

**Editorial Notes**

## REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, known as the Omnibus Crime Control and Safe Streets Act of 1968. Former section 506 of the Act was classified to section 3756 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 109-162, title XI, §1111(a)(1), Jan. 5, 2006, 119 Stat. 3094. Section 505(a) of the Act is classified to section 10156(a) of this title. For complete classification of this Act to the Code, see Short Title of 1968 Act note set out under section 10101 of this title and Tables.

The Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009, referred to in subsec. (b)(2), probably means the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, Jan. 5, 2006, 119 Stat. 2960, which repealed former section 3756 of this title and enacted section 10156 of this title. See note above.

## CODIFICATION

Section was formerly classified to section 3750 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

2006—Pub. L. 109-162 substituted “Name of program” for “Name of programs” in section catchline and amended text generally. Prior to amendment, text read as follows: “The grant programs established under this subchapter shall be known as the ‘Edward Byrne Memorial State and Local Law Enforcement Assistance Programs’.”

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-162, title XI, §1111(d), Jan. 5, 2006, 119 Stat. 3102, provided that: “The amendments made by this section [see Tables for classification] shall apply with respect to the first fiscal year beginning after the date of the enactment of this Act [Jan. 5, 2006] and each fiscal year thereafter.”

**§ 10152. Description****(a) Grants authorized****(1) In general**

From amounts made available to carry out this part, the Attorney General may, in accordance with the formula established under section 10156 of this title, make grants to States and units of local government, for use by the State or unit of local government to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings, including for any one or more of the following programs:

- (A) Law enforcement programs.
- (B) Prosecution and court programs.
- (C) Prevention and education programs.
- (D) Corrections and community corrections programs.
- (E) Drug treatment and enforcement programs.
- (F) Planning, evaluation, and technology improvement programs.
- (G) Crime victim and witness programs (other than compensation).
- (H) Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

(I) Implementation of State crisis intervention court proceedings and related programs or initiatives, including but not limited to—

- (i) mental health courts;
- (ii) drug courts;
- (iii) veterans courts; and
- (iv) extreme risk protection order programs, which must include, at a minimum—

(I) pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive or procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). Such programs must include, at the appropriate phase to prevent any violation of constitutional rights, at minimum, notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses;

(II) the right to be represented by counsel at no expense to the government;

(III) pre-deprivation and post-deprivation heightened evidentiary standards and proof which mean not less than the protections afforded to a similarly situated litigant in Federal court or promulgated by the State’s evidentiary body, and sufficient to ensure the full protections of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive and procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). The heightened evidentiary standards and proof under such programs must, at all appropriate phases to prevent any violation of any constitutional right, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation; and

(IV) penalties for abuse of the program.

**(2) Rule of construction**

Paragraph (1) shall be construed to ensure that a grant under that paragraph may be used for any purpose for which a grant was authorized to be used under either or both of the programs specified in section 10151(b) of this title, as those programs were in effect immediately before January 5, 2006.

**(b) Contracts and subawards**

A State or unit of local government may, in using a grant under this part for purposes authorized by subsection (a), use all or a portion of that grant to contract with or make one or more subawards to one or more—

- (1) neighborhood or community-based organizations that are private and nonprofit; or
- (2) units of local government.

**(c) Program assessment component; waiver**

(1) Each program funded under this part shall contain a program assessment component, developed pursuant to guidelines established by the Attorney General, in coordination with the National Institute of Justice.

(2) The Attorney General may waive the requirement of paragraph (1) with respect to a program if, in the opinion of the Attorney General, the program is not of sufficient size to justify a full program assessment.

**(d) Prohibited uses**

Notwithstanding any other provision of this Act, no funds provided under this part may be used, directly or indirectly, to provide any of the following matters:

(1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

(2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—

- (A) vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters);
- (B) luxury items;
- (C) real estate;
- (D) construction projects (other than penal or correctional institutions); or
- (E) any similar matters.

**(e) Administrative costs**

Not more than 10 percent of a grant made under this part may be used for costs incurred to administer such grant.

