

State receives funds for a program referred to in subsection (c)(2), the State shall report to the Attorney General, on a quarterly basis and pursuant to guidelines established by the Attorney General, information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).

**(b) Information required**

The report required by this section shall contain information that, at a minimum, includes—

- (1) the name, gender, race, ethnicity, and age of the deceased;
- (2) the date, time, and location of death;
- (3) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and
- (4) a brief description of the circumstances surrounding the death.

**(c) Compliance and ineligibility**

**(1) Compliance date**

Each State shall have not more than 120 days from December 18, 2014, to comply with subsection (a), except that—

- (A) the Attorney General may grant an additional 120 days to a State that is making good faith efforts to comply with such subsection; and
- (B) the Attorney General shall waive the requirements of subsection (a) if compliance with such subsection by a State would be unconstitutional under the constitution of such State.

**(2) Ineligibility for funds**

For any fiscal year after the expiration of the period specified in paragraph (1), a State that fails to comply with subsection (a), shall, at the discretion of the Attorney General, be subject to not more than a 10-percent reduction of the funds that would otherwise be allocated for that fiscal year to the State under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.),<sup>1</sup> whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

**(d) Reallocation**

Amounts not allocated under a program referred to in subsection (c)(2) to a State for failure to fully comply with subsection (a) shall be reallocated under that program to States that have not failed to comply with such subsection.

**(e) Definitions**

In this section the terms “boot camp prison” and “State” have the meaning given those terms, respectively, in section 10251(a) of this title.

<sup>1</sup> See References in Text note below.

**(f) Study and report of information relating to deaths in custody**

**(1) Study required**

The Attorney General shall carry out a study of the information reported under subsection (b) and section 3(a)<sup>1</sup> to—

- (A) determine means by which such information can be used to reduce the number of such deaths; and
- (B) examine the relationship, if any, between the number of such deaths and the actions of management of such jails, prisons, and other specified facilities relating to such deaths.

**(2) Report**

Not later than 2 years after December 18, 2014, the Attorney General shall prepare and submit to Congress a report that contains the findings of the study required by paragraph (1).

(Pub. L. 113–242, § 2, Dec. 18, 2014, 128 Stat. 2860.)

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (c)(2), is Pub. L. 90–351, June 19, 1968, 82 Stat. 197. Subpart 1 of part E of title I of the Act was classified generally to part A (§3750 et seq.) of subchapter V of chapter 46 of Title 42, The Public Health and Welfare, prior to editorial reclassification as part A (§10151 et seq.) of subchapter V of chapter 101 of this title. 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.

Section 3(a), referred to in subsec. (f)(1), is section 3(a) of Pub. L. 113–242, Dec. 18, 2014, 128 Stat. 2861. Section 3 of Pub. L. 113–242 was editorially reclassified as a note under section 4001 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section was formerly classified to section 13727 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**CHAPTER 603—IMPROVING THE QUALITY OF REPRESENTATION IN STATE CAPITAL CASES**

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**§ 60301. Capital representation improvement grants**

**(a) In general**

The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

**(b) Defined term**

In this section, the term “legal representation” means legal counsel and investigative, expert, and other services necessary for competent representation.

**(c) Use of funds**

Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

- (A) indigents charged with an offense subject to capital punishment;
- (B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and
- (C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

**(d) Apportionment of funds**

**(1) In general**

Of the funds awarded under subsection (a)—

- (A) not less than 75 percent shall be used to carry out the purpose described in subsection (c)(1)(A); and
- (B) not more than 25 percent shall be used to carry out the purpose described in subsection (c)(1)(B).

**(2) Waiver**

The Attorney General may waive the requirement under this subsection for good cause shown.

**(e) Effective system**

As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

- (1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—
  - (A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;
  - (B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital cases, except for individuals currently employed as prosecutors; or
  - (C) pursuant to a statutory procedure enacted before October 30, 2004, under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and
- (2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

- (A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;
- (B) establish and maintain a roster of qualified attorneys;
- (C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court

may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

- (D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;
- (E)(i) monitor the performance of attorneys who are appointed and their attendance at training programs; and
- (ii) remove from the roster attorneys who—

- (I) fail to deliver effective representation or engage in unethical conduct;
- (II) fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; or
- (III) during the past 5 years, have been sanctioned by a bar association or court for ethical misconduct relating to the attorney's conduct as defense counsel in a criminal case in Federal or State court; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

- (i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and
- (ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

(Pub. L. 108-405, title IV, § 421, Oct. 30, 2004, 118 Stat. 2286.)

CODIFICATION

Section was formerly classified to section 14163 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 60302. Capital prosecution improvement grants**

**(a) In general**

The Attorney General shall award grants to States for the purpose of enhancing the ability