited to, syringe  
30 service programs, naloxone distribution and public awareness  
31 campaigns about Good Samaritan laws.

32 (7) "Infrastructure" means the resources, including, but not limited to,  
33 personnel, buildings and equipment, required for an agency of the state,  
34 municipality, other government entity or nonprofit organization to  
35 provide substance use disorder prevention, treatment, recovery and  
36 harm reduction programs, services, supports and resources.

37 (8) "Prevention" means efforts to avoid the development and  
38 progression of substance use disorders and drug-related harms.

39 (9) "Recovery" means an active process of continual growth that  
40 addresses the biological, psychological, social and spiritual disturbances  
41 inherent in addiction.

42 (10) "Substance use disorder" means a pattern of use of alcohol or  
43 other substances that meets the applicable diagnostic criteria delineated  
44 in the most recent edition of the American Psychiatric Association's  
45 Diagnostic and Statistical Manual of Mental Disorders.

46 (11) "Treatment" means a service to intervene upon, care for, manage,  
47 slow progression of or support recovery from a substance use disorder  
48 or co-occurring mental health disorder. "Treatment" includes, but is not  
49 limited to, an individualized service to address a person's medical  
50 needs, including, screening for and diagnosing of substance use  
51 disorders and co-occurring mental or physical health disorders and  
52 pharmacological and nonpharmacological therapeutic interventions.

53 Sec. 2. (NEW) (*Effective July 1, 2022*) (a) There is established an Opioid  
54 Settlement Fund which shall be a separate nonlapsing fund  
55 administered by the committee.

56 (b) Any moneys intended to address opioid use, related disorders or  
57 the impact of the opioid epidemic that are received by the state from any  
58 judgment, consent decree or settlement paid by any defendant, which is  
59 finalized on or after July 1, 2021, related to the production, distribution,  
60 dispensing and other activities related to opioids shall be deposited into  
61 the fund. Moneys remaining in the fund at the end of a fiscal year shall  
62 not revert to the General Fund.

63 (c) Notwithstanding any provision of subsection (b) of this section, if  
64 the commissioner and the Attorney General certify that the purposes of  
65 such judgment, consent decree or settlement are inconsistent with the  
66 intent of the provisions of this section and sections 3 to 5, inclusive, of  
67 this act, the commissioner and Attorney General (1) shall report in  
68 writing to the committee such certification, including any identification  
69 by the commissioner and Attorney General of an alternate fund or  
70 account and explanation of the reasons for depositing such moneys in  
71 such alternate fund or account, and (2) may deposit such moneys into  
72 such alternate fund or account. The commissioner and Attorney General  
73 shall jointly report, in accordance with the provisions of section 11-4a of

74 the general statutes, to the joint standing committee of the General  
75 Assembly having cognizance of matters relating to public health  
76 regarding the intended use of such moneys in such alternate fund or  
77 account prior to allocating such moneys for other purposes.

78 (d) Beginning on December 31, 2022, and annually thereafter, the  
79 State Treasurer shall report the following to the committee:

80 (1) An inventory of fund investments as of the most recent fiscal year;  
81 and

82 (2) The net income earned by the fund in the most recent fiscal year.

83 (e) Moneys in the fund shall be spent only for the following substance  
84 use disorder abatement purposes, in accordance with the controlling  
85 judgment, consent decree or settlement, as confirmed by the Attorney  
86 General's review of such judgment, consent decree or settlement and  
87 upon the approval of the committee and the Secretary of the Office of  
88 Policy and Management:

89 (1) State-wide, regional or community substance use disorder needs  
90 assessments to identify structural gaps and needs to inform  
91 expenditures from the fund;

92 (2) Infrastructure required for evidence-based substance use disorder  
93 prevention, treatment, recovery or harm reduction programs, services  
94 and supports;

95 (3) Programs, services, supports and resources for evidence-based  
96 substance use disorder prevention, treatment, recovery or harm  
97 reduction;

98 (4) Evidence-informed substance use disorder prevention, treatment,  
99 recovery or harm reduction pilot programs or demonstration studies  
100 that are not evidence-based, but are approved by the committee as an  
101 appropriate use of moneys for a limited period of time as specified by  
102 the committee, provided the committee shall assess whether the  
103 evidence supports funding such programs or studies or whether it

104 provides a basis for funding such programs or studies with an  
105 expectation of creating an evidence base for such programs and studies;

106 (5) Evaluation of effectiveness and outcomes reporting for substance  
107 use disorder abatement infrastructure, programs, services, supports and  
108 resources for which moneys from the fund have been disbursed,  
109 including, but not limited to, impact on access to harm reduction  
110 services or treatment for substance use disorders or reduction in drug-  
111 related mortality;

112 (6) One or more publicly available data interfaces managed by the  
113 commissioner to aggregate, track and report data on (A) substance use  
114 disorders, overdoses and drug-related harms, (B) spending  
115 recommendations, plans and reports, and (C) outcomes of programs,  
116 services, supports and resources for which moneys from the fund were  
117 disbursed;

118 (7) Research on opioid abatement, including, but not limited to,  
119 development of evidence-based treatment, barriers to treatment,  
120 nonopioid treatment of chronic pain and harm reduction, supply-side  
121 enforcement;

122 (8) Documented expenses incurred in administering and staffing the  
123 fund and the committee, and expenses, including, but not limited to,  
124 legal fees, incurred by the state or any municipality in securing  
125 settlement proceeds, deposited in the fund as permitted by the  
126 controlling judgment, consent decree or settlement;

127 (9) Documented expenses associated with managing, investing and  
128 disbursing moneys in the fund; and

129 (10) Documented expenses, including legal fees, incurred by the state  
130 or any municipality in securing settlement proceeds deposited in the  
131 fund to the extent such expenses are not otherwise reimbursed pursuant  
132 to a fee agreement provided for by the controlling judgment, consent  
133 decree or settlement.

