

[First Reprint]

SENATE, No. 783

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JANUARY 18, 2022

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator JAMES BEACH

District 6 (Burlington and Camden)

Co-Sponsored by:

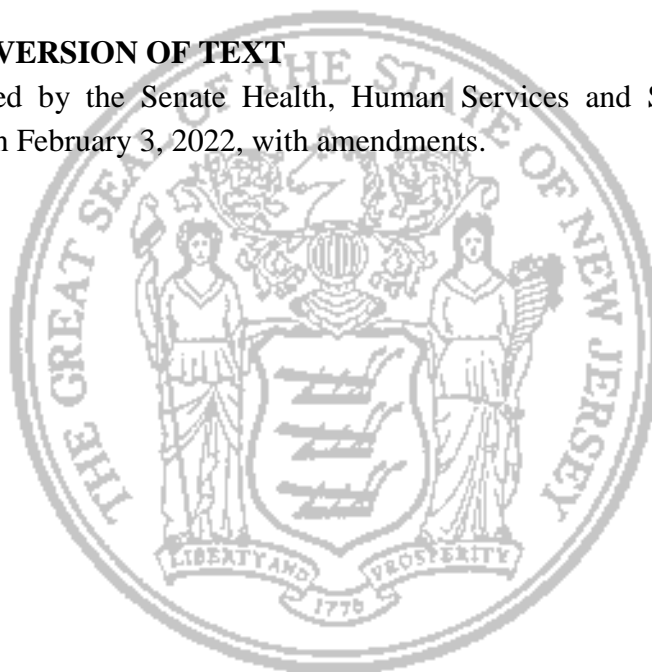
Senators Singer, Johnson, Ruiz and Greenstein

SYNOPSIS

Establishes Opioid Recovery and Remediation Fund and Opioid Recovery and Remediation Fund Advisory Council; provides for funds received from opioid settlements to support substance use disorder prevention and treatment programs.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on February 3, 2022, with amendments.



(Sponsorship Updated As Of: 3/3/2022)

1 AN ACT concerning the dedication and distribution of funds
2 received from opioid settlements and supplementing Title 26 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. There is created in the Department of the Treasury a
9 dedicated, non-lapsing fund to be known as the “Opioid Recovery
10 and Remediation Fund.”

11 b. ¹**[The]** To the extent consistent with the terms of a national
12 opioid litigation resolution subject to this act, the¹ State Treasurer
13 shall deposit into the fund ¹**[any]** the State’s share of¹ moneys
14 ¹**[that are allocated to or otherwise received by the State]** received¹
15 as a result of ¹**[a settlement agreement entered into with, or**
16 **litigation undertaken against, opioid manufacturers and distributors**
17 **related to claims arising from the manufacture, marketing,**
18 **distribution or dispensing of opioids]** such resolution¹ . Any
19 interest and other income earned on moneys in the fund, and any
20 other moneys that may be appropriated or otherwise become
21 available for purposes of the fund, shall be credited to and deposited
22 in the fund. ¹For the purposes of this section, moneys paid to
23 counties or municipalities or allocated for attorneys’ fees, costs, and
24 related litigation expenses shall not be considered to be part of the
25 State’s share of moneys received as a result of a national opioid
26 litigation resolution.¹

27 c. (1) Moneys in the fund shall be dedicated and used only for
28 the purposes ¹**[of supplementing substance use disorder prevention**
29 **and treatment programs and services in the State, consistent with**
30 **the terms of settlements made in connection with claims arising**
31 **from the manufacture, marketing, distribution or dispensing of**
32 **opioids, as applicable.**

33 (2) The Legislature shall annually appropriate **[** described in
34 subsection e. of this section, and shall be subject to the applicable
35 requirements of the relevant national opioid litigation resolution and
36 any applicable agreement entered into pursuant to section 3 of
37 P.L. , c. (C.) (pending before the Legislature as this bill).

38 (2) The Department of Human Services shall be designated the
39 lead agency for the State for purposes of directing the disbursement
40 and allocation of the State’s share of any moneys that are allocated
41 to or otherwise received by the State as a result of a national opioid
42 litigation resolution and for monitoring the use of moneys disbursed
43 to counties or municipalities under a national opioid litigation
44 resolution or under an agreement entered into pursuant to section 3

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted February 3, 2022.

