

(2) 75 percent of such funds for any of the permissible uses of funds under the grant program described in paragraph (2) of subsection (d).

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2023 through 2027.

(h) Definition

For purposes of this section, the term “State” means each of the several States and the District of Columbia, Indian Tribes, and the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

(Pub. L. 117–103, div. W, title XII, §1203, Mar. 15, 2022, 136 Stat. 925.)

Editorial Notes

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (d)(1), is Pub. L. 90–351, June 19, 1968, 82 Stat. 197. Part T of title I of the Act is classified principally to subchapter XIX (§10441 et seq.) of chapter 101 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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117–103, set out as a note under section 6851 of Title 15, Commerce and Trade.

REPORTS TO CONGRESS

Pub. L. 117–103, div. W, title XII, §1204, Mar. 15, 2022, 136 Stat. 926, provided that:

“(a) REPORT BY ATTORNEY GENERAL.—Not later than 1 year after the date of enactment of this Act [Mar. 15, 2022], and each year thereafter, the Attorney General shall submit to Congress and make publicly available on the Department of Justice website a report containing—

“(1) the information required to be reported to the Attorney General under section 1203(b) [34 U.S.C. 60106(b)]; and

“(2) information on—

“(A) the number of reports made, during the previous year, to Federal law enforcement agencies regarding persons engaging in a sexual act while acting under color of law; and

“(B) the disposition of each case in which sexual misconduct by a person acting under color of law was reported.

“(b) REPORT BY GAO.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Comptroller General of the United States shall submit to Congress a report on any violations of section 2243(c) of title 18, United States Code, as amended by section 1302, committed during the 1-year period covered by the report.

“(c) REPORT BY ATTORNEY GENERAL ON CONFLICTS BETWEEN STATE’S MARRIAGE-AGE AND AGE-BASED SEX OFFENSES.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Attorney General shall submit to Congress a report that examines inconsistencies between State laws on marriage-age and State laws on age-based sex offenses and, in particular, States with laws that—

“(1) provide an exception to definitions of age-based sex offenses (including statutory rape), or a defense

to prosecution for such offenses, based on the marriage of the perpetrator to the victim; or

“(2) allow marriages between parties at ages, or with age differences between them, such that sexual acts between those parties outside of marriage would constitute an age-based sex offense (including statutory rape).”

[For definitions of terms used in section 1204 of div. W of Pub. L. 117–103, set out above, see section 12291 of this title, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of this title, and section 1205 of Pub. L. 117–103, set out below.]

DEFINITION

Pub. L. 117–103, div. W, title XII, §1205, Mar. 15, 2022, 136 Stat. 927, provided that: “In this title [see Short Title of 2022 Amendment note set out under section 1 of Title 18, Crimes and Criminal Procedure], the term ‘sexual act’ has the meaning given the term in section 2246 of title 18, United States Code.”

For definitions of other terms used in this section, see section 12291 of this title, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of this title.

CHAPTER 603—IMPROVING THE QUALITY OF REPRESENTATION IN STATE CAPITAL CASES

Sec.	
60301.	Capital representation improvement grants.
60302.	Capital prosecution improvement grants.
60303.	Applications.
60304.	State reports.
60305.	Evaluations by Inspector General and administrative remedies.
60306.	Authorization of appropriations.

§ 60301. Capital representation improvement grants

(a) In general

The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) Defined term

In this section, the term “legal representation” means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) Use of funds

Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) Apportionment of funds

(1) In general

Of the funds awarded under subsection (a)—

(A) not less than 75 percent shall be used to carry out the purpose described in subsection (c)(1)(A); and

(B) not more than 25 percent shall be used to carry out the purpose described in subsection (c)(1)(B).

(2) Waiver

The Attorney General may waive the requirement under this subsection for good cause shown.

(e) Effective system

As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital cases, except for individuals currently employed as prosecutors; or

(C) pursuant to a statutory procedure enacted before October 30, 2004, under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E)(i) monitor the performance of attorneys who are appointed and their attendance at training programs; and

(ii) remove from the roster attorneys who—

(I) fail to deliver effective representation or engage in unethical conduct;

(II) fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; or

(III) during the past 5 years, have been sanctioned by a bar association or court

for ethical misconduct relating to the attorney's conduct as defense counsel in a criminal case in Federal or State court; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

(Pub. L. 108-405, title IV, §421, Oct. 30, 2004, 118 Stat. 2286.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 14163 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 60302. Capital prosecution improvement grants

(a) In general

The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) Use of funds

(1) Permitted uses

Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital