

117TH CONGRESS
1ST SESSION

S. 515

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.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2021

Ms. WARREN (for herself, Ms. KLOBUCHAR, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mental Health Justice
3 Act of 2021”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

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

23 (3) Regulations promulgated by the Attorney
24 General in 1991 affirm that title II of the Ameri-
25 cans with Disabilities Act of 1990 (42 U.S.C. 12131
26 et seq.) requires public entities to “administer serv-

ices, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities” (28 C.F.R. 35.130(d)). The regulation defines “the most integrated setting” as one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible” (28 C.F.R. pt. 35, App. B).

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

(A) One out of every 4 of the deaths caused by law enforcement officers is a person with mental illness.

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

(5) Many of the police encounters that lead to the incarceration (and in too many cases, death) of people with mental illness or an intellectual or developmental disability could be avoided by having in

1 place systems that ensure that calls to 911 or to law
2 enforcement result in dispatch of mental health pro-
3 fessionals, peer support workers, or others rather
4 than law enforcement officers.

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

15 **SEC. 3. GRANTS FOR MENTAL HEALTH PROFESSIONALS TO**
16 **ACT AS FIRST RESPONDERS.**

17 (a) IN GENERAL.—The Secretary of Health and
18 Human Services (in this section referred to as the “Sec-
19 retary”), acting through the Assistant Secretary for Men-
20 tal Health and Substance Use and in consultation with
21 the Assistant Attorney General for the Civil Rights Divi-
22 sion of the Department of Justice (in this section referred
23 to as the “Assistant Attorney General”), shall award
24 grants to States and political subdivisions of States—

(1) to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies in which—

(A) an individual calling 911, 988, or another emergency hotline states that a person—

(i) is in a mental health crisis; or

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

(B) a law enforcement officer or other first responder identifies a person as having (or possibly having) a mental illness or an intellectual or developmental disability; or

(C) a law enforcement officer or other first responder identifies a person as being (or possibly being) under the influence of a legal or illegal substance;

(2) to include in the training for mental health professionals pursuant to paragraph (1) training in—

(A) the principles of de-escalation and anti-racism; and

(B) age-appropriate mechanisms for carrying out the professionals' responsibilities;

(3) to ensure that such mental health professionals link persons described in subparagraph (A),

1 (B), or (C) of paragraph (1) with voluntary commu-
 2 nity-based 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), including training in the
 6 principles of de-escalation and anti-racism referred
 7 to in paragraph (2)(A).

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

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

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

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

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

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

7 (2) commit to increasing resources for mental
 8 health and community-based support services or so-
 9 lutions for such persons; or

10 (3) include peer support specialists in their cur-
 11 rent first responder model.

12 (e) REPORTING.—

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

15 (A) a quarterly report on—

16 (i) the number and percentage of
 17 emergencies where mental health profes-
 18 sionals were dispatched in lieu of law en-
 19 forcement officers pursuant to assistance
 20 under this section;

21 (ii) such other matters as the Sec-
 22 retary may require for determining wheth-
 23 er the recipient should receive an addi-
 24 tional award under subsection (c); and

(iii) any increase or decrease, compared to any previous quarter, in incarceration or institutionalization as a result of dispatching mental health professionals pursuant to assistance under this section, disaggregated to include data specific to persons with intellectual and developmental disabilities and mental illnesses where available, so as—

(I) to provide a critical baseline analysis; and

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

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

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

(3) DISAGGREGATION OF DATA.—The reporting pursuant to paragraphs (1) and (2) shall be disaggregated by age, gender, race, and ethnicity, to the extent the Secretary determines appropriate.

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

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

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

9 (A) received through the grant; and

10 (B) has not obligated or expended.

11 **SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVI-**
 12 **SIONS OF A STATE.**

13 The Secretary of Health and Human Services, acting
 14 through the Assistant Secretary for Mental Health and
 15 Substance Use and in consultation with the Assistant At-
 16 torney General for the Civil Rights Division of the Depart-
 17 ment of Justice, shall provide technical assistance to
 18 grantees under section 3 (or other Federal law), other po-
 19 litical subdivisions of States, and States to hire, employ,
 20 train, and dispatch mental health professionals to respond
 21 in lieu of law enforcement officers, as described in section
 22 3.

23 **SEC. 5. STUDY.**

24 (a) IN GENERAL.—The Secretary of Health and
 25 Human Services and the Assistant Attorney General for

1 the Civil Rights Division of the Department of Justice
2 shall conduct a study of the effectiveness of programs and
3 activities under sections 3 and 4.

4 (b) QUALITATIVE AND LONGITUDINAL EXAMINA-
5 TION.—The study under subsection (a) shall include a
6 qualitative and longitudinal study of—

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

9 (2) short- and long-term outcomes for those
10 persons, including reduced recidivism, reduced
11 incidences of use of force, and reduced utilization of
12 resources.

13 (c) COMPLETION; REPORT.—Not later than 3 years
14 after the date of enactment of this Act, the Secretary of
15 Health and Human Services and the Assistant Attorney
16 General for the Civil Rights Division of the Department
17 of Justice shall—

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

19 (2) submit a report to Congress on the results
20 of such study; and

21 (3) publish such report.

1 **SEC. 6. FUNDING.**

2 To carry out this legislation, there are authorized to
3 be appropriated such sums as may be necessary for fiscal
4 year 2021 and each subsequent fiscal year.

