

112TH CONGRESS
1ST SESSION

H. R. 82

To reauthorize and amend part EE of the Omnibus Crime Control and Safe Streets Act of 1968 relating to drug courts.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Ms. JACKSON LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reauthorize and amend part EE of the Omnibus Crime Control and Safe Streets Act of 1968 relating to drug courts.

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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Drug Court Reauthorization Act”.

6 (b) **FINDINGS.**—The Congress finds the following:

7 (1) Studies have concluded that drug courts
8 significantly reduce crime by as much as 35 percent
9 more than other sentencing options.

1 (2) Nationwide, 75 percent of participants who
2 successfully complete a drug court program remain
3 arrest-free for at least 2 years after leaving the pro-
4 gram, and some studies demonstrate that many
5 graduates remain arrest-free for many more years.

6 (3) Drug courts are 6 times more likely than
7 other sentencing options to keep offenders in treat-
8 ment long enough to recover, and in programs with
9 less supervision than drug courts, 70 percent of par-
10 ticipants drop out of treatment permanently.

11 (4) Nationwide, for every \$1 invested in drug
12 courts, taxpayers save as much as \$3.36.

13 (5) In 2007, for every Federal dollar invested
14 in drug courts, \$9 was leveraged in State funding.

15 **SEC. 2. DRUG COURTS.**

16 (a) IN GENERAL.—Part EE of the Omnibus Crime
17 Control and Safe Streets Act of 1968 (42 U.S.C. 3797u
18 et seq.) is amended to read as follows:

19 **“PART EE—DRUG COURTS**

20 **“SEC. 2951. GRANT AUTHORITY.**

21 “(a) IN GENERAL.—The Attorney General may make
22 grants to States, State courts, local courts, units of local
23 government, and Indian tribal governments, acting di-
24 rectly or through agreements with other public or private

1 entities, for adult drug courts, juvenile drug courts, family
2 drug courts, and tribal drug courts that involve—

3 “(1) continuing judicial supervision over offend-
4 ers, and other individuals under the jurisdiction of
5 the court, with substance abuse problems;

6 “(2) coordination with the appropriate State or
7 local court, State or local substance abuse treatment
8 authority, public defender, and prosecutor; and

9 “(3) the integrated administration of other
10 sanctions and services, which shall include—

11 “(A) mandatory periodic testing for the
12 use of controlled substances or other addictive
13 substances during any period of supervised re-
14 lease or probation for each participant;

15 “(B) substance abuse treatment for each
16 participant, commensurate with the clinical
17 needs of the participant;

18 “(C) diversion, probation, or other super-
19 vised release involving the possibility of prosecu-
20 tion, confinement, or incarceration based on
21 noncompliance with program requirements or
22 failure to show satisfactory progress;

23 “(D) offender management and aftercare
24 services such as relapse prevention, health care,
25 education, vocational training, job placement,

1 housing placement, and child care or other fam-
2 ily support services for each participant who re-
3 quires such services;

4 “(E) payment, in whole or part, by the of-
5 fender of treatment costs, to the extent the
6 court determines that such payment is prac-
7 ticable, such as costs for urinalysis or coun-
8 seling; and

9 “(F) payment, in whole or part, by the of-
10 fender of restitution, to the extent the court de-
11 termines that such payment is practicable, to
12 either a victim of the offender’s offense or to a
13 restitution or similar victim support fund.

14 “(b) LIMITATION.—Economic sanctions imposed on
15 an offender pursuant to this section shall not be at a level
16 that would interfere with the offender’s rehabilitation.

17 “(c) MANDATORY DRUG TESTING AND MANDATORY
18 SANCTIONS.—

19 “(1) MANDATORY TESTING.—Grant amounts
20 under this part may be used for a drug court only
21 if such court has mandatory periodic testing as de-
22 scribed in subsection (a)(3)(A). The Attorney Gen-
23 eral shall, by prescribing guidelines or regulations,
24 specify standards for the timing and manner of com-
25 plying with such requirements. The standards—

1 “(A) shall ensure that—

2 “(i) each participant is tested for
3 every controlled substance that the partici-
4 pant has been known to abuse, and for any
5 other controlled substance the Attorney
6 General or the court may require; and

7 “(ii) such testing is accurate and
8 practicable; and

9 “(B) may require approval of the drug
10 testing regime to ensure that adequate testing
11 occurs.

12 “(2) MANDATORY SANCTIONS.—The Attorney
13 General shall, by prescribing guidelines or regula-
14 tions, specify that grant amounts under this part
15 may be used for a drug court only if such court im-
16 poses graduated sanctions that increase punitive
17 measures, therapeutic measures, or both, whenever a
18 participant fails a drug test. Such sanctions and
19 measures may include one or more of the following:

20 “(A) Incarceration.

