

107TH CONGRESS
2D SESSION

S. 3147

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

OCTOBER 17, 2002

Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Ms. CANTWELL, Mr. BROWNBACK, 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 2002”.

6 SEC. 2. FINDINGS.

7 Congress finds the following:

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.

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

18 SEC. 3. PURPOSE.

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

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

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

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

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

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.—The term ‘diversion’ means
9 the appropriate use of effective mental health treat-
10 ment alternatives to juvenile justice or criminal jus-
11 tice system institutional placements for adult offend-
12 ers with severe and persistent mental illness or juve-
13 nile offenders with serious mental or emotional dis-
14 orders.

15 “(5) MENTAL HEALTH AGENCY.—The term
16 ‘mental health agency’ means an agency of a State
17 or local government that is responsible for mental
18 health services.

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

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

1 “(A) of sufficient duration to meet diag-
2 nostic criteria within the most recent edition of
3 the Diagnostic and Statistical Manual of Men-
4 tal Disorders published by the American Psy-
5 chiatric Association; and

6 “(B) that has resulted in the substantial
7 impairment of thought processes, sensory input,
8 mood balance, memory, or ability to reason and
9 substantially interferes with or limits 1 or more
10 major life activities.

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

14 “(A)(i) previously or currently has been di-
15 agnosed by a qualified mental health profes-
16 sional as having a mental illness or co-occurring
17 mental illness and substance abuse disorders; or

18 “(ii) manifests obvious signs of mental ill-
19 ness or co-occurring mental illness and sub-
20 stance abuse disorders during arrest or confine-
21 ment or before any court; and

22 “(B) has faced or is facing criminal
23 charges and is deemed eligible by a designated
24 pretrial screening and diversion process, or by
25 a magistrate or judge.

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

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

11 “(b) PLANNING AND IMPLEMENTATION GRANTS.—

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

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

22 “(A) mental health courts;

23 “(B) programs that offer specialized train-
24 ing to the officers and employees of a criminal
25 or juvenile justice agency and mental health

1 personnel in procedures for identifying the
2 symptoms of mental illness and co-occurring
3 mental illness and substance abuse disorders in
4 order to respond appropriately to individuals
5 with such illnesses; and

6 “(C) programs that support cooperative ef-
7 forts by criminal and juvenile justice agencies
8 and mental health agencies to promote public
9 safety by offering mental health treatment serv-
10 ices and, where appropriate, substance abuse
11 treatment services for—

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

15 “(ii) juveniles and adults with mental
16 illness for whom diversion is appropriate;
17 or

18 “(iii) adult offenders with mental ill-
19 ness during periods of incarceration, while
20 under the supervision of a criminal justice
21 agency, or following release from correc-
22 tional facilities.

23 “(3) APPLICATIONS.—

24 “(A) IN GENERAL.—To receive a planning
25 grant or an implementation grant, the joint ap-

1 plicants shall prepare and submit a single appli-
2 cation to the Attorney General at such time, in
3 such manner, and containing such information
4 as the Attorney General and the Secretary shall
5 reasonably require. An application under part V
6 of this title may be made in conjunction with an
7 application under this section.

8 “(B) COMBINED PLANNING AND IMPLE-
9 MENTATION GRANT APPLICATION.—The Attor-
10 ney General shall develop a procedure under
11 which applicants may apply at the same time
12 and in a single application for a planning grant
13 and an implementation grant, with receipt of
14 the implementation grant conditioned on suc-
15 cessful completion of the activities funded by
16 the planning grant.

17 “(4) PLANNING GRANTS.—

18 “(A) APPLICATION.—The joint applicants
19 may apply to the Attorney General for a non-
20 renewable planning grant to develop a collabor-
21 ation program.

22 “(B) CONTENTS.—The Attorney General
23 may not approve a planning grant unless the
24 application for the grant includes or provides,
25 at a minimum, for a budget and a budget jus-

1 tification, a description of the outcome meas-
2 ures that will be used to measure the effective-
3 ness of the program in promoting public safety
4 and public health, the activities proposed (in-
5 cluding the provision of substance abuse treat-
6 ment services, where appropriate) and a sched-
7 ule for completion of such activities, and the
8 personnel necessary to complete such activities.

9 “(C) PERIOD OF GRANT.—A planning
10 grant shall be effective for a period of 1 year,
11 beginning on the first day of the month in
12 which the planning grant is made. Applicants
13 may not receive more than 1 such planning
14 grant.

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

19 “(5) IMPLEMENTATION GRANTS.—

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

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

3 “(i) document that at least 1 criminal
4 or juvenile justice agency (which can in-
5 clude a mental health court) and 1 mental
6 health agency will participate in the ad-
7 ministration of the collaboration program;

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

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

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

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

24 “(II) the families or advocates of
25 such individuals under subclause (I).

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

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

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

12 “(II) develop guidelines that can
13 be used by personnel of a criminal or
14 juvenile justice agency to identify indi-
15 viduals with mental illness or co-oc-
16 curring mental illness and substance
17 abuse disorders.