134 (f) (1) For purposes of this section, the fund balance shall be  
135 determined by the State Treasurer as of July first, annually.

136 (2) Except as permitted by subdivision (8) of subsection (e) of this  
137 section, or unless otherwise required by court order to refund to the  
138 federal government a portion of the proceeds, moneys in the fund shall  
139 be used for prospective purposes and shall not be used to reimburse  
140 expenditures incurred prior to July 1, 2022.

141 (3) Proceeds derived from any state settlement of claims against a  
142 defendant shall be allocated and disbursed only to those municipalities  
143 that execute an agreement to participate in such settlement and adhere  
144 to the terms of such agreement, provided the allocation or disbursement  
145 of such settlement proceeds for the benefit of persons within  
146 municipalities that do not execute an agreement to participate in such  
147 settlement or do not adhere to the terms of such agreement shall not be  
148 precluded or limited.

149 (4) Governmental and nonprofit nongovernmental entities shall be  
150 eligible to receive moneys from the fund for programs, services,  
151 supports and resources for prevention, treatment, recovery and harm  
152 reduction.

153 (5) Subject to the provisions of subdivision (6) of this subsection, fund  
154 disbursements shall be made by the commissioner upon approval of the  
155 committee. The commissioner shall not make or refuse to make any  
156 disbursement allowable under this subsection without the approval of  
157 the committee. The commissioner shall adhere to the committee's  
158 decisions regarding disbursement of moneys from the fund, provided  
159 such disbursement is a permissible expenditure under this section. The  
160 commissioner's role in the distribution of moneys after the distribution  
161 has been approved by the committee and after the review and approval  
162 required under subsection (e) of this section shall be ministerial and  
163 shall not be discretionary.

164 (6) Moneys expended from the fund for the purposes set forth in  
165 subsection (d) of this section shall be supplemental to, and shall not

166 supplant or take the place of, any other funds, including, but not limited  
167 to, insurance benefits or local, state or federal funding, that would  
168 otherwise have been expended for such purposes. The commissioner  
169 shall not disburse moneys from the fund during any fiscal year unless  
170 the Secretary of the Office of Policy and Management transmits to the  
171 committee a letter verifying that funds appropriated and allocated in  
172 such fiscal year's budget for substance use disorder abatement  
173 infrastructure, programs, services, supports and resources for  
174 prevention, treatment, recovery and harm reduction are in an amount  
175 not less than the sum of the funds for such purposes appropriated and  
176 allocated in the previous fiscal year's budget. As used in this  
177 subdivision, "supplemental" means additional funding, consistent with  
178 the provisions of this section, for substance use disorder abatement  
179 infrastructure or a substance use disorder abatement program, service,  
180 support or resource to ensure that funding in the current fiscal year  
181 exceeds the sum of federal, state, and local funds allocated in the  
182 previous fiscal year for such substance use disorder abatement  
183 infrastructure, program, service, support or resource.

184 Sec. 3. (NEW) (*Effective July 1, 2022*) (a) There is established an Opioid  
185 Settlement Advisory Committee to ensure (1) that proceeds received by  
186 the state pursuant to section 2 of this act are allocated and spent on  
187 substance use disorder abatement infrastructure, programs, services,  
188 supports and resources for prevention, treatment, recovery and harm  
189 reduction, and (2) robust public involvement, accountability and  
190 transparency in allocating and accounting for the moneys in the fund.

191 (b) The committee shall consist of the following members:

192 (1) The Secretary of the Office of Policy and Management, or the  
193 secretary's designee;

194 (2) The Attorney General, or the Attorney General's designee;

195 (3) The Commissioners of Children and Families, Mental Health and  
196 Addiction Services and Public Health, or said commissioners' designees,  
197 who shall serve as ex-officio members;

198 (4) The president pro tempore of the Senate, the speaker of the House  
199 of Representatives, the majority leaders of the Senate and House of  
200 Representatives, the minority leaders of the Senate and House of  
201 Representatives, the Senate and House chairpersons of the joint  
202 standing committee of the General Assembly having cognizance of  
203 matters relating to appropriations and the budgets of state agencies, or  
204 their designees, provided such persons have experience living with a  
205 substance or disorder or are the family member of a person who has  
206 experience living with a substance use disorder;

207 (5) Seventeen individuals representing municipalities, who shall be  
208 appointed by the Governor;

209 (6) The executive director of the Commission on Racial Equity in  
210 Public Health, or a representative of the commission designated by the  
211 executive director; and

212 (7) Six individuals appointed by the commissioner as follows: (A) A  
213 provider of community-based substance use treatment services for  
214 adults, who shall be a nonvoting member; (B) a provider of community-  
215 based substance use treatment services for adolescents, who shall be a  
216 nonvoting member; (C) an addiction medicine licensed health care  
217 professional with prescribing ability, who shall be a nonvoting member;  
218 and (D) three individuals with experience living with a substance use  
219 disorder or family members of an individual with experience living  
220 with a substance use disorder.

