

106TH CONGRESS
1ST SESSION

S. 464

To meet the mental health and substance abuse treatment needs of
incarcerated children and youth.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 1999

Mr. WELLSTONE (for himself, Mr. KENNEDY, and Ms. LANDRIEU) introduced
the following bill; which was read twice and referred to the Committee
on Health, Education, Labor, and Pensions

A BILL

To meet the mental health and substance abuse treatment
needs of incarcerated children and youth.

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 “Mental Health Juve-
5 nile Justice Act”.

6 **SEC. 2. BLOCK GRANT FUNDING FOR TREATMENT AND DI-**
7 **VERSION PROGRAMS.**

8 Subpart 3 of part B of title V of the Public Health
9 Service Act (42 U.S.C. 290bb–31 et seq.) is amended by
10 adding at the end the following:

1 **“SEC. 520C. GRANTS FOR STATE PARTNERSHIPS.**

2 “(a) IN GENERAL.—The Attorney General and the
3 Secretary shall make grants to partnerships between State
4 and local juvenile justice agencies and State and local
5 mental health authorities (or appropriate children service
6 agencies) in accordance with this section.

7 “(b) USE OF FUNDS.—A partnership described in
8 subsection (a) that receives a grant under this section
9 shall use such amounts for the establishment and imple-
10 mentation of programs that address the service needs of
11 juveniles who come into contact with the justice system
12 (including facilities contracted for operation by State or
13 local juvenile authorities) who have mental health or sub-
14 stance abuse problems, by requiring the following:

15 “(1) DIVERSION.—Appropriate diversion of
16 those juveniles from incarceration—

17 “(A) at imminent risk of being taken into
18 custody;

19 “(B) at the time they are initially taken
20 into custody;

21 “(C) after they are charged with an of-
22 fense or act of juvenile delinquency;

23 “(D) after they are adjudicated delinquent
24 but prior to case disposition; and

“(E) after they are released from a juvenile facility for the purpose of attending after-care programs.

“(2) TREATMENT.—

“(A) SCREENING AND ASSESSMENT OF JUVENILES.—

“(i) IN GENERAL.—Initial mental health screening shall be completed for all juveniles immediately upon entering the juvenile justice system or a juvenile facility. Screening shall be conducted by qualified health and mental health professionals or by staff who have been trained by qualified health, mental health, and substance abuse professionals. In the case of screening by staff, the screening results should be reviewed by qualified health and mental health professionals not later than 24 hours after the screening.

“(ii) ACUTE MENTAL ILLNESS.—Juveniles who suffer from acute mental disorders, who are suicidal, or in need of detoxification shall be placed in or immediately transferred to an appropriate medical or mental health facility. They shall be

1 admitted to a secure correctional facility
2 only with written medical clearance.

3 “(iii) COMPREHENSIVE ASSESS-
4 MENT.—All juveniles entering the juvenile
5 justice system shall have a comprehensive
6 assessment conducted and an individual-
7 ized treatment plan written and imple-
8 mented within 2 weeks. This assessment
9 shall be conducted within 1 week for juve-
10 niles incarcerated in secure facilities. As-
11 sessments shall be completed by qualified
12 health, mental health, and substance abuse
13 professionals.

14 “(B) TREATMENT.—

15 “(i) IN GENERAL.—If the need for
16 treatment is indicated by the assessment of
17 a juvenile, the juvenile shall be referred to
18 or treated by a qualified professional. A ju-
19 venile who is currently receiving treatment
20 for a mental or emotional disorder shall
21 have treatment continued.

22 “(ii) PERIOD.—Treatment shall con-
23 tinue until additional mental health assess-
24 ment determines that the juvenile is no
25 longer in need of treatment. Treatment

1 plans shall be reevaluated at least every 30
2 days.

