

awarded under this subchapter, the Attorney General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report, which shall include—

- (1) the aggregate amount of grants awarded under this subchapter for that fiscal year; and
- (2) a summary of the information provided under subsection (a).

(Pub. L. 90–351, title I, §2806, as added Pub. L. 106–561, §2(c)(1), Dec. 21, 2000, 114 Stat. 2790; amended Pub. L. 107–273, div. B, title V, §5001(b)(5), Nov. 2, 2002, 116 Stat. 1814; Pub. L. 114–324, §9(a)(4), Dec. 16, 2016, 130 Stat. 1955.)

CODIFICATION

Section was formerly classified to section 3797o of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2016—Subsec. (a)(4), (5). Pub. L. 114–324 added par. (4) and redesignated former par. (4) as (5).

2002—Subsec. (a). Pub. L. 107–273, §5001(b)(5)(A), inserted “or unit of local government” after “each State” in introductory provisions.

Subsec. (a)(1). Pub. L. 107–273, §5001(b)(5)(B), inserted “, which shall include a comparison of pre-grant and post-grant forensic science capabilities” before semicolon at end.

Subsec. (a)(3), (4). Pub. L. 107–273, §5001(b)(5)(C)–(E), added par. (3) and redesignated former par. (3) as (4).

SUBCHAPTER XXVIII—MENTAL HEALTH AND DRUG TREATMENT ALTERNATIVES TO INCARCERATION PROGRAMS

CODIFICATION

Pub. L. 114–255, div. B, title XIV, §14013, Dec. 13, 2016, 130 Stat. 1298, substituted “MENTAL HEALTH AND DRUG TREATMENT ALTERNATIVES TO INCARCERATION PROGRAMS” for “PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAM” in subchapter heading.

§ 10581. Mental health and drug treatment alternatives to incarceration programs

(a) Definitions

In this section—

(1) the term “eligible entity” means a State, unit of local government, Indian tribe, or non-profit organization; and

(2) the term “eligible participant” means an individual who—

(A) comes into contact with the criminal justice system or is arrested or charged with an offense that is not—

(i) a crime of violence, as defined under applicable State law or in section 3156 of title 18; or

(ii) a serious drug offense, as defined in section 924(e)(2)(A) of title 18;

(B) has a history of, or a current—

(i) substance use disorder;

(ii) mental illness; or

(iii) co-occurring mental illness and substance use disorder; and

(C) has been approved for participation in a program funded under this section by the relevant law enforcement agency, prosecuting attorney, defense attorney, probation of-

ficial, corrections official, judge, representative of a mental health agency, or representative of a substance abuse agency, as required by law.

(b) Program authorized

The Attorney General may make grants to eligible entities to develop, implement, or expand a treatment alternative to incarceration program for eligible participants, including—

(1) pre-booking treatment alternative to incarceration programs, including—

(A) law enforcement training on substance use disorders, mental illness, and co-occurring mental illness and substance use disorders;

(B) receiving centers as alternatives to incarceration of eligible participants;

(C) specialized response units for calls related to substance use disorders, mental illness, or co-occurring mental illness and substance use disorders; and

(D) other arrest and pre-booking treatment alternatives to incarceration models; or

(2) post-booking treatment alternative to incarceration programs, including—

(A) specialized clinical case management;

(B) pre-trial services related to substances¹ use disorders, mental illness, and co-occurring mental illness and substance use disorders;

(C) prosecutor and defender based programs;

(D) specialized probation;

(E) treatment and rehabilitation programs; and

(F) problem-solving courts, including mental health courts, drug courts, co-occurring mental health and substance abuse courts, DWI courts, and veterans treatment courts.

(c) Application

(1) In general

An eligible entity desiring a grant under this section shall submit an application to the Attorney General—

(A) that meets the criteria under paragraph (2); and

(B) at such time, in such manner, and accompanied by such information as the Attorney General may require.

(2) Criteria

An eligible entity, in submitting an application under paragraph (1), shall—

(A) provide extensive evidence of collaboration with State and local government agencies overseeing health, community corrections, courts, prosecution, substance abuse, mental health, victims services, and employment services, and with local law enforcement agencies;

(B) demonstrate consultation with the Single State Authority for Substance Abuse of the State (as that term is defined in section 60521(e) of this title);

(C) demonstrate that evidence-based treatment practices will be utilized; and

¹ So in original. Probably should be “substance”.

(D) demonstrate that evidence-based screening and assessment tools will be used to place participants in the treatment alternative to incarceration program.