221 (c) The commissioner shall be co-chairperson of the committee. The  
222 speaker of the House of Representatives and the president pro tempore  
223 of the Senate shall appoint a co-chairperson from among the individuals  
224 representing municipalities appointed pursuant to subdivision (5) of  
225 subsection (b) of this section. The co-chairpersons of the committee shall  
226 be nonvoting members.

227 (d) Notwithstanding any other provision of the general statutes, it  
228 shall not be a conflict of interest for a trustee, director, officer or  
229 employee of an organization, or for any person having a financial



230 interest in such organization, to serve as a member of the committee,  
231 provided such trustee, director, officer, employee or person shall  
232 disclose such position or interest to all other members of the committee  
233 and abstain from deliberation, action and vote by the committee under  
234 this section that specifically concerns the organization of which such  
235 member is a trustee, director, officer or employee, or in which such  
236 member has a financial interest.

237 (e) All initial appointments to the committee shall be made not later  
238 than October 1, 2022. Each member of the committee, other than the ex-  
239 officio members, shall serve for a term of two years, shall serve no more  
240 than two consecutive terms and may serve until a successor is  
241 appointed, except that in the event of any vacancy, the appointing  
242 authority shall fill such vacancy for the unexpired portion of such term.  
243 Any member of the committee may be removed by the appointing  
244 authority for misfeasance, malfeasance or wilful neglect of duty.

245 (f) The committee shall have the following duties and powers:

246 (1) Recommend and approve policies and procedures for  
247 administration of the committee and criteria for the application,  
248 awarding and disbursement of moneys from the fund, to be used for the  
249 purposes set forth in section 2 of this act;

250 (2) Recommend and approve goals, objectives, rationales for such  
251 goals and objectives, sustainability plans and performance indicators  
252 relating to: (A) Substance use disorder prevention, treatment, recovery  
253 and harm reduction efforts, including, but not limited to, methods of  
254 engaging persons who utilize harm reduction services in treatment and  
255 recovery; (B) reducing disparities in access to prevention, treatment,  
256 recovery and harm reduction programs, services, supports and  
257 resources; and (C) improving health outcomes in traditionally  
258 underserved populations, including, but not limited to, persons who  
259 live in rural or tribal communities, are members of racial or ethnic  
260 minorities or were formerly incarcerated; and

261 (3) Approve the allocation of moneys from the fund.

262 (g) Notwithstanding the provisions of section 2-5 of the general  
263 statutes, the department shall:

264 (1) Employ a full-time manager of the committee and provide public  
265 health research and policy expertise, support staff, facilities, technical  
266 assistance and other resources to (A) assist the manager of the  
267 committee in planning and supporting the functions of the committee,  
268 including ensuring that proceeds received by this state pursuant to  
269 section 2 of this act are allocated and spent on substance use disorder  
270 abatement infrastructure, programs, services, supports, and resources  
271 for prevention, treatment, recovery and harm reduction, and (B) ensure  
272 robust public involvement, accountability and transparency in  
273 allocating and accounting for the moneys in the fund;

274 (2) Utilize, where feasible, appropriations from the General Fund and  
275 existing infrastructure, programs, services, supports or other resources  
276 to address substance use disorders, overdoses and drug-related harms;

277 (3) Prepare for review and approval by the committee of the  
278 department's goals, objectives, rationales for such goals and objectives,  
279 sustainability plans and performance indicators relating to (A)  
280 substance use disorder prevention, treatment, recovery and harm  
281 reduction efforts, including, but not limited to, methods of engaging  
282 persons who utilize harm reduction services in treatment and recovery,  
283 and (B) reducing disparities in access to prevention, treatment, recovery  
284 and harm reduction programs, services, supports and resources;

285 (4) Evaluate applications and make recommendations to the  
286 committee for the awarding of contracts and disbursements of moneys  
287 from the fund exclusively for permissible expenditures set forth in  
288 section 2 of this act;

289 (5) Upon receipt of final approval by the committee, disburse moneys  
290 from the fund exclusively for permissible expenditures set forth in  
291 section 2 of this act;

292 (6) Approve suspensions of allocations of moneys from the fund to

293 recipients found by the committee or commissioner to (A) be  
294 substantially out of compliance with applicable contracts, policies,  
295 procedures, rules, regulations or state or federal law, or (B) have used  
296 such awards for a purpose other than an approved purpose, provided  
297 the committee may resume approval of such allocations once the  
298 committee has determined the recipient has adequately remedied the  
299 cause of such suspension;

300 (7) Maintain oversight over the expenditure of moneys from the fund  
301 to ensure moneys are used exclusively for the purposes set forth in  
302 section 2 of this act, including, but not limited to, implementing  
303 procedures for evaluating the effectiveness of the infrastructure,  
304 programs, services, supports or resources that are funded pursuant to  
305 said section; and

306 (8) Implement and publish on the department's Internet web site  
307 policies and procedures for administration of the committee and for the  
308 application, awarding and disbursement of moneys from the fund, to be  
309 used for the purposes set forth in section 2 of this act.

