

111TH CONGRESS
1ST SESSION

S. 2772

To establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2009

Mr. WHITEHOUSE (for himself, Mr. CORNYN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety.

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 “Criminal Justice Rein-
5 vestment Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) A total of 2,200,000 American adults are
2 incarcerated in State and local prisons and jails, a
3 rate of about 1 out of every 100 adults.

4 (2) State spending on corrections has increased
5 over the last 20 years from approximately
6 \$12,600,000,000 in 1988 to more than
7 \$52,000,000,000 in 2008. According to “Public
8 Safety, Public Spending: Forecasting America’s
9 Prison Population 2007–2011”, State and Federal
10 prison populations are expected to increase by
11 192,000 over that 5-year period, at an additional
12 cost of \$27,500,000,000.

13 (3) Between 2000 and 2008, jail populations
14 increased from approximately 621,000 to 785,000
15 inmates. The 3,300 jails nationwide process approxi-
16 mately 13,500,000 inmates each year, 4,000,000 of
17 whom are repeat offenders.

18 (4) The number of persons on probation and
19 parole in State correctional systems has been in-
20 creasing. Approximately 5,000,000 Americans, or 1
21 out of every 45 adults, are on probation or parole,
22 an increase of nearly 300 percent since 1980.

23 (5) Policymakers have insufficient access to de-
24 tailed, data-driven explanations about changes in

1 crime, arrest, conviction, and prison and jail popu-
2 lation trends.

3 (6) In the face of ever-increasing correctional
4 costs, with bipartisan leadership, governors and leg-
5 islative leaders in Texas, Kansas, Rhode Island,
6 Vermont, and other States around the country have
7 initiated data-driven criminal justice reinvestment
8 strategies that increase public safety, hold offenders
9 accountable, and control corrections spending.

10 **SEC. 3. PURPOSE AND DEFINITION.**

11 (a) **PURPOSE.**—The purpose of this Act is to provide
12 grants for criminal justice reinvestment strategies.

13 (b) **CRIMINAL JUSTICE REINVESTMENT.**—In this
14 Act, the term “criminal justice reinvestment” refers to a
15 data-driven program that—

16 (1) analyzes criminal justice trends to under-
17 stand what factors are driving the growth in prison
18 and jail populations;

19 (2) develops and implements policy options to
20 manage the growth in corrections populations and
21 increase the effectiveness of current spending and
22 investment to increase public safety and improve in-
23 dividual and system accountability; and

1 (3) measures the impact of the policy changes
2 and reinvestment resources and holds policymakers
3 accountable for projected results.

4 **SEC. 4. PUBLIC SAFETY PERFORMANCE GRANTS TO IMPLE-**
5 **MENT CRIMINAL JUSTICE REINVESTMENT**
6 **STRATEGIES.**

7 (a) PHASE 1—DATA ANALYSIS AND POLICY DEVEL-
8 OPMENT GRANTS.—

9 (1) IN GENERAL.—The Attorney General may
10 make grants to a State, unit of local government,
11 territory, or Indian tribe (referred to in this Act as
12 an “eligible entity”) to analyze and improve the
13 cost-effectiveness of State and local spending on
14 prisons, jails, and community corrections (referred
15 to in this Act as “Phase 1 grants”).

16 (2) OBJECTIVES.—The purposes of the Phase 1
17 grants shall be for an eligible entity—

18 (A) to conduct a comprehensive analysis of
19 criminal justice data, including crime and arrest
20 rates, conviction rates, pretrial and reentry
21 services, and probation, parole, prison and jail
22 populations;

23 (B) to evaluate relevant criminal justice
24 policies and the cost-effectiveness of current

1 spending on corrections and community correc-
2 tions; and

3 (C) to develop data-driven policy options
4 that can increase public safety and improve of-
5 fender accountability.

