

108TH CONGRESS
1ST SESSION

S. 1194

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2003

Referred to the Committee on the Judiciary

AN ACT

To foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mentally Ill Offender
5 Treatment and Crime Reduction Act of 2003”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) According to the Bureau of Justice Statis-
4 tics, over 16 percent of adults incarcerated in United
5 States jails and prisons have a mental illness.

6 (2) According to the Office of Juvenile Justice
7 and Delinquency Prevention, approximately 20 per-
8 cent of youth in the juvenile justice system have se-
9 rious mental health problems, and a significant
10 number have co-occurring mental health and sub-
11 stance abuse disorders.

12 (3) According to the National Alliance for the
13 Mentally Ill, up to 40 percent of adults who suffer
14 from a serious mental illness will come into contact
15 with the American criminal justice system at some
16 point in their lives.

17 (4) According to the Office of Juvenile Justice
18 and Delinquency Prevention, over 150,000 juveniles
19 who come into contact with the juvenile justice sys-
20 tem each year meet the diagnostic criteria for at
21 least 1 mental or emotional disorder.

22 (5) A significant proportion of adults with a se-
23 rious mental illness who are involved with the crimi-
24 nal justice system are homeless or at imminent risk
25 of homelessness; and many of these individuals are
26 arrested and jailed for minor, nonviolent offenses.

1 (6) The majority of individuals with a mental
2 illness or emotional disorder who are involved in the
3 criminal or juvenile justice systems are responsive to
4 medical and psychological interventions that inte-
5 grate treatment, rehabilitation, and support services.

6 (7) Collaborative programs between mental
7 health, substance abuse, and criminal or juvenile
8 justice systems that ensure the provision of services
9 for those with mental illness or co-occurring mental
10 illness and substance abuse disorders can reduce the
11 number of such individuals in adult and juvenile cor-
12 rections facilities, while providing improved public
13 safety.

14 **SEC. 3. PURPOSE.**

15 The purpose of this Act is to increase public safety
16 by facilitating collaboration among the criminal justice, ju-
17 venile justice, mental health treatment, and substance
18 abuse systems. Such collaboration is needed to—

19 (1) reduce rearrests among adult and juvenile
20 offenders with mental illness or co-occurring mental
21 illness and substance abuse disorders;

22 (2) provide courts, including existing and new
23 mental health courts, with appropriate mental health
24 and substance abuse treatment options;

1 (3) maximize the use of alternatives to prosecu-
2 tion through diversion in appropriate cases involving
3 non-violent offenders with mental illness;

4 (4) promote adequate training for criminal jus-
5 tice system personnel about mental illness and sub-
6 stance abuse disorders and the appropriate re-
7 sponses to people with such illnesses;

8 (5) promote adequate training for mental health
9 and substance abuse treatment personnel about
10 criminal offenders with mental illness or co-occur-
11 ring mental illness of substance abuse disorders and
12 the appropriate response to such offenders in the
13 criminal justice system;

14 (6) promote communication between criminal
15 justice or juvenile justice personnel, mental health
16 and co-occurring mental illness and substance abuse
17 disorders treatment personnel, nonviolent offenders
18 with mental illness or co-occurring mental illness
19 and substance abuse disorders, and other support
20 services such as housing, job placement, community,
21 and faith-based organizations; and

22 (7) promote communication, collaboration, and
23 intergovernmental partnerships among municipal,
24 county, and State elected officials with respect to
25 mentally ill offenders.

1 **SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND**
 2 **CRIMINAL JUSTICE COLLABORATION PRO-**
 3 **GRAM.**

4 (a) IN GENERAL.—Title I of the Omnibus Crime
 5 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
 6 et seq.) is amended by adding at the end the following:

7 **“PART HH—ADULT AND JUVENILE**
 8 **COLLABORATION PROGRAM GRANTS**

9 **“SEC. 2991. ADULT AND JUVENILE COLLABORATION PRO-**
 10 **GRAMS.**

11 “(a) DEFINITIONS.—In this section, the following
 12 definitions shall apply:

13 “(1) APPLICANT.—The term ‘applicant’ means
 14 States, units of local government, Indian tribes, and
 15 tribal organizations that apply for a grant under this
 16 section.

17 “(2) COLLABORATION PROGRAM.—The term
 18 ‘collaboration program’ means a program to promote
 19 public safety by ensuring access to adequate mental
 20 health and other treatment services for mentally ill
 21 adults or juveniles that is overseen cooperatively
 22 by—

23 “(A) a criminal justice agency, a juvenile
 24 justice agency, or a mental health court; and

25 “(B) a mental health agency.

