

HOUSE BILL 203

E5, J1

(PRE-FILED)

4lr0224
CF SB 282

By: **Chair, Judiciary Committee (By Request – Departmental – Office of Crime Prevention, Youth, and Victim Services)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 **Correctional Services – Local Detention Centers – Reporting on Opioid Use**
3 **Disorder**

4 FOR the purpose of altering a certain requirement that the Governor’s Office of Crime
5 Prevention, Youth, and Victim Services annually report to the General Assembly
6 about opioid use disorder among incarcerated individuals in local correctional
7 facilities by repealing certain reporting requirements; and generally relating to
8 opioid use disorder among incarcerated individuals in local detention centers.

9 BY repealing and reenacting, with amendments,
10 Article – Correctional Services
11 Section 9–603
12 Annotated Code of Maryland
13 (2017 Replacement Volume and 2023 Supplement)
14 (As enacted by Section 3 of Chapter 721 of the Acts of the General Assembly of 2023)

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

17 **Article – Correctional Services**

18 9–603.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



1 (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 post incarceration 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.

33 (h) The procedures and standards used to determine substance use disorder

1 diagnosis and treatment of incarcerated individuals are subject to the guidelines and
2 regulations adopted by the Maryland Department of Health.

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

6 (j) On or before November 1, 2020, and annually thereafter, the Governor's Office
7 of Crime Prevention, Youth, and Victim Services shall report data from individual local
8 correctional facilities to the General Assembly, in accordance with § 2-1257 of the State
9 Government Article, on:

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

11 (i) a mental health disorder;

12 (ii) an opioid use disorder;

13 (iii) a non-opioid substance use disorder; and

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

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

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

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

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

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

26 [(7)] (6) the number of incarcerated individuals for whom medication and
27 medication-assisted treatment was prescribed and initiated for opioid use disorder;

28 [(8) the number of medications and medication-assisted treatments for
29 opioid use disorder provided according to each type of medication and medication-assisted
30 treatment options;]

31 [(9)] (7) the number of incarcerated individuals who continued to receive

1 the same medication or medication–assisted treatment for opioid use disorder as the
2 incarcerated individual received prior to incarceration;

3 **[(10)] (8)** the number of incarcerated individuals who received a different
4 medication or medication–assisted treatment for opioid use disorder compared to what the
5 incarcerated individual received prior to incarceration;

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

9 **[(12)] (9)** the number of incarcerated individuals who discontinued
10 medication or medication–assisted treatment for opioid use disorder during incarceration;

11 **[(13)] (10)** a review and summary of the percent of days, including the
12 average percent, median percent, mode percent, and interquartile range of percent, for
13 incarcerated individuals with opioid use disorder receiving medication or
14 medication–assisted treatment for opioid use disorder as calculated overall and stratified
15 by other factors, such as type of treatment received;

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

18 **[(15)] (11)** the number of incarcerated individuals receiving medication or
19 medication–assisted treatment prior to release for whom the facility had made a prerelease
20 reentry plan;

21 **[(16)] (12)** a review and summary of practices related to medication and
22 medication–assisted treatment for opioid use disorder for incarcerated individuals with
23 opioid use disorder before October 1, 2019;

24 **[(17)] (13)** a review and summary of prerelease planning practices relative
25 to incarcerated individuals diagnosed with opioid use disorder prior to, and following,
26 October 1, 2019; and

27 **[(18)] (14)** any other information requested by the Maryland Department of
28 Health related to the administration of the provisions under this section.

29 (k) Any behavioral health assessment, evaluation, treatment recommendation, or
30 course of treatment shall be reported to the Governor’s Office of Crime Prevention, Youth,
31 and Victim Services and also include any other data necessary to meet reporting
32 requirements under this section.

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