

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 1277 - L.D. 1722

**An Act To Ensure Access to All Paths to Recovery for Persons Affected by
Opioids Using Money Obtained through Litigation against Opioid
Manufacturers**

Emergency preamble. **Whereas**, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the substance use crisis, driven significantly by opioids, has killed thousands of Maine residents, including 505 individuals who died of drug overdoses in 2020 and over 600 in 2021, and devastated families and communities across the State; and

Whereas, addressing substance use disorder, overdoses and drug-related harms will require dedicating resources and directing opioid litigation proceeds to establish, sustain and expand substance use disorder abatement infrastructure, programs, services, supports and resources for prevention, treatment, recovery and harm reduction in Maine and represents a critically important step toward the work to be done; and

Whereas, the State anticipates the imminent receipt of substantial payments based on lawsuits made against manufacturers and distributors of prescription opioid analgesics, pharmacies that dispensed prescription opioid analgesics and related parties for their alleged roles in contributing to the high rates of substance use disorder, drug overdoses and other drug-related harms; and

Whereas, experience with the 1990s tobacco settlements suggests that, without firm commitment and planning, the opioid litigation proceeds may not be directed toward preventing and addressing substance use disorder, overdoses and drug-related harms; and

Whereas, funds derived from settlement of or damages granted in these lawsuits are anticipated to begin being distributed this year, and the Maine Recovery Council should be formed and resources provided as soon as possible so that the money received by the State as a result of lawsuits related to manufacturers and distributors of prescription opioid analgesics, pharmacies that dispensed prescription opioid analgesics and related parties is able to immediately be put to use to help remediate and abate the substance use crisis; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as

immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §203-A, as enacted by PL 1991, c. 532, §1 and affected by §2, is amended to read:

§203-A. Accounts established due to court orders or other settlements

Unless specifically ordered by the court to do otherwise or for revenue or money received under section 203-B, the Attorney General shall work with the Treasurer of State to deposit any revenue or money received as a result of any court order, court settlement or other agreement into an other special revenue account of the State and all interest must be credited to the General Fund. When, pursuant to a court order or settlement, the Attorney General receives money that is specifically designated for antitrust enforcement or for enforcement of the Maine Unfair Trade Practices Act, the Attorney General is authorized to expend such funds for expert witness fees, copying of documents, transcripts and any other purpose in accordance with the court order. Any interest on such funds, unless otherwise ordered by the court, must be credited to the General Fund. The Attorney General shall provide an accounting of such funds to the Legislature in a form and as determined by the Office of Fiscal and Program Review.

Sec. 2. 5 MRSA §203-B is enacted to read:

§203-B. Funds received pursuant to court orders or other settlements of opioid crisis litigation

Notwithstanding section 203-A and unless specifically ordered by the court to do otherwise, the Attorney General may work with the Treasurer of State to deposit identified revenue or money received as a result of any court order or other agreement resulting from litigation against, or any court settlement with, an opioid manufacturer, an opioid research association or any other person in the opioid industry relating to claims made by or prosecuted by the State into the Maine Recovery Fund described by the Maine State Subdivision Memorandum of Understanding and Agreement Regarding Use of Settlement Funds, dated and signed on January 26, 2022, and including Schedule A, Core Strategies and Schedule B, Approved Uses for spending on approved uses as directed by the Maine Recovery Council as established in section 12004-I, subsection 93.

Sec. 3. 5 MRSA §203-C is enacted to read:

§203-C. Maine Recovery Council

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Approved uses" means the substance use disorder abatement purposes defined as "Approved Uses" in the memorandum of understanding.

B. "Maine Recovery Fund" means the fund described by the memorandum of understanding.

C. "Memorandum of understanding" means the Maine State Subdivision Memorandum of Understanding and Agreement Regarding Use of Settlement Funds.

dated and signed on January 26, 2022, including Schedule A, Core Strategies and Schedule B, Approved Uses.

2. Maine Recovery Council established. The Maine Recovery Council, as established in section 12004-I, subsection 93 and referred to in this section as "the council," shall direct the disbursement of funds within the Maine Recovery Fund for approved uses.

3. Membership. The council is composed of the 11 members identified by the memorandum of understanding and of 4 additional voting members as follows:

A. One member who is a medical professional with direct experience providing medication-assisted treatment, appointed by the President of the Senate;

B. One member representing reentry services for incarcerated and formerly incarcerated individuals and their families, appointed by the President of the Senate;

C. One member representing a nonprofit community-based provider of mental health treatment, appointed by the Speaker of the House; and

D. One member representing the harm reduction community, appointed by the Speaker of the House.

In making these appointments, the President of the Senate and the Speaker of the House shall endeavor to select individuals that reflect the racial, ethnic, gender and indigenous diversity of the State.

4. Vacancy. In the event of a vacancy in the council membership, the vacancy must be filled in the manner of the original appointment for the remainder of the term. For the purposes of reappointment, any partial term filled after a vacancy must be considered a full term.

5. Report. The Attorney General shall, by February 1st of each year, submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters describing the activities of the council and the status of the Maine Recovery Fund and listing information on disbursements from the fund and information related to the outcomes of funded activities.

Sec. 4. 5 MRSA §12004-I, sub-§93 is enacted to read:

93.

<u>Attorney General</u>	<u>Maine Recovery Council</u>	<u>Expenses Only</u>	<u>5 MRSA §203-C</u>
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Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Maine Recovery Fund N960

Initiative: Provides a baseline allocation for disbursement of funds deposited from recently settled opioid litigation.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.