3 “(iii) DISCHARGE PLAN.—An incar-
4 cerated juvenile shall have a discharge plan
5 prepared when the juvenile enters the cor-
6 rectional facility in order to integrate the
7 juvenile back into the family and/or the
8 community. This plan shall be updated in
9 consultation with the juvenile’s family or
10 guardian before the juvenile leaves the fa-
11 cility. Discharge plans shall address the
12 provision of aftercare services.

13 “(iv) MEDICATION.—Any juvenile re-
14 ceiving psychotropic medications shall be
15 under the care of a licensed psychiatrist.
16 Psychotropic medications shall be mon-
17 itored regularly by trained staff for their
18 efficacy and side effects.

19 “(v) SPECIALIZED TREATMENT.—Spe-
20 cialized treatment and services shall be
21 continually available to a juvenile who—

22 “(I) has a history of mental
23 health problems or treatment;

1 “(II) has a documented history
2 of sexual offenses or sexual abuse, as
3 a victim or perpetrator;

4 “(III) has substance abuse prob-
5 lems, health problems, learning dis-
6 abilities, or histories of family abuse
7 or violence; or

8 “(IV) has developmental disabil-
9 ities.

10 “(C) MEDICAL AND MENTAL HEALTH
11 EMERGENCIES.—All correctional facilities shall
12 have written policies and procedures on suicide
13 prevention. All staff working in correctional fa-
14 cilities shall be trained and certified annually in
15 suicide prevention. Facilities shall have written
16 arrangements with a hospital or other facility
17 for providing emergency medical and mental
18 health care. Physical and mental health services
19 shall be available to an incarcerated juvenile 24
20 hours per day, 7 days per week.

21 “(D) CLASSIFICATION OF JUVENILES.—

22 “(i) IN GENERAL.—Juvenile facilities
23 shall classify and house juveniles in living
24 units according to a plan that includes age,
25 gender, offense, special medical or mental

1 health condition, size, and vulnerability to
2 victimization. Younger, smaller, weaker,
3 and more vulnerable juveniles shall not be
4 placed in housing units with older, more
5 aggressive juveniles.

6 “(ii) BOOT CAMPS.—juveniles who are
7 under 13 years old or who have serious
8 medical conditions or mental illness shall
9 not be placed in paramilitary boot camps.

10 “(E) CONFIDENTIALITY OF RECORDS.—
11 Mental health and substance abuse treatment
12 records of juveniles shall be treated as confiden-
13 tial and shall be excluded from the records that
14 States require to be routinely released to other
15 correctional authorities and school officials.

16 “(F) MANDATORY REPORTING.—States
17 shall keep records of the incidence and types of
18 mental health and substance abuse disorders in
19 their juvenile justice populations, the range and
20 scope of services provided, and barriers to serv-
21 ice. The State shall submit an analysis of this
22 information yearly to the Department of Jus-
23 tice.

24 “(G) STAFF RATIOS FOR CORRECTIONAL
25 FACILITIES.—Each secure correctional facility

1 shall have a minimum ratio of no fewer than 1
 2 mental health counselor to every 50 juveniles.
 3 Mental health counselors shall be professionally
 4 trained and certified or licensed. Each secure
 5 correctional facility shall have a minimum ratio
 6 of 1 clinical psychologist for every 100 juve-
 7 niles. Each secure correctional facility shall
 8 have a minimum ratio of 1 licensed psychiatrist
 9 for every 100 juveniles receiving psychiatric
 10 care.

11 “(H) USE OF FORCE.—

12 “(i) WRITTEN GUIDELINES.—All juve-
 13 nile facilities shall have a written behav-
 14 ioral management system based on incen-
 15 tives and rewards to reduce misconduct
 16 and to decrease the use of restraints and
 17 seclusion by staff.

18 “(ii) LIMITATIONS ON RESTRAINT.—
 19 Control techniques such as restraint, seclu-
 20 sion, chemical sprays, and room confine-
 21 ment shall be used only in response to ex-
 22 treme threats to life or safety. Use of these
 23 techniques shall be approved by the facility
 24 superintendent or chief medical officer and
 25 documented in the juvenile’s file along with

1 the justification for use and the failure of
2 less restrictive alternatives.