1 of P.L. , c. (C.) (pending before the Legislature as this bill)
2 and, in coordination with the State Comptroller and the Attorney
3 General, ensuring that the use of such moneys complies with the
4 purposes set forth in this act and is consistent with the terms of the
5 applicable national opioid litigation resolution and any applicable
6 agreement entered into pursuant to section 3 of P.L. , c. (C.)
7 (pending before the Legislature as this bill).

8 (a) The department shall have primary responsibility for
9 ensuring that the various reporting, compliance, and administrative
10 functions imposed upon the State pursuant to the terms and
11 conditions of any national opioid litigation resolution and any
12 applicable agreement entered into pursuant to section 3 of
13 P.L. , c. (C.) (pending before the Legislature as this bill)
14 are performed, and shall serve as the single point of contact for the
15 State for settlement fund administrators and trustees to submit
16 requests for disbursement of funds.

17 (b) The department shall be authorized to make determinations
18 regarding disbursement and allocation of the State's share of such
19 proceeds in accordance with the requirements or terms of any
20 national opioid litigation resolution and any applicable agreement
21 entered into pursuant to section 3 of P.L. , c. (C.) (pending
22 before the Legislature as this bill), which may include designations
23 of regions for the allocation of the State's share of such proceeds, in
24 addition to taking such other actions as may be assigned or required
25 to be performed by the lead agency or single point of contact for the
26 State under the terms of any national opioid litigation resolution and
27 any applicable agreement entered into pursuant to section 3 of
28 P.L. , c. (C.) (pending before the Legislature as this bill).

29 (c) The department shall receive and review reports from each
30 county and municipality regarding the expenditure of any moneys
31 received by the county or municipality as a result of a national
32 opioid litigation resolution.

33 (d) (i) The department shall be authorized to adopt, amend, or
34 repeal regulations as necessary to carry out the intent and provisions
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill).

37 (ii) Notwithstanding the provisions of the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
39 contrary, the department may, immediately upon filing proper
40 notice with the office of Administrative Law, adopt rules and
41 regulations as shall be necessary to enable it to carry out the
42 department's duties, functions, and powers with respect to this act.
43 Rules and regulations adopted pursuant to this subsubparagraph
44 shall be effective immediately upon filing with the Office of
45 Administrative Law and shall be in effect for a period not to exceed
46 18 months, and shall, thereafter, be amended, adopted, or readopted
47 by the department in accordance with the provisions of the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
2 1 et seq.).

3 (3) Notwithstanding any other law to the contrary, there is
4 hereby appropriated: (a)¹ moneys from the fund to the Department
5 of Human Services, which shall allocate the appropriated funds in
6 ¹accordance with the provisions of subsections d., e., and f. of this
7 section; and (b) moneys paid to the State as a result of a national
8 opioid litigation resolution that have been allocated to a county or
9 municipality in accordance with the terms of the national opioid
10 litigation resolution or a related agreement entered into pursuant to
11 section 3 of P.L. , c. (C.) (pending before the Legislature as
12 this bill), and to the extent necessary to effectuate such resolution,
13 which shall be used in accordance with the provisions of
14 subsections d., e., and f. of this section.

15 d. Notwithstanding section 2 of P.L.1999, c.129 (C.56:8-14.3),
16 section 15 of P.L.2003, c.76 (C.56:8-133), and the "New Jersey
17 False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.), the
18 department shall direct the allocation and disbursement of moneys
19 in the Opioid Recovery and Remediation Fund established by this
20 section, and shall do so in¹ consultation with the Opioid Recovery
21 and Remediation Fund Advisory Council, ¹["as"]¹ established
22 pursuant to section 2 of this act. The department shall allocate
23 funds with an emphasis on supporting programs ¹and strategies¹
24 that are ¹["culturally and gender competent, trauma-informed,"]¹
25 evidence-based ¹or evidence-informed¹ and, ¹["where appropriate,
26 employ individuals with lived experience as part of the services
27 provided. Services to be supported from the fund shall include, but
28 shall not be limited to, programs:

