

108TH CONGRESS
1ST SESSION

S. 1194

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) According to the Bureau of Justice Statis-
2 tics, over 16 percent of adults incarcerated in United
3 States jails and prisons have a mental illness.

4 (2) According to the Office of Juvenile Justice
5 and Delinquency Prevention, approximately 20 per-
6 cent of youth in the juvenile justice system have se-
7 rious mental health problems, and a significant
8 number have co-occurring mental health and sub-
9 stance abuse disorders.

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

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

20 (5) A significant proportion of adults with a se-
21 rious mental illness who are involved with the crimi-
22 nal justice system are homeless or at imminent risk
23 of homelessness; and many of these individuals are
24 arrested and jailed for minor, nonviolent offenses.

1 (6) The majority of individuals with a mental
2 illness or emotional disorder who are involved in the
3 criminal or juvenile justice systems are responsive to
4 medical and psychological interventions that inte-
5 grate treatment, rehabilitation, and support services.

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

14 **SEC. 3. PURPOSE.**

15 The purpose of this Act is to increase public safety
16 by facilitating collaboration among the criminal justice, ju-
17 venile justice, mental health treatment, and substance
18 abuse systems. Such collaboration is needed to—

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

22 (2) provide courts, including existing and new
23 mental health courts, with appropriate mental health
24 and substance abuse treatment options;

1 (3) maximize the use of alternatives to prosecu-
2 tion through diversion in appropriate cases involving
3 non-violent offenders with mental illness;

4 (4) promote adequate training for criminal jus-
5 tice system personnel about mental illness and sub-
6 stance abuse disorders and the appropriate re-
7 sponses to people with such illnesses;

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

12 (6) promote communication between criminal
13 justice or juvenile justice personnel, mental health
14 treatment personnel, nonviolent offenders with men-
15 tal illness, and other support services such as hous-
16 ing, job placement, community, and faith-based or-
17 ganizations; and

18 (7) promote communication, collaboration, and
19 intergovernmental partnerships among municipal,
20 county, and State elected officials with respect to
21 mentally ill offenders.

1 **SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND**
 2 **CRIMINAL JUSTICE COLLABORATION PRO-**
 3 **GRAM.**

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

7 **“PART HH—ADULT AND JUVENILE**
 8 **COLLABORATION PROGRAM GRANTS**

9 **“SEC. 2991. ADULT AND JUVENILE COLLABORATION PRO-**
 10 **GRAMS.**

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

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

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

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

25 “(B) a mental health agency.

1 “(3) CRIMINAL OR JUVENILE JUSTICE AGEN-
2 CY.—The term ‘criminal or juvenile justice agency’
3 means an agency of a State or local government that
4 is responsible for detection, arrest, enforcement,
5 prosecution, defense, adjudication, incarceration,
6 probation, or parole relating to the violation of the
7 criminal laws of that State or local government.

8 “(4) DIVERSION AND ALTERNATIVE PROSECU-
9 TION AND SENTENCING.—

10 “(A) IN GENERAL.—The terms ‘diversion’
11 and ‘alternative prosecution and sentencing’
12 mean the appropriate use of effective mental
13 health treatment alternatives to juvenile justice
14 or criminal justice system institutional place-
15 ments for preliminarily qualified offenders.

16 “(B) APPROPRIATE USE.—In this para-
17 graph, the term ‘appropriate use’ includes the
18 discretion of the judge or supervising authority
19 and the leveraging of justice sanctions to en-
20 courage compliance with treatment.

21 “(5) MENTAL HEALTH AGENCY.—The term
22 ‘mental health agency’ means an agency of a State
23 or local government that is responsible for mental
24 health services.

1 “(6) MENTAL HEALTH COURT.—The term
2 ‘mental health court’ means a judicial program that
3 meets the requirements of part V of this title.

4 “(7) MENTAL ILLNESS.—The term ‘mental ill-
5 ness’ means a diagnosable mental, behavioral, or
6 emotional disorder—

7 “(A) of sufficient duration to meet diag-
8 nostic criteria within the most recent edition of
9 the Diagnostic and Statistical Manual of Men-
10 tal Disorders published by the American Psy-
11 chiatric Association; and

12 “(B) that has resulted in functional im-
13 pairment that substantially interferes with or
14 limits 1 or more major life activities.