**(f) Period**

The period of a grant made under this part shall be four years, except that renewals and extensions beyond that period may be granted at the discretion of the Attorney General.

**(g) Rule of construction**

Subparagraph (d)(1) shall not be construed to prohibit the use, directly or indirectly, of funds provided under this part to provide security at a public event, such as a political convention or major sports event, so long as such security is provided under applicable laws and procedures.

**(h) Annual report on crisis intervention programs**

The Attorney General shall publish an annual report with respect to grants awarded for crisis intervention programs or initiatives under subsection (a)(1)(I) that contains—

- (1) a description of the grants awarded and the crisis intervention programs or initiatives funded by the grants, broken down by grant recipient;

(2) an evaluation of the effectiveness of the crisis intervention programs or initiatives in preventing violence and suicide;

(3) measures that have been taken by each grant recipient to safeguard the constitutional rights of an individual subject to a crisis intervention program or initiative; and

(4) efforts that the Attorney General is making, in coordination with the grant recipients, to protect the constitutional rights of individuals subject to the crisis intervention programs or initiatives.

(Pub. L. 90-351, title I, §501, as added Pub. L. 109-162, title XI, §1111(a)(2)(C), Jan. 5, 2006, 119 Stat. 3095; amended Pub. L. 109-271, §8(h), Aug. 12, 2006, 120 Stat. 767; Pub. L. 114-255, div. B, title XIV, §14001(a), Dec. 13, 2016, 130 Stat. 1287; Pub. L. 117-159, div. A, title II, §12003, June 25, 2022, 136 Stat. 1325.)

**Editorial Notes**

## REFERENCES IN TEXT

This Act, referred to in subsec. (d), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, known as the Omnibus Crime Control and Safe Streets Act of 1968. For complete classification of this Act to the Code, see Short Title note set out under section 10101 of this title and Tables.

## CODIFICATION

Section was formerly classified to section 3751 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

## PRIOR PROVISIONS

A prior section 501 of title I of Pub. L. 90-351, as added and amended Pub. L. 100-690, title V, §5104, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4301, 4329; Pub. L. 101-647, title VI, §601(b), Nov. 29, 1990, 104 Stat. 4823; Pub. L. 103-322, title X, §100003, title XIV, §140004, title XV, §150003, title XXI, §210302(a), Sept. 13, 1994, 108 Stat. 1996, 2032, 2035, 2065; Pub. L. 104-132, title VIII, §822(a), Apr. 24, 1996, 110 Stat. 1317; Pub. L. 106-177, title I, §103, Mar. 10, 2000, 114 Stat. 35; Pub. L. 106-310, div. B, title XXXVI, §3621(b), Oct. 17, 2000, 114 Stat. 1231; Pub. L. 106-561, §2(a), Dec. 21, 2000, 114 Stat. 2787, related to description of drug control and system improvement grant program, prior to repeal by Pub. L. 109-162, title XI, §1111(a)(1), (d), Jan. 5, 2006, 119 Stat. 3094, 3102, applicable with respect to the first fiscal year beginning after Jan. 5, 2006, and each fiscal year thereafter.

Another prior section 501 of title I of Pub. L. 90-351, formerly §601, as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1195; renumbered §501 and amended Pub. L. 98-473, title II, §608(a), Oct. 12, 1984, 98 Stat. 2086, related to Congressional statement of purpose regarding discretionary grants, prior to repeal by Pub. L. 100-690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4328.

Another prior section 501 of title I of Pub. L. 90-351, as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1192, set out Congressional statement of purpose of national priority grants, prior to repeal by Pub. L. 98-473, title II, §607, Oct. 12, 1984, 98 Stat. 2086.

Another prior section 501 of Pub. L. 90-351, title I, June 19, 1968, 82 Stat. 205; Pub. L. 93-83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94-503, title I, §120, Oct. 15, 1976, 90 Stat. 2418, related to administrative rules, regulations, and procedures, prior to the general amendment of title I of Pub. L. 90-351 by Pub. L. 96-157.

