

111TH CONGRESS
2D SESSION

H. R. 6090

To reauthorize and amend part EE of the Omnibus Crime Control and Safe Streets Act of 1968 relating to drug courts.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 10, 2010

Ms. JACKSON LEE of Texas (for herself, Mr. PIERLUISI, Mr. PAYNE, Mr. MCGOVERN, Mr. RUSH, Mr. RANGEL, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Mr. CARNAHAN, Mr. CONYERS, Mr. GONZALEZ, Ms. LEE of California, Mr. HONDA, Mr. HASTINGS of Florida, and Ms. KAPTUR) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reauthorize and amend part EE of the Omnibus Crime Control and Safe Streets Act of 1968 relating to drug courts.

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: FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Drug Court Reauthorization Act”.

6 (b) FINDINGS.—The Congress finds the following:

1 (1) Studies have concluded that drug courts
2 significantly reduce crime by as much as 35 percent
3 more than other sentencing options.

4 (2) Nationwide, 75 percent of participants who
5 successfully complete a drug court program remain
6 arrest-free for at least 2 years after leaving the pro-
7 gram, and some studies demonstrate that many
8 graduates remain arrest-free for many more years.

9 (3) Drug courts are 6 times more likely than
10 other sentencing options to keep offenders in treat-
11 ment long enough to recover, and in programs with
12 less supervision than drug courts, 70 percent of par-
13 ticipants drop out of treatment permanently.

14 (4) Nationwide, for every \$1 invested in drug
15 courts, taxpayers save as much as \$3.36.

16 (5) In 2007, for every Federal dollar invested
17 in drug courts, \$9 was leveraged in State funding.

18 **SEC. 2. DRUG COURTS.**

19 (a) IN GENERAL.—Part EE of the Omnibus Crime
20 Control and Safe Streets Act of 1968 (42 U.S.C. 3797u
21 et seq.) is amended to read as follows:

22 **“PART EE—DRUG COURTS**

23 **“SEC. 2951. GRANT AUTHORITY.**

24 “(a) IN GENERAL.—The Attorney General may make
25 grants to States, State courts, local courts, units of local

1 government, and Indian tribal governments, acting di-
2 rectly or through agreements with other public or private
3 entities, for adult drug courts, juvenile drug courts, family
4 drug courts, and tribal drug courts that involve—

5 “(1) continuing judicial supervision over offend-
6 ers, and other individuals under the jurisdiction of
7 the court, with substance abuse problems;

8 “(2) coordination with the appropriate State or
9 local court, State or local substance abuse treatment
10 authority, public defender, and prosecutor; and

11 “(3) the integrated administration of other
12 sanctions and services, which shall include—

13 “(A) mandatory periodic testing for the
14 use of controlled substances or other addictive
15 substances during any period of supervised re-
16 lease or probation for each participant;

17 “(B) substance abuse treatment for each
18 participant, commensurate with the clinical
19 needs of the participant;

20 “(C) diversion, probation, or other super-
21 vised release involving the possibility of prosecu-
22 tion, confinement, or incarceration based on
23 noncompliance with program requirements or
24 failure to show satisfactory progress;

1 “(D) offender management and aftercare
2 services such as relapse prevention, health care,
3 education, vocational training, job placement,
4 housing placement, and child care or other fam-
5 ily support services for each participant who re-
6 quires such services;

7 “(E) payment, in whole or part, by the of-
8 fender of treatment costs, to the extent the
9 court determines that such payment is prac-
10 ticable, such as costs for urinalysis or coun-
11 seling; and

12 “(F) payment, in whole or part, by the of-
13 fender of restitution, to the extent the court de-
14 termines that such payment is practicable, to
15 either a victim of the offender’s offense or to a
16 restitution or similar victim support fund.

17 “(b) LIMITATION.—Economic sanctions imposed on
18 an offender pursuant to this section shall not be at a level
19 that would interfere with the offender’s rehabilitation.

20 “(c) MANDATORY DRUG TESTING AND MANDATORY
21 SANCTIONS.—

22 “(1) MANDATORY TESTING.—Grant amounts
23 under this part may be used for a drug court only
24 if such court has mandatory periodic testing as de-
25 scribed in subsection (a)(3)(A). The Attorney Gen-

1 eral shall, by prescribing guidelines or regulations,
2 specify standards for the timing and manner of com-
3 plying with such requirements. The standards—

4 “(A) shall ensure that—

5 “(i) each participant is tested for
6 every controlled substance that the partici-
7 pant has been known to abuse, and for any
8 other controlled substance the Attorney
9 General or the court may require; and

10 “(ii) such testing is accurate and
11 practicable; and

12 “(B) may require approval of the drug
13 testing regime to ensure that adequate testing
14 occurs.

