

116TH CONGRESS
2D SESSION

H. R. 8647

To establish a new Justice Department grant program to reduce the number of individuals incarcerated in local jails, reduce the number of days individuals are incarcerated in local jails, and support community-led local justice reinvestment.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2020

Mr. TRONE (for himself and Mr. ARMSTRONG) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To establish a new Justice Department grant program to reduce the number of individuals incarcerated in local jails, reduce the number of days individuals are incarcerated in local jails, and support community-led local justice reinvestment.

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 “Community First Pre-
5 trial Reform and Jail Decarceration Act”.

1 **SEC. 2. GRANTS AUTHORIZED.**

2 (a) GRANTS AUTHORIZED.—The Attorney General,
3 acting through the Bureau of Justice Assistance, shall
4 make grants to eligible partnerships for purposes of reduc-
5 ing the number of individuals in jails operated by units
6 of local government and the number of days such individ-
7 uals spend in jail as follows:

8 (1) Grants for analysis and planning, which
9 shall be used to—

10 (A) collect and analyze local criminal jus-
11 tice and incarceration data, including data on
12 racial and ethnic disparities; and

13 (B) develop a strategic, collaborative plan
14 to decrease local jail incarceration that shall be
15 public facing.

16 (2) Grants for implementation of the plan de-
17 scribed in paragraph (1)(B) and which may be used
18 for activities to reduce the number of individuals in-
19 carcerated in local jails and to reduce the number of
20 days that individuals are so incarcerated including—

21 (A) eliminating or reducing the use of cash
22 bail;

23 (B) reducing revocations of conditional re-
24 lease;

25 (C) creating or increasing the availability
26 of pretrial services, including efforts undertaken

1 in collaboration with community-based organi-
2 zations and nonprofits;

3 (D) investing in case processing and proc-
4 esses to reduce overall time to disposition and
5 time between court events;

6 (E) ensuring early assignment of counsel
7 and presence of counsel at individuals' first
8 court appearance or bail hearing;

9 (F) providing training to various actors
10 within the criminal justice system on indigent
11 defense that is aligned with best practices in
12 the field;

13 (G) creating or expanding diversion pro-
14 grams that do not require an individual to enter
15 into a guilty plea and do not use incarceration
16 as a sanction for noncompliance—

17 (i) at the pre-arrest phase;

18 (ii) at the pre-bookings phase; and

19 (iii) at the post-bookings phase; or

20 (H) any other emerging, promising, or evi-
21 dence-based practices that an eligible partner-
22 ship proposes and the Attorney General deems
23 likely to reduce local jail incarceration.

1 (b) ELIGIBLE PARTNERSHIP.—An eligible partner-
2 ship is a partnership between not less than 2 of the fol-
3 lowing:

4 (1) A unit of local government.

5 (2) A territory.

6 (3) An Indian tribe.

7 (4) A nonprofit organization.

8 (c) APPLICATION.—An application for a grant shall
9 include the following:

10 (1) Details of the range of pretrial services
11 available within the jurisdiction where the jail being
12 targeted for incarceration rate reduction under this
13 Act is located.

14 (2) A plan for ongoing process evaluation and
15 outcome evaluation.

16 (3) Either—

17 (A) data—

18 (i) disaggregated by race, ethnicity,
19 and gender on incarceration for correc-
20 tional facilities within the local jurisdiction
21 for each of the last five calendar years that
22 includes—

23 (I) the average daily population;

24 (II) the percentage of individuals
25 held pretrial and post-conviction; and

1 (III) the average length of stay
2 for individuals held pretrial and post-
3 conviction; and

4 (ii) disaggregated by race, ethnicity,
5 and gender on arrests made by all law en-
6 forcement entities operating within the
7 local jurisdiction over each of the last five
8 calendar years; or

9 (B) in the event that elements of such in-
10 carceration or arrest data are not able to be
11 compiled and reported, a comprehensive plan to
12 obtain as much of the unavailable data as pos-
13 sible within the first year of the award.

