

107TH CONGRESS
2D SESSION

S. 1965

To meet the mental health and substance abuse treatment needs of
incarcerated children and youth.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2002

Mr. WELLSTONE introduced the following bill; which was read twice and
referred to the Committee on the Judiciary

A BILL

To meet the mental health and substance abuse treatment
needs of incarcerated children and youth.

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 “Mental Health Juve-
5 nile Justice Act”.

6 **SEC. 2. TRAINING OF JUSTICE SYSTEM PERSONNEL.**

7 Title II of the Juvenile Justice and Delinquency Pre-
8 vention Act of 1974 (42 U.S.C. 5611 et seq.) is amended
9 by adding at the end the following:

1 **“PART K—ACCESS TO MENTAL HEALTH AND**
2 **SUBSTANCE ABUSE TREATMENT**
3 **“SEC. 299AA. GRANTS FOR TRAINING OF JUSTICE SYSTEM**
4 **PERSONNEL.**

5 “(a) IN GENERAL.—The Administrator shall make
6 grants to State and local juvenile justice agencies in col-
7 laboration with State and local mental health agencies, for
8 purposes of training the officers and employees of the
9 State juvenile justice system (including employees of facili-
10 ties that are contracted for operation by State and local
11 juvenile authorities) regarding appropriate access to men-
12 tal health and substance abuse treatment programs and
13 services in the State for juveniles who come into contact
14 with the State juvenile justice system who have mental
15 health or substance abuse problems.

16 “(b) USE OF FUNDS.—A State or local juvenile jus-
17 tice agency that receives a grant under this section may
18 use the grant for purposes of—

19 “(1) providing cross-training, jointly with the
20 public mental health system, for State juvenile court
21 judges, public defenders, and mental health and sub-
22 stance abuse agency representatives with respect to
23 the appropriate use of effective, community-based al-
24 ternatives to juvenile justice or mental health system
25 institutional placements; or

1 **“SEC. 299BB. GRANTS FOR STATE PARTNERSHIPS.**

2 “(a) IN GENERAL.—The Attorney General and the
3 Secretary of Health and Human Services shall make
4 grants to partnerships between State and local/county ju-
5 venile justice agencies and State and local mental health
6 authorities (or appropriate children service agencies) in
7 accordance with this section.

8 “(b) USE OF FUNDS.—A partnership described in
9 subsection (a) that receives a grant under this section
10 shall use such amounts for the establishment and imple-
11 mentation of programs that address the service needs of
12 juveniles who come into contact with the justice system
13 (including facilities contracted for operation by State or
14 local juvenile authorities) who have mental health or sub-
15 stance abuse problems, by requiring the following:

16 “(1) DIVERSION.—Appropriate diversion of
17 those juveniles from incarceration—

18 “(A) at imminent risk of being taken into
19 custody;

20 “(B) at the time they are initially taken
21 into custody;

22 “(C) after they are charged with an of-
23 fense or act of juvenile delinquency;

24 “(D) after they are adjudicated delinquent
25 but prior to case disposition; and

1 “(E) after they are released from a juve-
2 nile facility, for the purposes of attending after-
3 care programs.

4 “(2) TREATMENT.—

5 “(A) SCREENING AND ASSESSMENT OF JU-
6 VENILES.—

7 “(i) IN GENERAL.—Initial mental
8 health screening shall be completed for all
9 juveniles immediately upon entering the ju-
10 venile justice system or a juvenile facility.
11 Screening shall be conducted by qualified
12 health and mental health professionals or
13 by staff who have been trained by qualified
14 health, mental health, and substance abuse
15 professionals. In the case of a screening by
16 staff, the screening results should be re-
17 viewed by qualified health, mental health
18 professionals not later than 24 hours after
19 the screening.

