

Statutory Notes and Related Subsidiaries

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 60504 of this title.

SUBCHAPTER XXX—DRUG COURTS

Editorial Notes

CODIFICATION

Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1794, which directed that part EE (this subchapter) be inserted after part DD of title I of Pub. L. 90-351, was executed by adding part EE to title I of Pub. L. 90-351 to reflect the probable intent of Congress, notwithstanding that title I of Pub. L. 90-351 did not contain a part DD.

§ 10611. Grant authority**(a) In general**

The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts that involve—

(1) continuing judicial supervision over offenders, and other individuals under the jurisdiction of the court, with substance abuse problems, including co-occurring substance abuse and mental health problems, who are not violent offenders;

(2) coordination with the appropriate State or local prosecutor; and

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

(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(B) substance abuse treatment for each participant;

(C) 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;

(D) offender management, and aftercare 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;

(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund.

(b) Limitation

Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender's rehabilitation.

(c) Mandatory drug testing and mandatory sanctions**(1) Mandatory testing**

Grant amounts under this subchapter may be used for a drug court only if the drug court has mandatory periodic testing as described in subsection (a)(3)(A). The Attorney General shall, by prescribing guidelines or regulations, specify standards for the timing and manner of complying with such requirements. The standards—

(A) shall ensure that—

(i) each participant is tested for every controlled substance that the participant has been known to abuse, and for any other controlled substance the Attorney General or the court may require; and

(ii) the testing is accurate and practicable; and

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

(2) Mandatory sanctions

The Attorney General shall, by prescribing guidelines or regulations, specify that grant amounts under this subchapter may be used for a drug court only if the drug court imposes graduated sanctions that increase punitive measures, therapeutic measures, or both whenever a participant fails a drug test. Such sanctions and measures may include, but are not limited to, one or more of the following:

(A) Incarceration.

(B) Detoxification treatment.

(C) Residential treatment.

(D) Increased time in program.

(E) Termination from the program.

(F) Increased drug screening requirements.

(G) Increased court appearances.

(H) Increased counseling.

(I) Increased supervision.

(J) Electronic monitoring.

(K) In-home restriction.

(L) Community service.

(M) Family counseling.

(N) Anger management classes.

(Pub. L. 90-351, title I, §2951, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1794; amended Pub. L. 109-162, title XI, §1143, Jan. 5, 2006, 119 Stat. 3111; Pub. L. 109-177, title VII, §751, Mar. 9, 2006, 120 Stat. 273; Pub. L. 114-255, div. B, title XIV, §14007(1), Dec. 13, 2016, 130 Stat. 1296.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-255 inserted “, including co-occurring substance abuse and mental health problems,” after “abuse problems”.

2006—Subsec. (a)(1). Pub. L. 109-162 substituted “offenders, and other individuals under the jurisdiction of the court, with substance abuse problems” for “offenders with substance abuse problems”.

Subsec. (c). Pub. L. 109-177 added subsec. (c).

§ 10612. Prohibition of participation by violent offenders

The Attorney General shall—

(1) issue regulations or guidelines to ensure that the programs authorized in this subchapter do not permit participation by violent offenders; and

(2) immediately suspend funding for any grant under this subchapter, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this subchapter.

(Pub. L. 90-351, title I, §2952, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1795.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u-1 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 110-199, title I, §103(c), Apr. 9, 2008, 122 Stat. 668, provided that: “Not later than 90 days after the date of the enactment of this Act [Apr. 9, 2008], the Secretary [probably should be “the Attorney General”] shall revise any regulations or guidelines described in section 2952 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u-1) [now 34 U.S.C. 10612] in accordance with the amendments made by subsection (a) [amending section 10613 of this title]. Such regulations shall specify that grant amounts under part EE of such Act [34 U.S.C. 10611 et seq.] shall be reduced for any drug court that does not adopt the definition of ‘violent offender’ under such part, as amended by subsection (a) of this section, within 3 years after such date of enactment.”

§ 10613. Definition

(a) In general

Except as provided in subsection (b), in this subchapter, the term “violent offender” means a person who—

(1) is charged with or convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which offense or conduct—

(A) the person carried, possessed, or used a firearm or dangerous weapon;

(B) there occurred the death of or serious bodily injury to any person; or

(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

(b) Definition for purposes of juvenile drug courts

For purposes of juvenile drug courts, the term “violent offender” means a juvenile who has been convicted of, or adjudicated delinquent for, a felony-level offense that—

(1) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or the possession or use of a firearm; or

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

(Pub. L. 90-351, title I, §2953, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1795; amended Pub. L. 109-162, title XI, §1141, Jan. 5, 2006, 119 Stat. 3110; Pub. L. 110-199, title I, §103(a), Apr. 9, 2008, 122 Stat. 668.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u-2 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-199 inserted “that is punishable by a term of imprisonment exceeding one year” after “convicted of an offense” in introductory provisions.

2006—Subsec. (b). Pub. L. 109-162 substituted “a felony-level offense that” for “an offense that” in introductory provisions.

Statutory Notes and Related Subsidiaries

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments and provisions set out as a note below by Pub. L. 110-199 and requirements for grants made under such amendments and note, see section 60504 of this title.

PERIOD FOR COMPLIANCE

Pub. L. 110-199, title I, §103(b), Apr. 9, 2008, 122 Stat. 668, provided that: “Notwithstanding section 2952(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u-1(2)) [now 34 U.S.C. 10612(2)], each grantee under part EE of such Act [34 U.S.C. 10611 et seq.] shall have not more than 3 years from the date of the enactment of this Act [Apr. 9, 2008] to adopt the definition of ‘violent offender’ under such part, as amended by subsection (a) of this section [amending this section].”

§ 10614. 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 may issue regulations and guidelines necessary to carry out this subchapter.

(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 that shall provide for the