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

18 “(A)(i) previously or currently has been di-
19 agnosed by a qualified mental health profes-
20 sional as having a mental illness or co-occurring
21 mental illness and substance abuse disorders; or

22 “(ii) manifests obvious signs of mental ill-
23 ness or co-occurring mental illness and sub-
24 stance abuse disorders during arrest or confine-
25 ment or before any court; and

1 “(B) has faced or is facing criminal
2 charges and is deemed eligible by a designated
3 pretrial screening and diversion process, or by
4 a magistrate or judge, on the ground that the
5 commission of the offense is the product of the
6 person’s mental illness.

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

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

17 “(b) PLANNING AND IMPLEMENTATION GRANTS.—

18 “(1) IN GENERAL.—The Attorney General, in
19 consultation with the Secretary, may award non-
20 renewable grants to eligible applicants to prepare a
21 comprehensive plan for and implement an adult or
22 juvenile collaboration program, which targets adults
23 or juveniles with mental illness or co-occurring men-
24 tal illness and substance abuse disorders in order to
25 promote public safety and public health.

1 “(2) PURPOSES.—Grants awarded under this
2 section shall be used to create or expand—

3 “(A) mental health courts or other court-
4 based programs for preliminarily qualified of-
5 fenders;

6 “(B) programs that offer specialized train-
7 ing to the officers and employees of a criminal
8 or juvenile justice agency and mental health
9 personnel in procedures for identifying the
10 symptoms of mental illness and co-occurring
11 mental illness and substance abuse disorders in
12 order to respond appropriately to individuals
13 with such illnesses;

14 “(C) programs that support cooperative ef-
15 forts by criminal and juvenile justice agencies
16 and mental health agencies to promote public
17 safety by offering mental health treatment serv-
18 ices and, where appropriate, substance abuse
19 treatment services for—

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

23 “(ii) adult offenders with mental ill-
24 ness during periods of incarceration, while
25 under the supervision of a criminal justice

1 agency, or following release from correc-
2 tional facilities; and

3 “(D) programs that support intergovern-
4 mental cooperation between State and local gov-
5 ernments with respect to the mentally ill of-
6 fender.

7 “(3) APPLICATIONS.—

8 “(A) IN GENERAL.—To receive a planning
9 grant or an implementation grant, the joint ap-
10 plicants shall prepare and submit a single appli-
11 cation to the Attorney General at such time, in
12 such manner, and containing such information
13 as the Attorney General and the Secretary shall
14 reasonably require. An application under part V
15 of this title may be made in conjunction with an
16 application under this section.

17 “(B) COMBINED PLANNING AND IMPLE-
18 MENTATION GRANT APPLICATION.—The Attor-
19 ney General and the Secretary shall develop a
20 procedure under which applicants may apply at
21 the same time and in a single application for a
22 planning grant and an implementation grant,
23 with receipt of the implementation grant condi-
24 tioned on successful completion of the activities
25 funded by the planning grant.

1 “(4) PLANNING GRANTS.—

2 “(A) APPLICATION.—The joint applicants
3 may apply to the Attorney General for a non-
4 renewable planning grant to develop a collabo-
5 ration program.

6 “(B) CONTENTS.—The Attorney General
7 and the Secretary may not approve a planning
8 grant unless the application for the grant in-
9 cludes or provides, at a minimum, for a budget
10 and a budget justification, a description of the
11 outcome measures that will be used to measure
12 the effectiveness of the program in promoting
13 public safety and public health, the activities
14 proposed (including the provision of substance
15 abuse treatment services, where appropriate)
16 and a schedule for completion of such activities,
17 and the personnel necessary to complete such
18 activities.

19 “(C) PERIOD OF GRANT.—A planning
20 grant shall be effective for a period of 1 year,
21 beginning on the first day of the month in
22 which the planning grant is made. Applicants
23 may not receive more than 1 such planning
24 grant.

1 “(D) AMOUNT.—The amount of a plan-
2 ning grant may not exceed \$75,000, except that
3 the Attorney General may, for good cause, ap-
4 prove a grant in a higher amount.