310 (h) On or before October 1, 2023, and annually thereafter, recipients  
311 of moneys from the fund shall file with the committee an annual report  
312 for the prior fiscal year detailing the effectiveness of infrastructure,  
313 programs, services, supports or resources that were funded, including,  
314 but not limited to, the following:

315 (1) A description of how the recipient used the moneys for their  
316 intended purposes;

317 (2) The number of individuals served, delineated by race, age, gender  
318 and any other relevant demographic factor, which shall be reported in a  
319 deidentified manner;

320 (3) A specific analysis of whether the infrastructure, program, service,  
321 support or resources reduced mortality or improved prevention,  
322 treatment, harm reduction or recovery outcomes; and

323 (4) If a plan to ensure the sustainability of the infrastructure, program,  
324 service, support or resources funded exists, a summary of such plan.

325 (i) The committee shall hold quarterly public meetings. A meeting  
326 may be called by the chairperson or by a majority of the committee's  
327 members. Members may attend meetings in person, remotely by  
328 audiovisual means or, upon approval by the chairperson, by audio-only  
329 means. For each meeting of the committee, a majority of the voting  
330 members shall constitute a quorum for the transaction of business. If  
331 there is a quorum, then all actions of the committee shall be taken by an  
332 affirmative vote of a majority of the members present at the meeting.  
333 Each voting member shall have one vote. The committee shall terminate  
334 when all moneys received pursuant to section 2 of this act have been  
335 received and disbursed unless the Attorney General certifies that  
336 additional moneys are anticipated.

337 (j) The department shall create and maintain an Internet web site  
338 where the committee shall publish (1) meeting minutes, including, but  
339 not limited to, records of all votes to approve expenditures of moneys  
340 from the fund, (2) recipient agreements and reports required under  
341 subsection (h) of this section, (3) policies and procedures approved by  
342 the committee, and (4) the committee's annual reports.

343 Sec. 4. (NEW) (*Effective July 1, 2022*) The department shall disburse  
344 moneys from the fund in a manner consistent with the limitations on  
345 uses of litigation proceeds set forth in any controlling court order. If a  
346 controlling court order permits expenditures other than or in excess of  
347 expenditures authorized under section 2 of this act, the department shall  
348 adhere to the limitations on use of moneys set forth in section 2 of this  
349 act. If the provisions of section 2 of this act permit expenditures other  
350 than or in excess of those authorized in a controlling court order, the  
351 department shall adhere to the limitations on use of moneys set forth in  
352 the court order.

353 Sec. 5. (NEW) (*Effective July 1, 2022*) (a) Not later than January 15,  
354 2023, and annually thereafter, the committee shall report, in accordance

355 with the provisions of section 11-4a of the general statutes, to the joint  
356 standing committees of the General Assembly having cognizance of  
357 matters relating to public health and appropriations and the budgets of  
358 state agencies, on the activities carried out by the committee pursuant  
359 to sections 2 to 4, inclusive, of this act, including, but not limited to, the  
360 following:

361 (1) The opening and closing balance of the fund for the most recent  
362 fiscal year;

363 (2) An accounting of all credits to, and expenditures from, the fund;

364 (3) An inventory of fund investments as of the most recent fiscal year  
365 and the net income the fund earned for the most recent fiscal year as  
366 determined by the State Treasurer pursuant to section 2 of this act;

367 (4) The name and a description of each recipient of moneys from the  
368 fund, and the amount awarded to such recipient;

369 (5) A description of each award's intended use, including, but not  
370 limited to, the (A) specific program, service or resource funded, (B)  
371 population served, and (C) measures that the recipient will use to assess  
372 the impact of the award;

373 (6) The primary criteria used to determine each recipient and its  
374 respective award amount;

375 (7) A summary of information included in the recipient report  
376 required under subsection (h) of section 3 of this act;

377 (8) All applications for an award of moneys from the fund received  
378 during the most recent fiscal year;

379 (9) A description of any finding or concern as to whether all moneys  
380 disbursed from the fund, other than expenses authorized under section  
381 2 of this act, supplemented, and did not supplant or replace, any existing  
382 or future local, state or federal government funding;

383 (10) The performance indicators and progress toward achieving the  
384 goals and objectives developed pursuant to section 3 of this act,  
385 including, but not limited to, metrics on improving outcomes and  
386 reducing mortality and other harms related to substance use disorders;

387 (11) The dollar amount and the percentage of the fund balance  
388 incurred for expenses of administering and staffing the fund and the  
389 committee during the most recent fiscal year;

390 (12) The dollar amount and the percentage of the fund balance  
391 incurred for expenses associated with managing, investing and  
392 disbursing moneys in the fund during the most recent fiscal year; and

393 (13) An explanation of any funds certified by the commissioner and  
394 Attorney General pursuant to section 2 of this act as being inconsistent  
395 with the intent of this section and sections 2 to 4, inclusive, of this act  
396 and the account or fund where such funds were deposited.

397 (b) The commissioner shall post the report required under subsection  
398 (a) of this section on the department's Internet web site.

