

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.