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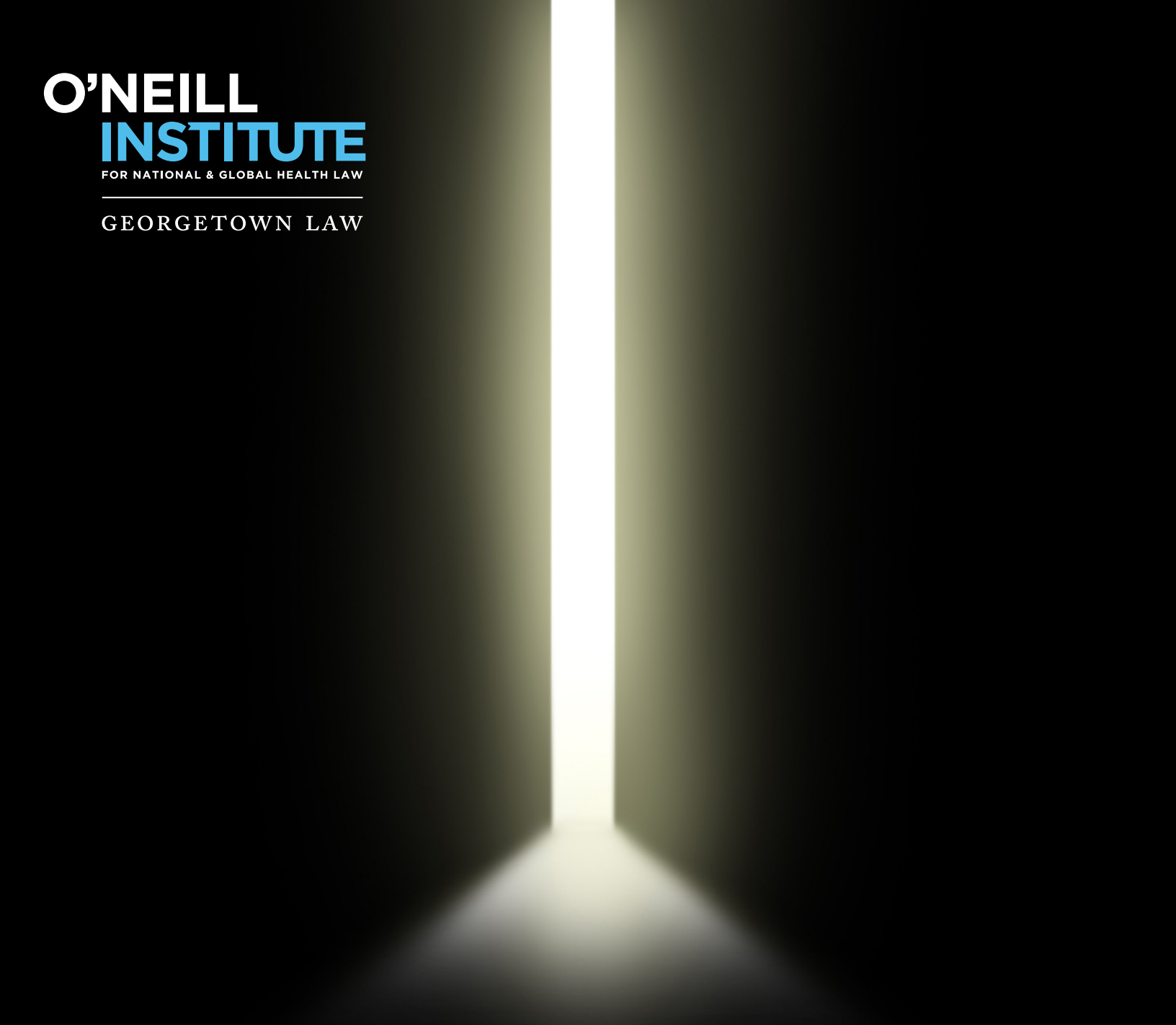

A NATIONAL SNAPSHOT

ACCESS TO MEDICATIONS FOR OPIOID USE DISORDER IN U.S. JAILS AND PRISONS

LITIGATION, LEGISLATION, AND POLICIES

ABOUT THIS REPORT

This report is a product of the Addiction and Public Policy Initiative of the O'Neill Institute for National and Global Health Law at Georgetown Law Center. The essential vision for the O'Neill Institute rests upon the proposition that the law has been, and will remain, a fundamental tool for solving critical health problems in our local, national, and global communities. The Addiction and Public Policy Initiative works to advance a public health approach to substance use disorders and the overdose epidemic through policies, practices, and regulations that promote evidence based treatment and recovery.

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EXECUTIVE SUMMARY

THIS 50 STATE SNAPSHOT presents current laws, policies, and court actions related to access to medications for opioid use disorder (MOUD) in correctional facilities in the U.S as of April 2021. Where available, this survey also includes examples of programs that are county- or facility-specific.

This report focuses specifically on three categories of medications approved by the U.S. Food and Drug Administration to treat opioid use disorder (OUD): methadone, buprenorphine and naltrexone, but also mentions branded versions of these medications, which include combination medications, long-acting versions, and medications with different methods of administration (for example, injectable or oral).

Individuals leaving jails and prisons are between 10 and 40 times more likely to die of an opioid overdose than the general population—making them one of the highest at-risk groups for opioid overdose.[1] This risk is especially acute three to four weeks post-release. Access to MOUD in jails and prisons is one targeted approach that can help decrease risk for overdose death.

Some states have taken legislative or executive action to encourage or mandate that correctional facilities provide access to MOUD. Litigation by impacted individuals has also helped increase access to MOUD in correctional facilities. Moreover, a number of states that had enacted restrictive rules governing MOUD access only a few years ago have since updated their policies to apply to more (or all) prison facilities, to provide broader MOUD treatment options, and to allow for MOUD for a longer-term. In sum, the policy landscape on MOUD in jails and prisons is rapidly evolving.

It is important to emphasize that this report represents a snapshot in time. As more states, counties, jails, and prisons recognize that providing medication for OUD is a critical tool for reducing overdose deaths, we anticipate positive policy changes that expand access.

AS THIS 50 STATE SNAPSHOT SUGGESTS, LITIGATION, LEGISLATION AND GOVERNMENT SUPPORT THROUGH POLICIES AND FUNDING HAVE BEEN INTEGRAL IN EXPANDING ACCESS TO MOUD IN CORRECTIONAL FACILITIES.

RESEARCH METHODS USED IN THIS REPORT

Researchers used a snowball method to identify relevant legislation, litigation, and administrative regulations related to MOUD in correctional facilities. We began by consulting experts working in the fields of correctional health and drug policy and by running Google searches using combinations of the following terms combined with state and/or county names: "medication" "opioid" "jails" "prisons" "methadone" "buprenorphine" "naltrexone" "Suboxone" "vivitrol" "MAT" "medication assisted treatment" "MOUD". We searched state legislative and regulatory sources using the same search terms. We also conducted a literature review of existing research and information available on MOUD in correctional settings. All relevant sources identified were analyzed and summarized for this report.

SUMMARY OF FINDINGS IN THIS REPORT

Thus far, many states have enacted legislation or taken executive action to implement specific policies governing the provision of at least one form of MOUD treatment in some of their correctional facilities. In recent years, at least fifteen bills concerning MOUD access in jails and/or prisons have come into effect across twelve states. Most of these bills establish or expand access to MOUD in jails, prisons, or all correctional facilities statewide.[2] A few such statutes allow any patient who needs MOUD during incarceration to start or continue treatment, while others limit MOUD treatment options to pregnant individuals, individuals who were receiving MOUD prior to incarceration, or those with upcoming release dates. Similarly, while a few statutes require uniform access to all FDA-approved MOUD, many limit methadone treatment to certain facilities or individuals, and some offer only naltrexone.

Overall, the most common policies were those permitting Vivitrol (the injectable form of naltrexone) or methadone for pregnant persons. Many states have established at least one uniform state-wide policy that restricted the type of MOUD available or who was eligible to receive such treatment. States that did not have a uniform policy often (1) had limited or pilot MOUD programs at select facilities, (2) had allocated funding for MOUD and other substance use disorder (SUD) treatment in correctional facilities, or (3) called for research on current and potential MOUD practices to inform emerging treatment policy. In almost every state, some form of MOUD is available in at least one jail or prison[3], and only a handful of state departments of corrections have policies against offering MOUD in prisons.[4]

In the 2020-2021 legislative session alone, nine bills addressing MOUD access in correctional facilities were introduced.[5] Common features of these bills include expanded participant eligibility, access to a broader range of MOUD, integration with other clinical and behavioral SUD treatments, a greater focus on community re-entry and continuity of care, and annual facility progress reports.