5 “(E) COLLABORATION SET ASIDE.—Up to
6 5 percent of all planning funds shall be used to
7 foster collaboration between State and local
8 governments in furtherance of the purposes set
9 forth in the Mentally Ill Offender Treatment
10 and Crime Reduction Act of 2003.

11 “(5) IMPLEMENTATION GRANTS.—

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

17 “(B) COLLABORATION.—To receive an im-
18 plementation grant, the joint applicants shall—

19 “(i) document that at least 1 criminal
20 or juvenile justice agency (which can in-
21 clude a mental health court) and 1 mental
22 health agency will participate in the ad-
23 ministration of the collaboration program;

24 “(ii) describe the responsibilities of
25 each participating agency, including how

1 each agency will use grant resources to
2 jointly ensure that the provision of mental
3 health treatment services is integrated with
4 the provision of substance abuse treatment
5 services, where appropriate;

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

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

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

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

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

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

24 “(I) describe the population with
25 mental illness or co-occurring mental

1 illness and substance abuse disorders
2 that is targeted for the collaboration
3 program; and

4 “(II) develop guidelines that can
5 be used by personnel of a criminal or
6 juvenile justice agency to identify indi-
7 viduals with mental illness or co-oc-
8 ccurring mental illness and substance
9 abuse disorders.

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

12 “(I) ensure that preliminarily
13 qualified offenders who are to receive
14 treatment services under the collabo-
15 ration program will first receive indi-
16 vidualized, needs-based assessments to
17 determine, plan, and coordinate the
18 most appropriate services for such in-
19 dividuals;

20 “(II) specify plans for making
21 mental health treatment services
22 available and accessible to mentally ill
23 offenders at the time of their release
24 from the criminal justice system, in-

1 including outside of normal business
2 hours;

3 “(III) ensure that preliminarily
4 qualified offenders served by the col-
5 laboration program will have access to
6 effective and appropriate community-
7 based mental health services, or,
8 where appropriate, integrated sub-
9 stance abuse and mental health treat-
10 ment services;

11 “(IV) make available, to the ex-
12 tent practicable, other support serv-
13 ices that will ensure the preliminarily
14 qualified offender’s successful re-
15 integration into the community (such
16 as housing, education, job placement,
17 mentoring, and health care and bene-
18 fits, as well as the services of faith-
19 based and community organizations
20 for mentally ill individuals served by
21 the collaboration program); and

22 “(V) include strategies to address
23 developmental and learning disabilities
24 and problems arising from a docu-

1 mented history of physical or sexual
2 abuse.

3 “(D) HOUSING AND JOB PLACEMENT.—
4 Recipients of an implementation grant may use
5 grant funds to assist mentally ill offenders com-
6 pliant with the program in seeking housing or
7 employment assistance.

8 “(E) POLICIES AND PROCEDURES.—Appli-
9 cants for an implementation grant shall strive
10 to ensure prompt access to defense counsel by
11 criminal defendants with mental illness who are
12 facing charges that would trigger a constitu-
13 tional right to counsel.

14 “(F) FINANCIAL.—Applicants for an im-
15 plementation grant shall—

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

19 “(ii) specify how the Federal support
20 provided will be used to supplement, and
21 not supplant, State, local, Indian tribe, or
22 tribal organization sources of funding that
23 would otherwise be available, including bill-
24 ing third-party resources for services al-
25 ready covered under programs (such as

1 medicaid, medicare, and the State Chil-
2 dren’s Insurance Program); and

3 “(iii) outline plans for obtaining nec-
4 essary support and continuing the pro-
5 posed collaboration program following the
6 conclusion of Federal support.

7 “(G) OUTCOMES.—Applicants for an im-
8 plementation grant shall—

9 “(i) identify methodology and outcome
10 measures, as required by the Attorney
11 General and the Secretary, to be used in
12 evaluating the effectiveness of the collabo-
13 ration program;

14 “(ii) ensure mechanisms are in place
15 to capture data, consistent with the meth-
16 odology and outcome measures under
17 clause (i); and

18 “(iii) submit specific agreements from
19 affected agencies to provide the data need-
20 ed by the Attorney General and the Sec-
21 retary to accomplish the evaluation under
22 clause (i).

23 “(H) STATE PLANS.—Applicants for an
24 implementation grant shall describe how the
25 adult or juvenile collaboration program relates

1 to existing State criminal or juvenile justice and
2 mental health plans and programs.