21 “(B) Increased time in the drug court pro-
22 gram.

23 “(C) Termination from such program.

24 “(D) Increased drug screening require-
25 ments.

1 “(E) Increased court appearances.

2 “(F) Increased supervision.

3 “(G) Electronic monitoring.

4 “(H) In-home restriction.

5 “(I) Community service.

6 **“SEC. 2952. ADMINISTRATION.**

7 “(a) CONSULTATION.—The Attorney General shall
8 consult with the Secretary of Health and Human Services
9 and any other appropriate officials in carrying out this
10 part.

11 “(b) USE OF COMPONENTS.—The Attorney General
12 may utilize any component or components of the Depart-
13 ment of Justice in carrying out this part.

14 “(c) REGULATORY AUTHORITY.—The Attorney Gen-
15 eral may issue regulations and guidelines necessary to
16 carry out this part.

17 **“SEC. 2953. APPLICATIONS.**

18 “(a) IN GENERAL.—To request funds under this
19 part, the chief executive or the chief justice of a State or
20 the chief executive or judge of a unit of local government
21 or Indian tribal government, or the chief judge of a State
22 court or the judge of a local court or Indian tribal court
23 shall submit an application to the Attorney General in
24 such form and containing such information as the Attor-
25 ney General may require.

1 “(b) CONTENT.—In addition to any other require-
2 ments that may be specified by the Attorney General, an
3 application for a grant under this part shall—

4 “(1) include a long-term strategy and detailed
5 implementation plan for the drug court program to
6 be carried out under such grant;

7 “(2) explain the applicant’s inability to fund the
8 program adequately without Federal assistance;

9 “(3) certify that the Federal support provided
10 will be used to supplement, and not supplant, State,
11 Indian tribal, and local sources of funding that
12 would otherwise be available;

13 “(4) identify related governmental or commu-
14 nity initiatives which complement or will be coordi-
15 nated with the proposal;

16 “(5) certify that there has been and will con-
17 tinue to be appropriate consultation with all affected
18 agencies in the implementation of the program;

19 “(6) certify that participating offenders will be
20 supervised by 1 or more designated judges with re-
21 sponsibility for the drug court program;

22 “(7) specify plans for obtaining necessary sup-
23 port and continuing the proposed program following
24 the conclusion of Federal support;

1 “(8) certify that statements made by an of-
2 fender during, or for admission to, a drug court pro-
3 gram (including to judges, prosecutors, defense
4 counsel, social service providers, and other public
5 health and public safety professionals who work in
6 the drug court) regarding the offender’s drug use
7 shall not be used as evidence against the offender in
8 any criminal proceeding other than a proceeding
9 that is part of the drug court program, including
10 drug court proceedings involving sanctions, program
11 termination, and related matters such as probation
12 violation hearings based on noncompliance with the
13 terms of participating in the drug court program;

14 “(9) certify that admission criteria for the pro-
15 gram—

16 “(A) are broad enough to ensure access for
17 all drug-dependent, high-risk individuals under
18 the court’s jurisdiction who are not violent of-
19 fenders;

20 “(B) do not discriminate based upon race,
21 gender, religion, national origin, economic sta-
22 tus, or immigration status; and

23 “(C) are established by a panel or commis-
24 sion with broad representation from stake-
25 holders in the criminal justice community, in-

1 including judges, prosecutors, defense counsel,
2 and social service providers;

3 “(10) certify that the applicant has established
4 a policy for the consideration and selection of offend-
5 ers who are not violent offenders to participate in
6 the program, based on the admission criteria pursu-
7 ant to paragraph (9), that—

8 “(A) has been approved by the judge or
9 judges with responsibility for the drug court
10 program under paragraph (6) and any other
11 parties responsible for such consideration and
12 selection of offenders, including prosecutors, de-
13 fense counsel, and social service providers, as
14 appropriate;

15 “(B) includes a process to ensure that the
16 individual circumstances of offenders are con-
17 sidered to take into account mitigating factors
18 related to the offender, as appropriate; and

19 “(C) ensures that the public safety needs
20 of the applicant’s jurisdiction are met;

21 “(11) demonstrate the existence of adequate
22 protections for participating offenders’ right to com-
23 petent counsel under the Sixth Amendment to the
24 Constitution;

1 “(12) outline ways for ensuring access to the
2 program for offenders who are high-risk for contin-
3 ued substance abuse and drug-related crime, are fac-
4 ing the longest sentences, and are high-need based
5 on drug dependency;

6 “(13) describe the methodology that will be
7 used in evaluating the program, including dem-
8 onstration of research related to alternative sen-
9 tences for offenders whose illegal conduct was
10 caused by drug dependency; and

11 “(14) certify that substance abuse treatment
12 services provided to participants are licensed or ac-
13 credited by the State substance abuse authority and
14 that State standards of care are utilized.