15 “(2) MANDATORY SANCTIONS.—The Attorney
16 General shall, by prescribing guidelines or regula-
17 tions, specify that grant amounts under this part
18 may be used for a drug court only if such court im-
19 poses graduated sanctions that increase punitive
20 measures, therapeutic measures, or both, whenever a
21 participant fails a drug test. Such sanctions and
22 measures may include one or more of the following:

23 “(A) Incarceration.

24 “(B) Increased time in the drug court pro-
25 gram.

1 “(C) Termination from such program.

2 “(D) Increased drug screening require-
3 ments.

4 “(E) Increased court appearances.

5 “(F) Increased supervision.

6 “(G) Electronic monitoring.

7 “(H) In-home restriction.

8 “(I) Community service.

9 **“SEC. 2952. ADMINISTRATION.**

10 “(a) CONSULTATION.—The Attorney General shall
11 consult with the Secretary of Health and Human Services
12 and any other appropriate officials in carrying out this
13 part.

14 “(b) USE OF COMPONENTS.—The Attorney General
15 may utilize any component or components of the Depart-
16 ment of Justice in carrying out this part.

17 “(c) REGULATORY AUTHORITY.—The Attorney Gen-
18 eral may issue regulations and guidelines necessary to
19 carry out this part.

20 **“SEC. 2953. APPLICATIONS.**

21 “(a) IN GENERAL.—To request funds under this
22 part, the chief executive or the chief justice of a State or
23 the chief executive or judge of a unit of local government
24 or Indian tribal government, or the chief judge of a State
25 court or the judge of a local court or Indian tribal court

1 shall submit an application to the Attorney General in
2 such form and containing such information as the Attor-
3 ney General may require.

4 “(b) CONTENT.—In addition to any other require-
5 ments that may be specified by the Attorney General, an
6 application for a grant under this part shall—

7 “(1) include a long-term strategy and detailed
8 implementation plan for the drug court program to
9 be carried out under such grant;

10 “(2) explain the applicant’s inability to fund the
11 program adequately without Federal assistance;

12 “(3) certify that the Federal support provided
13 will be used to supplement, and not supplant, State,
14 Indian tribal, and local sources of funding that
15 would otherwise be available;

16 “(4) identify related governmental or commu-
17 nity initiatives which complement or will be coordi-
18 nated with the proposal;

19 “(5) certify that there has been and will con-
20 tinue to be appropriate consultation with all affected
21 agencies in the implementation of the program;

22 “(6) certify that participating offenders will be
23 supervised by 1 or more designated judges with re-
24 sponsibility for the drug court program;

1 “(7) specify plans for obtaining necessary sup-
2 port and continuing the proposed program following
3 the conclusion of Federal support;

4 “(8) certify that statements made by an of-
5 fender during, or for admission to, a drug court pro-
6 gram (including to judges, prosecutors, defense
7 counsel, social service providers, and other public
8 health and public safety professionals who work in
9 the drug court) regarding the offender’s drug use
10 shall not be used as evidence against the offender in
11 any criminal proceeding other than a proceeding
12 that is part of the drug court program, including
13 drug court proceedings involving sanctions, program
14 termination, and related matters such as probation
15 violation hearings based on noncompliance with the
16 terms of participating in the drug court program;

17 “(9) certify that admission criteria for the pro-
18 gram—

19 “(A) are broad enough to ensure access for
20 all drug-dependent, high-risk individuals under
21 the court’s jurisdiction who are not violent of-
22 fenders;

23 “(B) do not discriminate based upon race,
24 gender, religion, national origin, economic sta-
25 tus, or immigration status; and

1 “(C) are established by a panel or commis-
2 sion with broad representation from stake-
3 holders in the criminal justice community, in-
4 cluding judges, prosecutors, defense counsel,
5 and social service providers;

6 “(10) certify that the applicant has established
7 a policy for the consideration and selection of offend-
8 ers who are not violent offenders to participate in
9 the program, based on the admission criteria pursu-
10 ant to paragraph (9), that—

11 “(A) has been approved by the judge or
12 judges with responsibility for the drug court
13 program under paragraph (6) and any other
14 parties responsible for such consideration and
15 selection of offenders, including prosecutors, de-
16 fense counsel, and social service providers, as
17 appropriate;

18 “(B) includes a process to ensure that the
19 individual circumstances of offenders are con-
20 sidered to take into account mitigating factors
21 related to the offender, as appropriate; and

22 “(C) ensures that the public safety needs
23 of the applicant’s jurisdiction are met;

24 “(11) demonstrate the existence of adequate
25 protections for participating offenders’ right to com-

1 petent counsel under the Sixth Amendment to the
2 Constitution;

3 “(12) outline ways for ensuring access to the
4 program for offenders who are high-risk for contin-
5 ued substance abuse and drug-related crime, are fac-
6 ing the longest sentences, and are high-need based
7 on drug dependency;

8 “(13) describe the methodology that will be
9 used in evaluating the program, including dem-
10 onstration of research related to alternative sen-
11 tences for offenders whose illegal conduct was
12 caused by drug dependency; and

13 “(14) certify that substance abuse treatment
14 services provided to participants are licensed or ac-
15 credited by the State substance abuse authority and
16 that State standards of care are utilized.