At least twenty-eight states have issued executive orders or agency policies governing SUD treatment for incarcerated individuals, which primarily affect state prisons.[6] Most of these programs require some form of MOUD treatment in certain facilities and many apply to all prisons statewide. However, some of these orders and agency polices further restricted MOUD access rather than expanding it. For example, some states' policies allow only Vivitrol, several state policies only permit MOUD to taper from existing treatment, and some policies contained language generally expanding SUD programs without explicitly requiring MOUD.[7] Finally, a few state Departments of Corrections' current policies explicitly ban MOUD access in their correctional facilities.

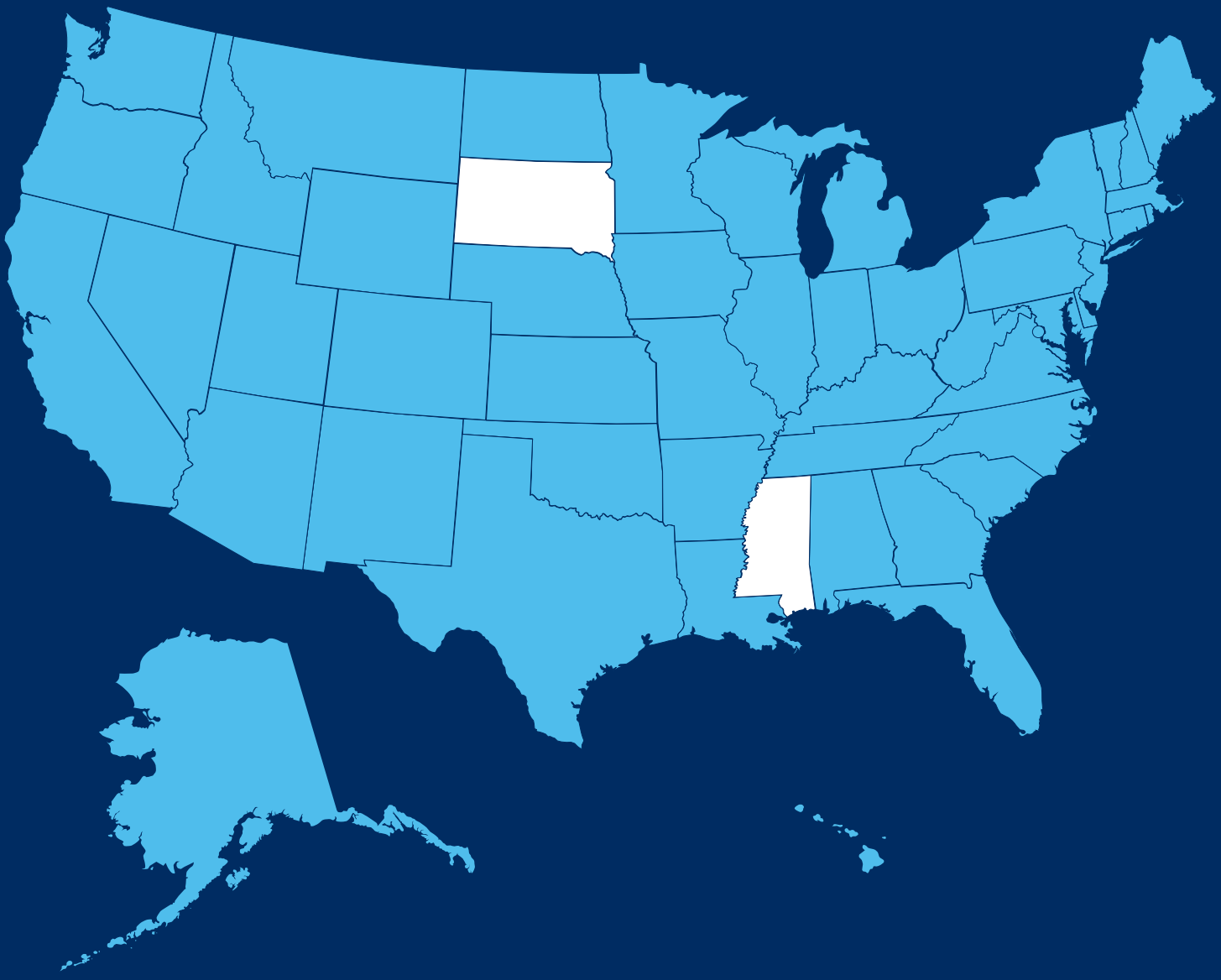
Incarcerated individuals with SUD have turned to courts in response to their lack of access to MOUD. In these lawsuits, many plaintiffs made claims of Eighth and Fourteenth Amendment violations, as well as claims under the American Disabilities Act (ADA), and the Rehabilitation Act of 1973.[8] Some plaintiffs were awarded monetary compensation for the correctional facilities failure to provide MOUD. Some plaintiffs were also successful in securing settlement agreements or injunctive relief, which required the correctional facility to continue the plaintiff's MOUD treatment for the duration of their incarceration. For example, district courts in both Maine and Massachusetts granted injunctive relief to plaintiffs who alleged constitutional violations and violations under the ADA for the lack of access to MOUD during incarceration.

Some settlement agreements even required the correctional facility to adopt new policies applicable to all incarcerated persons in a facility.[9]

However, not all plaintiffs were successful in their lawsuits and some courts dismissed cases in favor of the jail or county. When summary judgment was granted in favor of the defendant in cases involving Eighth Amendment claims, it was often due to (1) conflicting evidence of the quality of medical treatment received, (2) the failure to prove a constitutional claim or (3) that the record did not establish deliberate indifference to the plaintiff's needs.[10]

As this 50 State Snapshot suggests, litigation, legislation and government support through policies and funding have been integral in expanding access to MOUD in correctional facilities. Their use and the degree to which they make MOUD available to individuals with SUD in correctional facilities vary from state to state and among facilities. Despite the current restrictions on access to MOUD treatment in correctional facilities, pending legislation and litigation suggest the expansion of MOUD treatment in the near future.

50 STATE SNAPSHOT (PLUS FEDERAL)



ALABAMA
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IOWA
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WASHINGTON
WEST VIRGINIA
WISCONSIN
WYOMING

FEDERAL GOVERNMENT

NO INFORMATION AVAILABLE FOR THESE STATES.

ALABAMA:

POLICIES IN PLACE

In 2021, Governor Kay Ivey awarded $505,552 to Alabama's Residential Substance Abuse Treatment (RSAT) program to continue a volunteer six-month course that assists individuals in custody at seven state prisons. The SUD treatment program offers education, counseling and urinalysis testing.[11]

LITIGATION

In 2019, the Eleventh Circuit affirmed the denial of qualified immunity to correctional officers in a lawsuit alleging jail administrators and correctional officers at Madison County Jail showed "deliberate indifference to medical needs and conspiracy to violate civil rights in violation of the federal Civil Rights Act (42 U.S.C. § 1983) and state law. During the plaintiff's incarceration, they experienced severe withdrawal from the methadone treatment that they were receiving prior to detention.[12] As of April 2021, the case is proceeding in the courts.

ALASKA

POLICIES IN PLACE/FACILITIES IMPACTED

The Alaska Department of Corrections provides methadone and buprenorphine to incarcerated persons for up to 30 days if they can show that they were receiving the methadone or buprenorphine prior to incarceration. The 30 days dosages include a tapering protocol, which helps decrease the physical symptoms of withdrawal.[13] MOUD is provided to pregnant women for as long as "medically necessary." [14] The Alaska Department of Corrections offers Vivitrol upon release from the facility. These MOUD services are offered at Anchorage Correctional Complex, Anvil Mountain Correctional Setting, Fairbanks Correctional Center, Goose Creek Correctional Center, Hilland Mountain Correctional Center, Lemon Creek Correctional Center, Mat-su Pretrial, and Wildwood Correctional Center.

ARIZONA

POLICIES IN PLACE/FACILITIES IMPACTED

The Arizona Department of Corrections has offered Vivitrol to incarcerated persons in Arizona State prisons since 2017.[15] However, individuals are generally required to commence a 30-day taper upon intake in state prisons. The department is actively developing plans to offer MOUD induction and pre-release buprenorphine. In addition, Community Medical Services provides methadone treatment for over 7,000 patients in Maricopa County jails (Estrella, Lower Buckeye, Towers, and 4th Avenue jails) for patients who were already enrolled in a methadone program in the community, prior to arrest.[16] Community Medical Services also offers methadone support for the duration of jail stay in Pima, Yuma, Mohave, and Santa Cruz.

