

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

### Editorial Notes

#### 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.)

#### Editorial Notes

##### 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 of prosecutors to effectively represent the public in State capital cases.

#### (b) Use of funds

##### (1) Permitted uses

Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital

cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

#### (2) Prohibited use

Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

(Pub. L. 108-405, title IV, § 422, Oct. 30, 2004, 118 Stat. 2288.)

#### Editorial Notes

##### CODIFICATION

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

### § 60303. Applications

#### (a) In general

The Attorney General shall establish a process through which a State may apply for a grant under this chapter.

#### (b) Application

##### (1) In general

A State desiring a grant under this chapter shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

##### (2) Contents

Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 60301(e)(1)(C) of this title, a certification by