1 “(3) CRIMINAL OR JUVENILE JUSTICE AGEN-
 2 CY.—The term ‘criminal or juvenile justice agency’
 3 means an agency of a State or local government or
 4 its contracted agency that is responsible for detec-
 5 tion, arrest, enforcement, prosecution, defense, adju-
 6 dication, incarceration, probation, or parole relating
 7 to the violation of the criminal laws of that State or
 8 local government.

9 “(4) DIVERSION AND ALTERNATIVE PROSECU-
 10 TION AND SENTENCING.—

11 “(A) IN GENERAL.—The terms ‘diversion’
 12 and ‘alternative prosecution and sentencing’
 13 mean the appropriate use of effective mental
 14 health treatment alternatives to juvenile justice
 15 or criminal justice system institutional place-
 16 ments for preliminarily qualified offenders.

17 “(B) APPROPRIATE USE.—In this para-
 18 graph, the term ‘appropriate use’ includes the
 19 discretion of the judge or supervising authority,
 20 the leveraging of justice sanctions to encourage
 21 compliance with treatment, and law enforce-
 22 ment diversion, including crisis intervention
 23 teams.

24 “(5) MENTAL HEALTH AGENCY.—The term
 25 ‘mental health agency’ means an agency of a State

1 or local government or its contracted agency that is
 2 responsible for mental health services or co-occur-
 3 ring mental health and substance abuse disorders.

4 “(6) MENTAL HEALTH COURT.—The term
 5 ‘mental health court’ means a judicial program that
 6 meets the requirements of part V of this title.

7 “(7) MENTAL ILLNESS.—The term ‘mental ill-
 8 ness’ means a diagnosable mental, behavioral, or
 9 emotional disorder—

10 “(A) of sufficient duration to meet diag-
 11 nostic criteria within the most recent edition of
 12 the Diagnostic and Statistical Manual of Men-
 13 tal Disorders published by the American Psy-
 14 chiatric Association; and

15 “(B)(i) that, in the case of an adult, has
 16 resulted in functional impairment that substan-
 17 tially interferes with or limits 1 or more major
 18 life activities; or

19 “(ii) that, in the case of a juvenile, has re-
 20 sulted in functional impairment that substan-
 21 tially interferes with or limits the juvenile’s role
 22 or functioning in family, school, or community
 23 activities.

1 “(8) PRELIMINARILY QUALIFIED OFFENDER.—

2 The term ‘preliminarily qualified offender’ means a
3 nonviolent adult or juvenile who—

4 “(A)(i) previously or currently has been di-
5 agnosed by a qualified mental health profes-
6 sional as having a mental illness or co-occurring
7 mental illness and substance abuse disorders; or

8 “(ii) manifests obvious signs of mental ill-
9 ness or co-occurring mental illness and sub-
10 stance abuse disorders during arrest or confine-
11 ment or before any court; and

12 “(B) has faced, is facing, or could face
13 criminal charges and is deemed eligible by a di-
14 version process, designated pretrial screening
15 process, or by a magistrate or judge, on the
16 ground that the commission of the offense is
17 the product of the person’s mental illness.

18 “(9) SECRETARY.—The term ‘Secretary’ means
19 the Secretary of the Department of Health and
20 Human Services.

21 “(10) UNIT OF LOCAL GOVERNMENT.—The
22 term ‘unit of local government’ means any city,
23 county, township, town, borough, parish, village, or
24 other general purpose political subdivision of a
25 State, including a State court, local court, or a gov-

1 ernmental agency located within a city, county,
2 township, town, borough, parish, or village.

3 “(b) PLANNING AND IMPLEMENTATION GRANTS.—

4 “(1) IN GENERAL.—The Attorney General, in
5 consultation with the Secretary, may award non-
6 renewable grants to eligible applicants to prepare a
7 comprehensive plan for and implement an adult or
8 juvenile collaboration program, which targets pre-
9 liminary qualified offenders in order to promote pub-
10 lic safety and public health.

