

116TH CONGRESS  
2D SESSION

# H. R. 8639

To authorize the Secretary of Health and Human Services to award grants to States and political subdivisions of States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2020

Ms. PORTER (for herself, Mr. CÁRDENAS, Ms. PRESSLEY, Ms. SCANLON, Ms. LEE of California, Mrs. NAPOLITANO, Ms. CLARK of Massachusetts, Mr. KHANNA, Mr. GRIJALVA, Mr. POCAN, Mr. TRONE, Mr. CARSON of Indiana, Ms. NORTON, Ms. JUDY CHU of California, Mr. WELCH, Ms. MOORE, Mr. MORELLE, Ms. MATSUI, Ms. WILD, Ms. HAALAND, Mrs. BEATTY, Mrs. CAROLYN B. MALONEY of New York, Mr. HASTINGS, Mr. RASKIN, Mr. AGUILAR, Ms. JAYAPAL, Ms. WASSERMAN SCHULTZ, Ms. SCHAKOWSKY, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To authorize the Secretary of Health and Human Services to award grants to States and political subdivisions of States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

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 “Mental Health Justice  
5 Act of 2020”.

6 **SEC. 2. FINDINGS.**

7        Congress finds the following:

8            (1) Needless institutionalization (including in  
9        psychiatric hospitals) of people with disabilities is  
10       generally a violation of the Americans with Disabil-  
11       ities Act of 1990 (42 U.S.C. 12101 et seq.), and the  
12       failure to provide sufficient community-based serv-  
13       ices (such as supported housing, assertive commu-  
14       nity treatment, mobile crisis, peer support, and sup-  
15       ported employment) has resulted in needless institu-  
16       tionalization as well as incarceration of persons with  
17       mental illness or an intellectual or developmental  
18       disability.

19            (2) In the landmark 1999 Supreme Court case  
20       *Olmstead v. L.C.*, the Supreme Court ruled that the  
21       “unjustified institutional isolation of persons with  
22       disabilities is a form of discrimination” prohibited by  
23       the Americans with Disabilities Act of 1990 (42  
24       U.S.C. 12101 et seq.).

1           (3) Regulations promulgated by the Attorney  
2           General in 1991 affirm that title II of the Ameri-  
3           cans with Disabilities Act of 1990 (42 U.S.C. 12131  
4           et seq.) requires public entities to “administer serv-  
5           ices, programs, and activities in the most integrated  
6           setting appropriate to the needs of qualified individ-  
7           uals with disabilities” (28 C.F.R. 35.130(d)). The  
8           regulation defines “the most integrated setting” as  
9           one that “enables individuals with disabilities to  
10          interact with nondisabled persons to the fullest ex-  
11          tent possible” (28 C.F.R. pt. 35, App. B).

12          (4) Yet today, persons with a mental illness or  
13          an intellectual or developmental disability are more  
14          likely to be incarcerated and to be subject to exces-  
15          sive use of force by law enforcement officers:

16                (A) One out of every four of the deaths  
17                caused by law enforcement officers is a person  
18                with mental illness.

19                (B) Persons with a mental illness or an in-  
20                tellectual or developmental disability are often  
21                charged with minor, nonviolent offenses. For  
22                many of these persons, arrest and incarceration  
23                could have been avoided if they had access to  
24                intensive community-based services and stable  
25                housing.

1           (5) Many of the police encounters that lead to  
2           the incarceration (and in too many cases, death) of  
3           people with mental illness or an intellectual or devel-  
4           opmental disability could be avoided by having in  
5           place systems that ensure that calls to 911 or to law  
6           enforcement result in dispatch of mental health pro-  
7           fessionals, peer support workers, or others rather  
8           than law enforcement officers.

9           (6) Many people who are incarcerated would be  
10          better served in community services. If there were  
11          sufficient community services, and persons with  
12          mental illness or an intellectual or developmental  
13          disability were connected to those services rather  
14          than being arrested, thousands of people with men-  
15          tal illness or an intellectual or developmental dis-  
16          ability would avoid needless admissions to hospitals  
17          or jails. Further, jails and hospitals would experi-  
18          ence less crowding.

19 **SEC. 3. GRANTS FOR MENTAL HEALTH PROFESSIONALS TO**  
20 **ACT AS FIRST RESPONDERS.**

21          (a) IN GENERAL.—The Secretary of Health and  
22          Human Services (in this section referred to as the “Sec-  
23          retary”), acting through the Assistant Secretary for Men-  
24          tal Health and Substance Use and in consultation with  
25          the Assistant Attorney General for the Civil Rights Divi-

1 sion of the Department of Justice (in this section referred  
2 to as the “Assistant Attorney General”), shall award  
3 grants to States and political subdivisions of States—

4 (1) to hire, employ, train, and dispatch mental  
5 health professionals to respond in lieu of law en-  
6 forcement officers in emergencies in which—

7 (A) an individual calling 911 or another  
8 emergency hotline states that a person—

9 (i) is in a mental health crisis; or

10 (ii) may have a mental illness or an  
11 intellectual or developmental disability;

12 (B) a law enforcement officer or other first  
13 responder identifies a person as having (or pos-  
14 sibly having) a mental illness or an intellectual  
15 or developmental disability; or

16 (C) a law enforcement officer or other first  
17 responder identifies a person as being (or pos-  
18 sibly being) under the influence of a legal or il-  
19 legal substance;

20 (2) to include in the training for mental health  
21 professionals pursuant to paragraph (1) training in  
22 the principles of de-escalation and anti-racism;

23 (3) to ensure that such mental health profes-  
24 sionals link persons described in subparagraph (A),

1 (B), or (C) of paragraph (1) with community-based  
2 services where appropriate; and

3 (4) to train the staff of dispatch centers regard-  
4 ing the proper handling of a report of an emergency  
5 described in paragraph (1).