20 “(ii) ACUTE MENTAL ILLNESS.—Juve-
21 niles who suffer from acute mental dis-
22 orders, who are suicidal, or in need of de-
23 toxification shall be placed in or imme-
24 diately transferred to an appropriate med-
25 ical or mental health facility. They shall be

1 admitted to a secure correctional facility
2 only with written medical clearance.

3 “(iii) COMPREHENSIVE ASSESS-
4 MENT.—All juveniles entering the juvenile
5 justice system shall have a comprehensive
6 assessment conducted and an individual-
7 ized treatment plan written and imple-
8 mented within 2 weeks. This assessment
9 shall be conducted within 1 week for juve-
10 niles incarcerated in secure facilities. As-
11 sessments shall be completed by qualified
12 health, mental health, and substance abuse
13 professionals.

14 “(B) TREATMENT.—

15 “(i) IN GENERAL.—If the need for
16 treatment is indicated by the assessment of
17 a juvenile, the juvenile shall be referred to
18 or treated by a qualified professional. A ju-
19 venile who is currently receiving treatment
20 for a mental or emotional disorder shall
21 have treatment continued.

22 “(ii) PERIOD.—Treatment shall con-
23 tinue until additional mental health assess-
24 ment determines that the juvenile is no
25 longer in need of treatment. Treatment

1 plans shall be reevaluated at least every 30
2 days.

3 “(iii) DISCHARGE PLAN.—An incar-
4 cerated juvenile shall have a discharge plan
5 prepared when the juvenile enters the cor-
6 rectional facility in order to integrate the
7 juvenile back into the family or the com-
8 munity. This plan shall be updated in con-
9 sultation with the juvenile’s family or
10 guardian before the juvenile leaves the fa-
11 cility. Discharge plans shall address the
12 provision of aftercare services.

13 “(iv) MEDICATION.—Any juvenile re-
14 ceiving psychotropic medications shall be
15 under the care of a licensed psychiatrist.
16 Psychotropic medications shall be mon-
17 itored regularly by trained staff for their
18 efficacy and side effects.

19 “(v) SPECIALIZED TREATMENT.—Spe-
20 cialized treatment and services shall be
21 continually available to a juvenile who—

22 “(I) has a history of mental
23 health problems or treatment;

1 “(II) has a documented history
2 of sexual abuse or offenses, as victim
3 or as perpetrator;

4 “(III) has substance abuse prob-
5 lems, health problems, learning dis-
6 abilities, or histories of family abuse
7 or violence; or

8 “(IV) has developmental disabil-
9 ities.

10 “(C) MEDICAL AND MENTAL HEALTH
11 EMERGENCIES.—All correctional facilities shall
12 have written policies and procedures on suicide
13 prevention. All staff working in correctional fa-
14 cilities shall be trained and certified annually in
15 suicide prevention. Facilities shall have written
16 arrangements with a hospital or other facility
17 for providing emergency medical and mental
18 health care. Physical and mental health services
19 shall be available to an incarcerated juvenile 24
20 hours per day, 7 days per week.

21 “(D) CLASSIFICATION OF JUVENILES.—

22 “(i) IN GENERAL.—Juvenile facilities
23 shall classify and house juveniles in living
24 units according to a plan that includes age,
25 gender, offense, special medical or mental

1 health condition, size, and vulnerability to
2 victimization. Younger, smaller, weaker,
3 and more vulnerable juveniles shall not be
4 placed in housing units with older, more
5 aggressive juveniles.

6 “(ii) BOOT CAMPS.—Juveniles who
7 are under 13 years old or who have serious
8 medical conditions or mental illness shall
9 not be placed in paramilitary boot camps.

10 “(E) CONFIDENTIALITY OF RECORDS.—
11 Mental health and substance abuse treatment
12 records of juveniles shall be treated as confiden-
13 tial and shall be excluded from the records that
14 States require to be routinely released to other
15 correctional authorities and school officials.