In 2019, the Arizona Criminal Justice Commission received a federal grant for $783,216 to create the Residential Substance Abuse Treatment for State Prisoners Program, which assists states and local governments in developing and implementing SUD treatment programs correctional facilities.[17] The Arizona Department of Corrections also currently oversees two re-entry centers in Maricopa County and Pima County that provide MOUD for the duration of stay.[18]

ARKANSAS

POLICIES IN PLACE/FACILITIES IMPACTED

In 2018, the Arkansas Department of Human Services was awarded a two-year federal grant totaling $10.3 million to improve prevention and treatment services.[19] Some of the funding was used to continue the Arkansas Community Corrections naltrexone re-entry program.

The East Central Arkansas Community Correction Center requires that women who enter the facility receive a behavioral health screening. If eligible for the Residential Substance Abuse Treatment program, the women are further evaluated by staff who develop a master treatment plan for each woman, which is reviewed monthly.[20] Women with OUD receive naltrexone 24 to 48 hours prior to release.[21] There are five other RSAT funded Community Correction Centers in Arkansas, including one in the Sevier County Jail.[22]

CALIFORNIA

POLICIES IN PLACE/ FACILITIES IMPACTED

The California Healthcare Foundation (CHCF) and California Department of Health Care Services (DHCS) fund more than thirty counties to treat OUD in county jails and drug courts. Program components include a learning collaborative technical assistance, funding for training and implementation.[23] Each county must provide at least two forms of MOUD to participate.

The following facilities offer some form of MOUD: Alameda County Jail, Avenal State Prison, California Men's Colony, California Correctional Center, California Correctional Institution, California Health Care Facility, California Institution for Men in Chino, California Institution for Women in Corona, California Medical Facility, California Rehabilitation Center, California State Prison, Centinela, California State Prison, Corcoran, California State Prison (LA), California State Prison (Sacramento), California State Prison (Solano), California Substance Abuse Treatment Facility, Calipatria State Prison, Central California Women's Facility, Chachawala Valley State Prison, Correctional Training Facility, Deuel Vocation Institution, Folsom State Prison, High Desert State Prison, Ironwood State Prison, Kern Valley State Prison, Mule Creek State Prison, North Kern State Prison, Pelican Bay State Prison, Pleasant Valley State Prison, Substance Use Treatment Facility, Richard J Donovan Correctional Facility, Salinas Valley State Prison, San Quentin State Prison, Sierra Conservation Center, Valley State Prison, Wasco State Prison, Contra County Jail, Del Norte County Jail, Fresno County Jail, Humbolt County Jail, Imperial County Jail, Inyo County, Kern County Jail, Kings County Jail, Lassen County Jail, Los Angles Jail, Marin County Jail, Mariposa County, Mendocino County , Mono County, Monterey County Jail, Nevada County, Orange County Jail, Placer County, Plumas County, Riverside County, Sacramento County, San Bernardino County, San Diego County, San Francisco County Jail, San Luis Obispo County, Santa Barbra County, Santa Clara County, Santa Rita Jail, Shasta County, Siskiyou County, Solano County , Sutter County Jail, Tehama County Jail , Ventura County Jail, and Yolo County Jail.

LITIGATION

In 2009, a plaintiff filed suit against employees of the High Desert State Prison, alleging constitutional violations after the facility denied the plaintiff access to methadone.[24] A district court found that plaintiff provided sufficient evidence for a jury to find that defendants were deliberately indifferent to his medical needs.[25] The case was voluntarily dismissed in 2009 by the plaintiff, possibly due to the case settling.

LEGISLATION

In 2016, Senate Bill 843 required the California Department of Corrections and Rehabilitation (CDCR) to implement a three-year MOUD pilot program at one or more of CDCR's adult institutions.[26]

In 2020, California passed AB732, which required either methadone or buprenorphine be made available to incarcerated pregnant women who (1) used opioids before incarceration (by admission or written documentation) or (2) received methadone treatment upon intake.[27]

COLORADO

LEGISLATION

In 2019, Colorado passed Senate Bill 19-008, requiring county jails that receive Jail Based Behavioral Health Services (JBBS) funding to have a MOUD policy in place on or before Jan. 1, 2020.[28] The bill requires the Department of Corrections to "allow medication-assisted treatment . . . to be provided to individuals who are placed in the custody of the department who were receiving such treatment in a local jail prior to being placed in the custody of the department." Colorado's JBBS Program has been operational since October 2011, with funding from the Correctional Treatment Cash Fund pursuant to C.R.S. 18-19-103(5)(c)(V). It supports county sheriffs in providing screening, assessment, and treatment for incarcerated individuals with SUDs.[29]

In 2020, Colorado passed HB20-1017, which authorizes and strongly urges MOUD treatment for individuals with OUD in the custody of the Department of Corrections, local jails,

multijurisdictional jails, municipal jails, and the Department of Human Services.[30] The law encourages MOUD treatment for the duration of incarceration and requires the Department of Corrections and Jails to ensure that continuity of care is provided prior to release.

POLICIES IN PLACE/FACILITIES IMPACTED

County jails that use a JBBS SUD program that provides MOUD include: Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Cheyenne, Clear Creek, Conejos, Crowley, Delta, Denver, Douglas, Eagle, Elbert, El Paso, Hinsdale, Garfield, Grand, Gunnison, Jefferson, Kiowa, Kit Carson, La Plata, Larimer, Logan, Moffat, Morgan, Montrose, Montezuma, Mesa, Otero, Ouray, Phillips, Pitkin, Pueblo, Prowers, Routt, San Miguel, Washington, Weld and Yuma. Fremont County Detention Center, Gilpin County, and Summit County also offer MOUD in their facilities.[31]

CONNECTICUT

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, Connecticut allocated $8 million to expand Connecticut's Department of Correction's MOUD program—a program that began in 2017. An additional $2 million in 2020 and $6 million in 2021 were devoted to the MOUD program.[32] Prior to the MOUD program expansion, the Department of Corrections provided MOUD in six facilities (four short-term and two long-term), including Hartford Correctional Center, Bridgeport Correctional Center, New Haven Correctional Center, Corrigan-Radgowski Correctional Center, Osborn Correctional Institution, and York Correctional Institution. In 2020, the Department of Corrections hoped to expand to three additional facilities located in north-central Connecticut: Carl Robinson Correctional Institution, Willard-Cybulski Correctional Institution and Walker Reception Center.[33]

LITIGATION

In 2006, a plaintiff brought a case in federal court against the Connecticut's Department of Corrections alleging constitutional violations where the facility failed to provide methadone treatment during the plaintiff's pre-trial detention.[34] The court dismissed the case in favor of the Department of Corrections because the plaintiff's claims were not sufficient enough to constitute "deliberate indifference" in a constitutional claim.[35]

DELAWARE

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, the Delaware State Senate unanimously passed a non-binding resolution that directed the Department of Corrections to provide MOUD to individuals with OUD in any Delaware correctional facility.[36] Also in 2019, Delaware's Department of Corrections announced that it was expanding its MOUD program to include all prison facilities, statewide. This expanded access to MOUD treatment to individuals receiving MOUD before incarceration and incarcerated individuals who were identified as needed MOUD through an evaluation.[37] The program offers all FDA-approved MOUD medications.

Prior to the expansion, Delaware offered MOUD in Baylor's Women's Correctional Institution, in Level IV Community Corrections Centers (e.g., work release centers, residential drug treatment, and violation of probation centers),[38] Howard R. Young Correctional Institute in Wilmington, James T. Vaughn Correctional Center, and Sussex Correctional Institution.

DISTRICT OF COLUMBIA

POLICIES IN PLACE/FACILITIES IMPACTED

Unity Healthcare provides MOUD, behavioral health services, and screening/treatment for Hepatitis C in DC's Department of Corrections facility.[39] The Department of Corrections operates a grant funded therapeutic SUD program for incarcerated individuals that are either self-referred, referred by correctional staff, the United States Parole Commission (USPC) and/or the Public Defenders' Service (PDS).[40] Incarcerated individuals enrolled in the program move through progressive therapeutic phases with a number of different workshops, after which they are transferred and placed into an Addiction Prevention and Recovery Administration (APRA) funded aftercare program for up to six months.[41]

FLORIDA

POLICIES IN PLACE/ FACILITIES IMPACTED

In a 2017 needs assessment, the Florida Office of Substance Abuse and Mental Health found that, of the sixty-seven counties in Florida, nine currently have a jail MOUD program and sixteen would like to offer MOUD in the jail if funding became available.[42] In 2019, the Florida Alcohol and Drug Abuse Association (FADAA) received funding to support the training of correctional professional on the use of MOUD and are developing and identifying material to support the expansion of MOUD in correctional facilitates in Florida.[43]

Collier County Jail aims to implement an MOUD program focusing on incarcerated individuals who are more likely to overdose after release. Partnering with the David Lawrence Center, the jail plans to provide MOUD and expects that at least a quarter of incarcerated individuals with SUD will utilize the program.[44] Seminole Jail also uses "medication-assisted treatment to curb cravings."[45] Orange County jail provides Vivitrol on the day of release.[46]