11 “(2) PURPOSES.—Grants awarded under this
12 section shall be used to create or expand—

13 “(A) mental health courts or other court-
14 based programs for preliminarily qualified of-
15 fenders;

16 “(B) programs that offer specialized train-
17 ing to the officers and employees of a criminal
18 or juvenile justice agency and mental health
19 personnel serving those with co-occurring men-
20 tal illness and substance abuse problems in pro-
21 cedures for identifying the symptoms of prelimi-
22 nary qualified offenders in order to respond ap-
23 propriately to individuals with such illnesses;

24 “(C) programs that support cooperative ef-
25 forts by criminal and juvenile justice agencies

1 and mental health agencies to promote public
2 safety by offering mental health treatment serv-
3 ices and, where appropriate, substance abuse
4 treatment services for—

5 “(i) preliminarily qualified offenders
6 with mental illness or co-occurring mental
7 illness and substance abuse disorders; or

8 “(ii) adult offenders with mental ill-
9 ness during periods of incarceration, while
10 under the supervision of a criminal justice
11 agency, or following release from correc-
12 tional facilities; and

13 “(D) programs that support intergovern-
14 mental cooperation between State and local gov-
15 ernments with respect to the mentally ill of-
16 fender.

17 “(3) APPLICATIONS.—

18 “(A) IN GENERAL.—To receive a planning
19 grant or an implementation grant, the joint ap-
20 plicants shall prepare and submit a single appli-
21 cation to the Attorney General at such time, in
22 such manner, and containing such information
23 as the Attorney General and the Secretary shall
24 reasonably require. An application under part V

1 of this title may be made in conjunction with an
2 application under this section.

3 “(B) COMBINED PLANNING AND IMPLE-
4 MENTATION GRANT APPLICATION.—The Attor-
5 ney General and the Secretary shall develop a
6 procedure under which applicants may apply at
7 the same time and in a single application for a
8 planning grant and an implementation grant,
9 with receipt of the implementation grant condi-
10 tioned on successful completion of the activities
11 funded by the planning grant.

12 “(4) PLANNING GRANTS.—

13 “(A) APPLICATION.—The joint applicants
14 may apply to the Attorney General for a non-
15 renewable planning grant to develop a collabo-
16 ration program.

17 “(B) CONTENTS.—The Attorney General
18 and the Secretary may not approve a planning
19 grant unless the application for the grant in-
20 cludes or provides, at a minimum, for a budget
21 and a budget justification, a description of the
22 outcome measures that will be used to measure
23 the effectiveness of the program in promoting
24 public safety and public health, the activities
25 proposed (including the provision of substance

1 abuse treatment services, where appropriate)
2 and a schedule for completion of such activities,
3 and the personnel necessary to complete such
4 activities.

5 “(C) PERIOD OF GRANT.—A planning
6 grant shall be effective for a period of 1 year,
7 beginning on the first day of the month in
8 which the planning grant is made. Applicants
9 may not receive more than 1 such planning
10 grant.

11 “(D) AMOUNT.—The amount of a plan-
12 ning grant may not exceed \$75,000, except that
13 the Attorney General may, for good cause, ap-
14 prove a grant in a higher amount.

15 “(E) COLLABORATION SET ASIDE.—Up to
16 5 percent of all planning funds shall be used to
17 foster collaboration between State and local
18 governments in furtherance of the purposes set
19 forth in the Mentally Ill Offender Treatment
20 and Crime Reduction Act of 2003.

21 “(5) IMPLEMENTATION GRANTS.—

22 “(A) APPLICATION.—Joint applicants that
23 have prepared a planning grant application may
24 apply to the Attorney General for approval of a

1 nonrenewable implementation grant to develop
2 a collaboration program.

3 “(B) COLLABORATION.—To receive an im-
4 plementation grant, the joint applicants shall—

5 “(i) document that at least 1 criminal
6 or juvenile justice agency (which can in-
7 clude a mental health court) and 1 mental
8 health agency or agency providing mental
9 health and substance abuse services to
10 those with co-occurring mental health and
11 substance abuse disorders will participate
12 in the administration of the collaboration
13 program;

14 “(ii) describe the responsibilities of
15 each participating agency, including how
16 each agency will use grant resources to
17 jointly ensure that the provision of mental
18 health treatment services and qualified
19 substance abuse services is coordinated,
20 which includes consultation, collaboration,
21 and integrated services, where clinically ap-
22 propriate;

23 “(iii) in the case of an application
24 from a unit of local government, document

1 that a State mental health authority has
2 provided comment and review; and

3 “(iv) involve, to the extent practicable,
4 in developing the grant application—

5 “(I) preliminary qualified offend-
6 ers; or

7 “(II) the families and advocates
8 of such individuals under subclause
9 (I).

10 “(C) CONTENT.—To be eligible for an im-
11 plementation grant, joint applicants shall com-
12 ply with the following:

13 “(i) DEFINITION OF TARGET POPU-
14 LATION.—Applicants for an implementa-
15 tion grant shall—

16 “(I) describe the population with
17 mental illness or co-occurring mental
18 illness and substance abuse disorders
19 that is targeted for the collaboration
20 program; and

21 “(II) develop guidelines that can
22 be used by personnel of a criminal or
23 juvenile justice agency to identify pre-
24 liminary qualified offenders.