16 “(F) MANDATORY REPORTING.—States
17 shall keep records of the incidence and types of
18 mental health and substance abuse disorders in
19 their juvenile justice populations, the range and
20 scope of services provided, and barriers to serv-
21 ice. The State shall submit an analysis of this
22 information yearly to the Department of Jus-
23 tice.

24 “(G) STAFF RATIOS FOR CORRECTIONAL
25 FACILITIES.—Each secure correctional facility

1 shall have a minimum ratio of no fewer than
2 1 mental health counselor to every 50 juveniles.
3 Mental health counselors shall be professionally
4 trained and certified or licensed. Each secure
5 correctional facility shall have a minimum ratio
6 of 1 clinical psychologist for every 100 juve-
7 niles. Each secure correctional facility shall
8 have a minimum ratio of 1 licensed psychiatrist
9 for every 100 juveniles receiving psychiatric
10 care.

11 “(H) USE OF FORCE.—

12 “(i) WRITTEN GUIDELINES.—All juve-
13 nile facilities shall have a written behav-
14 ioral management system based on incen-
15 tives and rewards to reduce misconduct
16 and to decrease the use of restraints and
17 seclusion by staff.

18 “(ii) LIMITATIONS ON RESTRAINT.—

19 Control techniques such as restraint, seclu-
20 sion, chemical sprays, and room confine-
21 ment shall be used only in response to ex-
22 treme threats to life or safety. Use of these
23 techniques shall be approved by the facility
24 superintendent or chief medical officer and
25 documented in the juvenile’s file along with

1 the justification for use and the failure of
2 less restrictive alternatives.

3 “(iii) LIMITATION ON ISOLATION.—

4 Isolation and seclusion shall be used only
5 for immediate and short-term security or
6 safety reasons. No juvenile shall be placed
7 in isolation without approval of the facility
8 superintendent or chief medical officer or
9 their official staff designee. All cases shall
10 be documented in the juvenile’s file along
11 with the justification. A juvenile shall be in
12 isolation only the amount of time necessary
13 to achieve security and safety of the juve-
14 nile and staff. Staff shall monitor each ju-
15 venile in isolation once every 15 minutes
16 and conduct a professional review of the
17 need for isolation at least every 4 hours.
18 Any juvenile held in seclusion for 24 hours
19 shall be examined by a physician or li-
20 censed psychologist.

21 “(I) IDEA AND REHABILITATION ACT.—

22 All juvenile facilities shall abide by all manda-
23 tory requirements and time lines set forth
24 under the Individuals with Disabilities Edu-

1 cation Act and section 504 of the Rehabilitation
2 Act of 1973.

3 “(J) ADVOCACY ASSISTANCE.—

4 “(i) IN GENERAL.—The Secretary of
5 Health and Human Services shall make
6 grants to the systems established under
7 part C of the Developmental Disabilities
8 Assistance and Bill of Rights Act (42
9 U.S.C. 6041 et seq.) to monitor the mental
10 health and special education services pro-
11 vided by grantees to juveniles under para-
12 graph (2) (A), (B), (C), (H), and (I) of
13 this section, and to advocate on behalf of
14 juveniles to assure that such services are
15 properly provided.

16 “(ii) APPROPRIATION.—The Secretary
17 of Health and Human Services will reserve
18 no less than 3 percent of the funds appro-
19 priated under this section for the purposes
20 set forth in paragraph (2)(J)(i).

21 “(c) AUTHORIZATION OF APPROPRIATIONS.—

22 “(1) IN GENERAL.—There are authorized to be
23 appropriated from the Violent Crime Reduction
24 Trust Fund, \$500,000,000 for fiscal years 2002,

1 2003, 2004, 2005, and 2006 to carry out this sec-
2 tion.

3 “(2) ALLOCATION.—Of amounts appropriated
4 under paragraph (1)—

5 “(A) 35 percent shall be used for diversion
6 programs under subsection (b)(1); and

7 “(B) 65 percent shall be used for treat-
8 ment programs under subsection (b)(2).