GEORGIA

POLICIES IN PLACE/FACILITIES IMPACTED

In May 2017, Georgia's Department of Behavioral Health and Developmental Disabilities (DBHDD) received a $23.6 million federal grant to address the opioid crisis in the state.[47] DBHDD allocated $20,000 for the Department of Corrections to launch a Vivitrol pilot program for 20 individuals before release.[48] In 2018, Fulton County Jail became the first in Georgia to launch a program to administer buprenorphine to patients to treat withdrawal symptoms.[49] The jail's healthcare contractor, NaphCare, administers the medication.[50]

HAWAII

POLICIES IN PLACE/FACILITIES IMPACTED

In 2015, Hawaii's Department of Public Safety (PSD) released an Intoxication and Withdrawal policy allowing (1) Individuals receiving methadone who would be incarcerated 60 days or less to be sustained on their medication; (2) Individuals receiving methadone who would incarcerated for more than 60 days be evaluated for possible switch to buprenorphine maintenance or opiate withdrawal; (3) Pregnant individuals to continue methadone with the agreement of their obstetrician; and (4) individuals sentenced to intermittent incarcerations, such as weekends, to be sustained on their MOUD.[51]

The Kauai Community Correctional Center (KCCC) has an MOUD program in place.[52]

IDAHO

POLICIES IN PLACE/FACILITIES IMPACTED

In 2018, the Idaho Department of Corrections dedicated $250,000 to support MOUD expansion, which would serve for "50 opioid using offenders."[53]

ILLINOIS

POLICIES IN PLACE/FACILITIES IMPACTED

A 2018 survey of 36 Illinois jails found that 22% of respondents indicated they offer MOUD to incarcerated persons. Three jails specifically mentioned offering methadone to pregnant women.[54] Former Governor Bruce Rauner's September 2017 Illinois Opioid Action Plan called for expansion of MOUD to justice involved individuals.[55] The 2017 report stated that there was one state facility, Sheridan Correctional Center, that provided a Vivitrol-only program.[56]

Cook County jail offers all three forms of MOUD and is participating in the Building Bridges Initiative to expand services.[57] In 2019, Kane County implemented an MOUD program that offers buprenorphine to incarcerated individuals.[58] DuPage County Jail (pregnant persons)[59], Madison County Jail (Vivitrol)[60], McLean County Jail, Sangamon County Jail, Sheridan Correctional Center, Will County Jail, and Winnebago County Jail also offer some form of MOUD in their facilities.

LITIGATION

Several cases have been brought to address policies in Cook County Jail related to access to methadone. In 2006, a plaintiff brought a suit alleging that denial of access to methadone treatment during their six-day incarceration constituted a violation of their constitutional rights.[61] In that case, a Seventh Circuit Court of Appeals found that the plaintiff provided sufficient information to show that individual defendants, including health care personnel and correctional staff, were engaged in reckless conduct and allowed the case to proceed to trial.[62] Following the court's decision, the case was later settled.[63]

Plaintiffs in two separate pending class action lawsuits alleged that Cook County's former policy that required incarcerated individuals to taper off methadone treatment unless pregnant violated constitutional rights as well.[64]

In 2018, a federal court granted a court appointed attorney to a plaintiff in a lawsuit alleging the DuPage County Jail violated his constitutional right when they failed to provide him with methadone treatment.[65] In 2021, a woman facing a 30-day sentence in the DuPage County Jail sued under the ADA and the Eighth Amendment to compel the jail to provide her with access to methadone, which she had been stable on for several years. The court dismissed the case, finding that the plaintiff's claims were filed too early for the court to examine.[66] After the lawsuit was dismissed, DuPage County Sheriff announced his intent to broaden MOUD availability.[67]

INDIANA

POLICIES IN PLACE/FACILITIES IMPACTED

Indiana's Recover While Incarcerated program is available at 17 Adult Department of Corrections facilities and is in the implementation phase at all three Division of Youth Services facilities.[68] Under the program, incarcerated individuals can access support for the duration of incarceration. The program offers Vivitrol and individuals who leave IDOC facilities are provided with appointments with a peer recovery coach and a community provider for continuation of their clinical treatment. Pregnant women can receive any type of MOUD and Indiana is currently developing plans to incorporate buprenorphine into their MOUD programs. Indiana hopes to expand their MOUD programs to include all MOUD in the future.

Marion County/Indianapolis is developing an MOUD treatment program in partnership with the Building Bridges Initiative.[69]

The following correctional facilities offer some form of MOUD (primarily Vivitrol): Allen County Jail, Boone County Jail, Branchville Adult Correctional Facility, Chain O'Lakes Adult Correctional Facility, Correctional Industrial, Edinburgh Correctional Facility, Heritage Trail Correctional Facility, Indiana State Prison, Indiana Women's Prison, Madison Correctional Facility, Madison County Jail, Miami Correctional Facility, New Castle Correctional Facility, Pendleton Correctional Facility, Plainfield Correctional Facility, Porter County Jail, Putnamville Correctional Facility, Reception Diagnostic Center, Rockville Correctional Facility, Scott County Jail, South Bend Community Re-entry Center, Wabash Valley Correctional Facility, and Westville Correctional Facility.

LEGISLATION

Indiana has passed legislation that permits grant funding for "long acting, nonaddictive medication for treatment of opioid or alcohol dependence" for incarcerated persons.[70]

IOWA

POLICIES IN PLACE

Under the Iowa Department of Corrections' most recent Controlled Substances Policy, "Prescription orders for controlled substances must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his/her practice. Controlled substances may not be prescribed for a drug dependent person for the purpose of continuing his/her dependence."[71] The policy also says, "If extenuating circumstances, such as pregnancy, require continuation of methadone maintenance while a patient is incarcerated, the originating or initiating licensed Opioid Treatment Program assumes responsibility and delivers the methadone to the patient."[72]

KANSAS

LITIGATION

In 2020, a plaintiff requested a court order from a federal district court to require Douglas County Jail provide him with buprenorphine as well as medical appointments with outside doctors.[73] The court denied this request because the plaintiff failed to allege a sufficiently serious medical need to establish likelihood of prevailing on the merits.[74] In 2021, the court denied his request to reopen the case, finding that it would be of better interest for the plaintiff to file a new lawsuit, given the evolving nature of his claims.[75]

KENTUCKY

POLICIES IN PLACE/FACILITIES IMPACTED

Kentucky launched SAMAT (Supportive Assistance with Medication for Addiction Treatment) in 2015 with $3 million from SB 192.[76] The program now offers Suboxone and Vivitrol to eligible incarcerated individuals within 60 days of release at all 14 state institutions and 20 county jails throughout the state.[77] In 2019, a grant from the Kentucky Opioid Response Effort (KORE) launched a buprenorphine pilot at select locations.[78]

As a participant in the Building Bridges Initiative, Louisville–Jefferson County aims to expand its jail MOUD and linkage programs.[79] The Kenton County jail launched the Start Strong program, which "includes a combination of MAT (including buprenorphine), enhanced opioid treatment services, clinical interventions and active engagement."[80]

The following correctional facilities also offer some form of MOUD: Bell County Forestry Camp, Blackburn Correctional Complex, Boyle County Detention Center, Breckenridge County Detention Center, Bullitt County Detention Center, Christian County Detention Center, Daviess County Detention Center, Eastern Kentucky Correctional Complex, Fayette County Detention Center, Fulton County Jail, Grant County Detention Center, Grayson County Detention Center, Green River Correctional Complex, Hardin County Detention Center, Harlan County Detention Center, Henderson County Detention Center, Jefferson County, Kenton County Detention Center, Kentucky Correctional Institution for Women, Kentucky State, and the Louisville Metro Department of Corrections. .

LITIGATION:

In 2015, a federal court in Kentucky dismissed a case brought by a plaintiff who claimed that Kentucky's policy requiring a doctor's note stating that the use of MOUD is medically necessary violated the ADA, the Rehabilitation Act, the Equal Protection and Due Process Clauses of the United States Constitution, and § 2 of the Kentucky Constitution.[81] The court dismissed the case after finding that the plaintiff did not raise her constitutional claims in state court, nor had she explained why the available remedies were inadequate.[82]

In 2021, a plaintiff brought a case against the Douglas County Jail (DCJ) in federal district court asking for a court order to require the jail to provide an outside doctor to the plaintiff and create a new protocol for treating individuals in custody with buprenorphine.[83] The plaintiff alleged that the facility failed to provide him with buprenorphine to treat his OUD and instead referred him to a MOUD release program.[84] The plaintiff also claims he was denied access to medical services to address medical issues that arose as a result of the forced detoxification.[85] The court denied this request because he failed to meet the burden showing that that the court order was warranted, and he did not demonstrate a likelihood of success on his merits.[86]

LOUISIANA:

POLICIES IN PLACE/FACILITIES IMPACTED:

Louisiana launched a Vivitrol pilot program in 2017 with a $1.2 million federal grant to address SUD among incarcerated populations.[87] In 2019, Louisiana announced a pilot program to provide a naltrexone "surgical implant that hasn't been approved by federal regulators."[88]

The Orleans, St. Bernard, and Plaquemines parishes are developing MOUD treatment programs. The Louisiana State Penitentiary offers MOUD in their facility.