15 “(c) DEFINITION.—In this section:

16 “(1) The term ‘violent offender’ means an indi-
17 vidual who has committed an offense that, by its na-
18 ture, involves a substantial use of physical force with
19 the specific intent to cause serious bodily injury or
20 harm to another individual, as determined by the en-
21 tity applying for or receiving a grant under this
22 part.

23 “(2) The term ‘sex offender’ means an indi-
24 vidual who has committed an act of sexual assault
25 as such term is defined in section 40002 of the Vio-

1 lence Against Women Act of 1994 (42 U.S.C.
2 13925).

3 **“SEC. 2954. FEDERAL SHARE.**

4 “(a) IN GENERAL.—The Federal share of a grant
5 made under this part may not exceed 75 percent of the
6 total costs of the program described in the application sub-
7 mitted under section 2953 for the fiscal year for which
8 the program receives assistance under this part, unless the
9 Attorney General waives, wholly or in part, the require-
10 ment of a matching contribution under this section.

11 “(b) IN-KIND CONTRIBUTIONS.—In-kind contribu-
12 tions may constitute a portion of the non-Federal share
13 of a grant.

14 **“SEC. 2955. DISTRIBUTION AND ALLOCATION.**

15 “(a) CONSIDERATION AND DISTRIBUTION.—The At-
16 torney General shall ensure that—

17 “(1) all States, State courts, local courts, units
18 of local government, and Indian tribal governments
19 are provided with an opportunity to apply and be
20 considered for a grant under this part; and

21 “(2) to the extent practicable, an equitable geo-
22 graphic distribution of grant awards is made.

23 “(b) TECHNICAL ASSISTANCE AND TRAINING.—Un-
24 less one or more applications submitted by any State or
25 unit of local government within such State (other than an

1 Indian tribe) for a grant under this part has been funded
2 in any fiscal year, such State, together with eligible appli-
3 cants within such State, shall be provided targeted tech-
4 nical assistance and training by the Bureau of Justice As-
5 sistance to assist such State and such eligible applicants
6 to successfully compete for future funding under this part,
7 and to strengthen existing State drug court systems. In
8 providing such technical assistance and training, the Bu-
9 reau of Justice Assistance shall consider and respond to
10 the unique needs of rural States, rural areas, and rural
11 communities.

12 **“SEC. 2956. REPORT.**

13 “A State, Indian tribal government, or unit of local
14 government that receives funds under this part during a
15 fiscal year shall submit to the Attorney General a descrip-
16 tion and an evaluation report on a date specified by the
17 Attorney General regarding the effectiveness of this part.

18 **“SEC. 2957. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-
19 UATION.**

20 “(a) TECHNICAL ASSISTANCE AND TRAINING.—The
21 Attorney General may provide technical assistance and
22 training in furtherance of the purposes of this part.

23 “(b) EVALUATIONS.—In addition to any evaluation
24 requirements that may be prescribed for grantees (includ-
25 ing uniform data collection standards and reporting re-

1 quirements), the Attorney General shall carry out or make
2 arrangements for evaluations of programs that receive
3 support under this part.

4 “(c) ADMINISTRATION.—The technical assistance,
5 training, and evaluations authorized by this section may
6 be carried out directly by the Attorney General, in collabo-
7 ration with the Secretary of Health and Human Services,
8 or through grants, contracts, or other cooperative arrange-
9 ments with other entities.”.

10 (b) REAUTHORIZATION.—Paragraph (25) of section
11 1001(a) of the Omnibus Crime Control and Safe Streets
12 Act of 1968 (42 U.S.C. 3793(a)) is amended to read as
13 follows:

14 “(25)(A) There are authorized to be appro-
15 priated to carry out part EE—

16 “(i) \$125,000,000 for fiscal year 2012;

17 “(ii) \$150,000,000 for fiscal year 2013;

18 “(iii) \$200,000,000 for fiscal year 2014;

19 and

20 “(iv) \$250,000,000 for each of fiscal years
21 2015 through 2018.

22 “(B) The Attorney General shall reserve not
23 less than 1 percent and not more than 4.5 percent
24 of the sums appropriated for this program in each

- 1 fiscal year for research and evaluation of this pro-
- 2 gram.”.

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