9 “(3) INCENTIVES.—The Attorney General and
10 the Secretary of Health and Human Services shall
11 give preference under subsection (b)(2) to partner-
12 ships that integrate treatment programs to serve ju-
13 veniles with co-occurring mental health and sub-
14 stance abuse disorders.

15 “(4) WAIVERS.—The Attorney General and the
16 Secretary of Health and Human Services may grant
17 a waiver of requirements under subsection (b)(2) for
18 good cause.

19 **“SEC. 299CC. GRANTS FOR PARTNERSHIPS.**

20 “(a) IN GENERAL.—Any partnership desiring to re-
21 ceive a grant under this part shall submit an application
22 at such time, in such manner, and containing such infor-
23 mation as the Attorney General and the Secretary of
24 Health and Human Services may prescribe.

1 “(b) CONTENTS.—In accordance with guidelines es-
2 tablished by the Attorney General and the Secretary of
3 Health and Human Services, each application submitted
4 under subsection (a) shall—

5 “(1) set forth a program or activity for carrying
6 out one or more of the purposes specified in section
7 299BB(b) and specifically identify each such pur-
8 pose such program or activity is designed to carry
9 out;

10 “(2) provide that such program or activity shall
11 be administered by or under the supervision of the
12 applicant;

13 “(3) provide for the proper and efficient admin-
14 istration of such program or activity;

15 “(4) provide for regular evaluation of such pro-
16 gram or activity;

17 “(5) provide an assurance that the proposed
18 program or activity will supplement, not supplant,
19 similar programs and activities already available in
20 the community; and

21 “(6) provide for such fiscal control and fund ac-
22 counting procedures as may be necessary to ensure
23 prudent use, proper disbursement, and accurate ac-
24 counting of funds receiving under this part.”.

1 **SEC. 4. INITIATIVE FOR COMPREHENSIVE, INTERSYSTEM**
2 **PROGRAMS.**

3 Subpart 3 of part B of title V of the Public Health
4 Service Act (42 U.S.C. 290bb–31 et seq.) is amended by
5 adding at the end the following:

6 **“SEC. 520C. INITIATIVE FOR COMPREHENSIVE, INTER-**
7 **SYSTEM PROGRAMS.**

8 “(a) IN GENERAL.—The Attorney General and the
9 Secretary, acting through the Director of the Center for
10 Mental Health Services, shall award competitive grants to
11 eligible entities for programs that address the service
12 needs of juveniles and juveniles with serious mental ill-
13 nesses by requiring the State or local juvenile justice sys-
14 tem, the mental health system, and the substance abuse
15 treatment system to work collaboratively to ensure—

16 “(1) the appropriate diversion of such juveniles
17 and juveniles from incarceration;

18 “(2) the provision of appropriate mental health
19 and substance abuse services as an alternative to in-
20 carceration and for those juveniles on probation or
21 parole; and

22 “(3) the provision of followup services for juve-
23 niles who are discharged from the juvenile justice
24 system.

25 “(b) ELIGIBILITY.—To be eligible to receive a grant
26 under this section an entity shall—

1 “(1) be a State or local juvenile justice agency,
2 mental health agency, or substance abuse agency
3 (including community diversion programs);

4 “(2) prepare and submit to the Secretary an
5 application at such time, in such manner, and con-
6 taining such information as the Secretary may re-
7 quire, including—

8 “(A) an assurance that the applicant has
9 the consent of all entities described in para-
10 graph (1) in carrying out and coordinating ac-
11 tivities under the grant; and

12 “(B) with respect to services for juveniles,
13 an assurance that the applicant has collabo-
14 rated with the State or local educational agency
15 and the State or local welfare agency in car-
16 rying out and coordinating activities under the
17 grant;

18 “(3) be given priority if it is a joint application
19 between juvenile justice and substance abuse or
20 mental health agencies; and

21 “(4) ensure that funds from non-Federal
22 sources are available to match amounts provided
23 under the grant in an amount that is not less
24 than—

1 “(A) with respect to the first 3 years
2 under the grant, 25 percent of the amount pro-
3 vided under the grant; and

4 “(B) with respect to the fourth and fifth
5 years under the grant, 50 percent of the
6 amount provided under the grant.