6 (b) DELEGATION.—The Secretary shall delegate re-  
7 sponsibility for carrying out the Secretary’s responsibil-  
8 ities under this section and section 4 to the Director of  
9 the Center for Mental Health Services of the Substance  
10 Abuse and Mental Health Services Administration.

11 (c) ADDITIONAL AWARDS.—The Secretary shall  
12 make an additional award of funds under this section each  
13 fiscal year to grantees that demonstrate that their pro-  
14 grams under this section resulted in—

15 (1) a notable reduction in the incarceration and  
16 death of persons with mental illness or an intellec-  
17 tual or developmental disability; or

18 (2) a notable reduction in the use of force by  
19 police and a notable increase in referrals of persons  
20 with a mental illness or intellectual disability to com-  
21 munity-based, voluntary support services (other than  
22 institutionalization carceral support services).

23 (d) PRIORITY.—In awarding grants under this sec-  
24 tion, the Secretary shall give priority to States and polit-  
25 ical subdivisions of States that—

1           (1) have high rates of arrests and incarceration  
2 of persons with a mental illness or an intellectual or  
3 developmental disability; or

4           (2) commit to increasing resources for mental  
5 health and community-based support services or so-  
6 lutions for such persons.

7 (e) REPORTING.—

8           (1) BY GRANTEES.—A recipient of a grant  
9 under this section shall submit to the Secretary—

10           (A) a quarterly report on—

11           (i) the number and percentage of  
12 emergencies where mental health profes-  
13 sionals were dispatched in lieu of law en-  
14 forcement officers pursuant to assistance  
15 under this section;

16           (ii) such other matters as the Sec-  
17 retary may require for determining wheth-  
18 er the recipient should receive an addi-  
19 tional award under subsection (c); and

20           (iii) any increase or decrease, com-  
21 pared to any previous quarter, in incarcer-  
22 ation or institutionalization as a result of  
23 dispatching mental health professionals  
24 pursuant to assistance under this section,  
25 disaggregated to include data specific to

1 persons with intellectual and developmental  
2 disabilities and mental illnesses where  
3 available, so as—

4 (I) to provide a critical baseline  
5 analysis; and

6 (II) to ensure that mental health  
7 practitioners are not simply funneling  
8 individuals into other institutionalized  
9 settings; and

10 (B) a final report on the use of such grant.

11 (2) BY SECRETARY.—Not later than 1 year  
12 after awarding the first grant under this section,  
13 and annually thereafter, the Secretary shall submit  
14 to the Congress a report on the grant program  
15 under this section.

16 (f) REVOCATION OF GRANT.—If the Secretary finds,  
17 based on reporting under subsection (e) or other informa-  
18 tion, that activities funded through a grant under this sec-  
19 tion are leading to a significant increase in incarceration  
20 or institutionalization—

21 (1) the Secretary shall revoke the grant; and

22 (2) the grantee shall repay to the Federal Gov-  
23 ernment any amounts that the grantee—

24 (A) received through the grant; and

25 (B) has not obligated or expended.



1 (g) FUNDING.—To carry out this section, there are  
2 authorized to be appropriated such sums as may be nec-  
3 essary for fiscal year 2021 and each subsequent fiscal  
4 year.

5 **SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVI-**  
6 **SIONS OF A STATE.**

7 The Secretary of Health and Human Services, acting  
8 through the Assistant Secretary for Mental Health and  
9 Substance Use and in consultation with the Assistant At-  
10 torney General for the Civil Rights Division of the Depart-  
11 ment of Justice, shall provide technical assistance to  
12 grantees under section 3 (or other Federal law), other po-  
13 litical subdivisions of States, and States to hire, employ,  
14 train, and dispatch mental health professionals to respond  
15 in lieu of law enforcement officers, as described in section  
16 3.

17 **SEC. 5. STUDY.**

18 (a) IN GENERAL.—The Secretary of Health and  
19 Human Services and the Assistant Attorney General for  
20 the Civil Rights Division of the Department of Justice  
21 shall conduct a study of the effectiveness of programs and  
22 activities under sections 3 and 4.

23 (b) QUALITATIVE AND LONGITUDINAL EXAMINA-  
24 TION.—The study under subsection (a) shall include a  
25 qualitative and longitudinal study of—

1           (1) the number of persons diverted from ar-  
2 rests; and

3           (2) short- and long-term outcomes for those  
4 persons, including reduced recidivism, reduced  
5 incidences of use of force, and reduced utilization of  
6 resources.

7           (c) COMPLETION; REPORT.—Not later than 3 years  
8 after the date of enactment of this Act, the Secretary of  
9 Health and Human Services and the Assistant Attorney  
10 General for the Civil Rights Division of the Department  
11 of Justice shall—

12           (1) complete the study under subsection (a);

13           (2) submit a report to the Congress on the re-  
14 sults of such study; and

15           (3) publish such report.

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