3 “(iii) LIMITATION ON ISOLATION.—

4 Isolation and seclusion shall be used only
5 for immediate and short-term security or
6 safety reasons. No juvenile shall be placed
7 in isolation without approval of the facility
8 superintendent or chief medical officer or
9 their official staff designee. All cases shall
10 be documented in the juvenile’s file along
11 with the justification. A juvenile shall be in
12 isolation only the amount of time necessary
13 to achieve security and safety of the juve-
14 nile and staff. Staff shall monitor each ju-
15 venile in isolation once every 15 minutes
16 and conduct a professional review of the
17 need for isolation at least every 4 hours.
18 Any juvenile held in seclusion for 24 hours
19 shall be examined by a physician or li-
20 censed psychologist.

21 “(I) IDEA AND REHABILITATION ACT.—

22 All juvenile facilities shall abide by all manda-
23 tory requirements and time lines set forth
24 under the Individuals with Disabilities Edu-

1 cation Act and section 504 of the Rehabilitation
2 Act of 1973.

3 “(J) ADVOCACY ASSISTANCE.—

4 “(i) IN GENERAL.—The Secretary of
5 Health and Human Services shall make
6 grants to the systems established under
7 part C of the Developmental Disabilities
8 Assistance and Bill of Rights Act (42
9 U.S.C. 6041 et seq.) to monitor the mental
10 health and special education services pro-
11 vided by grantees to juveniles under sub-
12 paragraphs (A), (B), (C), (H), and (I),
13 and to advocate on behalf of juveniles to
14 assure that such services are properly pro-
15 vided.

16 “(ii) APPROPRIATION.—The Secretary
17 of Health and Human Services will reserve
18 no less than 3 percent of the funds appro-
19 priated under this section for the purposes
20 set forth in clause (i).

21 “(c) PARTNERSHIPS.—

22 “(1) IN GENERAL.—Any partnership desiring to
23 receive a grant under this section shall submit an
24 application at such time, in such manner, and con-

1 taining such information as the Attorney General
2 and the Secretary may prescribe.

3 “(2) CONTENTS.—In accordance with guide-
4 lines established by the Attorney General and the
5 Secretary, each application submitted under para-
6 graph (1) shall—

7 “(A) set forth a program or activity for
8 carrying out one or more of the purposes speci-
9 fied in this section and specifically identify each
10 such purpose such program or activity is de-
11 signed to carry out;

12 “(B) provide that such program or activity
13 shall be administered by or under the super-
14 vision of the applicant;

15 “(C) provide for the proper and efficient
16 administration of such program or activity;

17 “(D) provide for regular evaluation of such
18 program or activity;

19 “(E) provide an assurance that the pro-
20 posed program or activity will supplement, not
21 supplant, similar programs and activities al-
22 ready available in the community; and

23 “(F) provide for such fiscal control and
24 fund accounting procedures as may be nec-
25 essary to ensure prudent use, proper disburse-

1 ment, and accurate accounting of funds receiv-
2 ing under this section.

3 “(d) AUTHORIZATION OF APPROPRIATIONS.—

4 “(1) IN GENERAL.—There are authorized to be
5 appropriated from the Violent Crime Reduction
6 Trust Fund, \$500,000,000 for fiscal years 1999,
7 2000, 2001, 2002, and 2003 to carry out this sec-
8 tion.

9 “(2) ALLOCATION.—Of amounts appropriated
10 under paragraph (1)—

11 “(A) 35 percent shall be used for diversion
12 programs under subsection (b)(1); and

13 “(B) 65 percent shall be used for treat-
14 ment programs under subsection (b)(2).

15 “(3) INCENTIVES.—The Attorney General and
16 the Secretary shall give preference under subsection
17 (b)(2) to partnerships that integrate treatment pro-
18 grams to serve juveniles with co-occurring mental
19 health and substance abuse disorders.