7 “(c) USE OF FUNDS.—

8 “(1) INITIAL YEAR.—An entity that receives a
9 grant under this section shall, in the first fiscal year
10 in which amounts are provided under the grant, use
11 such amounts to develop a collaborative plan—

12 “(A) for how the guarantee will institute a
13 system to provide intensive community
14 services—

15 “(i) to prevent high-risk juveniles
16 from coming in contact with the justice
17 system; and

18 “(ii) to meet the mental health and
19 substance abuse treatment needs of juve-
20 niles on probation or recently discharged
21 from the justice system; and

22 “(B) providing for the exchange by agen-
23 cies of information to enhance the provision of
24 mental health or substance abuse services to ju-
25 veniles.

1 “(2) 2–5TH YEARS.—With respect to the sec-
2 ond through fifth fiscal years in which amounts are
3 provided under the grant, the grantee shall use
4 amounts provided under the grant—

5 “(A) to furnish services, such as assertive
6 community treatment, wrap-around services for
7 juveniles, multisystemic therapy, outreach, inte-
8 grated mental health and substance abuse
9 treatment, case management, health care, edu-
10 cation and job training, assistance in securing
11 stable housing, finding a job or obtaining in-
12 come support, other benefits, access to appro-
13 priate school-based services, transitional and
14 independent living services, mentoring pro-
15 grams, home-based services, and provision of
16 appropriate after school and summer pro-
17 graming;

18 “(B) to establish a network of boundary
19 spanners to conduct regular meetings with
20 judges, provide liaison with mental health and
21 substance abuse workers, share and distribute
22 information, and coordinate with mental health
23 and substance abuse treatment providers, and
24 probation or parole officers concerning provision
25 of appropriate mental health and drug and alco-

1 hol addiction services for individuals on proba-
2 tion or parole;

3 “(C) to provide cross-system training
4 among police, corrections, and mental health
5 and substance abuse providers with the purpose
6 of enhancing collaboration and the effectiveness
7 of all systems;

8 “(D) to provide coordinated and effective
9 aftercare programs for juveniles with emotional
10 or mental disorders who are discharged from
11 jail, prison, or juvenile facilities;

12 “(E) to purchase technical assistance to
13 achieve the grant project’s goals; and

14 “(F) to furnish services, to train personnel
15 in collaborative approaches, and to enhance
16 intersystem collaboration.

17 “(3) DEFINITION.—In paragraph (2)(B), the
18 term ‘boundary spanners’ means professionals who
19 act as case managers for juveniles with mental dis-
20 orders and substance abuse addictions, within both
21 justice agency facilities and community mental
22 health programs and who have full authority from
23 both systems to act as problem-solvers and advocates
24 on behalf of individuals targeted for service under
25 this program.

1 “(d) AREA SERVED BY THE PROJECT.—An entity re-
 2 ceiving a grant under this section shall conduct activities
 3 under the grant to serve at least a single political jurisdic-
 4 tion.

5 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 6 shall be made available to carry out the section, not less
 7 than 10 percent of the amount appropriated under section
 8 1935(a) for each of the fiscal years 2002 through 2006.”.

9 **SEC. 5. FEDERAL COORDINATING COUNCIL ON THE CRIM-**
 10 **INALIZATION OF JUVENILES WITH MENTAL**
 11 **DISORDERS.**

12 (a) ESTABLISHMENT.—There is established a Fed-
 13 eral Coordinating Council on Criminalization of Juveniles
 14 With Mental Disorders as an interdepartmental council to
 15 study and coordinate the criminal and juvenile justice and
 16 mental health and substance abuse activities of the Fed-
 17 eral Government and to report to Congress on proposed
 18 new legislation to improve the treatment of mentally ill
 19 juveniles who come in contact with the juvenile justice sys-
 20 tem.