LITIGATION:

In 2009, a district court refused to dismiss a case in which constitutional claims were raised against Jefferson Parish County employees, alleging that they acted with deliberate indifference to the deceased's medical needs.[90] The deceased had been receiving methadone treatment for approximately 15 years prior to his incarceration.[91] The facility did not provide methadone treatment and the deceased allegedly suffered severe withdrawal symptoms and died.[92] The court found that the plaintiff's allegations were sufficient enough to state a claim of deliberate indifference.[93] The case was later dismissed in 2010.

In 2021, a district court dismissed a plaintiff's constitutional and state claims in part in a lawsuit alleging that the Jefferson Parish Correctional Center showed deliberate indifference to the plaintiff's serious medical needs when they denied her access to prescribed Suboxone and forced her to give birth in a correctional facility toilet.[94] The court refused to dismiss claims against one of the nurses attending the plaintiff, finding that a jury may conclude that the nurse responded to the plaintiff's medical needs with deliberate indifference.

MAINE

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, the Governor issued an executive order authorizing the use of Substance Abuse Mental Health Services Administration (SAMHSA) funds to: (1) encourage every county jail to have MOUD services available for persons incarcerated with a SUD, and help such individuals released from jail to continue to receive support services; and (2) assist the Department of Corrections pilot program to provide MOUD to incarcerated individuals in state prisons, focusing first on those patients with a release date within four years and helping individuals released from the Department continue receiving like support services.[95]

In February 2021, Maine's Department of Corrections announced that MOUD would be universally accessible among resident populations by November 2021.[96] The MDOC will induct a new cohort of residents every three months until November 2021. Groups Recover Together, an outpatient opioid treatment provider throughout Maine, and Day One, a substance use and mental health provider in Southern Maine, provide pre-release linkage services.[97]

The following correctional facilities offer MOUD: Bolduc Correctional Center, Downeast Correctional Facility, Maine State Prison, Mountain View Correctional Facility, Southern Maine Re-Entry Center, and Windham Correction Center. In partnership with the Building Bridges Initiative, Cumberland County Jail aims to provide MOUD to all incarcerated persons who need it.[98] Kennebec and York county jails were implementing MOUD programs that include buprenorphine and Vivitrol as options.[99]

LITIGATION

In 2018, the Maine Department of Corrections settled a suit that allowed an incarcerated individual to receive buprenorphine or an equivalent medication while incarcerated in Aroostook County Jail.[100] Later that year, the First Circuit Court of Appeals upheld a court order requiring the correctional facility in Aroostook County to provide an incarcerated individual with prescribed buprenorphine during their 40-day incarceration.[101] In that case, the plaintiff filed suit against Aroostook County under the ADA after being denied access to prescribed buprenorphine for OUD.

MARYLAND

LEGISLATION/FACILITIES IMPACTED

Maryland passed HB0116 in 2019, requiring local correctional facilities to (1) assess each incarcerated individual for SUD during intake; (2) offer at least one formulation of each category of FDA-approved medication; and (3) develop plans for re-entry.[102] The legislation also offers treatment for pregnant individuals in both state prisons and local jails.[103] While the program began in four counties (Howard, Montgomery, Prince Georges', and St. Mary's), all local detention centers, including the Baltimore pretrial complex, must have a program in place by January 2023. The state is required to fund the programs and anticipates spending $8M by 2024.[104]

LITIGATION

In 2002, a district court dismissed constitutional claims against the county and health care professionals at the Cecil County Detention Center.[105] The plaintiff alleges that the medication that was used to treat the deceased's withdrawal symptoms was inadequate resulting in his death.[106] The court found that the plaintiff's allegations were sufficient enough to raise an inference of deliberate indifference to the plaintiff's medical needs.[107] The case was terminated in 2003 after the judge ruled in favor of defendants.

MASSACHUSETTS

POLICIES IN PLACE/FACILITIES IMPACTED

The Massachusetts Department of Corrections has a MOUD protocol that applies to facilities that offer medication for SUD.[108] The protocol requires maintenance medication for pregnant people, allows people in Massachusetts Department of Corrections' facilities to be maintained or induced onto buprenorphine, methadone, or naltrexone, and contains protocols for tapering where facilities do not offer medication.[109] The legislature allocated $2.2 million in state funds and an additional $1 million in federal funding to support and expand the program.[110]

In 2019, seven county jails launched MOUD pilots with $10 million in funding from the state. These pilots offer all three forms of FDA-approved MOUD.[111] Counties that have initiated MOUD pilot programs from the 2019 state funding include: Middlesex, Hampden, Hampshire, Franklin, Suffolk, Norfolk, and Essex. The program at Franklin County House of Correction costs approximately $400,000 annually.[112]

The following correctional facilities also offer some form of MOUD: Barnstable County Correctional Facility, Boston Pre-release Center, Cedar Junction, Concord Correctional Institution, Framingham Correctional Institution, Franklin County House of Corrections, Norfolk Correctional Institution, North Central Correctional Institution, North Central Correctional Institution-Gardner, Northeastern Correctional Center, Old Colony Correctional Center, Pondville Correctional Center, Shirley Correctional Institution, Shirley Minimum Correctional Institution , South Middlesex Correctional Center, and Souza Baranowski Correctional Center.

LITIGATION

In 2018, a U.S. District Court in Massachusetts ordered the Essex County House of Corrections at Middleton, Massachusetts to provide methadone treatment to an incarcerated individual.[113] The court held that Essex County Correctional facility's policy of denying incarcerated individuals access to methadone to treat opioid use disorder likely violated the ADA and the Eighth Amendment, and therefore granted the plaintiff's request for a preliminary injunction.[114]

In 2019, a Plaintiff sued state prison officials at the Nashua Street Jail, alleging violations under the ADA, the Rehabilitation Act of 1973, and constitutional violations. The plaintiff claimed that he attempted suicide twice during his incarceration as a result of the facility's refusal to provide Suboxone for his OUD, among other medications.[115] A district court dismissed the suit because the plaintiff failed to demonstrate that the defendants showed deliberate indifference to the plaintiff's medical needs.[116] In response to the plaintiff's ADA and Rehabilitation Act claims, the court found that the plaintiff failed to show that the denial of the MOUD was so unreasonable to suggest discrimination due to his OUD.

In 2019, a lawsuit was filed by the ACLU of Massachusetts against the Massachusetts Department of Corrections' for their refusal to provide MOUD to treat incarcerated individual's OUD.[117] The case was settled the following year, with Department of Corrections agreeing to provide the plaintiffs their prescribed medication.[118]

LEGISLATION

In 2018, the Massachusetts legislature enacted H.4742, which established an MOUD pilot program in six state prisons.[119] Under the program: (1) all six prisons made MOUD available to incarcerated individuals receiving medication immediately preceding incarceration; (2) three made treatment available to incarcerated individuals who were not receiving treatment before incarceration; and (3) eligible incarcerated individuals were offered all FDA-approved MOUD included on the MassHealth drug list.[120]

MICHIGAN

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, Governor Gretchen Whitmer announced that Michigan would begin to offer methadone, naltrexone, and buprenorphine in the St. Louis Central Michigan Correctional Facility, the Carson City Correctional Facility, and Charles Egeler Reception and Guidance Center in Jackson.[121] In 2018, Kent County Correctional Facility began providing MOUD to any incarcerated individual already on medication.[122] Jail leaders hope that they may be able to offer MOUD in 2021 to any incarcerated individual with a confirmed OUD, even if they had never been prescribed it before.[123] Monroe County also offers a treatment program for incarcerated individuals with the use of methadone, Suboxone (buprenorphine and naloxone), sublocade (extended release buprenorphine), and Vivitrol. Funding from the grant will continue through May 2022. The Eaton County Sheriff's Office and Jail also provide a jail-based residential treatment program that offers MOUD to eligible incarcerated individuals.[124] Ingham County is working to implement and expand MOUD access in its county jail.[125]

The state aims to offer MOUD services in all state prisons by 2023 and is actively working to implement access to buprenorphine in facilities statewide.[126]

The following correctional facilities offer some form of MOUD: Benzie County Jail, Carson City Correctional Facility, Central Michigan Correctional Facility, Charles E. Egeler Reception and Guidance Center, Eaton County Jail, Ingham County Jail, Kent County Jail, Lapeer County Jail, Macomb County Jail, Oakland County Jail, St. Clair County Jail, Washtenaw County Jail, and the Woman's Huron Valley Correctional Facility.

