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PART A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

§ 12101. Definitions

Unless otherwise provided, for purposes of this part—

(1) the term “indeterminate sentencing” means a system by which—

(A) the court may impose a sentence of a range defined by statute; and

(B) an administrative agency, generally the parole board, or the court, controls release within the statutory range;

(2) the term “part 1 violent crime” means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports; and

(3) the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(Pub. L. 103-322, title II, §20101, as added Pub. L. 104-134, title I, §101[(a)] [title I, §114(a)], Apr. 26,

1996, 110 Stat. 1321, 1321-15; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 13701 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 20101 of Pub. L. 103-322, title II, Sept. 13, 1994, 108 Stat. 1815, related to grants for correctional facilities prior to the general amendment of subtitle A of title II of Pub. L. 103-322 by Pub. L. 104-134.

§ 12102. Authorization of grants

(a) In general

The Attorney General shall provide Violent Offender Incarceration grants under section 12103 of this title and Truth-in-Sentencing Incentive grants under section 12104 of this title to eligible States—

(1) to build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a part 1 violent crime or adjudicated delinquent for an act which if committed by an adult, would be a part 1 violent crime;

(2) to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, for the confinement of convicted non-violent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a part 1 violent crime;

(3) to build or expand jails; and

(4) to carry out any activity referred to in section 10631(b) of this title.

(b) Regional compacts

(1) In general

Subject to paragraph (2), States may enter into regional compacts to carry out this part. Such compacts shall be treated as States under this part.

(2) Requirement

To be recognized as a regional compact for eligibility for a grant under section 12103 or 12104 of this title, each member State must be eligible individually.

(3) Limitation on receipt of funds

No State may receive a grant under this part both individually and as part of a compact.

(c) Applicability

Notwithstanding the eligibility requirements of section 12104 of this title, a State that certifies to the Attorney General that, as of April 26, 1996, such State has enacted legislation in reliance on this part, as enacted on September 13, 1994, and would in fact qualify under those provisions, shall be eligible to receive a grant for fiscal year 1996 as though such State qualifies under section 12104 of this title.

(Pub. L. 103-322, title II, §20102, as added Pub. L. 104-134, title I, §101[(a)] [title I, §114(a)], Apr. 26, 1996, 110 Stat. 1321, 1321-15; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327;

amended Pub. L. 110-199, title I, §104(a), Apr. 9, 2008, 122 Stat. 669.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 13702 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 20102 of Pub. L. 103-322, title II, Sept. 13, 1994, 108 Stat. 1816, related to Truth in Sentencing Incentive Grants prior to the general amendment of subtitle A of title II of Pub. L. 103-322 by Pub. L. 104-134.

AMENDMENTS

2008—Subsec. (a)(4). Pub. L. 110-199 added par. (4).

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.

§ 12103. Violent offender incarceration grants

(a) Eligibility for minimum grant

To be eligible to receive a minimum grant under this section, a State shall submit an application to the Attorney General that provides assurances that the State has implemented, or will implement, correctional policies and programs, including truth-in-sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

(b) Additional amount for increased percentage of persons sentenced and time served

A State that received a grant under subsection (a) is eligible to receive additional grant amounts if such State demonstrates that the State has, since 1993—

- (1) increased the percentage of persons arrested for a part 1 violent crime sentenced to prison; or
- (2) increased the average prison time actually served or the average percent of sentence served by persons convicted of a part 1 violent crime.

Receipt of grant amounts under this subsection does not preclude eligibility for a grant under subsection (c).

(c) Additional amount for increased rate of incarceration and percentage of sentence served

A State that received a grant under subsection (a) is eligible to receive additional grant amounts if such State demonstrates that the State has—

- (1) since 1993, increased the percentage of persons arrested for a part 1 violent crime sentenced to prison, and has increased the average percent of sentence served by persons convicted of a part 1 violent crime; or

(2) has increased by 10 percent or more over the most recent 3-year period the number of new court commitments to prison of persons convicted of part 1 violent crimes.

Receipt of grant amounts under this subsection does not preclude eligibility for a grant under subsection (b).

(Pub. L. 103-322, title II, §20103, as added Pub. L. 104-134, title I, §101[(a)] [title I, §114(a)], Apr. 26, 1996, 110 Stat. 1321, 1321-16; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 13703 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 20103 of Pub. L. 103-322, title II, Sept. 13, 1994, 108 Stat. 1817, related to Violent Offender Incarceration Grants prior to the general amendment of subtitle A of title II of Pub. L. 103-322 by Pub. L. 104-134.

Statutory Notes and Related Subsidiaries

CONTROLLED SUBSTANCE TESTING AND INTERVENTION; AVAILABILITY OF FUNDS

Pub. L. 104-208, div. A, title I, §101(a) [title I], Sept. 30, 1996, 110 Stat. 3009, 3009-14, provided in part: "That beginning in fiscal year 1999, and thereafter, no funds shall be available to make grants to a State pursuant to section 20103 or section 20104 of the Violent Crime Control and Law Enforcement Act of 1994 [34 U.S.C. 12103, 12104] unless no later than September 1, 1998, such State has implemented a program of controlled substance testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions including denial or revocation of release for positive controlled substance tests, consistent with guidelines issued by the Attorney General".

§ 12104. Truth-in-sentencing incentive grants

(a) Eligibility

To be eligible to receive a grant award under this section, a State shall submit an application to the Attorney General that demonstrates that—

(1)(A) such State has implemented truth-in-sentencing laws that—

- (i) require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior); or
- (ii) result in persons convicted of a part 1 violent crime serving on average not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior);

(B) such State has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such State, not later than 3 years after such State submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sen-