3 “(I) USE OF FUNDS.—Applicants that re-
4 ceive an implementation grant may use funds
5 for 1 or more of the following purposes:

6 “(i) MENTAL HEALTH COURTS AND
7 DIVERSION/ALTERNATIVE PROSECUTION
8 AND SENTENCING PROGRAMS.—Funds may
9 be used to create or expand existing men-
10 tal health courts that meet program re-
11 quirements established by the Attorney
12 General under part V of this title or diver-
13 sion and alternative prosecution and sen-
14 tencing programs (including crisis inter-
15 vention teams and treatment accountability
16 services for communities) that meet re-
17 quirements established by the Attorney
18 General and the Secretary.

19 “(ii) TRAINING.—Funds may be used
20 to create or expand programs, such as cri-
21 sis intervention training, which offer spe-
22 cialized training to—

23 “(I) criminal justice system per-
24 sonnel to identify and respond appro-
25 priately to the unique needs of an

1 adult or juvenile with mental illness or
2 co-occurring mental illness and sub-
3 stance abuse disorders; or

4 “(II) mental health system per-
5 sonnel to respond appropriately to the
6 treatment needs of preliminarily quali-
7 fied offenders.

8 “(iii) SERVICE DELIVERY.—Funds
9 may be used to create or expand programs
10 that promote public safety by providing the
11 services described in subparagraph (C)(ii)
12 to preliminarily qualified offenders.

13 “(iv) IN-JAIL AND TRANSITIONAL
14 SERVICES.—Funds may be used to pro-
15 mote and provide mental health treatment
16 for those incarcerated or for transitional
17 re-entry programs for those released from
18 any penal or correctional institution.

19 “(J) GEOGRAPHIC DISTRIBUTION OF
20 GRANTS.—The Attorney General, in consulta-
21 tion with the Secretary, shall ensure that plan-
22 ning and implementation grants are equitably
23 distributed among the geographical regions of
24 the United States and between urban and rural
25 populations.

1 “(c) PRIORITY.—The Attorney General, in awarding
2 funds under this section, shall give priority to applications
3 that—

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

7 “(2) demonstrate the active participation of
8 each co-applicant in the administration of the col-
9 laboration program; and

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

12 “(d) MATCHING REQUIREMENTS.—

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

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

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

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

23 “(2) NON-FEDERAL SHARE.—The non-Federal
24 share of payments made under this section may be

1 made in cash or in-kind fairly evaluated, including
2 planned equipment or services.

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

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

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

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

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

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

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

25 “(f) INTERAGENCY TASK FORCE.—

1 “(1) IN GENERAL.—The Attorney General and
2 the Secretary shall establish an interagency task
3 force with the Secretaries of Housing and Urban
4 Development, Labor, Education, and Veterans Af-
5 fairs and the Commissioner of Social Security, or
6 their designees.

7 “(2) RESPONSIBILITIES.—The task force estab-
8 lished under paragraph (1) shall—

9 “(A) identify policies within their depart-
10 ments which hinder or facilitate local collabo-
11 rative initiatives for adults or juveniles with
12 mental illness or co-occurring mental illness and
13 substance abuse disorders; and

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

21 “(g) MINIMUM ALLOCATION.—Unless all eligible ap-
22 plications submitted by any State or unit of local govern-
23 ment within such State for a planning or implementation
24 grant under this section have been funded, such State, to-
25 gether with grantees within the State (other than Indian

1 tribes), shall be allocated in each fiscal year under this
 2 section not less than 0.75 percent of the total amount ap-
 3 propriated in the fiscal year for planning or implementa-
 4 tion grants pursuant to this section.

5 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to the Department of
 7 Justice to carry out this section—

8 “(1) \$100,000,000 for each of fiscal years 2004
 9 and 2005; and

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

12 (b) LIST OF “BEST PRACTICES”.—The Attorney
 13 General, in consultation with the Secretary of Health and
 14 Human Services, shall develop a list of “best practices”
 15 for appropriate diversion from incarceration of adult and
 16 juvenile offenders.

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

 “PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS
 “Sec. 2991. Adult and juvenile collaboration programs.”.

○