(d) Requirements

Each eligible entity awarded a grant for a treatment alternative to incarceration program under this section shall—

(1) determine the terms and conditions of participation in the program by eligible participants, taking into consideration the collateral consequences of an arrest, prosecution or criminal conviction;

(2) ensure that each substance abuse and mental health treatment component is licensed and qualified by the relevant jurisdiction;

(3) for programs described in subsection (b)(2), organize an enforcement unit comprised of appropriately trained law enforcement professionals under the supervision of the State, Tribal, or local criminal justice agency involved, the duties of which shall include—

(A) the verification of addresses and other contact information of each eligible participant who participates or desires to participate in the program; and

(B) if necessary, the location, apprehension, arrest, and return to custody of an eligible participant in the program who has absconded from the facility of a treatment provider or has otherwise significantly violated the terms and conditions of the program, consistent with Federal and State confidentiality requirements;

(4) notify the relevant criminal justice entity if any eligible participant in the program absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program, consistent with Federal and State confidentiality requirements;

(5) submit periodic reports on the progress of treatment or other measured outcomes from participation in the program of each eligible participant in the program to the relevant State, Tribal, or local criminal justice agency, including mental health courts, drug courts, co-occurring mental health and substance abuse courts, DWI courts, and veterans treatment courts;

(6) describe the evidence-based methodology and outcome measurements that will be used to evaluate the program, and specifically explain how such measurements will provide valid measures of the impact of the program; and

(7) describe how the program could be broadly replicated if demonstrated to be effective.

(e) Use of funds

An eligible entity shall use a grant received under this section for expenses of a treatment alternative to incarceration program, including—

(1) salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit;

(2) payments for treatment providers that are approved by the relevant State or Tribal

jurisdiction and licensed, if necessary, to provide needed treatment to eligible offenders participating in the program, including after-care supervision, vocational training, education, and job placement; and

(3) payments to public and nonprofit private entities that are approved by the State or Tribal jurisdiction and licensed, if necessary, to provide alcohol and drug addiction treatment to eligible offenders participating in the program.

(f) Supplement not supplant

An eligible entity shall use Federal funds received under this section only to supplement the funds that would, in the absence of those Federal funds, be made available from other Federal and non-Federal sources for the activities described in this section, and not to supplant those funds. The Federal share of a grant made under this section may not exceed 50 percent of the total costs of the program described in an application under subsection (d).

(g) Geographic distribution

The Attorney General shall ensure that, to the extent practicable, the geographical distribution of grants under this section is equitable and includes a grant to an eligible entity in—

- (1) each State;
- (2) rural, suburban, and urban areas; and
- (3) Tribal jurisdictions.

(h) Reports and evaluations

Each fiscal year, each recipient of a grant under this section during that fiscal year shall submit to the Attorney General a report on the outcomes of activities carried out using that grant in such form, containing such information, and on such dates as the Attorney General shall specify.

(i) Accountability

All grants awarded by the Attorney General under this section shall be subject to the following accountability provisions:

(1) Audit requirement

(A) Definition

In this paragraph, the term “unresolved audit finding” means a finding in the final audit report of the Inspector General of the Department of Justice that the audited grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 12 months from the date on which the final audit report is issued.

(B) Audits

Beginning in the first fiscal year beginning after December 13, 2016, and in each fiscal year thereafter, the Inspector General of the Department of Justice shall conduct audits of recipients of grants under this section to prevent waste, fraud, and abuse of funds by grantees. The Inspector General shall determine the appropriate number of grantees to be audited each year.

(C) Mandatory exclusion

A recipient of grant funds under this section that is found to have an unresolved

audit finding shall not be eligible to receive grant funds under this section during the first 2 fiscal years beginning after the end of the 12-month period described in subparagraph (A).

(D) Priority

In awarding grants under this section, the Attorney General shall give priority to eligible applicants that did not have an unresolved audit finding during the 3 fiscal years before submitting an application for a grant under this section.

(E) Reimbursement

If an entity is awarded grant funds under this section during the 2-fiscal-year period during which the entity is barred from receiving grants under subparagraph (C), the Attorney General shall—

(i) deposit an amount equal to the amount of the grant funds that were improperly awarded to the grantee into the General Fund of the Treasury; and

(ii) seek to recoup the costs of the repayment to the fund from the grant recipient that was erroneously awarded grant funds.

(2) Nonprofit organization requirements

(A) Definition

For purposes of this paragraph and the grant programs under this subchapter, the term “nonprofit organization” means an organization that is described in section 501(c)(3) of title 26 and is exempt from taxation under section 501(a) of such title.

(B) Prohibition

The Attorney General may not award a grant under this subchapter to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of title 26.

(C) Disclosure

Each nonprofit organization that is awarded a grant under this section and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees, and key employees, shall disclose to the Attorney General, in the application for the grant, the process for determining such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the Attorney General shall make the information disclosed under this subparagraph available for public inspection.

(3) Conference expenditures

(A) Limitation

No amounts made available to the Department of Justice under this section may be used by the Attorney General, or by any individual or entity awarded discretionary funds through a cooperative agreement under this section, to host or support any expenditure for conferences that uses more

than \$20,000 in funds made available by the Department of Justice, unless the head of the relevant agency or department, provides prior written authorization that the funds may be expended to host the conference.

(B) Written approval

Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

(C) Report

The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on all conference expenditures approved under this paragraph.

