To foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2003

Mr. DeWine (for himself, Mr. Leahy, Mr. Grassley, Ms. Cantwell, and Mr. Domenici) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mentally Ill Offender Treatment and Crime Reduction Act of 2003”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness; and many of these individuals are arrested and jailed for minor, nonviolent offenses.
(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

SEC. 3. PURPOSE.

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) reduce rearrests among adult and juvenile offenders with mental illness, or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;
(3) maximize the use of alternatives to prosecution through diversion in appropriate cases involving non-violent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health treatment personnel about criminal offenders with mental illness and the appropriate response to such offenders in the criminal justice system;

(6) promote communication between criminal justice or juvenile justice personnel, mental health treatment personnel, nonviolent offenders with mental illness, and other support services such as housing, job placement, community, and faith-based organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.
SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

“PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

“SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

“(2) COLLABORATION PROGRAM.—The term ‘collaboration program’ means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

“(A) a criminal justice agency, a juvenile justice agency, or a mental health court; and

“(B) a mental health agency.
“(3) Criminal or juvenile justice agency.—The term ‘criminal or juvenile justice agency’ means an agency of a State or local government that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

“(4) Diversion and alternative prosecution and sentencing.—

“(A) In general.—The terms ‘diversion’ and ‘alternative prosecution and sentencing’ mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

“(B) Appropriate use.—In this paragraph, the term ‘appropriate use’ includes the discretion of the judge or supervising authority and the leveraging of justice sanctions to encourage compliance with treatment.

“(5) Mental health agency.—The term ‘mental health agency’ means an agency of a State or local government that is responsible for mental health services.
“(6) MENTAL HEALTH COURT.—The term ‘mental health court’ means a judicial program that meets the requirements of part V of this title.

“(7) MENTAL ILLNESS.—The term ‘mental illness’ means a diagnosable mental, behavioral, or emotional disorder—

“(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

“(B) that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities.

“(8) PRELIMINARILY QUALIFIED OFFENDER.— The term ‘preliminarily qualified offender’ means an adult or juvenile who—

“(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

“(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and
“(B) has faced or is facing criminal charges and is deemed eligible by a designated pretrial screening and diversion process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person’s mental illness.

“(9) SECRETARY.—The term ‘Secretary’ means the Secretary of the Department of Health and Human Services.

“(10) UNIT OF LOCAL GOVERNMENT.—The term ‘unit of local government’ means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

“(b) PLANNING AND IMPLEMENTATION GRANTS.—

“(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award non-renewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders in order to promote public safety and public health.
“(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

“(A) mental health courts or other court-based programs for preliminarily qualified offenders;

“(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel in procedures for identifying the symptoms of mental illness and co-occurring mental illness and substance abuse disorders in order to respond appropriately to individuals with such illnesses;

“(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

“(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

“(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice
agency, or following release from correctional facilities; and

“(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

“(3) APPLICATIONS.—

“(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

“(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.
“(4) PLANNING GRANTS.—

“(A) APPLICATION.—The joint applicants may apply to the Attorney General for a non-renewable planning grant to develop a collaboration program.

“(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

“(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.
“(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

“(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2003.

“(5) IMPLEMENTATION GRANTS.—

“(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

“(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

“(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

“(ii) describe the responsibilities of each participating agency, including how
each agency will use grant resources to
jointly ensure that the provision of mental
health treatment services is integrated with
the provision of substance abuse treatment
services, where appropriate;

“(iii) in the case of an application
from a unit of local government, document
that a State mental health authority has
provided comment and review; and

“(iv) involve, to the extent practicable,
in developing the grant application—

“(I) individuals with mental ill-
ness or co-occurring mental illness
and substance abuse disorders; or

“(II) the families and advocates
of such individuals under subclause
(I).

“(C) CONTENT.—To be eligible for an im-
plementation grant, joint applicants shall com-
ply with the following:

“(i) DEFINITION OF TARGET POPU-
LATION.—Applicants for an implementa-
tion grant shall—

“(I) describe the population with
mental illness or co-occurring mental
illness and substance abuse disorders that is targeted for the collaboration program; and

“(II) develop guidelines that can be used by personnel of a criminal or juvenile justice agency to identify individuals with mental illness or co-occurring mental illness and substance abuse disorders.

