

“(2) between 600,000 and 700,000 mentally ill persons are annually booked in jail alone, according to the American Jail Association;

“(3) estimates say 25 to 40 percent of America’s mentally ill will come into contact with the criminal justice system, according to National Alliance for the Mentally Ill;

“(4) 75 percent of mentally ill inmates have been sentenced to time in prison or jail or probation at least once prior to their current sentence, according to the Bureau of Justice Statistics in July, 1999; and

“(5) Broward County, Florida and King County, Washington, have created separate Mental Health Courts to place nonviolent mentally ill offenders into judicially monitored inpatient and outpatient mental health treatment programs, where appropriate, with positive results.”

### § 10472. Definitions

In this subchapter—

(1) the term “mental illness” means a diagnosable mental, behavioral, or emotional disorder—

(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

(B) that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities;

(2) the term “preliminarily qualified offender with mental illness, mental retardation, or co-occurring mental and substance abuse disorders” means a person who—

(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders; or

(ii) manifests obvious signs of mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

(B) is deemed eligible by designated judges;

(3) the term “court-ordered assisted outpatient treatment” means a program through which a court may order a treatment plan for an eligible patient that—

(A) requires such patient to obtain outpatient mental health treatment while the patient is not currently residing in a correctional facility or inpatient treatment facility; and

(B) is designed to improve access and adherence by such patient to intensive behavioral health services in order to—

(i) avert relapse, repeated hospitalizations, arrest, incarceration, suicide, property destruction, and violent behavior; and

(ii) provide such patient with the opportunity to live in a less restrictive alternative to incarceration or involuntary hospitalization; and

(4) the term “eligible patient” means an adult, mentally ill person who, as determined by a court—

(A) has a history of violence, incarceration, or medically unnecessary hospitalizations;

(B) without supervision and treatment, may be a danger to self or others in the community;

(C) is substantially unlikely to voluntarily participate in treatment;

(D) may be unable, for reasons other than indigence, to provide for any of his or her basic needs, such as food, clothing, shelter, health, or safety;

(E) has a history of mental illness or a condition that is likely to substantially deteriorate if the person is not provided with timely treatment; or

(F) due to mental illness, lacks capacity to fully understand or lacks judgment to make informed decisions regarding his or her need for treatment, care, or supervision.

(Pub. L. 90-351, title I, §2202, as added Pub. L. 106-515, §3(a), Nov. 13, 2000, 114 Stat. 2400; amended Pub. L. 114-255, div. B, title XIV, §14002(b), Dec. 13, 2016, 130 Stat. 1288.)

### Editorial Notes

#### CODIFICATION

Section was formerly classified to section 3796ii-1 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### PRIOR PROVISIONS

A prior section 2202 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title V, §50001(a)(3), Sept. 13, 1994, 108 Stat. 1956, related to prohibition of participation by violent offenders, prior to repeal by Pub. L. 104-134, title I, §101[(a)] [title I, §114(b)(1)(A)], Apr. 26, 1996, 110 Stat. 1321, 1321-21; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

#### AMENDMENTS

2016—Pars. (3), (4). Pub. L. 114-255 added pars. (3) and (4).

### § 10473. Administration

#### (a) Consultation

The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this subchapter.

#### (b) Use of components

The Attorney General may utilize any component or components of the Department of Justice in carrying out this subchapter.

#### (c) Regulatory authority

The Attorney General shall issue regulations and guidelines necessary to carry out this subchapter which include, but are not limited to, the methodologies and outcome measures proposed for evaluating each applicant program.

#### (d) Applications

In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subchapter shall—

(1) include a long-term strategy and detailed implementation plan;

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

(3) certify that the Federal support provided will be used to supplement, and not supplant,