6 (3) DETAILS.—The comprehensive analysis,
7 evaluation, and policy development required by para-
8 graph (2) shall include—

9 (A) an analysis of reported crime and ar-
10 rest data;

11 (B) an analysis of felony conviction data to
12 understand the percent of offenders who are
13 sentenced to prison or jail for particular of-
14 fenses;

15 (C) an analysis of prison or jail admission
16 and length-of-stay data over a 3- to 5-year time
17 period to determine which cohorts of offenders
18 account for the growth of the population;

19 (D) an analysis of probation and parole
20 data to determine which offenders are violating
21 the conditions of supervision and being revoked
22 to prison or jail;

23 (E) an analysis of the current capacity and
24 quality of crime prevention and crime-fighting
25 programs, including institutional and commu-

1 nity-based risk-reduction programs such as
2 drug treatment, mental health, education, job
3 training, housing, and other human services to
4 divert individuals from prisons or jails and to
5 reduce recidivism among offenders on commu-
6 nity supervision;

7 (F) consultation with criminal justice
8 stakeholders, including State corrections de-
9 partments, community corrections agencies,
10 local jail systems, and relevant governmental
11 agencies and nonprofit organizations;

12 (G) an analysis of criminal justice policies
13 and expenditures, including the cost-effective-
14 ness of current spending on corrections and
15 community corrections, to understand how the
16 existing system accounts for criminal justice
17 trends;

18 (H) the development of a prison or jail
19 population projection using a simulation model
20 based on collected data to test the impact of
21 various policy changes; and

22 (I) the development of practical, data-driv-
23 en policy options that can increase public safe-
24 ty, improve offender accountability, reduce re-
25 cidivism, and manage the growth of spending

1 on corrections in the relevant criminal justice
2 system.

3 (4) APPLICATIONS.—To be eligible to receive a
4 grant under this subsection, an eligible entity shall
5 submit to the Attorney General an application, in
6 such form and manner and at such time as specified
7 by the Attorney General that includes a proposal
8 that describes how the grant will fulfill the objectives
9 required by paragraph (2).

10 (5) PRIORITY.—The Attorney General, in
11 awarding funds under this subsection, shall give pri-
12 ority to eligible entities that—

13 (A) demonstrate a commitment from the
14 chief executive officer, legislative body, judici-
15 ary, law enforcement officials, correctional
16 agencies and prosecutors of the eligible entity to
17 work together in a collaborative bipartisan ap-
18 proach to analyze the data and develop criminal
19 justice policy options;

20 (B) establish or designate a multibranch,
21 bipartisan, intergovernmental, interagency task
22 force of elected and appointed officials to ad-
23 dress the criminal justice and public safety
24 challenges facing the jurisdiction;

1 (C) demonstrate access to data from across
2 the criminal justice system, including crime and
3 arrest, court and conviction, jail, prison, com-
4 munity corrections data, and standards for
5 analysis;

6 (D) identify agency or consultant capacity
7 to objectively analyze data, utilize simulation
8 models for prison or jail population projections,
9 and develop concise written reports and policy
10 options for policymakers to review; or

11 (E) demonstrate that the projected growth
12 over a 10-year period is expected to exceed cur-
13 rent corrections capacity.

14 (6) COMPLETION OF GRANT.—The analysis,
15 evaluation, and policy development required for a
16 grant under this subsection shall be completed not
17 later than 12 months after the receipt of funding for
18 the grant unless granted an extension of time by the
19 Attorney General.

20 (b) PHASE 2—IMPLEMENTATION GRANTS.—

21 (1) IN GENERAL.—The Attorney General may
22 make grants to eligible entities to implement policies
23 and programs designed to help jurisdictions manage
24 the growth in spending on corrections and increase

1 public safety (referred to in this Act as “Phase 2
2 grants”).

3 (2) OBJECTIVES.—The purposes of the Phase 2
4 grants shall be for an eligible entity to—

5 (A) fund programs identified by prior data
6 analysis and policy development that provide
7 training and technical assistance, support the
8 delivery of risk-reduction programs, or other-
9 wise enhance public safety and improve offender
10 accountability by strengthening the criminal
11 justice system;

12 (B) reinvest averted prison or jail costs
13 into programs that enhance public safety by
14 strengthening the criminal justice system or
15 high-risk communities and individuals; and

16 (C) measure performance of policies and
17 programs enacted or established in subpara-
18 graphs (A) and (B).