399 Sec. 6. (NEW) (*Effective July 1, 2022*) Nothing in sections 1 to 5,  
400 inclusive, of this act shall preclude the funding of a trust for direct  
401 support and services for survivors and victims of the opioid epidemic  
402 and the family members of such survivors and victims who have been  
403 directly impacted by such epidemic, pursuant to the settlement  
404 agreement dated March 11, 2022, between the Nine, identified in such  
405 settlement agreement as eight states, including this state, and the  
406 District of Columbia, and the Sackler parties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	New section
Sec. 2	<i>July 1, 2022</i>	New section
Sec. 3	<i>July 1, 2022</i>	New section
Sec. 4	<i>July 1, 2022</i>	New section
Sec. 5	<i>July 1, 2022</i>	New section

Sec. 6	<i>July 1, 2022</i>	New section
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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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## **OFA Fiscal Note**

**State Impact:** See Below

**Municipal Impact:** Below

### **Explanation**

The bill establishes the Opioid Settlement Fund, a separate non-lapsing fund, as a mechanism for the state to receive opioid litigation proceeds finalized after 7/1/21. Expenses made from the fund must be used prospectively and only for specified substance use disorder abatement purposes.

The bill results in a cost to the Department of Mental Health and Addiction Services (DMHAS) of at least \$250,000 associated with a Behavioral Health Program Manager and Administrative Assistant (and related fringe benefits) required to manage the Committee. Additional staffing and support costs may be incurred to carry out the provisions of the bill. Costs may be supported by the Opioid Settlement Fund or the General Fund.

The bill requires the Treasurer to annually report on fund balance, investments, and earned income for the Opioid Settlement Fund. This is not anticipated to result in a cost, as the Treasurer has sufficient expertise to create such reports if the monies of the fund are invested alongside other cash balances of the state, such as the short-term investment fund.

For context, Connecticut is part of a recently approved \$26 billion multistate opioid settlement agreement with various prescription drug



manufacturers. Of that amount, the state is expected to receive approximately \$300 million over 18 years; municipalities will receive 15%, or 45 million collectively, of the state's allocation. As such, this is anticipated to result in a significant revenue gain to the state and municipalities associated with settlement revenue.

House "B" strikes the language in the underlying bill and the associated impact and results in the fiscal impact described above.

### ***The Out Years***

The annualized ongoing fiscal impact is dependent on opioid litigation settlements and associated proceeds.

**OLR Bill Analysis****sHB 5044 (as amended by House "B")\*****AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS REGARDING THE USE OF OPIOID LITIGATION PROCEEDS.****SUMMARY**

This bill establishes an Opioid Settlement Fund as a separate non-lapsing fund administered by a 37-member Opioid Settlement Advisory Committee with assistance from the Department of Mental Health and Addition Services (DMHAS).

Under the bill, the fund must contain moneys the state receives from opioid-related judgments, consent decrees, or settlements finalized on or after July 1, 2021 (see BACKGROUND). The moneys must be generally used prospectively and only for specified substance use disorder abatement purposes.

If the DMHAS commissioner and the attorney general certify that a judgment's, consent decree's, or settlement's purpose is inconsistent with the fund's intent, the bill establishes a process for them to deposit the moneys into an alternative account or fund, which includes, among other things, reporting to the Public Health Committee before doing so.

Among other things, the bill:

1. generally requires proceeds from any state settlement to be allocated only to municipalities with an agreement to participate in the settlement and adhere its terms;
2. requires the DMHAS commissioner to obtain the advisory committee's approval before making or refusing to make fund disbursements;
3. prohibits the DMHAS commissioner from making fund

- disbursements unless the Office of Policy and Management (OPM) secretary verifies that the funds appropriated in that fiscal year's budget for substance use disorder purposes at least equal the total amount appropriated in the prior fiscal year's budget;
4. requires the advisory committee to hold quarterly public meetings and specifies that it terminates when all settlement moneys are received and disbursed, unless the state anticipates receiving additional moneys;
  5. specifies that disbursements do not supplant or replace any other funds that would have otherwise been used for the same purposes (e.g., insurance benefits or governmental funding);
  6. requires fund recipients, starting by October 1, 2023, to annually file with the advisory committee a report for the prior fiscal year that details the effectiveness of funded programs, services, supports, or resources;
  7. requires the advisory committee, starting by January 15, 2023, to annually report on the fund to the Appropriations and Public Health committees; and
  8. authorizes the state to fund a trust to provide direct support and services to opioid epidemic survivors and victims, in accordance with the March 11, 2022, settlement agreement with Purdue Pharma and the Sackler family.

\* House Amendment "B" replaces the original bill (File 124) and adds provisions (1) authorizing the state to fund a trust for opioid epidemic survivors and victims; (2) expanding settlement fund uses to include opioid abatement research and certain state and municipal expenses incurred securing settlement proceeds; (3) adding the Appropriations Committee chairpersons and an additional municipal representative to the Opioid Settlement Advisory Committee membership and removing one DMHAS-appointed member; (4) adding a municipal representative as a co-chairperson of the advisory committee; and (5) specifying that

DMHAS must hire a full-time advisory committee manager, regardless of the state's dual job ban for General Assembly members.

EFFECTIVE DATE: July 1, 2022

## **§§ 2 & 4 — OPIOID SETTLEMENT FUND**

### ***Fund Establishment***

The bill establishes an Opioid Settlement Fund as a separate non-lapsing fund administered by the Opioid Settlement Advisory Committee that the bill also establishes (see below).