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

20 “(I) ensure that offenders with
21 mental illness who are to receive serv-
22 ices under the collaboration program
23 will first receive individualized, needs-
24 based assessments to determine, plan,

1 and coordinate the most appropriate
2 services for such individuals;

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

10 “(III) ensure that mentally ill of-
11 fenders served by the collaboration
12 program will have access to commu-
13 nity-based mental health services,
14 such as crisis intervention, case man-
15 agement, assertive community treat-
16 ment, medications, medication man-
17 agement, psychiatric rehabilitation,
18 peer support, or, where appropriate,
19 integrated substance abuse treatment
20 services;

21 “(IV) make available, to the ex-
22 tent practicable, individualized mental
23 health treatment services, other sup-
24 port services (such as housing, edu-
25 cation, job placement, mentoring, or

15 “(D) HOUSING AND JOB PLACEMENT.—
16 Recipients of an implementation grant may use
17 grant funds to assist mentally ill offenders com-
18 pliant with the program in seeking housing or
19 employment assistance.

20 “(E) POLICIES AND PROCEDURES.—Appli-
21 cants for an implementation grant shall strive
22 to ensure prompt access to defense counsel by
23 criminal defendants with mental illness who are
24 facing charges that would trigger a constitu-
25 tional right to counsel.

1 “(F) FINANCIAL.—Applicants for an im-
2 plementation grant shall—

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

6 “(ii) specify how the Federal support
7 provided will be used to supplement, and
8 not supplant, State, local, Indian tribe, or
9 tribal organization sources of funding that
10 would otherwise be available, including bill-
11 ing third-party resources for services al-
12 ready covered under programs (such as
13 medicaid, medicare, and the State Chil-
14 dren’s Insurance Program); and

15 “(iii) outline plans for obtaining nec-
16 essary support and continuing the pro-
17 posed collaboration program following the
18 conclusion of Federal support.

19 “(G) OUTCOMES.—Applicants for an im-
20 plementation grant shall—

21 “(i) identify methodology and outcome
22 measures, as required by the Attorney
23 General and the Secretary, to be used in
24 evaluating the effectiveness of the collabo-
25 ration program;

1 “(ii) ensure mechanisms are in place
2 to capture data, consistent with the meth-
3 odology and outcome measures under
4 clause (i); and

5 “(iii) submit specific agreements from
6 affected agencies to provide the data need-
7 ed by the Attorney General and the Sec-
8 retary to accomplish the evaluation under
9 clause (i).

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

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

18 “(i) MENTAL HEALTH COURTS AND
19 DIVERSION.—Funds may be used to create
20 or expand existing mental health courts
21 that meet program requirements estab-
22 lished by the Attorney General under part
23 V of this title or diversion programs (in-
24 cluding crisis intervention teams and treat-
25 ment accountability services for commu-

3 “(ii) TRAINING.—Funds may be used
4 to create or expand programs, such as cri-
5 sis intervention training, which offer spe-
6 cialized training to—

1 “(iv) IN-JAIL AND TRANSITIONAL
2 SERVICES.—Funds may be used to pro-
3 mote and provide mental health treatment
4 for those incarcerated or for transitional
5 re-entry programs for those released from
6 any penal or correctional institution.

7 “(J) GEOGRAPHIC DISTRIBUTION.—The
8 Attorney General, in consultation with the Sec-
9 retary, shall ensure that implementation grants
10 are equitably distributed among the geo-
11 graphical regions of the United States and be-
12 tween urban and rural populations.

13 “(c) PRIORITY.—The Attorney General, in awarding
14 funds under this section, shall give priority to applications
15 that—

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

19 “(2) demonstrate the active participation of
20 each co-applicant in the administration of the col-
21 laboration program; and

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

24 “(d) MATCHING REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

13 “(f) INTERAGENCY TASK FORCE.—

14 “(1) IN GENERAL.—The Attorney General and
15 the Secretary shall establish an interagency task
16 force with the Secretaries of Housing and Urban
17 Development, Labor, Education, and Veterans Af-
18 fairs and the Commissioner of Social Security, or
19 their designees.

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

22 “(A) identify policies within their depart-
23 ments which hinder or facilitate local collabo-
24 rative initiatives for adults or juveniles with

1 mental illness or co-occurring mental illness and
2 substance abuse disorders; and

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

10 “(g) MINIMUM ALLOCATION.—Unless all eligible ap-
11 plications submitted by any State or unit of local govern-
12 ment within such State for a planning or implementation
13 grant under this section have been funded, such State, to-
14 gether with grantees within the State (other than Indian
15 tribes), shall be allocated in each fiscal year under this
16 section not less than 0.75 percent of the total amount ap-
17 propriated in the fiscal year for planning or implementa-
18 tion grants pursuant to this section.

19 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Department of
21 Justice to carry out this section—

22 “(1) \$100,000,000 for each of fiscal years 2003
23 and 2004; and

24 “(2) such sums as may be necessary for fiscal
25 years 2005 through 2007.”.

1 (b) LIST OF “BEST PRACTICES”.—The Attorney
2 General, in consultation with the Secretary of Health and
3 Human Services, shall develop a list of “best practices”
4 for appropriate diversion from incarceration of adult and
5 juvenile offenders.

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

“PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

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

○