



# THE MODEL OPIOID LITIGATION PROCEEDS ACT

**THE MULTI DISTRICT OPIOID LITIGATION** brought on behalf of state, local, and Tribal governments against the opioid industry (manufacturers, distributors, and retailers) will soon result in the distribution of millions of dollars to jurisdictions. Recently, a final agreement was reached in the multidistrict litigation, with \$26 billion going to affected governments over the next 18 years. Tribal governments may see upwards of \$665 million.

The **Model Opioid Litigation Proceeds Act** (the “Act”) is model state legislation developed to maximize the impact of opioid litigation proceeds. This model law lays the groundwork for accountability and effectiveness of opioid litigation expenditures in two ways: first, by creating **a separate, designated fund** for opioid litigation-related proceeds; and, second, by **appointing a diverse oversight council** representing individuals with varied backgrounds and expertise to oversee expenditures.

## THE OPIOID LITIGATION PROCEEDS FUND

The Master Settlement Agreement with tobacco companies is a cautionary tale in how public health

litigation proceeds may be misused. In the tobacco litigation settlement, despite the intent of the settling states that proceeds fund tobacco-related health initiatives, only a small fraction of the \$206 billion were spent on such initiatives. **Proceeds from the opioid litigation must be targeted to support evidence-based substance use prevention, treatment, recovery, and harm reduction infrastructure, programs, services, and resources.**

Deposits into the Opioid Litigation Proceeds Fund include all proceeds received by the state via legal claims made against opioid manufacturers and distributors, as well as pharmacies and other related parties; monies appropriated by, or transferred to, the Fund by the state legislature; monies received by the state on the Fund’s behalf; and any interest on monies in the Fund.

To ensure the proper use of these dollars, the Act creates the **Opioid Litigation Proceeds Fund**, a separate fund designated for all opioid litigation proceeds received by the state. Under the Act, these proceeds do not lapse or revert to the state’s general fund, are not subject to fiscal year limitations, and may not be diverted to purposes for which they were not permitted.

Permissible expenditures from the Fund include:

- needs assessments and evaluations;
- infrastructure;
- evidence-based programs, services, supports and resources;

- data interfaces; and
- expenses associated with administration and management of the Fund.

## THE OPIOID LITIGATION PROCEEDS COUNCIL

To be truly effective, opioid litigation proceeds must be spent in ways that reflect the needs of local communities. Too often, those who are most affected, including people with substance use disorder, justice-involved populations, people who are unhoused, and racial and ethnic minorities, are not included in important policy discussions and decision making.

The **Opioid Litigation Proceeds Council** consists of individuals affected by the overdose epidemic, government officials, as well as experts in public health, finance, and addiction, and government officials, who will work together to optimize opioid settlement proceeds. This Council will:

- approve awards of monies from the Fund;
- recommend and approve policies and procedures for disbursement of monies from the Fund; and
- recommend and approve goals, objectives and their rationales, sustainability plans, and performance indicators relating to improving health outcomes.

Council members may include individuals with lived experience; persons who have experience in providing substance use disorder prevention, treatment, recovery, and harm reduction services; and persons with expertise, experience, or education in public health policy or research, medicine, mental health services, or public budgeting.

**By passing this model law**, states will separate settlement proceeds from the general fund; dedicate proceeds to evidence-based and evidence-informed programs, services, and resources; and ensure transparency to ensure greater accountability through the political process.

The Model Opioid Litigation Proceeds Act was developed by the O’Neill Institute for National and Global Health Law, the Legislative Analysis and Public Policy Association, the Center for U.S. Policy, and Brown & Weinraub, PLLC with support by the White House Office of National Drug Control Policy.