

112TH CONGRESS
1ST SESSION

H. R. 3171

To amend the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to juveniles who have committed offenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2011

Mr. MURPHY of Connecticut introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to juveniles who have committed offenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Juvenile Justice Im-
5 provement Act of 2011”.

6 **SEC. 2. DEFINITIONS.**

7 Section 103 of the Juvenile Justice and Delinquency
8 Prevention Act of 1974 (42 U.S.C. 5603) is amended—

9 (1) in paragraph (25) by striking the words
10 “means the degree of interaction allowed between ju-

1 venile offenders in a secure custody status and in-
2 carcerated adults under section 31303(d)(1)(i) of
3 title 28, Code of Federal Regulations, as in effect on
4 December 10, 1996.” and inserting “includes any
5 sight or sound interaction between a youth under 18
6 in a secure custody status with an adult inmate.”,

7 (2) by amending paragraph (26) to read as fol-
8 lows:

9 “(26) the term ‘adult inmate’ means an indi-
10 vidual who—

11 “(A) has reached the age of full criminal
12 responsibility under applicable State law; and

13 “(B) has been arrested and is in custody
14 for or awaiting trial on a criminal charge, or is
15 convicted of a criminal charge offense; exclud-
16 ing individuals who are—

17 “(i) at the time of the offense, young-
18 er than the maximum age at which a youth
19 can be held in a juvenile facility under ap-
20 plicable State law; and

21 “(ii) committed to the care and cus-
22 tody of a juvenile correctional facility by a
23 court of competent jurisdiction or by oper-
24 ation of applicable State law.”,

1 (3) in paragraph (28) by striking “; and” at
2 the end,

3 (4) in paragraph (29) by striking the period at
4 the end and inserting a semicolon, and

5 (5) by adding at the end the following:

6 “(30) the term ‘restraint’ means a chemical or
7 medical agent, physical force technique, or mechan-
8 ical device that restricts the movement of juveniles
9 held in the custody of State or local secure detention
10 or corrections facilities and youth participating in
11 court-ordered delinquency prevention and juvenile
12 justice programs;

13 “(31) the term ‘chemical agent’ means a spray
14 used to temporarily incapacitate a person, such as
15 oleoresin capsicum spray, tear gas, or 2-chlorobenz-
16 almalononitrile gas (CS gas);

17 “(32) the term ‘isolation’ means any instance
18 when a youth is confined alone for more than 15
19 minutes in a locked or unlocked room and includes
20 instances when a resident is confined for cause or
21 punishment in a room or cell in which he or she usu-
22 ally sleeps, but does not include confinement in a
23 large dormitory with other youth, protective isolation
24 (for injured youths or youths whose safety is threat-
25 ened), program separation, routine isolation at the

1 time of the youth’s admission, or isolation that is re-
2 quented by the youth or any medical room confine-
3 ment;

4 “(33) the term ‘room time’ means any instance
5 in which a youth is confined alone for more than 15
6 minutes, and includes confinement alone at the time
7 of the youth’s admission as well as protective isola-
8 tion and program separation, administrative reasons,
9 investigation purposes, low staffing and other rea-
10 sons, but does not include time when a youth asks
11 to go to his room or confinement for medical rea-
12 sons;

13 “(34) the term ‘evidence based’ means a pro-
14 gram that is demonstrated with relative evidence,
15 normed and validated for a diverse population, to be
16 either—

17 “(A) exemplary, such that it is imple-
18 mented with a high degree of fidelity and dem-
19 onstrates robust empirical findings using a rep-
20 utable conceptual framework and an experi-
21 mental evaluation design of the highest quality
22 (a random assignment control trial); or

23 “(B) effective, such that it is implemented
24 with sufficient fidelity that it demonstrates ade-
25 quate empirical findings using a sound concep-

1 tual framework and a quasi-experimental eval-
2 uation design of high quality (comparison group
3 without random assignment control group);

4 “(35) the term ‘promising’ means a program
5 that demonstrates effectiveness using reasonable,
6 limited findings, and that has underway a more ap-
7 propriate evaluation that meets the criteria set forth
8 in paragraph (33)(A) for determining evidence-based
9 programs; and

10 “(36) the term ‘dangerous practice’ means an
11 act, procedure, or program that creates an unreason-
12 able risk of physical injury, pain, or psychological
13 harm to a juvenile subjected to the act, and it in-
14 cludes the use of chemical agents; choking; blows to
15 the head; twisting body parts against joints or other
16 techniques that rely on infliction of pain to secure
17 compliance; restraint to fixed objects; restraint in
18 any manner that creates risk of asphyxiation; use of
19 belly belts or chains on pregnant girls; use of four-
20 point or five-point restraints, straightjackets or re-
21 straint chairs, except for medical or mental health
22 purposes specifically related to the safety of the
23 youth, and under the direct supervision of medical or
24 mental health personnel, use of psychotropic medica-
25 tion without adherence to professional standards re-

1 garding dosage, or for purposes of coercion, punish-
2 ment, or convenience of staff; and use of physical
3 force, chemical agents, or mechanical restraints for
4 purposes of coercion, retaliation, punishment, or
5 convenience of staff; and prolonged, forced physical
6 exercise.”.