20 “(4) WAIVERS.—The Attorney General and the
21 Secretary may grant a waiver of requirements under
22 subsection (b)(2) for good cause.”.

1 **SEC. 3. INITIATIVE FOR COMPREHENSIVE, INTERSYSTEM**
 2 **PROGRAMS.**

3 Subpart 3 of part B of title V of the Public Health
 4 Service Act (42 U.S.C. 290bb–31 et seq.) is amended by
 5 adding at the end the following:

6 **“SEC. 520D. INITIATIVE FOR COMPREHENSIVE, INTERSYS-**
 7 **TEM PROGRAMS.**

8 “(a) IN GENERAL.—The Attorney General and the
 9 Secretary, acting through the Director of the Center for
 10 Mental Health Services, shall award competitive grants to
 11 eligible entities for programs that address the service
 12 needs of juveniles and juveniles with serious mental ill-
 13 nesses by requiring the State or local juvenile justice sys-
 14 tem, the mental health system, and the substance abuse
 15 treatment system to work collaboratively to ensure—

16 “(1) the appropriate diversion of such juveniles
 17 and juveniles from incarceration;

18 “(2) the provision of appropriate mental health
 19 and substance abuse services as an alternative to in-
 20 carceration and for those juveniles on probation or
 21 parole; and

22 “(3) the provision of followup services for juve-
 23 niles who are discharged from the juvenile justice
 24 system.

25 “(b) ELIGIBILITY.—To be eligible to receive a grant
 26 under this section an entity shall—

1 “(1) be a State or local juvenile justice agency,
2 mental health agency, or substance abuse agency;

3 “(2) prepare and submit to the Secretary an
4 application at such time, in such manner, and con-
5 taining such information as the Secretary may re-
6 quire, including—

7 “(A) an assurance that the applicant has
8 the consent of all entities described in para-
9 graph (1) in carrying out and coordinating ac-
10 tivities under the grant; and

11 “(B) with respect to services for juveniles,
12 an assurance that the applicant has collabo-
13 rated with the State or local educational agency
14 and the State or local welfare agency in carry-
15 ing out and coordinating activities under the
16 grant;

17 “(3) be given priority if it is a joint application
18 between juvenile justice and substance abuse or
19 mental health agencies; and

20 “(4) ensure that funds from non-Federal
21 sources are available to match amounts provided
22 under the grant in an amount that is not less
23 than—

1 “(A) with respect to the first 3 years
2 under the grant, 25 percent of the amount pro-
3 vided under the grant; and

4 “(B) with respect to the fourth and fifth
5 years under the grant, 50 percent of the
6 amount provided under the grant.

7 “(c) USE OF FUNDS.—

8 “(1) INITIAL YEAR.—An entity that receives a
9 grant under this section shall, in the first fiscal year
10 in which amounts are provided under the grant, use
11 such amounts to develop a collaborative plan—

12 “(A) for how the guarantee will institute a
13 system to provide intensive community
14 services—

15 “(i) to prevent high-risk juveniles
16 from coming in contact with the justice
17 system; and

18 “(ii) to meet the mental health and
19 substance abuse treatment needs of juve-
20 niles on probation or recently discharged
21 from the justice system; and

22 “(B) providing for the exchange by agen-
23 cies of information to enhance the provision of
24 mental health or substance abuse services to ju-
25 veniles.

1 “(2) 2–5TH YEARS.—With respect to the sec-
2 ond through fifth fiscal years in which amounts are
3 provided under the grant, the grantee shall use
4 amounts provided under the grant—

5 “(A) to furnish services, such as assertive
6 community treatment, wrap-around services for
7 juveniles, multisystemic therapy, outreach, inte-
8 grated mental health and substance abuse
9 treatment, case management, health care, and
10 transitional and independent living services,
11 mentoring programs, home-based services, and
12 provision of appropriate after school and sum-
13 mer programing;