## AMENDMENTS

2022—Subsec. (a)(1). Pub. L. 117-159, §12003(a)(1), inserted “or civil proceedings” after “criminal justice” in introductory provisions.

Subsec. (a)(1)(I). Pub. L. 117-159, §12003(a)(2), added subpar. (I).

Subsec. (h). Pub. L. 117-159, §12003(b), added subsec. (h).

2016—Subsec. (a)(1)(H). Pub. L. 114-255 added subpar. (H).

2006—Subsec. (b)(3). Pub. L. 109-271 struck out par. (3) which read as follows: “tribal governments.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section applicable with respect to the first fiscal year beginning after Jan. 5, 2006, and each fiscal year thereafter, see section 1111(d) of Pub. L. 109-162, set out as an Effective Date of 2006 Amendment note under section 10151 of this title.

### § 10153. Applications

#### (A)<sup>1</sup> In general

To request a grant under this part, the chief executive officer of a State or unit of local government shall submit an application to the Attorney General within 120 days after the date on which funds to carry out this part are appropriated for a fiscal year, in such form as the Attorney General may require. Such application shall include the following:

(1) A certification that Federal funds made available under this part will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

(2) An assurance that, not fewer than 30 days before the application (or any amendment to the application) was submitted to the Attorney General, the application (or amendment) was submitted for review to the governing body of the State or unit of local government (or to an organization designated by that governing body).

(3) An assurance that, before the application (or any amendment to the application) was submitted to the Attorney General—

(A) the application (or amendment) was made public; and

(B) an opportunity to comment on the application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure makes such an opportunity available.

(4) An assurance that, for each fiscal year covered by an application, the applicant shall maintain and report such data, records, and information (programmatic and financial) as the Attorney General may reasonably require.

(5) A certification, made in a form acceptable to the Attorney General and executed by the chief executive officer of the applicant (or by another officer of the applicant, if qualified under regulations promulgated by the Attorney General), that—

(A) the programs to be funded by the grant meet all the requirements of this part;

(B) all the information contained in the application is correct;

(C) there has been appropriate coordination with affected agencies; and

(D) the applicant will comply with all provisions of this part and all other applicable Federal laws.

(6) A comprehensive Statewide plan detailing how grants received under this section will be used to improve the administration of the criminal justice system, which shall—

(A) be designed in consultation with local governments, and representatives of all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, corrections personnel, and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services;

(B) include a description of how the State will allocate funding within and among each of the uses described in subparagraphs (A) through (G) of section 10152(a)(1) of this title;

(C) describe the process used by the State for gathering evidence-based data and developing and using evidence-based and evidence-gathering approaches in support of funding decisions;

(D) describe the barriers at the State and local level for accessing data and implementing evidence-based approaches to preventing and reducing crime and recidivism; and

(E) be updated every 5 years, with annual progress reports that—

(i) address changing circumstances in the State, if any;

(ii) describe how the State plans to adjust funding within and among each of the uses described in subparagraphs (A) through (G) of section 10152(a)(1) of this title;

(iii) provide an ongoing assessment of need;

(iv) discuss the accomplishment of goals identified in any plan previously prepared under this paragraph; and

(v) reflect how the plan influenced funding decisions in the previous year.

#### (b) Technical assistance

##### (1) Strategic planning

Not later than 90 days after December 16, 2016, the Attorney General shall begin to provide technical assistance to States and local governments requesting support to develop and implement the strategic plan required under subsection (a)(6). The Attorney General may enter into agreements with 1 or more non-governmental organizations to provide technical assistance and training under this paragraph.

##### (2) Protection of constitutional rights

Not later than 90 days after December 16, 2016, the Attorney General shall begin to provide technical assistance to States and local governments, including any agent thereof with responsibility for administration of justice, requesting support to meet the obligations established by the Sixth Amendment to the Constitution of the United States, which shall include—

(A) public dissemination of practices, structures, or models for the administration of justice consistent with the requirements of the Sixth Amendment; and

<sup>1</sup> So in original. Probably should be “(a)”.