

§ 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

consultation and coordination with appropriate State and local prosecutors, particularly when program participants fail to comply with program requirements;

(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, State, Indian tribal, and local sources of funding that would otherwise be available;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(8) describe the methodology that will be used in evaluating the program.

(Pub. L. 90-351, title I, §2954, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1796.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u-3 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 10615. Applications

To request funds under this subchapter, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(Pub. L. 90-351, title I, §2955, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1797.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u-4 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 10616. Federal share

(a) In general

The Federal share of a grant made under this subchapter may not exceed 75 percent of the total costs of the program described in the application submitted under section 10615 of this title for the fiscal year for which the program receives assistance under this subchapter, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.

(b) In-kind contributions

In-kind contributions may constitute a portion of the non-Federal share of a grant.

(Pub. L. 90-351, title I, §2956, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1797.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u-5 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 10617. Distribution and allocation

(a) Geographic distribution

The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

(b) Technical assistance and training

Unless one or more applications submitted by any State or unit of local government within such State (other than an Indian tribe) for a grant under this subchapter has been funded in any fiscal year, such State, together with eligible applicants within such State, shall be provided targeted technical assistance and training by the Bureau of Justice Assistance to assist such State and such eligible applicants to successfully compete for future funding under this subchapter, and to strengthen existing State drug court systems. In providing such technical assistance and training, the Bureau of Justice Assistance shall consider and respond to the unique needs of rural States, rural areas and rural communities.

(Pub. L. 90-351, title I, §2957, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1797; amended Pub. L. 109-162, title XI, §1142(a), Jan. 5, 2006, 119 Stat. 3110; Pub. L. 109-271, §8(l), Aug. 12, 2006, 120 Stat. 767.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3797u-6 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-271 substituted “Bureau of Justice Assistance” for “Community Capacity Development Office” in two places.

Pub. L. 109-162 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this subchapter have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this subchapter not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this subchapter.”

§ 10618. Report

A State, Indian tribal government, or unit of local government that receives funds under this subchapter during a fiscal year shall submit to the Attorney General a description and an evaluation report on a date specified by the Attor-