Under the bill, the fund must contain certain moneys the state receives that are intended to address opioid use, related disorders, or the impact of the opioid crisis. This includes moneys (1) received from any judgment, consent decree, or settlement paid by any defendant that is finalized on or after July 1, 2021, and (2) related to opioid production, distribution, dispensing, and other opioid-related activities. Moneys remaining in the fund at the end of a fiscal year remain in the fund and do not revert to the General Fund.

However, if the DMHAS commissioner and the attorney general certify that the purpose of a judgment, consent decree, or settlement are inconsistent with the fund's intent, the bill permits them to deposit the moneys into an alternative fund or account if they do the following:

1. report the certification in writing to the Opioid Settlement Advisory Committee and include any alternative fund or account they identified and the reasons for depositing the moneys into it and
2. jointly report to the Public Health Committee on the intended use of the moneys in the alternative fund or account.

### ***Fund Balance and Inventory***

The bill requires the State Treasurer to determine the Opioid Settlement Fund balance annually by July 1.

Additionally, starting by December 31, 2022, the State Treasurer must annually report to the Opioid Settlement Advisory Committee an inventory of fund investments and the fund's net income as of the most recent fiscal year.

### ***Use of Funds***

The bill requires the fund's moneys to be used only in accordance with the controlling judgment, consent decree, or settlement, as confirmed by the attorney general and after the committee's and the OPM secretary's approval. It restricts use of the moneys to the following substance use disorder abatement purposes:

1. statewide, regional, or community substance use disorder needs assessments to identify structural gaps and needs to inform fund expenditures;
2. infrastructure (e.g., personnel, buildings, equipment) required for evidence-based substance use disorder prevention, treatment, recovery, or harm reduction programs (e.g., syringe service programs and naloxone distribution), services, and supports;
3. programs, services, supports, and resources for evidence-based substance use disorder prevention, treatment, recovery, or harm reduction (i.e., an attempted or actual reduction in the adverse consequences of substance use, including by addressing the underlying causes and conditions);
4. evidenced-informed substance use disorder prevention, treatment, recovery, or harm reduction pilot programs or demonstration studies that are not evidenced-based, but are approved by the advisory committee as an appropriate use of moneys for a limited time period the advisory committee sets, so long as it assesses whether the evidence supports funding the programs or studies or if the evidence provides a basis to fund them with an expectation of creating an evidence base for them;
5. evaluating the effectiveness and outcomes reporting for

substance use disorder abatement infrastructure, programs, services, supports, and resources for which the fund's moneys were disbursed, including the (a) impact on access to harm reduction services or substance use disorder treatment or (b) reduction in drug-related deaths;

6. at least one publicly available data interface the DMHAS commissioner manages to aggregate, track, and report (a) substance use disorders, overdoses, and drug-related harms; (b) spending recommendations, plans, and reports; and (c) outcomes of programs, services, supports, and resources for which the fund's moneys were disbursed;
7. opioid abatement research, including developing evidence-based treatment, treatment barriers, nonopioid treatment of chronic pain, and harm reduction supply-side enforcement;
8. documented expenses (a) to administer and staff the fund and the advisory committee and (b) incurred by the state or municipalities in securing settlement proceeds deposited in the fund (including legal fees), permitted by the controlling judgment, consent decree, or settlement;
9. documented expenses to manage, invest, and disburse the fund's moneys; and
10. documented expenses, including legal fees, incurred by the state or a municipality in securing settlement proceeds deposited in the fund, to the extent they are not otherwise reimbursed under a fee agreement provided for by the controlling judgment, consent decree, or settlement.

The bill requires the fund's moneys to be used prospectively, and not to reimburse expenditures from before July 1, 2022, unless:

1. a court order requires a refund to the federal government or
2. the documented expenses were incurred (a) administering the

fund and advisory committee or (b) securing settlement proceeds deposited in the fund by the state or a municipality.

Under the bill, “evidence-based” means meeting one of the following evidentiary criteria:

1. meta-analyses or systematic reviews have found the activity, practice, program, service, support, or strategy to be effective;
2. evidence from a scientifically rigorous experimental study, including a randomized controlled trial, shows that the activity, practice, program, service, support, or strategy is effective; and
3. multiple observational studies from locations within the U.S. indicate that the activity, practice, program, service, support, or strategy is effective.

### ***Eligibility for Fund Disbursements***

The bill requires proceeds from any state settlement of claims against a defendant to be allocated only to municipalities that execute an agreement to participate in the settlement and adhere to the agreement’s terms. However, it does not preclude or limit an allocation or disbursement to benefit residents within a municipality that does not execute an agreement or adhere to an agreement’s terms.

Under the bill, government and nonprofit nongovernmental entities are eligible to receive fund moneys for programs, services, supports, and resources for prevention, treatment, recovery, and harm reduction.

### ***Fund Disbursement Process***

The bill requires the DMHAS commissioner to obtain the Opioid Settlement Advisory Committee’s approval before making or refusing to make fund disbursements. The commissioner must adhere to the advisory committee’s decisions about fund disbursements, as long as they are permissible expenditures (i.e., qualify as one of the substance use disorder abatement purposes described above).

The bill specifies that the commissioner's role in distributing the fund's moneys after the advisory committee approves it is administrative and not discretionary.