19 (3) PROGRAMS.—The programs described by
20 paragraphs (2)(A) and (2)(B) shall—

21 (A) provide training and technical assist-
22 ance including—

23 (i) training of corrections and commu-
24 nity corrections, judicial, substance abuse
25 or mental healthstaff and other key staff

1 on evidence-based practices for reducing
2 recidivism; or

3 (ii) training and technical assistance
4 to assist jurisdictions in implementing and
5 validating new risk and needs assessment
6 tools; or technical assistance to implement
7 evidence-based policies in corrections or
8 community corrections agencies;

9 (B) establish risk-reduction programs in-
10 cluding—

11 (i) substance abuse or mental health
12 treatment;

13 (ii) education or job training;

14 (iii) job placement, development, and
15 creation;

16 (iv) intermediate sanction programs
17 and facilities, including community-based
18 reentry programs, day reporting centers
19 and electronic monitoring; or

20 (v) supportive housing programs;

21 (C) reduce the number of rearrests, re-
22 convictions, and revocations of people currently
23 on probation and parole and increase the num-
24 ber of successful completions of probation and
25 parole;

1 (D) establish policies and practices that
2 will avert growth in the prison and jail popu-
3 lation and, as a result, avert the need to appro-
4 priate funds for the construction or operation of
5 a new prison and jail facilities; or

6 (E) establish comparable programs that
7 enhance public safety by strengthening the
8 criminal justice system.

9 (4) PERFORMANCE MEASUREMENT.—The per-
10 formance measures described by paragraph (2)(C)
11 shall track key criminal justice trends across agen-
12 cies and departments to measure the impact of the
13 programs described in paragraph (3), and include
14 the following measurements where applicable:

15 (A) Reduction in rearrest, reconviction,
16 and revocations of people currently on proba-
17 tion and parole.

18 (B) Increases in the number of successful
19 completions of probation and parole.

20 (C) General crime trends.

21 (D) Prison and jail populations.

22 (E) Number of program and treatment
23 slots added to reduce recidivism.

24 (5) APPLICATIONS.—To be eligible to receive a
25 grant under this subsection, an eligible entity shall

1 submit to the Attorney General an application, in
2 such form and manner and at such time as specified
3 by the Attorney General that includes a proposal
4 that describes how the grant will fulfill the objectives
5 required by paragraph (2).

6 (6) PRIORITY.—Priority consideration shall be
7 given to applications under this subsection that dem-
8 onstrate that—

9 (A) the proposed programs will improve
10 public safety and improve individual and system
11 accountability while reducing or maintaining
12 criminal justice growth through policies which
13 ensure that—

14 (i) violent offenders are incarcerated;

15 (ii) nonviolent offenders who pose a
16 minimal risk of harm to the community
17 are supervised through effective probation
18 and parole systems and provided with ef-
19 fective risk-reduction programs; and

20 (iii) effective diversion and reentry
21 programs are integrated into a new overall
22 criminal reinvestment strategy;

23 (B) the proposed programs will have a sig-
24 nificant impact on the geographic areas identi-
25 fied by the analysis as having disproportionate

1 numbers of people returning from prison or jail;
2 and

3 (C) data analysis through a Phase 1 grant
4 or similar work has been completed.

5 (c) ANNUAL REPORT.—The Attorney General shall
6 report to the Committees on the Judiciary of the Senate
7 and the House of Representatives on November 1 of each
8 year concerning the development and implementation of
9 grants under this section and strategies developed, which
10 shall include information concerning—

11 (1) the number and identity of the grantees
12 who have received analyses and program develop-
13 ment grants;

14 (2) the progress of grantees in conducting anal-
15 yses and program development;

16 (3) the number and identity of the grantees re-
17 ceiving implementation grants;

18 (4) the progress of grantees in implementing
19 criminal justice reinvestment strategies; and

20 (5) the performance of entities implementing
21 criminal justice reinvestment strategies, including
22 relevant data on—

23 (A) the reduction, if any, in the number of
24 rearrests, reconvictions, and revocations of peo-
25 ple currently on probation and parole;

1 (B) the increase, if any, in the number of
2 successful completions of probation and parole;

3 (C) the reduction, if any, in the growth of
4 the prison and jail population;

5 (D) the portion of averted costs that has
6 been or will be reinvested and used to target
7 high-risk communities and individuals to reduce
8 the rate of rearrest, reconviction, and revoca-
9 tion to increase public safety; and

10 (E) the reduction, if any, in rearrest rates
11 by people under the supervision of the criminal
12 justice system.

13 (d) SHARING INFORMATION.—The Attorney General
14 shall establish an information clearinghouse for data col-
15 lected and for best practices developed by eligible grantees
16 developed in carrying out grants under this section.

17 (e) ADMINISTRATION.—Applications for grants shall
18 be considered on a rolling basis and be responded to in
19 a timely fashion in order to provide assistance to policy-
20 makers facing various budget timelines.

21 (f) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated \$35,000,000 to carry
23 out this section for each of the fiscal years 2010 through
24 2014.

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