14 **SEC. 3. REQUIREMENTS.**

15 (a) IN GENERAL.—Grantees shall—

16 (1) consult in all phases of planning, implemen-
17 tation, and evaluation with municipal, county, and
18 state law enforcement agencies, courts in the local
19 jurisdiction, public defense organizations and crimi-
20 nal defense practitioners in the local jurisdiction,
21 local substance use and mental health authorities,
22 local community members, local community members
23 who have been justice-involved, and community-
24 based organizations and service providers;

1 (2) analyze local jail incarceration and arrest
2 data to identify the drivers of jail incarceration and
3 racial and ethnic disparities and ground jail popu-
4 lation reduction strategies in that data;

5 (3) reduce incarceration rates by no less than
6 5 percent the first year of an implementation grant,
7 10 percent in each subsequent year, and 50 percent
8 by the end of the grant period;

9 (4) in consultation with the Bureau of Justice
10 Assistance—

11 (A) adopt and implement a methodology
12 for measuring racial and ethnic disparities in
13 jail incarceration;

14 (B) set goals for the reduction of racial
15 and ethnic jail incarceration disparities; and

16 (C) decrease levels of incarceration across
17 all races and ethnicities;

18 (5) engage an external evaluator to coordinate
19 data collection and reporting in an ongoing fashion
20 and perform both a process and outcome evaluation,
21 with support from the Bureau of Justice Assistance;
22 and

23 (6) use financial savings created through de-
24 creased incarceration to sustain programmatic and
25 community-based efforts to reduce jail incarceration.

(b) GRANT OVERSIGHT REQUIREMENT.—

(1) IN GENERAL.—If a grantee fails to meet the incarceration rate and racial and ethnic disparities reduction requirements under subsection (a)(3) in any year of the award, the Bureau of Justice Assistance shall perform an audit of the use of their award and the grantee shall implement new strategies based on that audit. If a grantee fails to meet the incarceration rate and racial and ethnic disparities reduction requirements under subsection (a)(3) in any two consecutive years of the award, the Attorney General shall terminate the award.

(2) MODIFICATION AUTHORITY.—The Bureau of Justice Assistance may grant a modification to the incarceration rate reduction requirement under subsection (a)(3) if the Bureau determines after an audit that the failure to meet the incarceration rate reduction requirement was caused by an increase in population in the covered jurisdiction. If a grantee fails to meet the modified reduction requirements in any two subsequent years of the award, the Attorney General shall terminate the award.

1 **SEC. 4. GRANT AMOUNTS.**

2 (a) PLANNING GRANTS.—A grant under section
3 2(a)(1) may be for not more than \$100,000 for a single
4 grantee, and shall be for a term of 1 year.

5 (b) IMPLEMENTATION GRANTS.—A grant under sec-
6 tion 2(a)(2) shall be for a term of 6 years, and shall be
7 structured as follows:

8 (1) For the first year of the grant term, an
9 amount shall be disbursed that is to be not less than
10 \$500,000 and not more than \$3,000,000, contingent
11 upon acceptance of a grantee's proposed budget for
12 activities under the grant, which may be subject to
13 revision during the award process.

14 (2) Award amounts shall decrease annually
15 by—

16 (A) 10 percent in the second year;

17 (B) 15 percent in the third year;

18 (C) 20 percent in the fourth year; and

19 (D) 25 percent in the fifth year.

20 (3) Award amounts during the sixth year of the
21 award may not be used for programmatic activities
22 and shall support only program evaluation and the
23 drafting of a final report, and such funds shall be
24 available to the grantees until expended.