The bill prohibits the commissioner from making fund disbursements unless the OPM secretary sends the advisory committee a letter verifying that the funds appropriated and allocated in the fiscal year's budget for substance use disorder purposes for prevention, treatment, recovery, and harm reduction, are in an amount that at least meets the total amount of funds appropriated and allocated in the previous fiscal year's budget.

Under the bill, DMHAS must make fund disbursements in a way that is consistent with any limitations a controlling court order sets on using litigation proceeds. If the court order allows expenditures other than or in excess of what the bill authorizes, DMHAS must adhere to the bill's limitations on using the funds. Conversely, if the bill permits expenditures other than or in excess of what the controlling court order authorizes, DMHAS must adhere to the order's limitations.

### ***Supplemental Funds***

Under the bill, fund disbursements do not supplant or replace any other funds that would otherwise have been used for the same purposes (e.g., insurance benefits or governmental funding). Instead, they are additional ("supplemental") funds to ensure that the current fiscal year funding exceeds the total of federal, state, and local funds allocated in the previous fiscal year for substance use disorder abatement, infrastructure, program, service, support, or resource.

## **§§ 3 & 5 — OPIOID SETTLEMENT FUND ADVISORY COMMITTEE**

### ***Purpose***

The bill establishes a 37-member Opioid Settlement Advisory Committee to ensure (1) proceeds received by the state are allocated and spent on the substance use disorder abatement purposes described above and (2) robust public involvement, accountability, and transparency in allocating and accounting for the fund's moneys.



**Membership**

Under the bill, the advisory committee consists of the following 31 government officials:

1. the OPM secretary and attorney general, or their designees;
2. the commissioners of children and families, mental health and addiction services, and public health, or their designees, who serve as ex-officio members;
3. the six top legislative leaders and the Appropriations Committee chairpersons, or their designees, as long as the designees have experience living with a substance use disorder or have a family member with such a disorder;
4. 17 municipal representatives, appointed by the governor; and
5. the Commission on Racial Equity in Public Health executive director, or a commission representative the executive director designates.

Additionally, the DMHAS commissioner must appoint the following six members:

1. one provider each of community-based substance use disorder treatment services for adults and adolescents, who are non-voting members;
2. one licensed addiction medicine health care professional with prescriptive authority (e.g., physician, physician assistant, or advanced practice registered nurse) who is a non-voting member; and
3. three individuals with experience living with a substance use disorder or who are family members of individuals with a substance use disorder.

**Conflicts of Interest**

Regardless of state law, the bill specifies that it is not a conflict of interest for a trustee, director, officer, or employee of an organization, or any person having a financial interest in the organization to serve as an advisory committee member. But to do so, the individual must (1) disclose his or her position or interest to all other advisory committee members and (2) abstain from any advisory committee deliberation, action, or vote that specifically concerns the organization.

### ***Appointments and Leadership***

Under the bill, the committee co-chairpersons are the DMHAS commissioner and a member representing municipalities selected by the House speaker and Senate president pro tempore. The co-chairpersons are nonvoting members.

The bill requires initial committee appointments to be made by October 1, 2022. Committee members, except ex-officio members, serve two-year terms and cannot serve more than two consecutive terms. Members may serve until a successor's appointment, except when a vacancy occurs, in which case the appointing authority must fill the vacancy for the rest of the term.

Under the bill, an appointing authority may remove an advisory committee member for misfeasance, malfeasance, or willful neglect of duty.

### ***Meetings***

The bill requires the advisory committee to hold quarterly public meetings, which may be called by the chairperson or a majority of its members. Members may attend meetings (1) in person, (2) remotely by audiovisual means, or (3) by audio-only means if the chairperson approves it.

A majority of the advisory committee's members constitutes a quorum for transacting business. If there is a quorum, all advisory committee actions must be taken by an affirmative vote of the members present and each voting member has one vote.

Under the bill, the advisory committee ends when all settlement moneys are received and disbursed, unless the attorney general certifies that the state anticipates receiving additional moneys.

### ***Duties***

Under the bill, the advisory committee must:

1. recommend and approve policies and procedures for its administration and criteria for applying, awarding, and disbursing moneys from the Opioid Settlement Fund and
2. approve fund allocations.

Additionally, the advisory committee must recommend and approve goals and objectives, including their rationale, sustainability plans, and performance indicators related to:

1. substance use disorder prevention, treatment, recovery, and harm reduction efforts, including methods of engaging people who use harm reduction services in treatment and recovery;
2. reducing disparities in accessing prevention, treatment, recovery, and harm reduction programs, services, supports, and resources; and
3. improving health outcomes in traditionally underserved populations, including those who live in rural or tribal communities, are members of ethnic minorities, or were incarcerated.

### ***DMHAS Responsibilities***

The bill requires DMHAS, regardless of the state's dual job ban for General Assembly members, to employ a full-time advisory committee manager and provide public health research and policy expertise, support staff, facilities, technical assistance, and other resources to:

1. assist the advisory committee manager in planning and supporting the committee's functions, including ensuring that

the state's opioid-related proceeds are allocated and spent according to the bill's requirements, and

2. ensure robust public involvement, accountability, and transparency in allocating and accounting for the fund's moneys.

