

107TH CONGRESS
1ST SESSION

S. 1174

To provide for safe incarceration of juvenile offenders.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2001

Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for safe incarceration of juvenile offenders.

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 “Children’s Confine-
5 ment Conditions Improvement Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) recent studies have established that youth
9 are developmentally different from adults, and these
10 developmental differences need to be taken into ac-

1 count at all stages and in all aspects of the adult
2 criminal justice system;

3 (2) pretrial release or detention of juveniles
4 awaiting trial in adult criminal court should only
5 occur after consideration of their special characteris-
6 tics and the nature of their offenses;

7 (3)(A) if detained or incarcerated, juveniles
8 under the jurisdiction of an adult criminal court
9 should be housed in institutions or facilities separate
10 from adult facilities until their eighteenth birthday;
11 and

12 (B) those juveniles should not have sight or
13 sound contact with adult inmates;

14 (4) juveniles detained or incarcerated under the
15 jurisdiction of an adult criminal court should be pro-
16 vided access to programs that address their edu-
17 cational, substance abuse treatment, health, mental
18 health, and vocational needs;

19 (5) juveniles detained or incarcerated under the
20 jurisdiction of an adult criminal court should be pro-
21 vided with the mechanisms to report instances of
22 physical, mental, or psychological abuse or intimidat-
23 ion, and allegations of such abuse or intimidation
24 should be promptly investigated, and if proven cor-
25 rect, should be properly remedied;

1 (6) transfer to and sentencing of juveniles in
2 the adult criminal court system should be based on
3 consideration of the individual characteristics of the
4 juvenile and the nature of the offense committed;

5 (7) according to recent studies, juveniles who
6 are placed in adult facilities are more likely to com-
7 mit future crimes;

8 (8) housing juveniles with, or in close proximity
9 to, adult inmates creates difficulties and potentially
10 unsafe conditions for jail and prison personnel, and
11 juveniles and adult inmates, since many adult jails
12 and prisons lack the physical structure, program-
13 ming, and trained personnel to manage juveniles ef-
14 fectively;

15 (9) according to the Department of Justice, the
16 suicide rate for juveniles in adult jails is nearly 8
17 times higher than the rate in juvenile detention, and
18 the highest rate of suicide in jail occurs during the
19 first 24 hours of commitment;

20 (10) according to the Department of Justice,
21 juveniles in adult facilities are 5 times more likely to
22 be sexually assaulted, twice as likely to be beaten by
23 staff, and 50 percent more likely to be attacked with
24 a weapon than adolescents in a juvenile facility; and

1 (11) rural States and economically depressed
2 communities have pronounced difficulties in pro-
3 viding secure custody for juvenile offenders apart
4 from adult inmates.

5 **SEC. 3. PURPOSE.**

6 The purpose of this Act is to provide incentives and
7 funding assistance for States to reduce dangerous and un-
8 safe conditions in the detention and incarceration of juve-
9 nile offenders under the jurisdiction of an adult criminal
10 court, including separating those juvenile offenders from
11 adult prisoners and ensuring that corrections officers who
12 supervise them receive training in supervision issues
13 unique to juveniles.

14 **SEC. 4. DEFINITION.**

15 In this Act, the term “juvenile” means an individual
16 who has not reached the age of 18.

17 **TITLE I—JUVENILE SAFE INCAR-**
18 **CERATION GRANT PROGRAM**

19 **SEC. 101. GRANT AUTHORITY.**

20 The Assistant Attorney General for the Office of Jus-
21 tice Programs, established under section 101 of title I of
22 the Omnibus Crime Control and Safe Streets Act of 1968,
23 in consultation with the Office of Juvenile Justice and De-
24 linquency Prevention, may make grants to States, units

1 of local government, and Indian tribes for the development
2 and implementation of programs designed to—

3 (1) alter existing correctional facilities, or de-
4 velop separate facilities, to provide separate facilities
5 for juveniles who are detained or are serving sen-
6 tences in adult prisons or jails under the jurisdiction
7 of an adult criminal court;

