

114TH CONGRESS
1ST SESSION

S. 2205

To establish a grant program to assist tribal governments in establishing tribal healing to wellness courts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 2015

Mr. TESTER (for himself and Mr. FRANKEN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish a grant program to assist tribal governments in establishing tribal healing to wellness courts, and for other purposes.

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 “Tribal Healing to
5 Wellness Courts Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) INDIAN TRIBE.—The term “Indian tribe”
9 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450b).

3 (2) TRIBAL GOVERNMENT.—The term “tribal
4 government” means the governing body of an Indian
5 tribe.

6 **SEC. 3. ESTABLISHMENT OF GRANT PROGRAM.**

7 (a) AUTHORIZATIONS.—

8 (1) IN GENERAL.—The Attorney General may
9 make grants to eligible entities for tribal healing to
10 wellness courts for members of Indian tribes, includ-
11 ing adults, juveniles, and families, that involve—

12 (A) continuing judicial supervision over of-
13 fenders and other individuals under the juris-
14 diction of the court with substance abuse prob-
15 lems; and

16 (B) the integrated administration of other
17 sanctions and services, which may include—

18 (i) mandatory periodic testing for
19 each participant for the use of controlled
20 substances or other addictive substances
21 during any period of participation in the
22 tribal healing to wellness court;

23 (ii) substance abuse treatment for
24 each participant;

(iii) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(iv) offender management, and services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services.

(2) CULTURAL ACTIVITIES.—At the option of the eligible entity establishing the tribal healing to wellness court, the tribal healing to wellness court may include cultural activities in the services provided under paragraph (1).

(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section are tribal governments—

(1) acting directly or through agreements with other public or private entities; and

(2) acting in partnership with States or units of local government.

1 (c) APPLICATIONS.—To receive a grant under this
2 section, an eligible entity shall submit to the Attorney
3 General an application at such time, in such manner, and
4 containing such information as the Attorney General may
5 require, including—

6 (1) a long-term strategy and detailed implemen-
7 tation plan;

8 (2) an explanation of the inability of the appli-
9 cant to fund the tribal healing to wellness court ade-
10 quately without the grant;

11 (3) a certification that the grant provided will
12 be used to supplement, and not supplant, State, In-
13 dian tribal, and local sources of funding that would
14 otherwise be available;

15 (4) an identification of related governmental or
16 community initiatives that complement or will be co-
17 ordinated with the proposal;

18 (5) a certification that—

19 (A) there has been appropriate consulta-
20 tion with all affected agencies; and

21 (B) there will be appropriate coordination
22 with all affected agencies during the implemen-
23 tation of the tribal healing to wellness program;

24 (6) a certification that participating offenders
25 will be supervised by 1 or more designated judges

1 with responsibility for the tribal healing to wellness
2 court;

3 (7) a specification of plans for obtaining nec-
4 essary support and continuing the proposed tribal
5 healing to wellness court following the conclusion of
6 the grant period; and

7 (8) a description of the methodology that will
8 be used in evaluating the tribal healing to wellness
9 court.

10 (d) GEOGRAPHIC DISTRIBUTION.—The Attorney
11 General shall ensure, to the maximum extent practicable,
12 the equitable geographic distribution of grant awards
13 under this Act.

14 **SEC. 4. MANDATORY DRUG TESTING AND MANDATORY**
15 **SANCTIONS AND RESPONSES.**

16 (a) MANDATORY TESTING.—

17 (1) IN GENERAL.—Grant amounts under this
18 Act may be used for a tribal healing to wellness
19 court only if the tribal healing to wellness court has
20 mandatory periodic testing as described in section
21 3(a)(1)(B)(i).

22 (2) REGULATIONS.—

23 (A) IN GENERAL.—The Attorney General,
24 by issuing guidelines or promulgating regula-
25 tions, shall describe standards for the timing

1 and manner of complying with the requirements
2 of paragraph (1).

3 (B) STANDARDS.—The standards under
4 subparagraph (A)—

5 (i) shall ensure that—

6 (I) each participant is tested for
7 any controlled substance the Attorney
8 General or the court may require; and

9 (II) the testing is accurate and
10 practicable; and

11 (ii) may require approval of the drug
12 testing regime to ensure that adequate
13 testing occurs.

14 (b) MANDATORY SANCTIONS AND RESPONSES.—

15 (1) IN GENERAL.—The Attorney General, by
16 issuing guidelines or promulgating regulations, may
17 require that grant amounts under this section may
18 be used for a tribal healing to wellness court only if
19 the tribal healing to wellness court imposes grad-
20 uated sanctions that increase punitive responses,
21 therapeutic responses, or both, if a participant fails
22 a drug test.

23 (2) INCLUSIONS.—The sanctions and responses
24 under paragraph (1) may include—

25 (A) incarceration;

- 1 (B) detoxification treatment;
- 2 (C) residential treatment;
- 3 (D) increased time in the program;
- 4 (E) termination from the program;
- 5 (F) increased drug screening requirements;
- 6 (G) increased court appearances;
- 7 (H) increased counseling;
- 8 (I) increased supervision;
- 9 (J) electronic monitoring;
- 10 (K) in-home restriction;
- 11 (L) community service;
- 12 (M) family counseling;
- 13 (N) anger management classes; and
- 14 (O) additional assessments.

