

“None of the funds available to the Judiciary in fiscal years 1996 and 1997 and hereafter shall be available for expenses authorized pursuant to section 802(a) of title VIII of section 101(a) of title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104-134 [amending this section], for costs related to the appointment of Special Masters prior to April 26, 1996.”

PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION ORDERS

Pub. L. 104-134, title I, §101[(a)] [title VIII, §807], Apr. 26, 1996, 110 Stat. 1321, 1321-75, provided that: “Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.”

NOTICE TO CRIME VICTIMS OF PENDING DAMAGE AWARD

Pub. L. 104-134, title I, §101[(a)] [title VIII, §808], Apr. 26, 1996, 110 Stat. 1321, 1321-76, provided that: “Prior to payment of any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, reasonable efforts shall be made to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of any such compensatory damages.”

SUBCHAPTER D—RISK AND NEEDS ASSESSMENT SYSTEM

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§ 3631. Duties of the Attorney General

(a) IN GENERAL.—The Attorney General shall carry out this subchapter in consultation with—

- (1) the Director of the Bureau of Prisons;
- (2) the Director of the Administrative Office of the United States Courts;
- (3) the Director of the Office of Probation and Pretrial Services;
- (4) the Director of the National Institute of Justice;
- (5) the Director of the National Institute of Corrections; and
- (6) the Independent Review Committee authorized by the First Step Act of 2018<sup>1</sup>

(b) DUTIES.—The Attorney General shall—

- (1) conduct a review of the existing prisoner risk and needs assessment systems in operation on the date of enactment of this subchapter;
- (2) develop recommendations regarding evidence-based recidivism reduction programs and productive activities in accordance with section 3633;
- (3) conduct ongoing research and data analysis on—

(A) evidence-based recidivism reduction programs relating to the use of prisoner risk and needs assessment tools;

(B) the most effective and efficient uses of such programs;

(C) which evidence-based recidivism reduction programs are the most effective at reducing recidivism, and the type, amount, and intensity of programming that most effectively reduces the risk of recidivism; and

(D) products purchased by Federal agencies that are manufactured overseas and could be manufactured by prisoners participating in a prison work program without reducing job opportunities for other workers in the United States;

(4) on an annual basis, review, validate, and release publicly on the Department of Justice website the risk and needs assessment system, which review shall include—

(A) any subsequent changes to the risk and needs assessment system made after the date of enactment of this subchapter;

(B) the recommendations developed under paragraph (2), using the research conducted under paragraph (3);

(C) an evaluation to ensure that the risk and needs assessment system bases the assessment of each prisoner’s risk of recidivism on indicators of progress and of regression that are dynamic and that can reasonably be expected to change while in prison;

(D) statistical validation of any tools that the risk and needs assessment system uses; and

(E) an evaluation of the rates of recidivism among similarly classified prisoners to identify any unwarranted disparities, including disparities among similarly classified prisoners of different demographic groups, in such rates;

(5) make any revisions or updates to the risk and needs assessment system that the Attorney General determines appropriate pursuant to the review under paragraph (4), including updates to ensure that any disparities identified in paragraph (4)(E) are reduced to the greatest extent possible; and

(6) report to Congress in accordance with section 3634.

(Added Pub. L. 115-391, title I, §101(a), Dec. 21, 2018, 132 Stat. 5195.)

Editorial Notes

REFERENCES IN TEXT

The First Step Act of 2018, referred to in subsec. (a)(6), is Pub. L. 115-391, Dec. 21, 2018, 132 Stat. 5194. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note under section 1 of this title and Tables.

The date of enactment of this subchapter, referred to in subsec. (b)(1), (4)(A), is the date of enactment of Pub. L. 115-391, which was approved Dec. 21, 2018.

Statutory Notes and Related Subsidiaries

INDEPENDENT REVIEW COMMITTEE

Pub. L. 115-391, title I, §107, Dec. 21, 2018, 132 Stat. 5215, provided that:

“(a) IN GENERAL.—The Attorney General shall consult with an Independent Review Committee in car-

<sup>1</sup> So in original. Probably should be followed by a period.

rying out the Attorney General's duties under sections 3631(b), 3632 and 3633 of title 18, United States Code, as added by section 101(a) of this Act.

“(b) **FORMATION OF INDEPENDENT REVIEW COMMITTEE.**—The National Institute of Justice shall select a nonpartisan and nonprofit organization with expertise in the study and development of risk and needs assessment tools to host the Independent Review Committee. The Independent Review Committee shall be established not later than 30 days after the date of enactment of this Act [Dec. 21, 2018].

“(c) **APPOINTMENT OF INDEPENDENT REVIEW COMMITTEE.**—The organization selected by the National Institute of Justice shall appoint not fewer than 6 members to the Independent Review Committee.