8 (2) provide correctional staff who are respon-
9 sible for supervising juveniles who are detained or
10 are serving sentences in adult prisons or jails under
11 the jurisdiction of an adult criminal court with ori-
12 entation and ongoing training to address the devel-
13 opmental, educational, vocational, and mental and
14 physical health needs of those offenders;

15 (3) provide ombudsmen to monitor the treat-
16 ment of juveniles who are detained or are serving
17 sentences in adult prisons or jails under the jurisdic-
18 tion of an adult criminal court;

19 (4) provide access to educational programs, vo-
20 cational training, mental and physical health assess-
21 ment and treatment, and drug treatment for juve-
22 niles who are serving sentences under the jurisdic-
23 tion of an adult criminal court; or

24 (5) seek alternatives, including the expansion of
25 juvenile facilities, to housing juveniles under the ju-

1 jurisdiction of an adult criminal court with adult in-
2 mates.

3 **SEC. 102. ADMINISTRATION.**

4 (a) GUIDELINES.—The Assistant Attorney General
5 may issue guidelines necessary to carry out this title.

6 (b) APPLICATIONS.—In addition to any other require-
7 ments that may be specified by the Assistant Attorney
8 General, an application for a grant under this title shall—

9 (1) include a detailed implementation plan ad-
10 dressing each of the purposes in section 101 and a
11 timeline for the implementation of those purposes;

12 (2) address the capability of the applicant to
13 continue the proposed program following the conclu-
14 sion of Federal support;

15 (3) describe the methodology that will be used
16 in evaluating the program; and

17 (4) certify that the State applicant (or the
18 State in which the applicant is located) has devel-
19 oped guidelines on the use of isolation and separa-
20 tion and on the appropriate use of force against in-
21 carcerated juveniles, and has prohibited the use of
22 electroshock devices, 4-point restraints, chemical re-
23 straints, and restraint chairs.

1 **SEC. 103. APPLICATIONS.**

2 (a) IN GENERAL.—To request funds under this title,
3 applicants shall submit an application to the Assistant At-
4 torney General in such form and containing such informa-
5 tion as the Assistant Attorney General may reasonably re-
6 quire.

7 (b) COMPETITIVE GRANTS.—Funding under this title
8 shall be awarded on a competitive basis based on criteria
9 established by the Assistant Attorney General and speci-
10 fied in program guidelines.

11 **SEC. 104. FEDERAL SHARE.**

12 (a) IN GENERAL.—The Federal share of a grant
13 made under this title may not exceed 75 percent of the
14 total cost of the program described in the application sub-
15 mitted for the fiscal year for which the program receives
16 assistance under section 101, unless the Assistant Attor-
17 ney General waives, wholly or in part, the requirement of
18 a matching contribution under this section.

19 (b) IN-KIND CONTRIBUTIONS.—In-kind contribu-
20 tions may constitute a portion of the non-Federal share
21 of a grant under this title.

22 **SEC. 105. GEOGRAPHIC DISTRIBUTION.**

23 (a) IN GENERAL.—The Assistant Attorney General
24 shall ensure that, to the extent practicable, an equitable
25 geographic distribution of grant awards under this title
26 is made, with rural representation.

1 (b) **MINIMUM ALLOCATION.**—Unless all eligible appli-
 2 cations submitted by any State or unit of local government
 3 within such State for a grant under this section have been
 4 funded, that State, together with grantees within the
 5 State, shall be allocated in each fiscal year under this sec-
 6 tion not less than 0.75 percent of the total amount appro-
 7 priated in the fiscal year for grants under this title.

8 (c) **INDIAN TRIBES.**—Indian tribes shall receive 0.75
 9 percent of the total amount appropriated in the fiscal year
 10 for grants under this title.

11 **SEC. 106. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-**
 12 **UATION.**

13 (a) **TECHNICAL ASSISTANCE AND TRAINING.**—The
 14 Assistant Attorney General may provide technical assist-
 15 ance and training in furtherance of the purposes of this
 16 title.