15 **SEC. 5. PROHIBITION ON PARTICIPATION BY VIOLENT OF-**
16 **FENDERS.**

17 (a) DEFINITIONS.—In this section:

18 (1) VIOLENT OFFENDER.—Except as provided
19 in paragraph (2), the term “violent offender” means
20 a person who—

21 (A) is charged with or convicted of an of-
22 fense or conduct that is punishable by a term
23 of imprisonment exceeding 1 year, during the
24 course of which offense or conduct—

1 (i) the person carried, possessed, or
 2 used a firearm or dangerous weapon;

3 (ii) there occurred the death of or se-
 4 rious bodily injury to any person; or

5 (iii) there occurred the use of force
 6 against the person of another, without re-
 7 gard to whether any of the circumstances
 8 described in clause (i) or (ii) is an element
 9 of the offense or conduct of which or for
 10 which the person is charged or convicted;
 11 or

12 (B) has 1 or more prior convictions for a
 13 felony crime of violence involving the use or at-
 14 tempted use of force against a person with the
 15 intent to cause death or serious bodily harm.

16 (2) VIOLENT OFFENDER DEFINITION FOR PUR-
 17 POSES OF JUVENILE DRUG COURTS.—For purposes
 18 of juvenile drug courts, the term “violent offender”
 19 means a juvenile who has been convicted of, or adju-
 20 dicated delinquent for, a felony-level offense that—

21 (A) has as an element, the use, attempted
 22 use, or threatened use of physical force against
 23 the person or property of another, or the pos-
 24 session or use of a firearm; or

1 (B) by its nature, involves a substantial
2 risk that physical force against the person or
3 property of another may be used in the course
4 of committing the offense.

5 (b) PROHIBITION.—The Attorney General shall—

6 (1) issue regulations or guidelines to ensure
7 that the tribal healing to wellness courts carried out
8 using a grant under this Act do not permit partici-
9 pation by violent offenders; and

10 (2) immediately suspend funding for any tribal
11 healing to wellness court receiving a grant under
12 this Act, pending compliance, if the Attorney Gen-
13 eral finds that violent offenders are participating in
14 the tribal healing to wellness court.

15 (c) WAIVER.—

16 (1) IN GENERAL.—The Attorney General may
17 waive the application of this section to a tribal heal-
18 ing to wellness court if the applicable entity receiv-
19 ing grant amounts under this Act applies for a waiv-
20 er.

21 (2) REQUIREMENTS.—The Attorney General
22 shall establish requirements for a waiver under para-
23 graph (1) in consultation with Indian tribes.

1 **SEC. 6. TECHNICAL ASSISTANCE AND TRAINING; SUPPORT**
2 **SERVICES.**

3 (a) TECHNICAL ASSISTANCE AND TRAINING.—

4 (1) IN GENERAL.—The Attorney General, act-
5 ing through the Bureau of Justice Assistance or
6 through grants, contracts, or other cooperative ar-
7 rangements with national or regional organizations,
8 shall provide to each eligible entity receiving a grant
9 under this Act technical assistance and training—

10 (A) to assist that eligible entity in success-
11 fully competing for future funding under this
12 Act; and

13 (B) to strengthen existing tribal healing to
14 wellness courts.

15 (2) RURAL NEEDS.—In providing technical as-
16 sistance and training under paragraph (1), the Bu-
17 reau of Justice Assistance shall consider and re-
18 spond to the unique needs of eligible entities located
19 in rural States, rural areas, and rural communities.

20 (b) SUPPORT SERVICES.—The Indian Health Service
21 and the Substance Abuse and Mental Health Services Ad-
22 ministration shall provide to each eligible entity receiving
23 a grant under this Act support services to assist the eligi-
24 ble entity in carrying out the tribal healing to wellness
25 court receiving grant amounts under this Act.

1 **SEC. 7. REPORT.**

2 An eligible entity receiving a grant under this Act,
3 for each fiscal year of the grant period and on a date spec-
4 ified by the Attorney General, shall submit to the Attorney
5 General a report that describes the effectiveness of this
6 Act.

7 **SEC. 8. ADMINISTRATION.**

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

12 (b) USE OF COMPONENTS.—The Attorney General
13 may use any component or components of the Department
14 of Justice in carrying out this Act.

15 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) IN GENERAL.—There is authorized to be appro-
17 priated to carry out this Act \$10,000,000 for each of fiscal
18 years 2016 through 2020, to remain available until ex-
19 pended.

20 (b) TRAINING AND TECHNICAL ASSISTANCE.—Each
21 fiscal year, not more than 5 percent of funds made avail-
22 able under subsection (a) for the fiscal year may be used
23 by the Attorney General to provide training and technical
24 assistance to carry out this Act.

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