“(ii) SERVICES.—Applicants for an implementation grant shall—

“(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

“(II) specify plans for making mental health treatment services available and accessible to mentally ill offenders at the time of their release from the criminal justice system, in-
cluding outside of normal business hours;

“(III) ensure that preliminarily qualified offenders served by the collaboration program will have access to effective and appropriate community-based mental health services, or, where appropriate, integrated substance abuse and mental health treatment services;

“(IV) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender’s successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

“(V) include strategies to address developmental and learning disabilities and problems arising from a docu-
mented history of physical or sexual abuse.

“(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

“(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

“(F) FINANCIAL.—Applicants for an implementation grant shall—

“(i) explain the applicant’s inability to fund the collaboration program adequately without Federal assistance;

“(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as
medicaid, medicare, and the State Children’s Insurance Program); and

“(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

“(G) OUTCOMES.—Applicants for an implementation grant shall—

“(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

“(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

“(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

“(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates
to existing State criminal or juvenile justice and mental health plans and programs.

“(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

“(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

“(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

“(I) criminal justice system personnel to identify and respond appropriately to the unique needs of an
adult or juvenile with mental illness or
co-occurring mental illness and sub-
stance abuse disorders; or

“(II) mental health system per-
sonnel to respond appropriately to the
treatment needs of preliminarily quali-

fied offenders.

“(iii) Service delivery.—Funds
may be used to create or expand programs
that promote public safety by providing the
services described in subparagraph (C)(ii)
to preliminarily qualified offenders.

“(iv) In-jail and transitional
services.—Funds may be used to pro-
mote and provide mental health treatment
for those incarcerated or for transitional
re-entry programs for those released from
any penal or correctional institution.

“(J) Geographic distribution of
grants.—The Attorney General, in consulta-
tion with the Secretary, shall ensure that plan-
ning and implementation grants are equitably
distributed among the geographical regions of
the United States and between urban and rural
populations.
“(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

“(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

“(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program; and

“(3) have the support of both the Attorney General and the Secretary.

“(d) MATCHING REQUIREMENTS.—

“(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

“(A) 80 percent of the total cost of the program during the first 2 years of the grant;

“(B) 60 percent of the total cost of the program in year 3; and

“(C) 25 percent of the total cost of the program in years 4 and 5.

“(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be
made in cash or in-kind fairly evaluated, including
planned equipment or services.

“(e) FEDERAL USE OF FUNDS.—The Attorney Gen-
eral, in consultation with the Secretary, in administering
grants under this section, may use up to 3 percent of
funds appropriated to—

“(1) research the use of alternatives to prosecu-
tion through pretrial diversion in appropriate cases
involving individuals with mental illness;

“(2) offer specialized training to personnel of
criminal and juvenile justice agencies in appropriate
diversion techniques;

“(3) provide technical assistance to local gov-
ernments, mental health courts, and diversion pro-
grams, including technical assistance relating to pro-
gram evaluation;

“(4) help localities build public understanding
and support for community reintegration of individ-
uals with mental illness;

“(5) develop a uniform program evaluation
process; and

“(6) conduct a national evaluation of the col-
laboration program that will include an assessment
of its cost-effectiveness.

“(f) INTERAGENCY TASK FORCE.—
“(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

“(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

“(A) identify policies within their departments which hinder or facilitate local collaborative initiatives for adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders; and

“(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to adults and juveniles with mental illness or co-occurring mental illness and substance abuse disorders.

“(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian
tribes), shall be allocated in each fiscal year under this
section not less than 0.75 percent of the total amount ap-
propriated in the fiscal year for planning or implementa-
tion grants pursuant to this section.

“(h) Authorization of Appropriations.—There
are authorized to be appropriated to the Department of
Justice to carry out this section—

“(1) $100,000,000 for each of fiscal years 2004
and 2005; and

“(2) such sums as may be necessary for fiscal
years 2006 through 2008.”.

(b) List of “Best Practices”.—The Attorney
General, in consultation with the Secretary of Health and
Human Services, shall develop a list of “best practices”
for appropriate diversion from incarceration of adult and
juvenile offenders.

(c) Technical Amendment.—The table of contents
of title I of the Omnibus Crime Control and Safe Streets
Act of 1968 (42 U.S.C. 3711 et seq.) is amended by add-
ing at the end the following:

“Part III—Adult and Juvenile Collaboration Program Grants

“Sec. 2991. Adult and juvenile collaboration programs.”.