17 “(c) DEFINITION.—In this section:

18 “(1) The term ‘violent offender’ means an indi-
19 vidual who has committed an offense that, by its na-
20 ture, involves a substantial use of physical force with
21 the specific intent to cause serious bodily injury or
22 harm to another individual, as determined by the en-
23 tity applying for or receiving a grant under this
24 part.

1 “(2) The term ‘sex offender’ means an indi-
2 vidual who has committed an act of sexual assault
3 as such term is defined in section 40002 of the Vio-
4 lence Against Women Act of 1994 (42 U.S.C.
5 13925).

6 **“SEC. 2954. FEDERAL SHARE.**

7 “(a) IN GENERAL.—The Federal share of a grant
8 made under this part may not exceed 75 percent of the
9 total costs of the program described in the application sub-
10 mitted under section 2953 for the fiscal year for which
11 the program receives assistance under this part, unless the
12 Attorney General waives, wholly or in part, the require-
13 ment of a matching contribution under this section.

14 “(b) IN-KIND CONTRIBUTIONS.—In-kind contribu-
15 tions may constitute a portion of the non-Federal share
16 of a grant.

17 **“SEC. 2955. DISTRIBUTION AND ALLOCATION.**

18 “(a) CONSIDERATION AND DISTRIBUTION.—The At-
19 torney General shall ensure that—

20 “(1) all States, State courts, local courts, units
21 of local government, and Indian tribal governments
22 are provided with an opportunity to apply and be
23 considered for a grant under this part; and

24 “(2) to the extent practicable, an equitable geo-
25 graphic distribution of grant awards is made.

1 “(b) **TECHNICAL ASSISTANCE AND TRAINING.**—Un-
2 less one or more applications submitted by any State or
3 unit of local government within such State (other than an
4 Indian tribe) for a grant under this part has been funded
5 in any fiscal year, such State, together with eligible appli-
6 cants within such State, shall be provided targeted tech-
7 nical assistance and training by the Bureau of Justice As-
8 sistance to assist such State and such eligible applicants
9 to successfully compete for future funding under this part,
10 and to strengthen existing State drug court systems. In
11 providing such technical assistance and training, the Bu-
12 reau of Justice Assistance shall consider and respond to
13 the unique needs of rural States, rural areas, and rural
14 communities.

15 **“SEC. 2956. REPORT.**

16 “A State, Indian tribal government, or unit of local
17 government that receives funds under this part during a
18 fiscal year shall submit to the Attorney General a descrip-
19 tion and an evaluation report on a date specified by the
20 Attorney General regarding the effectiveness of this part.

21 **“SEC. 2957. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-**
22 **UATION.**

23 “(a) **TECHNICAL ASSISTANCE AND TRAINING.**—The
24 Attorney General may provide technical assistance and
25 training in furtherance of the purposes of this part.

1 “(b) EVALUATIONS.—In addition to any evaluation
2 requirements that may be prescribed for grantees (includ-
3 ing uniform data collection standards and reporting re-
4 quirements), the Attorney General shall carry out or make
5 arrangements for evaluations of programs that receive
6 support under this part.

7 “(c) ADMINISTRATION.—The technical assistance,
8 training, and evaluations authorized by this section may
9 be carried out directly by the Attorney General, in collabo-
10 ration with the Secretary of Health and Human Services,
11 or through grants, contracts, or other cooperative arrange-
12 ments with other entities.”.

13 (b) REAUTHORIZATION.—Paragraph (25) of section
14 1001(a) of the Omnibus Crime Control and Safe Streets
15 Act of 1968 (42 U.S.C. 3793(a)) is amended to read as
16 follows:

17 “(25)(A) There are authorized to be appro-
18 priated to carry out part EE—

19 “(i) \$125,000,000 for fiscal year 2011;

20 “(ii) \$150,000,000 for fiscal year 2012;

21 “(iii) \$200,000,000 for fiscal year 2013;

22 and

23 “(iv) \$250,000,000 for each of fiscal years
24 2014 through 2017.

1 “(B) The Attorney General shall reserve not
2 less than 1 percent and not more than 4.5 percent
3 of the sums appropriated for this program in each
4 fiscal year for research and evaluation of this pro-
5 gram.”.

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