29 (a) To prevent substance use disorder through a youth-focused
30 public health education and prevention campaign, including school-
31 based prevention, early intervention, and health care services and
32 programs to reduce the risk of substance use by school-aged
33 children;

34 (b) To develop and implement Statewide public education
35 campaigns to reduce stigma against individuals who use drugs,
36 provide information about the risks of substance use, best practices
37 for addressing substance use disorders, and information on how to
38 locate services that reduce the adverse health consequences
39 associated with drug use or provide treatment for substance use
40 disorders;

41 (c) To minimize and eliminate the root causes of health
42 disparities that contribute to the use of drugs and inequities in the
43 treatment of substance use disorder among minority communities;

44 (d) To support the State's efforts to divert high-risk individuals
45 from arrest and incarceration through programs with strong case
46 management and harm reduction services that link participants to

1 community-based services, as well as referrals to promote health
2 and understanding for people who use drugs; and

3 (e) To establish systems and tools that expand the State's
4 capacity to collect data and evaluate policies, programs, and
5 strategies designed to address substance use disorder] in making
6 such allocations, shall consider equitable access for underserved
7 communities Statewide.

8 e. Moneys, other than attorneys' fees, costs, and expenses
9 related to litigation, that are allocated to or otherwise received by
10 the State or any county or municipality as a result of a national
11 opioid litigation resolution, shall be dedicated and used, consistent
12 with the terms of an applicable national opioid litigation resolution
13 and any applicable agreement entered into pursuant to section 3 of
14 P.L. , c. (C.) (pending before the Legislature as this bill),
15 for the purpose of addressing opioid use disorder and any co-
16 occurring substance use disorder or mental health conditions
17 through evidence-based or evidence-informed practices or strategies
18 that may include, but shall not be limited to, the following:

19 (1) Supporting the treatment of opioid use disorders and any co-
20 occurring substance use disorder or mental health conditions
21 through evidence-based or evidence-informed programs or
22 strategies;

23 (2) Supporting individuals in recovery from opioid use disorder,
24 as well as any co-occurring substance use disorder or mental health
25 conditions, through evidence-based or evidence-informed programs
26 or strategies, including, but not limited to, providing support
27 services to the families of such individuals;

28 (3) Providing connections to care for people who have, or are at
29 risk of developing, an opioid use disorder or a co-occurring
30 substance use disorder or mental health condition, through
31 evidence-based or evidence-informed programs or strategies;

32 (4) Using evidence-based or evidence-informed programs or
33 strategies to address the needs of persons with an opioid use
34 disorder or a co-occurring substance use disorder or mental health
35 condition who are involved in, are at risk of becoming involved in,
36 or are transitioning out of, the criminal justice system;

37 (5) Using evidence-based or evidence-informed programs or
38 strategies to address the needs of pregnant or parenting persons with
39 opioid use disorder or a co-occurring substance use disorder or
40 mental health condition, and the needs of the families of such
41 individuals, including babies with neonatal abstinence syndrome;

42 (6) Supporting efforts to prevent over-prescribing and ensure
43 appropriate prescribing and dispensing of opioids through evidence-
44 based or evidence-informed programs or strategies;

45 (7) Using evidence-based or evidence-informed programs or
46 strategies to support efforts to discourage or prevent the misuse of
47 opioids;