17 (b) **EVALUATION.**—In addition to any evaluation re-
 18 quirements that may be prescribed for grantees, the As-
 19 sistant Attorney General may carry out or make arrange-
 20 ments for a rigorous evaluation of the programs that re-
 21 ceive support under this title.

22 (c) **ADMINISTRATION.**—The technical assistance,
 23 training, and evaluations authorized by this section may
 24 be carried out directly by the Assistant Attorney General

1 or through grants, contracts, or cooperative arrangements
 2 with other entities.

3 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—There are authorized to be appro-
 5 priated to carry out this title such sums as may be nee-
 6 cessary for fiscal years 2002 through 2006.

7 (b) PERMANENT SET-ASIDE FOR RESEARCH AND
 8 EVALUATION.—The Assistant Attorney General shall re-
 9 serve not less than 1 percent and not more than 3 percent
 10 of the sums appropriated under this section in each fiscal
 11 year for research and evaluation of this program.

12 **TITLE II—TRUTH-IN-SEN-**
 13 **TENCING AND VIOLENT OF-**
 14 **FENDER INCARCERATION**
 15 **GRANT PROGRAMS**

16 **SEC. 201. TRUTH-IN-SENTENCING AND VIOLENT OFFENDER**
 17 **INCARCERATION GRANT PROGRAMS.**

18 Section 20105(b) of the Violent Crime Control and
 19 Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is
 20 amended to read as follows:

21 “(b) ALLOCATION FOR TRUTH-IN-SENTENCING AND
 22 VIOLENT OFFENDER INCARCERATION GRANTS.—

23 “(1) USE OF FUNDS.—Funds provided under
 24 section 20103 or 20104 may be applied to the cost
 25 of—

1 “(A) altering existing correctional facilities
2 to provide separate facilities for juveniles under
3 the jurisdiction of an adult criminal court who
4 are detained or are serving sentences in adult
5 prisons or jails;

6 “(B) providing correctional staff who are
7 responsible for supervising juveniles who are de-
8 tained or serving sentences under the jurisdic-
9 tion of an adult criminal court with orientation
10 and ongoing training regarding the unique
11 needs of such offenders; and

12 “(C) providing ombudsmen to monitor the
13 treatment of juveniles who are detained or serv-
14 ing sentences under the jurisdiction of an adult
15 criminal court in adult facilities, consistent with
16 guidelines issued by the Assistant Attorney
17 General.

18 “(2) ELIGIBILITY FOR ADDITIONAL FUNDS.—
19 Any State that uses 10 percent of the funds for
20 which it is eligible under sections 20103 and 20104
21 for the purposes described in this subsection shall
22 receive a 5 percent increase in the funds to which
23 it is entitled under those sections.”.

1 **TITLE III—REAUTHORIZATION**
 2 **OF THE JJDPA**

3 **SEC. 301. REAUTHORIZATION FOR THE JUVENILE JUSTICE**
 4 **AND DELINQUENCY PREVENTION ACT OF**
 5 **1974.**

6 Title I of the Juvenile Justice and Delinquency Pre-
 7 vention Act of 1974 (42 U.S.C. 5601 et seq.) is amended
 8 by adding at the end the following:

9 **“SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

10 “There are authorized to be appropriated to carry out
 11 this Act such sums as necessary for each of fiscal years
 12 2002 through 2004.”.

13 **TITLE IV—MISCELLANEOUS**
 14 **PROVISIONS**

15 **SEC. 401. STUDY OF THE EFFECT OF SENTENCING JUVE-**
 16 **NILE DRUG OFFENDERS AND NONVIOLENT**
 17 **OFFENDERS AS ADULTS.**

18 Not later than 1 year after the date of enactment
 19 of this Act, the Bureau of Justice Statistics and the Office
 20 of Juvenile Justice and Delinquency Prevention shall sub-
 21 mit to the Committees on the Judiciary of the Senate and
 22 the House of Representatives a joint report regarding the
 23 sentencing of juvenile offenders as adult criminal offend-
 24 ers, which shall include—

1 (1) the identity of States that sentence juvenile
2 drug offenders and nonviolent juvenile offenders as
3 adults, the number of juveniles so sentenced in each
4 State, and the offenses for which those juveniles
5 were sentenced;

6 (2) demographic information, including the age,
7 race, ethnicity, gender, and socioeconomic status of
8 juvenile drug offenders and nonviolent juvenile of-
9 fenders sentenced as adults by a State;

10 (3) the effectiveness of such sentences in reduc-
11 ing drug-related crime; and

12 (4) the overall effect of the imposition of such
13 sentences upon State corrections systems.