Additionally, the bill requires DMHAS to:

1. use, where feasible, General Fund appropriations and existing infrastructure, programs, services, supports, and other resources to address substance use disorders, overdoses, and drug-related harms;
2. prepare for the advisory committee's review and approval, the department's goals and objectives and their rationale, sustainability plans, and performance indicators related to (a) substance use disorder prevention, treatment, recovery, and harm reduction efforts, including methods of engaging people who use harm reduction services in treatment and recovery, and (b) reducing disparities in accessing prevention, treatment, recovery, and harm reduction programs, services, supports, and resources;
3. evaluate applications and make recommendations to the advisory committee for awarding contracts and fund disbursements for expenditures allowed under the bill;
4. disburse moneys, after receiving the advisory committee's final approval;
5. approve the suspension of fund allocations to recipients the advisory committee or DMHAS commissioner finds (a) are substantially out of compliance with applicable contracts, policies, procedures, rules, regulations, or state or federal law or (b) used their disbursements for purposes other than those approved under the bill (but allocations may be subsequently approved once the committee determines that the recipient

- adequately remedied the cause of the suspension);
6. maintain oversight of the fund's expenditures to ensure they are only used for the purposes specified in the bill, including implementing procedures for evaluating the effectiveness of the infrastructure, programs, services, supports, or resources funded by the disbursements; and
  7. implement and publish on its website the policies and procedures for (a) administering the advisory committee and (b) applying, awarding, and disbursing moneys from the fund.

### **Website**

The bill requires DMHAS to create and maintain a website where the advisory committee must publish (1) meeting minutes, including records of all votes to approve fund expenditures; (2) recipient agreements and annual reports on fund recipients (see Fund Recipient Annual Report, below); (3) policies and procedures the advisory committee approves; and (4) its annual reports.

### **Annual Report**

The bill requires the advisory committee, starting by January 15, 2023, to annually report to the Appropriations and Public Health committees on the following:

1. the fund's opening and closing balance for the most recent fiscal year;
2. an accounting of all fund expenditures and credits;
3. an inventory of fund investments as of the most recent fiscal year, and the net income the fund earned for the most recent fiscal year, as determined by the State Treasurer;
4. the name and description of each fund recipient as well as the award amount;
5. a description of each award's intended use, including the (a)

- specific program, service, or resource funded; (b) population served; and (c) measures the recipient will use to assess the award's impact;
6. the primary criteria used to determine each recipient and its award amount;
  7. a summary of information included in the recipient annual reports (see Fund Recipient Annual Report, below);
  8. all award applications received during the most recent fiscal year;
  9. a description of any finding or concern about whether all fund disbursements, other than expenses the bill authorizes, supplemented, and did not supplant or replace, any current or future local, state, or federal government funding;
  10. the performance indicators and progress toward achieving DMHAS's goals and objectives, including metrics on improving outcomes and reducing mortality and other harms related to substance use disorders;
  11. for the most recent fiscal year, the dollar amount and percentage of the fund balance incurred for (a) the fund's and advisory committee's administrative expenses and staffing and (b) the fund's expenses for managing, investing, and disbursing fund monies; and
  12. an explanation of any funds certified by the DMHAS commissioner and attorney general as being inconsistent with the bill's intent and the account or fund where the funds were deposited.

The bill also requires the DMHAS commissioner to post the annual report on the department's website.

### **§ 3 — FUND RECIPIENT ANNUAL REPORT**

The bill requires fund recipients, starting by October 1, 2023, to file with the advisory committee an annual report for the prior fiscal year that details the effectiveness of funded infrastructure, programs, services, supports, or resources, including:

1. how the recipient used the funds for their intended purposes;
2. de-identified information on the number of individuals served, delineated by race, age, gender, and any other relevant demographic factors;
3. a specific analysis of whether the infrastructure, program, service, support, or resources reduced mortality or improved prevention, treatment, harm reduction, or recovery outcomes; and
4. a summary of any plan to ensure the sustainability of the funded infrastructure program, service, support, or resources, if the plan exists.

## **§ 6 — TRUST FOR SURVIVORS AND VICTIMS**

The bill provides that its provisions do not preclude the state from funding a trust to provide direct support and services to survivors and victims of the opioid epidemic, and their family members who have been directly impacted by the epidemic, in accordance with the March 11, 2022, settlement agreement with Purdue Pharma and the Sackler family (see BACKGROUND).

### **BACKGROUND**

#### ***Opioid Settlement Agreement***

Connecticut is part of a recently approved \$26 billion multistate opioid settlement agreement with the following prescription drug manufacturers: AmerisourceBergen, Cardinal, McKesson, and Johnson & Johnson. All states and U.S. territories have signed on to the agreement and in Connecticut, all municipalities have joined.

The state is expected to receive approximately \$300 million over 18

years. (Municipalities will receive 15% of the state’s allocation.) The settlement agreement requires funds to be used for opioid abatement, including expanding access to opioid use disorder prevention, intervention, treatment, and recovery.

**Opioid Survivors Trust**

In March 2022, Connecticut, along with eight other states and the District of Columbia, reached a \$6 billion opioid settlement agreement with Purdue Pharma and the Sackler family. The state is expected to receive approximately \$95 million over 18 years and is authorized to use a portion of the funds to establish an Opioid Survivors Trust to directly assist opioid epidemic survivors and victims.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/11/2022)

Appropriations Committee

Joint Favorable

Yea 47 Nay 0 (04/18/2022)