

“(1) obtain the approval, in writing, of the United States Attorney for the United States judicial district being designated;

“(2) obtain the approval, in writing, of the chief judge for the United States judicial district being designated; and

“(3) determine that the United States judicial district being designated has adequate behavioral health systems for treatment, including substance abuse and mental health treatment.

“(f) ASSISTANCE FROM OTHER FEDERAL ENTITIES.—The Administrative Office of the United States Courts and the United States Probation Offices shall provide such assistance and carry out such functions as the Attorney General may request in monitoring, supervising, providing services to, and evaluating eligible offenders placed in a drug or mental health court under this section.

“(g) REPORTS.—The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall monitor the drug and mental health courts under this section, and shall submit a report to Congress on the outcomes of the program at the end of the period described in subsection (d)(2).”

FINDINGS

Pub. L. 106-515, §2, Nov. 13, 2000, 114 Stat. 2399, provided that: “Congress finds that—

“(1) fully 16 percent of all inmates in State prisons and local jails suffer from mental illness, according to a July, 1999 report, conducted by the Bureau of Justice Statistics;

“(2) between 600,000 and 700,000 mentally ill persons are annually booked in jail alone, according to the American Jail Association;

“(3) estimates say 25 to 40 percent of America’s mentally ill will come into contact with the criminal justice system, according to National Alliance for the Mentally Ill;

“(4) 75 percent of mentally ill inmates have been sentenced to time in prison or jail or probation at least once prior to their current sentence, according to the Bureau of Justice Statistics in July, 1999; and

“(5) Broward County, Florida and King County, Washington, have created separate Mental Health Courts to place nonviolent mentally ill offenders into judicially monitored inpatient and outpatient mental health treatment programs, where appropriate, with positive results.”

§ 10472. Definitions

In this subchapter—

(1) 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;

(2) the term “preliminarily qualified offender with mental illness, mental retardation, or co-occurring mental and substance abuse disorders” means a person who—

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

(ii) manifests obvious signs of mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders

during arrest or confinement or before any court; and

(B) is deemed eligible by designated judges;

(3) the term “court-ordered assisted outpatient treatment” means a program through which a court may order a treatment plan for an eligible patient that—

(A) requires such patient to obtain outpatient mental health treatment while the patient is not currently residing in a correctional facility or inpatient treatment facility; and

(B) is designed to improve access and adherence by such patient to intensive behavioral health services in order to—

(i) avert relapse, repeated hospitalizations, arrest, incarceration, suicide, property destruction, and violent behavior; and

(ii) provide such patient with the opportunity to live in a less restrictive alternative to incarceration or involuntary hospitalization; and

(4) the term “eligible patient” means an adult, mentally ill person who, as determined by a court—

(A) has a history of violence, incarceration, or medically unnecessary hospitalizations;

(B) without supervision and treatment, may be a danger to self or others in the community;

(C) is substantially unlikely to voluntarily participate in treatment;

(D) may be unable, for reasons other than indigence, to provide for any of his or her basic needs, such as food, clothing, shelter, health, or safety;

(E) has a history of mental illness or a condition that is likely to substantially deteriorate if the person is not provided with timely treatment; or

(F) due to mental illness, lacks capacity to fully understand or lacks judgment to make informed decisions regarding his or her need for treatment, care, or supervision.

(Pub. L. 90-351, title I, §2202, as added Pub. L. 106-515, §3(a), Nov. 13, 2000, 114 Stat. 2400; amended Pub. L. 114-255, div. B, title XIV, §14002(b), Dec. 13, 2016, 130 Stat. 1288.)

CODIFICATION

Section was formerly classified to section 3796ii-1 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 2202 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title V, §50001(a)(3), Sept. 13, 1994, 108 Stat. 1956, related to prohibition of participation by violent offenders, prior to repeal by Pub. L. 104-134, title I, §101[(a)] [title I, §114(b)(1)(A)], Apr. 26, 1996, 110 Stat. 1321, 1321-21; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

AMENDMENTS

2016—Pars. (3), (4). Pub. L. 114-255 added pars. (3) and (4).

§ 10473. Administration

(a) Consultation

The Attorney General shall consult with the Secretary of Health and Human Services and

any other appropriate officials in carrying out this subchapter.

(b) Use of components

The Attorney General may utilize any component or components of the Department of Justice in carrying out this subchapter.

(c) Regulatory authority

The Attorney General shall issue regulations and guidelines necessary to carry out this subchapter which include, but are not limited to, the methodologies and outcome measures proposed for evaluating each applicant program.

(d) Applications

In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subchapter shall—

- (1) include a long-term strategy and detailed implementation plan;
- (2) explain the applicant's inability to fund the program adequately without Federal assistance;
- (3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;
- (4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;
- (5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program, including the State mental health authority;
- (6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the mental health court program;
- (7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support;
- (8) describe the methodology and outcome measures that will be used in evaluating the program; and
- (9) certify that participating first time offenders without a history of a mental illness will receive a mental health evaluation.

(Pub. L. 90-351, title I, §2203, as added Pub. L. 106-515, §3(a), Nov. 13, 2000, 114 Stat. 2400.)

CODIFICATION

Section was formerly classified to section 3796ii-2 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 2203 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title V, §50001(a)(3), Sept. 13, 1994, 108 Stat. 1956, defined "violent offender", prior to repeal by Pub. L. 104-134, title I, §101[(a)] [title I, §114(b)(1)(A)], Apr. 26, 1996, 110 Stat. 1321, 1321-21; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

§ 10474. Applications

To request funds under this subchapter, the chief executive or the chief justice of a State or the chief executive or chief judge of a unit of

local government or Indian tribal government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may reasonably require.

(Pub. L. 90-351, title I, §2204, as added Pub. L. 106-515, §3(a), Nov. 13, 2000, 114 Stat. 2401.)

CODIFICATION

Section was formerly classified to section 3796ii-3 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 2204 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title V, §50001(a)(3), Sept. 13, 1994, 108 Stat. 1956, related to administration, prior to repeal by Pub. L. 104-134, title I, §101[(a)] [title I, §114(b)(1)(A)], Apr. 26, 1996, 110 Stat. 1321, 1321-21; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

§ 10475. Federal share

The Federal share of a grant made under this subchapter may not exceed 75 percent of the total costs of the program described in the application submitted under section 10474 of this title for the fiscal year for which the program receives assistance under this subchapter, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. The use of the Federal share of a grant made under this subchapter shall be limited to new expenses necessitated by the proposed program, including the development of treatment services and the hiring and training of personnel. In-kind contributions may constitute a portion of the non-Federal share of a grant.

(Pub. L. 90-351, title I, §2205, as added Pub. L. 106-515, §3(a), Nov. 13, 2000, 114 Stat. 2401.)

CODIFICATION

Section was formerly classified to section 3796ii-4 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 2205 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title V, §50001(a)(3), Sept. 13, 1994, 108 Stat. 1957, related to applications to request funds, prior to repeal by Pub. L. 104-134, title I, §101[(a)] [title I, §114(b)(1)(A)], Apr. 26, 1996, 110 Stat. 1321, 1321-21; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

§ 10476. Geographic distribution

The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made that considers the special needs of rural communities, Indian tribes, and Alaska Natives.

(Pub. L. 90-351, title I, §2206, as added Pub. L. 106-515, §3(a), Nov. 13, 2000, 114 Stat. 2401.)

CODIFICATION

Section was formerly classified to section 3796ii-5 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 2206 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title V, §50001(a)(3), Sept. 13, 1994,