14 **SEC. 402. RURAL STATE FUNDING.**

15 (a) IN GENERAL.—The Assistant Attorney General,
16 in consultation with the Office of Juvenile Justice and De-
17 linquency Prevention, shall provide grants to provide cus-
18 todial facilities appropriate for violent juvenile offenders
19 in rural States and economically distressed communities
20 that lack the resources to provide secure custody.

21 (b) DEFINITION OF RURAL STATE.—In this section,
22 the term “rural State” has the same meaning as in section
23 1501(b) of the Omnibus Crime Control and Safe Streets
24 Act of 1968 (42 U.S.C. 3796bb(B)).

1 (c) **EQUITABLE ALLOCATION OF AWARDS.**—In mak-
2 ing awards under subsection (a), the Assistant Attorney
3 General shall ensure that the awards are equitably allo-
4 cated among the principal geographic regions of the
5 United States, subject to the availability of qualified appli-
6 cants for the awards.

7 (d) **EVALUATIONS; DISSEMINATION OF FINDINGS.**—

8 (1) **EVALUATIONS.**—The Assistant Attorney
9 General shall, directly or through contract, provide
10 for the conduct of evaluations of programs carried
11 out pursuant to subsection (a).

12 (2) **DISSEMINATION OF FINDINGS.**—The Assist-
13 ant Attorney General shall disseminate the findings
14 made as a result of the evaluation to the States and
15 the Committees on the Judiciary of the Senate and
16 the House of Representatives.

17 (e) **MINIMUM ALLOCATION.**—Unless all eligible appli-
18 cations submitted by any State or unit of local government
19 within such State for a grant under this section have been
20 funded, such State, together with grantees within the
21 State, shall be allocated in each fiscal year under this sec-
22 tion not less than 0.75 percent of the total amount appro-
23 priated in the fiscal year for grants pursuant to this sec-
24 tion.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$20,000,000 for each of the fiscal years 2002, 2003, and
4 2004.

5 **SEC. 403. GAO STUDY.**

6 Not later than 1 year after the date of enactment
7 of this Act, the General Accounting Office shall conduct
8 a study and report to the Committees of the Judiciary
9 of the House of Representatives and the Senate on the
10 prevalence and effects of the use of electroshock weapons,
11 4-point restraints, chemical restraints, restraint chairs,
12 and solitary confinement against juvenile offenders in the
13 Federal and State criminal and juvenile corrections sys-
14 tems.

15 **SEC. 404. FAMILY UNITY DEMONSTRATION PROJECT.**

16 Section 31904(a) of the Family Unity Demonstration
17 Project Act (42 U.S.C. 13883(a)) is amended by striking
18 paragraphs (1) through (5) and inserting the following:

19 “(1) \$5,400,000 for fiscal year 2002; and

20 “(2) such sums as may be necessary for each
21 of fiscal years 2003 through 2006.”.

22 **SEC. 405. NOTIFICATION AFTER ARREST.**

23 Section 5033 of title 18, United States Code, is
24 amended—

25 (1) in the first sentence—

1 (A) by striking “arresting officer” and in-
2 serting “arresting officer or another representa-
3 tive of the Attorney General”; and

4 (B) by striking “comprehensive to a juve-
5 nile” and inserting “reasonably calculated to be
6 comprehensible to a juvenile”; and

7 (2) in the second sentence, by striking “arrest-
8 ing officer” and inserting “arresting officer or an-
9 other representative of the Attorney General”.

○