25 **SEC. 5. SELECTION PRIORITY.**

26 In selecting grantees, the Attorney General shall—

1 (1) give priority to applicants from jurisdictions
2 with the highest incarceration rates that are not al-
3 ready in decline and whose applications contain the
4 most ambitious and attainable plans for reducing
5 that rate;

6 (2) give additional priority to applicants from
7 jurisdictions seeking to use funds under this Act to
8 prevent the local government from expanding the
9 number of beds in local correctional facilities;

10 (3) for any year in which there will only be one
11 new or ongoing award, ensure that a small metro-
12 politan, micropolitan, or noncore area is the recipi-
13 ent of the award;

14 (4) for any year in which there will be more
15 than one new or ongoing award, ensure that small
16 metropolitan, micropolitan, or noncore areas are the
17 recipients of at least two awards; and

18 (5) for any year in which there will be three or
19 more new or ongoing awards, ensure that no more
20 than one large central metropolitan area is a recipi-
21 ent of an award.

22 **SEC. 6. DEFINITIONS.**

23 In this Act:

24 (1) The term “conditional release” means pro-
25 bation, parole, supervised release, home confinement,

1 community supervision, and other practices under
2 which an individual is supervised in the community
3 by the criminal justice system and may be incarcerated
4 if found in violation of the conditions of their
5 release.

6 (2) The term “diversion” means a program or
7 practice that—

8 (A) places individuals who come into con-
9 tact with the criminal justice system into alter-
10 native processes outside the standard scope of
11 criminal justice processing; and

12 (B) reduces an individual’s involvement in
13 the criminal justice system in both the short
14 and long term.

15 (3) The term “emerging practice” means a pro-
16 gram or practice—

17 (A) with initial implementation resulting in
18 decreased local jail incarceration in one or more
19 communities; and

20 (B) that will be evaluated through a well-
21 designed and rigorous study.

22 (4) The term “evidence-based practice” means
23 a program or practice that—

24 (A) is demonstrated to be effective when
25 implemented with fidelity;

1 (B) is based on a clearly articulated and
2 empirically supported theory;

3 (C) has measurable outcomes relevant to
4 reducing jail incarceration, including a detailed
5 description of the outcomes produced in a par-
6 ticular population, whether urban or rural; and

7 (D) has been scientifically tested and prov-
8 en effective through randomized control studies
9 or comparison group studies and with the abil-
10 ity to replicate and scale.

11 (5) The term “micropolitan area” has the
12 meaning established under the Centers for Disease
13 Control and Prevention’s (hereinafter in this Act re-
14 ferred to as the “CDC”) National Center for Health
15 Statistics Urban-Rural Classification Scheme for
16 Counties.

17 (6) The term “small metropolitan area” has the
18 meaning established under the CDC’s National Cen-
19 ter for Health Statistics Urban-Rural Classification
20 Scheme for Counties.

21 (7) The term “noncore areas” has the meaning
22 established under the CDC’s National Center for
23 Health Statistics Urban-Rural Classification Scheme
24 for Counties.

1 (8) The term “post-booking diversion” means a
 2 program or practice that diverts individuals from
 3 formal criminal justice system processing after for-
 4 mal intake processing into jail.

5 (9) The term “pre-booking diversion” means a
 6 program or practice that diverts individuals from
 7 formal criminal justice system processing prior to
 8 arrest or prior to formal intake processing into jail.

9 (10) The term “promising practice” means a
 10 program or practice that—

11 (A) is demonstrated to be effective based
 12 on positive outcomes relevant to reducing jail
 13 incarceration from one or more objective, inde-
 14 pendent, and scientifically valid evaluations, as
 15 documented in writing to the Attorney General;
 16 and

17 (B) will be evaluated through a well-de-
 18 signed and rigorous study.

19 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated—

21 (1) \$20,000,000 for each of fiscal years 2021
 22 through 2025 for planning grants; and

23 (2) \$100,000,000 for each of fiscal years 2021
 24 through 2025 for implementation grants, of which

- 1 10 percent of any appropriated amount is reserved
- 2 specifically for evaluation activities.