1 “(ii) SERVICES.—Applicants for an
2 implementation grant shall—

3 “(I) ensure that preliminarily
4 qualified offenders who are to receive
5 treatment services under the collabo-
6 ration program will first receive indi-
7 vidualized, needs-based assessments to
8 determine, plan, and coordinate the
9 most appropriate services for such in-
10 dividuals;

11 “(II) specify plans for making
12 mental health, or mental health and
13 substance abuse, treatment services
14 available and accessible to preliminary
15 qualified offenders at the time of their
16 release from the criminal justice sys-
17 tem, including outside of normal busi-
18 ness hours;

19 “(III) ensure that there are sub-
20 stance abuse personnel available to re-
21 spond appropriately to the treatment
22 needs of preliminary qualified offend-
23 ers;

24 “(IV) ensure that preliminarily
25 qualified offenders served by the col-

1 laboration program will have access to
2 effective and appropriate community-
3 based mental health services, or,
4 where clinically appropriate, coordi-
5 nated substance abuse and mental
6 health treatment services;

7 “(V) make available, to the ex-
8 tent practicable, other support serv-
9 ices that will ensure the preliminarily
10 qualified offender’s successful re-
11 integration into the community (such
12 as housing, education, job placement,
13 mentoring, and health care and bene-
14 fits, as well as the services of faith-
15 based and community organizations
16 for mentally ill individuals served by
17 the collaboration program); and

18 “(VI) include strategies, to the
19 extent practicable, to address develop-
20 mental and learning disabilities and
21 problems arising from a documented
22 history of physical or sexual abuse.

23 “(D) HOUSING AND JOB PLACEMENT.—

24 Recipients of an implementation grant may use
25 grant funds to assist mentally ill offenders com-

1 pliant with the program in seeking housing or
2 employment assistance.

3 “(E) POLICIES AND PROCEDURES.—Appli-
4 cants for an implementation grant shall strive
5 to ensure prompt access to defense counsel by
6 criminal defendants with mental illness who are
7 facing charges that would trigger a constitu-
8 tional right to counsel.

9 “(F) FINANCIAL.—Applicants for an im-
10 plementation grant shall—

11 “(i) explain the applicant’s inability to
12 fund the collaboration program adequately
13 without Federal assistance;

14 “(ii) specify how the Federal support
15 provided will be used to supplement, and
16 not supplant, State, local, Indian tribe, or
17 tribal organization sources of funding that
18 would otherwise be available, including bill-
19 ing third-party resources for services al-
20 ready covered under programs (such as
21 medicaid, medicare, and the State Chil-
22 dren’s Insurance Program); and

23 “(iii) outline plans for obtaining nec-
24 essary support and continuing the pro-

1 posed collaboration program following the
2 conclusion of Federal support.

3 “(G) OUTCOMES.—Applicants for an im-
4 plementation grant shall—

5 “(i) identify methodology and outcome
6 measures, as required by the Attorney
7 General and the Secretary, to be used in
8 evaluating the effectiveness of the collabo-
9 ration program;

10 “(ii) ensure mechanisms are in place
11 to capture data, consistent with the meth-
12 odology and outcome measures under
13 clause (i); and

14 “(iii) submit specific agreements from
15 affected agencies to provide the data need-
16 ed by the Attorney General and the Sec-
17 retary to accomplish the evaluation under
18 clause (i).

19 “(H) STATE PLANS.—Applicants for an
20 implementation grant shall describe how the
21 adult or juvenile collaboration program relates
22 to existing State criminal or juvenile justice and
23 mental health plans and programs.

1 “(I) USE OF FUNDS.—Applicants that re-
2 ceive an implementation grant may use funds
3 for 1 or more of the following purposes:

4 “(i) MENTAL HEALTH COURTS AND
5 DIVERSION/ALTERNATIVE PROSECUTION
6 AND SENTENCING PROGRAMS.—Funds may
7 be used to create or expand existing men-
8 tal health courts that meet program re-
9 quirements established by the Attorney
10 General under part V of this title, other
11 court-based programs, or diversion and al-
12 ternative prosecution and sentencing pro-
13 grams (including crisis intervention teams
14 and treatment accountability services for
15 communities) that meet requirements es-
16 tablished by the Attorney General and the
17 Secretary.