LITIGATION

In 2020, a court of appeals dismissed a suit alleging an incarcerated individual died by suicide in the Ottowa County Jail as a result of the facility's denial of access to prescribed methadone for his OUD.[127] The court dismissed the case, finding that the plaintiff failed to show that the facility staff acted with deliberate indifference to the deceased's needs and did not establish a pattern of indifference to constitute unconstitutional conduct.[128] The court also denied the plaintiff's request for a new trial after a jury concluded that none of the county deputies violated the deceased's constitutional rights, also concluding that there were no valid legal claims arising from the jury selection process.[129]

MINNESOTA

POLICIES IN PLACE/FACILITIES IMPACTED

St. Louis County Jail is working to ensure eligible incarcerated individuals can continue or start MOUD during incarceration.[130] Hennepin County jail staff screen everyone arriving at the facility and offer follow-ups with patients who screen positive. In 2021, the county also developed a buprenorphine taper policy for individuals who reported daily opioid use and that were at high risk of serious withdrawal. The jail health services team plans to continue this policy after the pandemic ends.[131] In February 2021, Washington County Jail launched an MOUD program in collaboration with the Hazelden/Betty Ford Foundation and several government partners.[132]

MISSOURI

POLICIES IN PLACE / FACILITIES IMPACTED

The Missouri Department of Corrections provides pre-release Vivitrol to incarcerated individuals at correctional facilities in Boonville, Chillicothe, Cremer, Farmington, Fordland, Fulton, Maryville, St. Joseph and Vandalia.[133] Mezula and Gallatin County Jails both allow incarcerated individuals to continue MOUD under the supervision of outside providers. Ozark Correctional Center and St. Louis Outpatient Program also offer MOUD to incarcerated individuals.

LEGISLATION

In 2019, MO HB10 appropriated $772,669 to the Missouri Department of Corrections to provide SUD treatment and re-entry services.[134]

MONTANA

POLICIES IN PLACE/ FACILITIES IMPACTED

In 2019, Montana's Department of Corrections researched the most appropriate correctional settling to initiate MOUD treatment.[135] In February, 2020, the department announced that it hoped to have a comprehensive MOUD plan developed and in place by the end of the year.[136]

County jail facilities in Bozeman, Billings, and Missoula provide methadone and Vivitrol. As a participant in the Building Bridges Initiative, Lewis and Clark Counties hopes to implement an MOUD program.[137] The Department of Corrections facilities also provide Vivitrol and buprenorphine pre-release.

NEBRASKA

POLICIES IN PLACE

Nebraska's Department of Correctional Services offers residential treatment for SUD, but does not indicate whether MOUD is provided.[138]

LEGISLATION

The statute defining the role of the medical director of the Department of Corrections charges the medical director with "establishment of a protocol to determine whether or not an incarcerated person soon to be released should be prescribed and dispensed a medication-assisted treatment that could assist in reducing or eliminating the incarcerated person's use of opiates."[139]

NEVADA

POLICIES IN PLACE/ FACILITIES IMPACTED

Nevada launched a Vivitrol pilot in the summer of 2017.[140] The program receives funding from general state funds and RSAT federal grants. Henderson and Clark County Detention Center and Washoe County Jail both offer MOUD.

NEW HAMPSHIRE

POLICIES IN PLACE/FACILITIES IMPACTED

The New Hampshire Department of Corrections (NHDOC) launched a naltrexone program in 2015 at the Northern New Hampshire Correctional Facility in Berlin.[141] Initial success prompted the department to expand coverage in 2019 to include buprenorphine, sublocade, disulfiram (medication for the treatment of alcohol use disorder (MAUD)), acamprosate (an MAUD), naltrexone, counseling/therapy and re-entry care coordination. New Hampshire plans to bring the program to the New Hampshire State Prison for Men and the New Hampshire Correctional Facility for Women. The program is funded by the State Opioid Response (SOR) grant through the NH Department of Health and Human Services (DHHS). A 2019 report from the state's Opioid Task Force found five of eight surveyed jails offered some form of MOUD.[142] Three focused primarily on pregnant patients. County jails in New Hampshire have also started to adopt MOUD.

The following correctional facilities offer some form of MOUD: Carroll County, Cheshire County Jail, Merrimack County Correctional Facility, Coos County Jail, Rockingham County Department of Corrections, Northern New Hampshire Correctional Facility, NH Correctional Facility for Women, and Keene County Correctional Facility.

NEW JERSEY

POLICIES IN PLACE/FACILITIES IMPACTED

In 2018, New Jersey's Department of Corrections invested $1.7M to provide MOUD programs in ten county jails. After receiving $7.4 million in federal grants to address the opioid epidemic, New Jersey invested another $8 million in county jail MOUD programs in 2019.[143]

Both Camden County and Hudson County offer MOUD and re-entry services.[144] Other facilities offering MOUD include: Adult Diagnostic and Treatment Center, Atlantic County Jail, Bayside State Prison, Bergen, Burlington, Cape May Jail, Central Reception and Assignment Facility, Cumberland County Jail, East Jersey State Prison, Edna Mahan Correctional Facility for Women , Essex County Jail, Gloucester County Jail, Hunterdon County Jail, Mercer County Jail, Mid-State Correctional Facility,

Middlesex County Jail, Morris County Jail, New Jersey State Prison, Northern State Prison, Ocean County Jail, Passaic County Jail, Salam County Jail, Somerset County Jail, South Woods State Prison, Southern State Correctional Facility , Sussex County Jail, Union County Jail, and Warren County Jail.

NEW MEXICO

POLICIES IN PLACE/FACILITIES IMPACTED:

As of 2018, New Mexico's six state-run prisons did not offer MOUD.[145] Recovery Services of New Mexico provides methadone treatment to individuals incarcerated at the Bernalillo County Metropolitan Detention Center.[146]

Metropolitan Detention Center and Santa Fe County Jail both offer some form of MOUD.

LITIGATION

The estate of a decedent who alleged an individual died from heroin withdrawal while incarcerated in the Santa Fe Adult Detention Facility in 2016 brought a case alleging Eighth and Fourteenth Amendment claims.[147] In 2020, the Tenth Circuit held that the plaintiff plausibly alleged claims against an officer at the facility who did not attempt to provide medical assistance or request any further treatment.

LEGISLATION

In 2020, New Mexico passed HB 1639-FN, requiring that county correctional facilities provide incarcerated individuals with MOUD when medically appropriate.[148]

NEW YORK

POLICIES IN PLACE/FACILITIES IMPACTED

Rikers Island Correctional Facility in New York City has had an opioid treatment program since 1987.[149] Individuals receive a clinical assessment at the point of intake that includes a drug screen and screening questions to determine eligibility. The state has used federal funding through SOR grants and some state funding to support increased access to MOUD in jails and prisons across the state.

As of March 2021, 23 counties in New York offered some form of MOUD in their jails, including Albany, Broome, Cayuga, Chautauqua, Columbia, Cortland, Delaware, Duchess County, Essex, Franklin, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Saratoga, Schenectady, Seneca, Tompkins, Yates, Suffolk, and Ulster.[150] According to the State Department of Corrections, about 7 or 8 of the state's 52 prisons offer MOUD as of 2021. George Motchan Detention Center and Nassau County Correction Center also offer MOUD.

In February 2021, New York was awarded $32 million as part of a settlement agreement between McKinsey & Co and 47 states for the company's involvement in the opioid epidemic.[151] More than $20 million of the total amount received went into the state's general fund, while the remaining $11 million was set aside to pay for MOUD in state correctional facilities.[152]

LITIGATION

In 2014, the U.S. District Court for the Southern District of New York refused to dismiss a case alleging constitutional claims against Westchester County, the provider of on-site medical services, and county officials. The suit alleged that three incarcerated individuals were uniformly denied methadone and Suboxone for nine months despite alternative treatment not being effective and a county policy in place to provide methadone or Suboxone-based detoxification.[153] The court found that the plaintiff's allegations regarding the defendant's deliberate indifference to his medical needs were plausible enough to sustain his claim. The case was later dismissed in 2015 due to the plaintiff's failure to take any steps to prosecute their action.[154]

In April 2021, the New York Civil Liberties Union and the American Civil Liberties Union's National Prison Project represented a plaintiff in a lawsuit against Jefferson County over its policy of denying prescribed medication to people with OUD in the Jefferson County Jail. The plaintiff was facing potential detention at the Jefferson County jail. The suit alleged that the facility's policy of prohibiting MOUD violates due process protections under the Fourteenth Amendment and discriminates against people with OUD, in violation of the ADA and state anti-discrimination laws.[155] The case is ongoing at the time of publication of this document.

LEGISLATION

In 2021, New York passed NY S01795/NY A00533, which requires the New York State Department of Corrections to establish a MOUD program at state and county correctional facilities.[156] The program is required to offer all FDA-approved MOUD, withdrawal management, group and individual counseling, clinical and peer support, discharge planning, and reentry and transitional support to any incarcerated individual determined to have SUD. Jails without the resources necessary to meet the Act's standards, or without a nearby accredited MOUD provider, may apply to the commissioner for limited exceptions. As of June 14, 2021, the bill has yet to be delivered to or signed by the Governor. In the years leading up to passage of this legislation, a number of bills had been introduced in the New York state legislature to require MOUD in correctional facilities, but failed to pass either the Senate or Assembly.

NORTH CAROLINA

POLICIES IN PLACE/ FACILITIES IMPACTED

In 2019, the North Carolina Department of Health and Human Services (NCDHHS) was awarded $6.5 million over three years by the U.S. Department of Justice's Bureau of Justice Assistance for expansion of MOUD in correctional facilities.[157]

Durham County Detention Center offers methadone, buprenorphine, and Naltrexone to eligible incarcerated individuals.[158] The Center also provides harm reduction and overdose education to individuals with SUD through the STARR (Substance Abuse and Recidivism Reduction) program.[159] Buncombe and Orange County detention centers each offer both Naltrexone and Suboxone.[160] Nash County Jail, Rutherford County Jail also offer some form of MOUD.

In April 2019, NCDHHS announced a pre-release Vivitrol pilot program at the NC Correctional Institution for Women in Raleigh, Wake Correctional Center in Raleigh and Orange Correctional Center in Hillsborough.[161] This pilot was reportedly stalled due to COVID.[162]

NORTH DAKOTA

POLICIES IN PLACE/FACILITIES IMPACTED

North Dakota's Department of Corrections and Rehabilitation (DOCR) offers incarcerated individuals all forms of FDA-approved MOUD. Individuals incarcerated in DOCR prison facilities are able to continue treatment with methadone when they enter the prison facility, provided they have less than two years to serve on their sentence and started methadone treatment prior to incarceration.[163] In addition, jails in Cass County and Ward County allow incarcerated individuals with a prescription to continue methadone.[164]

OHIO

POLICIES IN PLACE/FACILITIES IMPACTED

Franklin County Correctional Center allows pregnant women to receive MOUD. The jail will soon allow Community Medical Services (CMS), an opioid treatment program, to provide methadone services inside the jail. NaphCare provides prescriptions for buprenorphine products. Since 2018, Hamilton County jail has offered buprenorphine to individuals that enter their facility.[165] NaphCare physicians both induct individuals and provide maintenance prescriptions. Community Medical Services provides all re-entry coordination. In addition, Mahoning County Jail, Montgomery Jail, and Trumbull County Jail also offer MOUD. In 2021, the Department of Corrections issued a request for proposals for an agency to implement MOUD in facilities statewide.

OKLAHOMA

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, $500,000 was appropriated for MOUD pilot program funding by the Oklahoma legislature.[166]

Tulsa County jail became the first in Oklahoma to offer MOUD in 2020.[167] Tulsa's program provides methadone, Suboxone, and Vivitrol. Methadone is only available to pregnant women.

LEGISLATION

Passed in 2011, SB 854 requires jail physicians to be aware of the impact of opiate or methadone withdrawal symptoms and prescribe and administer appropriate medications.[168]

OREGON

POLICIES IN PLACE/FACILITIES IMPACTED

Clackamas County Jail is expanding MOUD treatment after launching a pilot program in 2017.[169] Jackson County Jail and Multnomah County also offer MOUD.

LITIGATION

In 2004, a district court dismissed a lawsuit where a plaintiff alleged constitutional violations against correctional staff and health care professionals at the Benton County Jail for refusal to prescribe methadone.[170] The court found that the medical opinions supplied by the incarcerated person could support a conclusion that a physician would have expected the cessation of the incarcerated person's methadone to cause withdrawal.[171]

PENNSYLVANIA

POLICIES IN PLACE/FACILITIES IMPACTED

In January 2018, Governor Wolf declared the opioid crisis in Pennsylvania a disaster emergency and directed that naltrexone and buprenorphine be provided within the Department of Corrections prison system.[172] By April 2018, Pennsylvania's Department of Corrections reported that Vivitrol was available at all State Correctional Institutions (SCIs).[173] The Department of Corrections expanded the program in 2019 to offer up to three naltrexone injections prior to a person's release.[174] Suboxone, oral naltrexone, and methadone became available that same year to incoming incarcerated individuals who are enrolled in a verified MOUD Program.[175]

As of June 1, 2020, Department of Corrections has continued treatment for all incarcerated individuals, who had been receiving MOUD treatment prior to incarceration, with buprenorphine or naltrexone.[176]

All 24 Department of Corrections prison facilities are now offering buprenorphine and naltrexone. In regards to pregnant women with OUD on Subutex, the Department of Corrections transitions them to methadone and then tapers postpartum. However, it is the department's goal in the future to adhere to medical recommendations against tapering mothers postpartum.[177] The department has also encouraged county jails to maintain their incarcerated populations on MOUD after dosage verification with the individual's community provider and told them that the Department of Corrections will then continue the maintenance when such an individual is admitted to a state prison reception site.[178]

In 2020, more than $1.2 million in grants were awarded to Armstrong, Bucks, Cambria, Franklin, Lawrence, Lehigh, Montgomery, Northumberland, and Washington county jails to support county jail-based MOUD programs.[179]

The following facilities offer some form of MOUD: Muncy State Correctional Institution, SCI Muncy, Albion State Correctional Institution, Cambridge Springs State Correctional Institution, Camp Hill State Correctional Institution, Chester State Correctional Institution, Laurel Highlands State Correctional Institution, Quehanna State Correctional Institution, Benner Township State Correctional Institution, Coal Township State Correctional Institution, Dallas State Correctional Institution, Fayette State Correctional Institution, Greene State Correctional Institution, Houzdale State Correctional Institution, Huntingdon State Correctional Institution, Mahanony State Correctional Institution, Mercer State Correctional Institution, Pheonix State Correctional Institution, Pine Grove State Correctional Institution, Rockview State Correctional Institution,, Somerset State Correctional Institution, Waymart State Correctional Institution, Smithfield State Correctional Institution, Curran-Fromhold Correctional Facility, Armstrong County Jail, Berk County Prison, Bucks County Jail, Cambria County Jail, Franklin County Jail, Lehigh County Jail, Montgomery County Jail, Northampton County Prison, Northumberland County Jail, Philadelphia Industrial Correctional Center, Philadelphia River Correctional Center, Washington County Jail, Philadelphia Detention Center, and Lawrence County Jail.

RHODE ISLAND

POLICIES IN PLACE/FACILITIES IMPACTED

Rhode Island launched the nation's first comprehensive MOUD program in 2016.[180] With an initial legislative fund of $2 million, Rhode Island now provides buprenorphine, methadone and naltrexone to incarcerated individuals who are on treatment medication when they enter prison, as well as those who arrive as active users of heroin or other opioids.[181] Additionally, the program offers individuals who have detoxed during incarceration the opportunity to start any available MOUD before discharge, with appointments set up for continued treatment upon release.[182] The program also includes counseling and treatment provided by clinics around the state, and incarcerated persons can transition to one of those clinics when they are released.[183] Impacted facilities include Anthony P. Travisono Intake Service Center High Security Center, Maximum Security, Medium Security, Minimum Security, and Woman's Facility.

SOUTH CAROLINA

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, South Carolina was awarded $7 million in supplement from the State Opioid Response grant program.[184] South Carolina's Department of Corrections has a Vivitrol pilot program.[185] Charleston County Jails now offers buprenorphine.[186]

LITIGATION

In 2020, the family of a woman who died in custody at the Charleston County Jail filed suit for wrongful death and negligence against the Charleston County Sheriff's Office and its medical contractor Carolina Center for Occupational Health.[187] The plaintiff alleges that the facility failed to provide Suboxone or proper care for "obvious" signs of opioid withdrawal to the deceased and that the staff did not take the deceased's concerns seriously.[188] The case is still ongoing.