“(d) **COMPOSITION OF THE INDEPENDENT REVIEW COMMITTEE.**—The members of the Independent Review Committee shall all have expertise in risk and needs assessment systems and shall include—

“(1) 2 individuals who have published peer-reviewed scholarship about risk and needs assessments in both corrections and community settings;

“(2) 2 corrections practitioners who have developed and implemented a risk assessment tool in a corrections system or in a community supervision setting, including 1 with prior experience working within the Bureau of Prisons; and

“(3) 1 individual with expertise in assessing risk assessment implementation.

“(e) **DUTIES OF THE INDEPENDENT REVIEW COMMITTEE.**—The Independent Review Committee shall assist the Attorney General in carrying out the Attorney General's duties under sections 3631(b), 3632 and 3633 of title 18, United States Code, as added by section 101(a) of this Act, including by assisting in—

“(1) conducting a review of the existing prisoner risk and needs assessment systems in operation on the date of enactment of this Act;

“(2) developing recommendations regarding evidence-based recidivism reduction programs and productive activities;

“(3) conducting research and data analysis on—

“(A) evidence-based recidivism reduction programs relating to the use of prisoner risk and needs assessment tools;

“(B) the most effective and efficient uses of such programs; and

“(C) which evidence-based recidivism reduction programs are the most effective at reducing recidivism, and the type, amount, and intensity of programming that most effectively reduces the risk of recidivism; and

“(4) reviewing and validating the risk and needs assessment system.

“(f) **BUREAU OF PRISONS COOPERATION.**—The Director of the Bureau of Prisons shall assist the Independent Review Committee in performing the Committee's duties and promptly respond to requests from the Committee for access to Bureau of Prisons facilities, personnel, and information.

“(g) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Independent Review Committee shall submit to the Committee on the Judiciary and the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the House of Representatives a report that includes—

“(1) a list of all offenses of conviction for which prisoners were ineligible to receive time credits under section 3632(d)(4)(D) of title 18, United States Code, as added by section 101(a) of this Act, and for each offense the number of prisoners excluded, including demographic percentages by age, race, and sex;

“(2) the criminal history categories of prisoners ineligible to receive time credits under section 3632(d)(4)(D) of title 18, United States Code, as added

by section 101(a) of this Act, and for each category the number of prisoners excluded, including demographic percentages by age, race, and sex;

“(3) the number of prisoners ineligible to apply time credits under section 3632(d)(4)(D) of title 18, United States Code, as added by section 101(a) of this Act, who do not participate in recidivism reduction programming or productive activities, including the demographic percentages by age, race, and sex;

“(4) any recommendations for modifications to section 3632(d)(4)(D) of title 18, United States Code, as added by section 101(a) of this Act, and any other recommendations regarding recidivism reduction.

“(h) **TERMINATION.**—The Independent Review Committee shall terminate on the date that is 2 years after the date on which the risk and needs assessment system authorized by sections 3632 and 3633 of title 18, United States Code, as added by section 101(a) of this Act, is released.”

### § 3632. Development of risk and needs assessment system

(a) **IN GENERAL.**—Not later than 210 days after the date of enactment of this subchapter, the Attorney General, in consultation with the Independent Review Committee authorized by the First Step Act of 2018, shall develop and release publicly on the Department of Justice website a risk and needs assessment system (referred to in this subchapter as the “System”), which shall be used to—

(1) determine the recidivism risk of each prisoner as part of the intake process, and classify each prisoner as having minimum, low, medium, or high risk for recidivism;

(2) assess and determine, to the extent practicable, the risk of violent or serious misconduct of each prisoner;

(3) determine the type and amount of evidence-based recidivism reduction programming that is appropriate for each prisoner and assign each prisoner to such programming accordingly, and based on the prisoner's specific criminogenic needs, and in accordance with subsection (b);

(4) reassess the recidivism risk of each prisoner periodically, based on factors including indicators of progress, and of regression, that are dynamic and that can reasonably be expected to change while in prison;

(5) reassign the prisoner to appropriate evidence-based recidivism reduction programs or productive activities based on the revised determination to ensure that—

(A) all prisoners at each risk level have a meaningful opportunity to reduce their classification during the period of incarceration;

(B) to address<sup>1</sup> the specific criminogenic needs of the prisoner; and

(C) all prisoners are able to successfully participate in such programs;

(6) determine when to provide incentives and rewards for successful participation in evidence-based recidivism reduction programs or productive activities in accordance with subsection (e);

(7) determine when a prisoner is ready to transfer into prerelease custody or supervised release in accordance with section 3624; and

(8) determine the appropriate use of audio technology for program course materials with an understanding of dyslexia.

<sup>1</sup> So in original.