14 “(B) to establish a network of boundary
15 spanners to conduct regular meetings with
16 judges, provide liaison with mental health and
17 substance abuse workers, share and distribute
18 information, and coordinate with mental health
19 and substance abuse treatment providers, and
20 probation or parole officers concerning provision
21 of appropriate mental health and drug and alco-
22 hol addiction services for individuals on proba-
23 tion or parole;

24 “(C) to provide cross-system training
25 among police, corrections, and mental health

1 and substance abuse providers with the purpose
2 of enhancing collaboration and the effectiveness
3 of all systems;

4 “(D) to provide coordinated and effective
5 aftercare programs for juveniles with emotional
6 or mental disorders who are discharged from
7 jail, prison, or juvenile facilities;

8 “(E) to purchase technical assistance to
9 achieve the grant project’s goals; and

10 “(F) to furnish services, to train personnel
11 in collaborative approaches, and to enhance
12 intersystem collaboration.

13 “(3) DEFINITION.—In paragraph (2)(B), the
14 term ‘boundary spanners’ means professionals who
15 act as case managers for juveniles with mental dis-
16 orders and substance abuse addictions, within both
17 justice agency facilities and community mental
18 health programs and who have full authority from
19 both systems to act as problem-solvers and advocates
20 on behalf of individuals targeted for service under
21 this program.

22 “(d) AREA SERVED BY THE PROJECT.—An entity re-
23 ceiving a grant under this section shall conduct activities
24 under the grant to serve at least a single political jurisdic-
25 tion.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 2 shall be made available to carry out the section, not less
 3 than 10 percent of the amount appropriated under section
 4 1935(a) for each of the fiscal years 1999 through 2003.”.

5 **SEC. 4. INTERAGENCY RESEARCH, TRAINING, AND TECH-**
 6 **NICAL ASSISTANCE CENTERS.**

7 (a) GRANTS OR CONTRACTS.—The Secretary of
 8 Health and Human Services, acting through the Sub-
 9 stance Abuse and Mental Health Services Administration
 10 and in consultation with the Juvenile Justice and Delin-
 11 quency Prevention Office and the Justice Assistance Bu-
 12 reau, shall award grants and contracts for the establish-
 13 ment of 4 research, training, and technical assistance cen-
 14 ters to carry out the activities described in subsection (c).

15 (b) ELIGIBILITY.—To be eligible to receive a grant
 16 or contract under subsection (a), an entity shall—

17 (1) be a public or nonprofit private entity; and

18 (2) prepare and submit to the Secretary of
 19 Health and Human Services an application, at such
 20 time, in such manner, and containing such informa-
 21 tion as the Secretary may require.

22 (c) ACTIVITIES.—A center established under a grant
 23 or contract under subsection (a) shall—

24 (1) provide training with respect to state-of-the-
 25 art mental health and justice-related services and

1 successful mental health and substance abuse-justice
2 collaborations, to public policymakers, law enforce-
3 ment administrators, public defenders, police, proba-
4 tion officers, judges, parole officials, jail administra-
5 tors and mental health and substance abuse provid-
6 ers and administrators;

7 (2) engage in research and evaluations concern-
8 ing State and local justice and mental health sys-
9 tems, including system redesign initiatives, and dis-
10 seminate information concerning the results of such
11 evaluations;

12 (3) provide direct technical assistance, including
13 assistance provided through toll-free telephone num-
14 bers, concerning issues such as how to accommodate
15 individuals who are being processed through the
16 courts under the Americans with Disabilities Act of
17 1990 (42 U.S.C. 12101 et seq.), what types of men-
18 tal health or substance abuse service approaches are
19 effective within the judicial system, and how commu-
20 nity-based mental health or substance abuse services
21 can be more effective, including relevant regional,
22 ethnic, and gender-related considerations; and

23 (4) provide information, training, and technical
24 assistance to State and local governmental officials
25 to enhance the capacity of such officials to provide

1 appropriate services relating to mental health or
2 substance abuse.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated, \$4,000,000 for each fiscal
5 year to carry out this section.

○