TENNESSEE

POLICIES IN PLACE/FACILITIES IMPACTED

As a participant in the Building Bridges Initiative, Shelby County Jails currently provides MOUD to pregnant women. The jail aims to offer MOUD to all incarcerated individuals with OUD and increase connections to treatment providers in the community.[189] As of 2019, Cheatham County Jail and Clay County Jail had plans to offer Vivitrol.[190] In 2015, the Tennessee Department of Correction announced a pilot program to offer MOUD to incarcerated people transitioning out of prison.[191]

TEXAS

POLICIES IN PLACE/FACILITIES IMPACTED

In 2019, Harris County Public Health was awarded more than $2 million from the CDC to address opioid overdoses.[192] Harris County Jails have a Vivitrol program that provides an injection to incarcerated individuals with OUD immediately prior to their release.[193] Travis County and Williamson County jails offer methadone continuation for existing patients. Bexar County is in the process of developing a pre-release screening and post-release induction program for methadone.

UTAH

POLICIES IN PLACE/FACILITIES IMPACTED

Three of the 25 county jails in Utah—Salt Lake, Weber, and Wasatch—provided incarcerated individuals with some form of MOUD.[194] Salt Lake County Jail provides methadone, buprenorphine, and naltrexone; Weber offers naltrexone; and Wasatch offers buprenorphine, Suboxone, and methadone, if necessary.[195] Salt Lake County announced an expansion of the jail's MOUD program in 2020, which only had capacity for 100 patients at that time.[196]

LEGISLATION

In 2018, Utah passed Senate Bill 205, which requires county jails and prisons to produce annual reports to the state's Commission on Criminal and Juvenile Justice. The report must include policies, procedures, and protocols for the treatment of incarcerated individuals experiencing withdrawal from SUD and the correctional facilities' use of medication in treating such incarcerated individuals.[197]

VERMONT

LEGISLATION/FACILITIES IMPACTED

In 2018, the Vermont legislature passed Act 176, which requires the Department of Corrections facilities to offer buprenorphine, methadone and naltrexone to eligible incarcerated individuals for as long as medically necessary.[198] Additionally, the Act requires an evaluation of the OUD treatment program on or before Jan. 15, 2022.[199] Impacted facilities include: Chittenden Regional Correctional Facility, Marble Valley Regional Correctional Facility, Northeast Correctional Complex , Northern State Correctional Facility, Northwest State Correctional Facility, Southeast State Correctional Facility, and Southern State Correctional Facility.

VIRGINIA

POLICIES IN PLACE/FACILITIES IMPACTED

In 2020, Virginia's Department of Corrections (VADOC) expanded its Vivitrol re-entry treatment program to all VADOC community corrections alternative programs.[200] In 2021, VADOC initiated a Buprenorphine Pilot Program at Stafford and Brunswick Community Corrections Alternative Programs and Chesterfield Community Corrections Alternative Program that allows probationers who are receiving buprenorphine in the community or jail to continue treatment .[201] These programs are funded using State Opioid Response grants. Chesterfield County is implementing an MOUD program for justice-involved individuals that includes all MOUDs.[202]

LITIGATION

In 2020, a plaintiff filed a lawsuit against the VADOC alleging that he was denied methadone while incarcerated, despite receiving treatment prior to his incarceration.[203] The plaintiff requested that the court direct the VADOC to provide him with a treatment plan that would allow him to take MOUD.[204] The district court denied the plaintiff's request, finding that he could not show that the medication was medically necessary and that he would suffer irreparable harm without the court order.[205] An appeal is pending with the Fourth Circuit Court of Appeals.[206]

WASHINGTON STATE

POLICIES IN PLACE/FACILITIES IMPACTED

A 2018 state-funded study found that 14 of the 33 surveyed jails provided some MOUD, with most of the facilities offering buprenorphine.[207] Six state prisons employed health care staff who were eligible to administer MOUD.[208] The following correctional facilities offer some form of MOUD: Stafford Creek Corrections Center, Monroe Correctional Complex for Women, Washington Corrections Center, Washington Corrections Center for Women, and Washington State Penitentiary.

LITIGATION

In 2019, the Whatcom County Jail settled a class-action lawsuit, agreeing to provide MOUD, including Suboxone, Subutex and Vivitrol to eligible incarcerated individuals with opioid use disorder.[209]

LEGISLATION

A Washington law allows state funding to city and county jails to provide MOUD for people already receiving medication in the community and allows the funding to be used to provide MOUD to people not receiving medication in the community for the last thirty days of their incarceration.[210] It also requires city and county jails to attempt to connect an incarcerated person with a provider in their community upon release.[211] However, there is no mandate that a city or county facility must provide MOUD.

WEST VIRGINIA

LEGISLATION/FACILITIES IMPACTED

In 2016, HB 4176 expanded a Vivitrol pilot program to five of the state's ten regional jails. The program was launched in 2015 under HB 2880.[212] Impacted facilities include Western Regional Jail,[213] Eastern Regional Jail, North Central Regional Jail, Southern Regional Jail, Southwestern Regional Jail, and West Virginia Department of Corrections.

WISCONSIN

POLICIES IN PLACE/FACILITIES IMPACTED

Wisconsin's Department of Corrections launched a naltrexone pilot program in 2016. Under the pilot, eligible incarcerated individuals could receive a naltrexone injection two to seven days prior to release. In 2019, Milwaukee County received a $1.2 million Bureau of Justice Assistant (BJA) grant to implement an MOUD program at the Milwaukee House of Corrections, with the goal of providing all MOUDs by the end of the three-year grant period.[214]

LITIGATION

In 2005, the Seventh Circuit Court of Appeals held that a reasonable jury could infer that Outagamie County violated an incarcerated individual's rights after he was denied access to methadone during his incarceration at the county jail.[215] The plaintiff reached a $75,000 settlement with the County and other named defendants in 2006.[216]

In August, 2020, a federal district court refused to dismiss most of the claims made in a suit alleging state law and Eighth Amendment claims against Milwaukee County, Milwaukee County employees, and the Milwaukee County Jail healthcare provider for failing to provide prescribed methadone treatment to a pregnant incarcerated individual whose unborn child died in utero near the end of pregnancy.[217] The court found that the plaintiff's allegations supported reasonable inferences that the defendants demonstrated deliberate indifference to the deceased's medical needs. The case is ongoing.

LEGISLATION

In 2020, Wisconsin passed AB645, allowing county jails to obtain and administer naloxone or "another opioid antagonist."[218] The bill also requires Wisconsin's Department of Health Services (DHS) to study the availability of MOUD in each prison and county jails and propose a pilot MOUD program in at least one county prison or county jail.

WYOMING

POLICIES IN PLACE

As of 2019, Wyoming did not provide MOUD in its correctional facilities.[219]

FEDERAL GOVERNMENT

POLICIES IN PLACE

In 2019, the Bureau of Prison (BOP) adjusted funding to include enhancement of MOUD, performance evaluations for evidence-based programs, and the development of needs assessment systems.[220] The Department of Justice has requested $409.5 million and 252 positions for the Fiscal Year 2021 for program expansions under the First Step Act (FSA).[221] The funds will be used to help expand and implement MOUD programs and evidence based recidivism reduction programs.[222]

The BOP also implemented a new MOUD program in 2019 that combines cognitive behavioral therapy with the use of medications such as naltrexone, buprenorphine, and methadone.[223] The efforts to expand MOUD are ongoing and BOP is working to obtain approval to allow BOP pharmacist practitioners to prescribe buprenorphine.[224] As of February 2020, BOP had screened every incarcerated individual within 15 months of release who might qualify for MOUD.[225] The BOP is also taking steps to expand this program at a national level and estimates needing $76.2 million across fiscal years 2020 and 2021 to accomplish this.[226]

LITIGATION

In 2019, a federal prison in Massachusetts agreed to give an incarcerated individual methadone while incarcerated after the plaintiff alleged deliberate indifference to serious medical need in violation of the Eighth Amendment, unlawful discrimination under the Rehabilitation Act, and arbitrary and capricious action not in accordance with the Administrative Procedures Act.[227]

In 2019, the Kansas and Missouri ACLU affiliates and the U.S. Federal Bureau of Prisons (BOP) reached a temporary settlement that will allows a plaintiff to receive Suboxone for the duration of his incarceration, as long as it is "medically necessary and appropriate."[228] That same year the BOP agreed to provide MOUD to a plaintiff who had been in receiving MOUD prior to incarceration.[229]

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3 Excluding the states not covered in this report, Wyoming and possibly Alabama seem to be the only states with no MOUD in any facilities, although Iowa's policy is so restrictive that there is virtually no MOUD offered.

4 New Mexico, North Carolina, and possibly Nebraska are the only states with no offered MOUD in any prisons, but some MOUD in some jails

5 Illinois (HR0131), Indiana (HB1349), Maine (LD663) Maryland (HB235), New Jersey (A4749 and S528/A821), New York (S01795/A00533 and S02976), and Texas (HB1640).

6 Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Maine, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and Wisconsin. Note that this figure excludes the three two states whose only relevant policy is that MOUD is NOT offered in DOC facilities: New Mexico, North Carolina, and Wyoming.

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