(4) Annual certification

Beginning in the first fiscal year beginning after December 13, 2016, the Attorney General shall submit, to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives, an annual certification—

(A) indicating whether—

(i) all audits issued by the Office of the Inspector General under paragraph (1) have been completed and reviewed by the appropriate Assistant Attorney General or Director;

(ii) all mandatory exclusions required under paragraph (1)(C) have been issued; and

(iii) all reimbursements required under paragraph (1)(E) have been made; and

(B) that includes a list of any grant recipients excluded under paragraph (1) from the previous year.

(5) Preventing duplicative grants

(A) In general

Before the Attorney General awards a grant to an applicant under this section, the Attorney General shall compare potential grant awards with other grants awarded under this Act to determine if duplicate grant awards are awarded for the same purpose.

(B) Report

If the Attorney General awards duplicate grants to the same applicant for the same purpose the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that includes—

(i) a list of all duplicate grants awarded, including the total dollar amount of any duplicate grants awarded; and

(ii) the reason the Attorney General awarded the duplicate grants.

(Pub. L. 90-351, title I, §2901, as added Pub. L. 114-255, div. B, title XIV, §14013, Dec. 13, 2016, 130 Stat. 1298.)

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(5)(A), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, known as the Omnibus Crime Control and Safe Streets Act of 1968. For complete classification of this Act to the Code, see Short Title of 1968 Act note set out under section 10101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 3797q of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 2901 of title I of Pub. L. 90-351, as added Pub. L. 110-199, title I, §112(a), Apr. 9, 2008, 122 Stat. 672, authorized the Attorney General to make grants for qualified drug treatment programs as alternatives to imprisonment, prior to repeal by Pub. L. 114-255, div. B, title XIV, §14013, Dec. 13, 2016, 130 Stat. 1298.

SUBCHAPTER XXIX—GRANTS FOR FAMILY-BASED SUBSTANCE ABUSE TREATMENT

§ 10591. Grants authorized

The Attorney General may make grants to States, units of local government, territories, and Indian Tribes to—

- (1) develop, implement, and expand comprehensive and clinically-appropriate family-based substance abuse treatment programs as alternatives to incarceration for nonviolent parent drug offenders; and
- (2) to¹ provide prison-based family treatment programs for incarcerated parents of minor children or pregnant women.

(Pub. L. 90-351, title I, §2921, as added Pub. L. 110-199, title I, §113, Apr. 9, 2008, 122 Stat. 674; amended Pub. L. 114-198, title II, §201(c)(1), July 22, 2016, 130 Stat. 714.)

CODIFICATION

Section was formerly classified to section 3797s of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2016—Par. (2). Pub. L. 114-198 inserted before period at end “or pregnant women”.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 60504 of this title.

§ 10592. Use of grant funds

Grants made to an entity under section 10591 of this title for a program described in such section may be used for—

- (1) the development, implementation, and expansion of prison-based family treatment programs in correctional facilities for incarcerated parents with minor children (except for any such parent who there is reasonable evidence to believe engaged in domestic violence or child abuse);
- (2) the development, implementation, and expansion of residential substance abuse treatment;

(3) coordination between appropriate correctional facility representatives and the appropriate governmental agencies;

(4) payments to public and nonprofit private entities to provide substance abuse treatment to nonviolent parent drug offenders participating in that program; and

(5) salaries, personnel costs, facility costs, and other costs directly related to the operation of that program.

(Pub. L. 90-351, title I, §2922, as added Pub. L. 110-199, title I, §113, Apr. 9, 2008, 122 Stat. 675.)

CODIFICATION

Section was formerly classified to section 3797s-1 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 60504 of this title.

§ 10593. Program requirements

(a) In general

A program for which a grant is made under section 10591(1) of this title shall comply with the following requirements:

(1) The program shall ensure that all providers of substance abuse treatment are approved by the State or Indian Tribe and are licensed, if necessary, to provide medical and other health services.

(2) The program shall ensure appropriate coordination and consultation with the Single State Authority for Substance Abuse of the State (as that term is defined in section 60521(e) of this title).

(3) The program shall consist of clinically-appropriate, comprehensive, and long-term family treatment, including the treatment of the nonviolent parent drug offender, the child of such offender, and any other appropriate member of the family of the offender.

(4) The program shall be provided in a residential setting that is not a hospital setting or an intensive outpatient setting.

(5) The program shall provide that if a nonviolent parent drug offender who participates in that program does not successfully complete the program the offender shall serve an appropriate sentence of imprisonment with respect to the underlying crime involved.

(6) The program shall ensure that a determination is made as to whether a nonviolent drug offender has completed the substance abuse treatment program.

(7) The program shall include the implementation of a system of graduated sanctions (including incentives) that are applied based on the accountability of the nonviolent parent drug offender involved throughout the course of that program to encourage compliance with that program.

(8) The program shall develop and implement a reentry plan for each participant.

(b) Prison-based programs

A program for which a grant is made under section 10591(2) of this title shall comply with the following requirements:

¹ So in original. The word “to” probably should not appear.