7 **SEC. 3. STATE PLAN.**

8 Section 223(a) of the Juvenile Justice and Delin-
9 quency Prevention Act of 1974 (42 U.S.C. 5633(a)) is
10 amended—

11 (1) in paragraph (8) by striking “existing” and
12 inserting “proven effective”,

13 (2) in paragraph (9)(L)(i) by striking “re-
14 straints” and inserting “requirements”,

15 (3) in paragraph (27) by striking “and” at the
16 end,

17 (4) in paragraph (28) by striking the period at
18 the end and inserting a semicolon, and

19 (5) by adding at the end the following:

20 “(29) require that not later than 3 years after
21 the date of enactment of this paragraph and except
22 when under the circumstances outlined in paragraph
23 (13), youth under the age of 18 awaiting trial or
24 other legal process who are treated as adults for

1 purposes of prosecution in criminal court and housed
2 in a secure facility—

3 “(A) shall not have contact with adult in-
4 mates; and

5 “(B) shall not be held in jail or lockup for
6 adults;

7 “(30) provide that the State will—

8 “(A) develop policies and procedures to
9 eliminate the State-supported use of dangerous
10 practices, unnecessary isolation, unnecessary
11 room time, and unreasonable restraint with ju-
12 veniles in the custody of State or local secure
13 detention and correctional facilities and residen-
14 tial treatment centers and provide for data col-
15 lection and reporting on the use of restraints,
16 isolation, and room time in secure detention
17 and correctional facilities;

18 “(B) increase the State’s efforts to operate
19 facilities and programs that are safe for youth
20 and staff, through effective behavior manage-
21 ment systems that clearly communicate incen-
22 tives and sanctions to increase appropriate be-
23 havior and decrease inappropriate behavior, and
24 which are implemented through a continuum of
25 responses that begin with verbal de-escalation

1 and that only allow for use of the most punitive
2 responses as a last resort;

3 “(C) increase the State’s efforts to provide
4 training for facility staff on effective techniques
5 for effective behavior management, de-escala-
6 tion and crisis intervention, adolescent devel-
7 opment, safe physical control techniques, devel-
8 opmental disabilities, mental health disorders,
9 and cultural competence;

10 “(D) increase the State’s efforts to develop
11 engaging, effective programming, and establish
12 safe staffing levels in secure detention and cor-
13 rectional facilities; and

14 “(E) provide for a system of independent
15 monitoring for all juvenile detention and correc-
16 tional facilities in the State to identify and ad-
17 dress dangerous practices, unnecessary uses of
18 isolation and room time, and unreasonable re-
19 straint, as well as deficiencies in provision of
20 education, medical care, mental health care,
21 and other conditions of confinement; and

22 “(31) provide reasonable assurance the Federal
23 funds made available under this part for any period
24 will not be used for dangerous practices with juve-

1 niles in the custody of State or local secure deten-
2 tion and correctional facilities.”.

3 **SEC. 4. PROMOTING ALTERNATIVES TO INCARCERATION.**

4 Section 222 of the Juvenile Justice and Delinquency
5 Prevention Act of 1974 (42 U.S.C. 5632) is amended by
6 adding at the end the following:

7 “(e) INCENTIVE GRANTS.—

8 “(1) INCENTIVE GRANTS FUNDS.—The Admin-
9 istrator shall make grants totaling at least 5 percent
10 of the funds appropriated for this part in each fiscal
11 year as incentive grants to States. The Adminis-
12 trator shall make such incentive grants consistent
13 with the provisions of subsection (a), and shall con-
14 dition such grants upon—

15 “(A) the State’s support for evidence-based
16 or promising programs, prioritizing programs
17 that address the mental health treatment needs
18 of juveniles;

19 “(B) the State’s support of reforms that
20 reduce or eliminate the State-supported use of
21 dangerous practices;

22 “(C) the State’s support for reforms that
23 ensure that seclusion in secure detention or cor-
24 rectional facilities is limited to situations in
25 which seclusion is the least restrictive measure

1 sufficient to address a youth’s danger to self or
2 others, used only for the amount of time nec-
3 essary and is terminated when there is no
4 longer an immediate danger to the youth or
5 others, or imposed only after applicable due
6 process; and

7 “(D) the demonstration by the State of an
8 improvement of public safety and rehabilitation
9 of delinquent and at-risk youths.

10 “(2) The State shall make the demonstration
11 required by paragraph (1)(D) by using accurate and
12 reliable data reported annually showing both—

13 “(A) a reduction in either recidivism or of-
14 fenses by youths under age 18, using arrest
15 data; and

16 “(B) either—

17 “(i) an increase in the use of least re-
18 strictive placement for juveniles as appro-
19 priate for community safety;

20 “(ii) an increase in the safety of
21 youths in the delinquency or criminal jus-
22 tice system; or

23 “(iii) a decrease in racial and ethnic
24 disparities in the delinquency system.”.

1 **SEC. 5. REMOVING THE VALID COURT ORDER EXCEPTION**
2 **FOR STATUS OFFENDERS.**

3 Section 223(a)(11) of the Juvenile Justice and Delin-
4 quency Prevention Act of 1974 (42 U.S.C. 5633(a)(11))
5 is amended—

6 (1) by striking “shall”, and

7 (2) by amending subparagraph (A) to read as
8 follows:

9 “(A) juveniles who are charged with or
10 who have committed an offense that would not
11 be criminal if committed by an adult, excluding
12 juveniles who are charged with or who have
13 committed a violation of section 922(x)(2) of
14 title 18, United States Code, or of a similar
15 State law, shall not be placed in secure deten-
16 tion facilities or secure correctional facilities;
17 and”.

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