

(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund.

(b) Limitation

Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender's rehabilitation.

(c) Mandatory drug testing and mandatory sanctions

(1) Mandatory testing

Grant amounts under this subchapter may be used for a drug court only if the drug court has mandatory periodic testing as described in subsection (a)(3)(A). The Attorney General shall, by prescribing guidelines or regulations, specify standards for the timing and manner of complying with such requirements. The standards—

(A) shall ensure that—

(i) each participant is tested for every controlled substance that the participant has been known to abuse, and for any other controlled substance the Attorney General or the court may require; and

(ii) the testing is accurate and practicable; and

(B) may require approval of the drug testing regime to ensure that adequate testing occurs.

(2) Mandatory sanctions

The Attorney General shall, by prescribing guidelines or regulations, specify that grant amounts under this subchapter may be used for a drug court only if the drug court imposes graduated sanctions that increase punitive measures, therapeutic measures, or both whenever a participant fails a drug test. Such sanctions and measures may include, but are not limited to, one or more of the following:

- (A) Incarceration.
- (B) Detoxification treatment.
- (C) Residential treatment.
- (D) Increased time in program.
- (E) Termination from the program.
- (F) Increased drug screening requirements.
- (G) Increased court appearances.
- (H) Increased counseling.
- (I) Increased supervision.
- (J) Electronic monitoring.
- (K) In-home restriction.
- (L) Community service.
- (M) Family counseling.
- (N) Anger management classes.

(Pub. L. 90-351, title I, §2951, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1794; amended Pub. L. 109-162, title XI, §1143, Jan. 5, 2006, 119 Stat. 3111; Pub. L. 109-177, title VII, §751, Mar. 9, 2006, 120 Stat. 273.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109-162 substituted “offenders, and other individuals under the jurisdiction of

the court, with substance abuse problems” for “offenders with substance abuse problems”.

Subsec. (c). Pub. L. 109-177 added subsec. (c).

STUDY BY THE GOVERNMENT ACCOUNTABILITY OFFICE

Pub. L. 107-273, div. B, title II, §2303, Nov. 2, 2002, 116 Stat. 1799, provided that:

“(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part EE of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [42 U.S.C. 3797u et seq.] as added by section 2401 [2301] and report to Congress the results of the study on or before January 1, 2005.

“(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

“(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part EE of [title I of] the Omnibus Crime Control and Safe Streets Act of 1968 [42 U.S.C. 3797u et seq.], the Comptroller General shall consider, among other things—

“(1) recidivism rates of program participants;

“(2) completion rates among program participants;

“(3) drug use by program participants; and

“(4) the costs of the program to the criminal justice system.”

§ 3797u-1. Prohibition of participation by violent offenders

The Attorney General shall—

(1) issue regulations or guidelines to ensure that the programs authorized in this subchapter do not permit participation by violent offenders; and

(2) immediately suspend funding for any grant under this subchapter, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this subchapter.

(Pub. L. 90-351, title I, §2952, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1795.)

REGULATIONS

Pub. L. 110-199, title I, §103(c), Apr. 9, 2008, 122 Stat. 668, provided that: “Not later than 90 days after the date of the enactment of this Act [Apr. 9, 2008], the Secretary [probably should be “the Attorney General”] shall revise any regulations or guidelines described in section 2952 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u-1) in accordance with the amendments made by subsection (a) [amending section 3797u-2 of this title]. Such regulations shall specify that grant amounts under part EE of such Act [42 U.S.C. 3797u et seq.] shall be reduced for any drug court that does not adopt the definition of ‘violent offender’ under such part, as amended by subsection (a) of this section, within 3 years after such date of enactment.”

§ 3797u-2. Definition

(a) In general

Except as provided in subsection (b) of this section, in this subchapter, the term “violent offender” means a person who—

(1) is charged with or convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which offense or conduct—

(A) the person carried, possessed, or used a firearm or dangerous weapon;

(B) there occurred the death of or serious bodily injury to any person; or

(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

(b) Definition for purposes of juvenile drug courts

For purposes of juvenile drug courts, the term “violent offender” means a juvenile who has been convicted of, or adjudicated delinquent for, a felony-level offense that—

(1) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or the possession or use of a firearm; or

(2) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(Pub. L. 90-351, title I, §2953, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1795; amended Pub. L. 109-162, title XI, §1141, Jan. 5, 2006, 119 Stat. 3110; Pub. L. 110-199, title I, §103(a), Apr. 9, 2008, 122 Stat. 668.)

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-199 inserted “that is punishable by a term of imprisonment exceeding one year” after “convicted of an offense” in introductory provisions.

2006—Subsec. (b). Pub. L. 109-162 substituted “a felony-level offense that” for “an offense that” in introductory provisions.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments and provisions set out as a note below by Pub. L. 110-199 and requirements for grants made under such amendments and note, see section 17504 of this title.

PERIOD FOR COMPLIANCE

Pub. L. 110-199, title I, §103(b), Apr. 9, 2008, 122 Stat. 668, provided that: “Notwithstanding section 2952(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u-1(2)), each grantee under part EE of such Act [42 U.S.C. 3797u et seq.] shall have not more than 3 years from the date of the enactment of this Act [Apr. 9, 2008] to adopt the definition of ‘violent offender’ under such part, as amended by subsection (a) of this section [amending this section].”

§ 3797u-3. Administration

(a) Consultation

The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this subchapter.

(b) Use of components

The Attorney General may utilize any component or components of the Department of Justice in carrying out this subchapter.

(c) Regulatory authority

The Attorney General may issue regulations and guidelines necessary to carry out this subchapter.

(d) Applications

In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subchapter shall—

(1) include a long-term strategy and detailed implementation plan that shall provide for the consultation and coordination with appropriate State and local prosecutors, particularly when program participants fail to comply with program requirements;

(2) explain the applicant’s inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(8) describe the methodology that will be used in evaluating the program.

(Pub. L. 90-351, title I, §2954, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1796.)

§ 3797u-4. Applications

To request funds under this subchapter, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(Pub. L. 90-351, title I, §2955, as added Pub. L. 107-273, div. B, title II, §2301(a), Nov. 2, 2002, 116 Stat. 1797.)

§ 3797u-5. Federal share

(a) In general

The Federal share of a grant made under this subchapter may not exceed 75 percent of the total costs of the program described in the application submitted under section 3797u-4 of this title for the fiscal year for which the program receives assistance under this subchapter, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.