18 “(ii) TRAINING.—Funds may be used
19 to create or expand programs, such as cri-
20 sis intervention training, which offer spe-
21 cialized training to—

22 “(I) criminal justice system per-
23 sonnel to identify and respond appro-
24 priately to the unique needs of pre-
25 liminary qualified offenders; or

1 “(II) mental health system per-
2 sonnel to respond appropriately to the
3 treatment needs of preliminarily quali-
4 fied offenders.

5 “(iii) SERVICE DELIVERY.—Funds
6 may be used to create or expand programs
7 that promote public safety by providing the
8 services described in subparagraph (C)(ii)
9 to preliminarily qualified offenders.

10 “(iv) IN-JAIL AND TRANSITIONAL
11 SERVICES.—Funds may be used to pro-
12 mote and provide mental health treatment
13 for those incarcerated or for transitional
14 re-entry programs for those released from
15 any penal or correctional institution.

16 “(J) GEOGRAPHIC DISTRIBUTION OF
17 GRANTS.—The Attorney General, in consulta-
18 tion with the Secretary, shall ensure that plan-
19 ning and implementation grants are equitably
20 distributed among the geographical regions of
21 the United States and between urban and rural
22 populations.

23 “(c) PRIORITY.—The Attorney General, in awarding
24 funds under this section, shall give priority to applications
25 that—

1 “(1) demonstrate the strongest commitment to
2 ensuring that such funds are used to promote both
3 public health and public safety;

4 “(2) demonstrate the active participation of
5 each co-applicant in the administration of the col-
6 laboration program; and

7 “(3) have the support of both the Attorney
8 General and the Secretary.

9 “(d) MATCHING REQUIREMENTS.—

10 “(1) FEDERAL SHARE.—The Federal share of
11 the cost of a collaboration program carried out by a
12 State, unit of local government, Indian tribe, or trib-
13 al organization under this section shall not exceed—

14 “(A) 80 percent of the total cost of the
15 program during the first 2 years of the grant;

16 “(B) 60 percent of the total cost of the
17 program in year 3; and

18 “(C) 25 percent of the total cost of the
19 program in years 4 and 5.

20 “(2) NON-FEDERAL SHARE.—The non-Federal
21 share of payments made under this section may be
22 made in cash or in-kind fairly evaluated, including
23 planned equipment or services.

24 “(e) FEDERAL USE OF FUNDS.—The Attorney Gen-
25 eral, in consultation with the Secretary, in administering

1 grants under this section, may use up to 3 percent of
2 funds appropriated to—

3 “(1) research the use of alternatives to prosecu-
4 tion through pretrial diversion in appropriate cases
5 involving individuals with mental illness;

6 “(2) offer specialized training to personnel of
7 criminal and juvenile justice agencies in appropriate
8 diversion techniques;

9 “(3) provide technical assistance to local gov-
10 ernments, mental health courts, and diversion pro-
11 grams, including technical assistance relating to pro-
12 gram evaluation;

13 “(4) help localities build public understanding
14 and support for community reintegration of individ-
15 uals with mental illness;

16 “(5) develop a uniform program evaluation
17 process; and

18 “(6) conduct a national evaluation of the col-
19 laboration program that will include an assessment
20 of its cost-effectiveness.

21 “(f) INTERAGENCY TASK FORCE.—

22 “(1) IN GENERAL.—The Attorney General and
23 the Secretary shall establish an interagency task
24 force with the Secretaries of Housing and Urban
25 Development, Labor, Education, and Veterans Af-

1 fairs and the Commissioner of Social Security, or
2 their designees.

3 “(2) RESPONSIBILITIES.—The task force estab-
4 lished under paragraph (1) shall—

5 “(A) identify policies within their depart-
6 ments that hinder or facilitate local collabora-
7 tive initiatives for preliminary qualified of-
8 fenders; and

9 “(B) submit, not later than 2 years after
10 the date of enactment of this section, a report
11 to Congress containing recommendations for
12 improved interdepartmental collaboration re-
13 garding the provision of services to preliminary
14 qualified offenders.

15 “(g) MINIMUM ALLOCATION.—Unless all eligible ap-
16 plications submitted by any State or unit of local govern-
17 ment within such State for a planning or implementation
18 grant under this section have been funded, such State, to-
19 gether with grantees within the State (other than Indian
20 tribes), shall be allocated in each fiscal year under this
21 section not less than 0.75 percent of the total amount ap-
22 propriated in the fiscal year for planning or implementa-
23 tion grants pursuant to this section.

6 “(2) such sums as may be necessary for fiscal
7 years 2006 through 2008.”.

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

Passed the Senate October 27, 2003.

S 1194 RFH