- 1 (8) Using evidence-based or evidence-informed programs or
2 strategies to support efforts to prevent or reduce overdose deaths or
3 other opioid-related harms;
- 4 (9) Educating law enforcement or other first responders
5 regarding appropriate practices and precautions when dealing with
6 fentanyl and other drugs;
- 7 (10) Providing wellness and support services for first
8 responders and others who experience secondary trauma associated
9 with opioid-related emergency events;
- 10 (11) Supporting efforts to provide leadership, planning,
11 coordination, facilitations, training, and technical assistance to
12 abate the opioid epidemic through activities, programs, and
13 strategies;
- 14 (12) Supporting training to abate the opioid epidemic through
15 activities, programs, or strategies;
- 16 (13) Supporting opioid abatement research;
- 17 (14) Supporting such other strategies as may be expressly
18 identified in any national opioid litigation resolution; and
- 19 (15) Administrative expenses, subject to limits imposed by any
20 national opioid litigation resolution or by any agreement entered
21 pursuant to section 3 of P.L. , c. (C.) (pending before the
22 Legislature as this bill).
- 23 f. Moneys, other than attorneys' fees, costs, and expenses
24 related to litigation, that are allocated to or otherwise received by
25 the State or any of its counties or municipalities as a result of a
26 national opioid litigation resolution shall be used to supplement,
27 and shall not supplant, federal, State, county, or municipal funds, as
28 the case may be, that otherwise would have been used to carry out
29 the purposes delineated in this act, and no amount of such moneys
30 shall be used to reimburse the State or any of its counties or
31 municipalities for past expenditures, except as may otherwise be
32 required to refund to the federal government a portion of the
33 moneys.
- 34 g. For the purposes of P.L. , c. (C.) (pending before
35 the Legislature as this bill), "national opioid litigation resolution"
36 means a settlement agreement, entered into by the Attorney General
37 of New Jersey on behalf of the State and by other state attorneys
38 general on behalf of their respective states, which provides for the
39 participation of states, counties, and municipalities to resolve
40 claims by the state attorneys general and counties and
41 municipalities against opioid manufacturers, opioid distributors, or
42 pharmacies related to the manufacture, marketing, distribution, or
43 dispensing of opioids, or a bankruptcy plan that has received final
44 approval and that channels, releases, or otherwise finally disposes
45 of such claims including those of the State and its counties and
46 municipalities¹ .

1 2. a. There is established in, but not of, the Department of
2 Human Services ^{1,1} the Opioid Recovery and Remediation Fund
3 Advisory Council. The council shall provide the Department of
4 Human Services with ¹general¹ recommendations on the allocation
5 of funds appropriated to the department from the Opioid Recovery
6 and Remediation Fund, as well as any policy modifications
7 necessary to maximize the use of those funds ¹**["on a"]** ¹at the¹ State
8 and local ¹**["level"]** levels¹ . To effectuate this goal, the council
9 shall:

10 (1) ¹**["gather and evaluate State"]** provide¹ data ¹to the
11 department¹ regarding ¹the availability of, gaps in, and barriers to¹
12 substance use disorder prevention and treatment programs and
13 recovery¹ services ¹**["in order to determine which populations are**
14 **not reached by current interventions, as well as which geographic**
15 **areas of the State have programmatic gaps in addressing substance**
16 **use disorder"]**¹ ; and

17 (2) solicit feedback, in a manner and method established by the
18 council, from stakeholders, local providers, and advocates regarding
19 the ¹**["service needs"]** services needed¹ to prevent and treat substance
20 use ¹**["disorder"]** disorders¹ across the State.

21 b. The council shall consist of 13 members, as follows:

22 (1) the Commissioner of Human Services, the Commissioner of
23 Health, and the Attorney General, or their designees, who shall
24 serve ¹**["as"]**¹ ex-officio ¹**["members"]**¹ ;

25 (2) four public members appointed by the Governor, of which
26 ¹members¹ one shall possess expertise in substance use disorder
27 treatment, one shall possess expertise in harm reduction, one shall
28 possess expertise in criminal justice, and one shall possess expertise
29 in drug policy;

30 (3) three public members ¹**["to be"]** ¹ appointed by the
31 ¹Governor upon recommendation of the¹ President of the Senate, of
32 which ¹members¹ one shall possess expertise in substance use
33 disorder treatment, one shall possess expertise in behavioral health,
34 and one shall possess personal experience with substance use and
35 ¹**["addiction"]**¹ issues ¹related to a substance use disorder¹ ; and

36 (4) three public members ^{1,1} appointed by the ¹Governor upon
37 recommendation of the¹ Speaker of the Assembly, of which
38 ¹members¹ one shall possess expertise in substance use disorder
39 treatment, one shall possess expertise in ¹**["behavioral"]**¹ health ¹care
40 equity¹ , and one shall possess ¹**["personal experience with**
41 **substance use and addiction issues"]** expertise in health policy¹ .

42 c. All appointments to the council shall be made no later than
43 the 60th day after the effective date of this act. Each ¹**["appointed"]**
44 public¹ member shall serve a two-year term, with any vacancies in
45 the membership of the council being filled in the same manner as

1 ¹provided for¹ the original appointments. ¹The Governor shall
2 appoint a chairperson from among the public members of the
3 council to serve in such capacity at the pleasure of the Governor.¹

4 d. The council shall organize as soon as practicable following
5 the appointment of its members. ¹~~Upon its organization, the~~
6 ~~council shall select a chairperson from among its members.~~¹ The
7 members shall also select a secretary who need not be a member of
8 the council. The council may hold meetings at ¹~~the~~ such¹ times
9 and places ¹~~as~~¹ it may designate. A majority of the authorized
10 membership shall constitute a quorum. The council may conduct
11 business without a quorum, but shall only vote on a
12 recommendation when a quorum is present. The members of the
13 council shall serve without compensation, but shall be eligible for
14 reimbursement for necessary and reasonable expenses incurred in
15 the performance of their official duties within the limits of funds
16 appropriated or otherwise made available to the council for its
17 purposes.

18 e. The council shall be entitled to receive assistance and
19 services from any State, county, or municipal department, board,
20 commission, or agency as may be made available to it for its
21 purposes. The Department of Human Services shall provide such
22 staff and administrative support to the council as it requires to carry
23 out its responsibilities.

24 ¹f. To the extent permissible under the terms of a national opioid
25 litigation resolution, the council shall not be required to, and may
26 refrain from, making recommendations for expenditures that would
27 primarily benefit counties or municipalities that were eligible to
28 participate in the national opioid litigation resolution that yielded
29 such funds but did not participate in the resolution, provided that
30 nothing in this subsection shall be deemed to prevent the council
31 from exercising its discretion to make such recommendations
32 should it determine to do so.

33 g. The council shall be considered a “public body” for the
34 purpose of complying with the provisions of the “Senator Byron M.
35 Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-
36 6 et seq.), and shall be subject to the provisions thereof. The “New
37 Jersey Conflicts of Interest Law,” P.L.1971, c.182 (C.52:13D-
38 12 et seq.), shall apply to all members of the council.¹

39
40 ¹3. The Attorney General, in consultation with the
41 Commissioner of Human Services, shall be authorized to enter into
42 agreements with counties and municipalities concerning the
43 allocation and expenditure of moneys allocated to the State and its
44 counties and municipalities in any national opioid litigation
45 resolution.¹

1 ¹4. A county or municipality that directly receives moneys as a
2 result of a national opioid litigation resolution shall establish an
3 advisory council to provide input, advice, and recommendations on
4 the disbursement and allocation of such moneys. Each county or
5 municipal advisory council shall, at a minimum, consist of a
6 member possessing expertise in substance use disorder treatment or
7 prevention, a member representing a provider of behavioral health
8 or substance use disorder treatment in the community, a member
9 with personal experience with substance use and substance use
10 disorder issues, the county prosecutor or the county prosecutor's
11 designee, and an individual authorized to appropriate funds on
12 behalf of the governing body of the municipality or county, as the
13 case may be, or such individual's designee. A county or municipal
14 advisory council may include any additional members as the county
15 or municipality deems necessary and appropriate.¹

16
17 ¹[3.] 5.¹ No later than 12 months after the effective date of
18 this act, and annually thereafter, the Department of Human
19 Services, in consultation with the Opioid Recovery and
20 Remediation Fund Advisory Council, shall report to the Governor,
21 and to the Legislature pursuant to section 2 of P.L.1991, c.164
22 (C.52:14-19.1), on the details of the allocations made with the funds
23 appropriated from the Opioid Recovery and Remediation Fund.
24 The information shall include the allocation amount, program
25 description, involved community providers, goals of the program,
26 and outcome measures to be used to determine program efficacy.
27 The department shall also post this information on its Internet
28 website.

29
30 ¹[4.] 6.¹ This act shall take effect immediately.