21 (b) MEMBERSHIP.—The Council shall include rep-
 22 resentatives from—

23 (1) the appropriate Federal agencies, as deter-
 24 mined by the President, including, at a minimum—

1 (A) the Office of the Secretary of Health
2 and Human Services;

3 (B) the Office for Juvenile Justice and De-
4 linquency Prevention;

5 (C) the National Institute of Mental
6 Health;

7 (D) the Social Security Administration;

8 (E) the Department of Education; and

9 (F) the Substance Abuse and Mental
10 Health Services Administration; and

11 (2) children's mental health advocacy groups.

12 (c) DUTIES.—The Council shall—

13 (1) review Federal policies that hinder or facili-
14 tate coordination at the State and local level between
15 the mental health and substance abuse systems on
16 the one hand and the juvenile justice and corrections
17 system on the other;

18 (2) study the possibilities for improving collabo-
19 ration at the Federal, State, and local level among
20 these systems; and

21 (3) recommend to Congress any appropriate
22 new initiatives which require legislative action.

23 (d) FINAL REPORT.—The Council shall submit—

1 (1) an interim report on current coordination
2 and collaboration, or lack thereof, 18 months after
3 the Council is established; and

4 (2) recommendations for new initiatives in im-
5 proving coordination and collaboration in a final re-
6 port to Congress 2 years after the Council is estab-
7 lished.

8 (e) EXPIRATION.—The Council shall expire 2 years
9 after the Council is established.

10 **SEC. 6. MENTAL HEALTH SCREENING AND TREATMENT**
11 **FOR PRISONERS.**

12 (a) ADDITIONAL REQUIREMENTS FOR THE USE OF
13 FUNDS UNDER THE VIOLENT OFFENDER INCARCER-
14 ATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.—
15 Section 20105(b) of the Violent Crime Control and Law
16 Enforcement Act of 1994 is amended to read as follows:

17 “(b) ADDITIONAL REQUIREMENTS.—

18 “(1) ELIGIBILITY FOR GRANT.—To be eligible
19 to receive a grant under section 20103 or 20104, a
20 State shall, not later than January 1, 2003, have a
21 program of mental health screening and treatment
22 for appropriate categories of juvenile and other of-
23 fenders during periods of incarceration and juvenile
24 and criminal justice supervision, that is consistent
25 with guidelines issued by the Attorney General.

1 “(2) USE OF FUNDS.—

2 “(A) IN GENERAL.—Notwithstanding any
3 other provision of this subtitle, amounts made
4 available to a State under section 20103 or
5 20104, may be applied to the costs of programs
6 described in paragraph (1), consistent with
7 guidelines issued by the Attorney General.

8 “(B) ADDITIONAL USE.—In addition to
9 being used as specified in subparagraph (A),
10 the funds referred to in that subparagraph may
11 be used by a State to pay the costs of providing
12 to the Attorney General a baseline study on the
13 mental health problems of juvenile offenders
14 and prisoners in the State, which study shall be
15 consistent with guidelines issued by the Attor-
16 ney General.”.

17 **SEC. 7. INAPPLICABILITY OF AMENDMENTS.**

18 Section 3626 of title 18 is amended by adding at the
19 end the following:

20 “(h) INAPPLICABILITY OF AMENDMENTS.—A civil
21 action that seeks to remedy conditions which pose a threat
22 to the health of individuals who are—

23 “(1) under the age of 16; or

24 “(2) mentally ill;

1 shall be governed by the terms of this section, as in effect
2 on the day before the date of enactment of the Prison Liti-
3 gation Reform Act of 1995 and the amendments made by
4 that Act (18 U.S.C. 3601 note).”.

○