

117TH CONGRESS
1ST SESSION

H. R. 1368

To authorize the Secretary of Health and Human Services to award grants to States and political subdivisions of States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2021

Ms. PORTER (for herself, Ms. PRESSLEY, Ms. SCANLON, Mr. CÁRDENAS, Ms. MOORE of Wisconsin, Mr. TRONE, Mrs. BEATTY, Ms. SCHAKOWSKY, Mr. WELCH, Mr. CARSON, Mrs. NAPOLITANO, Mr. MOULTON, Mr. KHANNA, Mr. POCAN, Ms. PINGREE, Mr. HASTINGS, Mr. RYAN, Mr. FOSTER, Mr. LEVIN of California, Mr. LIEU, Mr. RASKIN, Mr. ESPAILLAT, Mr. CONNOLLY, Mr. BLUMENAUER, Mr. JONES, Ms. WILD, Mr. DESAULNIER, Ms. MENG, Mr. MORELLE, Mr. GRIJALVA, Ms. CHU, Mr. RUSH, Ms. DEAN, Mr. MEEKS, Ms. VELÁZQUEZ, Ms. JACOBS of California, Ms. OCASIO-CORTEZ, Mrs. CAROLYN B. MALONEY of New York, Mr. TORRES of New York, Mr. DEUTCH, Ms. DEGETTE, Mr. LOWENTHAL, Ms. OMAR, Ms. BUSH, Ms. TLAIB, Ms. WASSERMAN SCHULTZ, Ms. JAYAPAL, Mr. EVANS, Mr. MCGOVERN, Mr. NEGUSE, Ms. LEE of California, Ms. JACKSON LEE, Ms. JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. SPEIER, Mrs. HAYES, Mrs. DEMINGS, and Mr. LAWSON of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of Health and Human Services to award grants to States and political subdivisions of

States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, 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 “Mental Health Justice
5 Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Needless institutionalization (including in
9 psychiatric hospitals) of people with disabilities is
10 generally a violation of the Americans with Disabil-
11 ities Act of 1990 (42 U.S.C. 12101 et seq.), and the
12 failure to provide sufficient community-based serv-
13 ices (such as supported housing, assertive commu-
14 nity treatment, mobile crisis, peer support, and sup-
15 ported employment) has resulted in needless institu-
16 tionalization as well as incarceration of persons with
17 mental illness or an intellectual or developmental
18 disability.

19 (2) In the landmark 1999 Supreme Court case
20 *Olmstead v. L.C.*, the Supreme Court ruled that the
21 “unjustified institutional isolation of persons with

1 disabilities is a form of discrimination” prohibited by
2 the Americans with Disabilities Act of 1990 (42
3 U.S.C. 12101 et seq.).

4 (3) Regulations promulgated by the Attorney
5 General in 1991 affirm that title II of the Ameri-
6 cans with Disabilities Act of 1990 (42 U.S.C. 12131
7 et seq.) requires public entities to “administer serv-
8 ices, programs, and activities in the most integrated
9 setting appropriate to the needs of qualified individ-
10 uals with disabilities” (28 C.F.R. 35.130(d)). The
11 regulation defines “the most integrated setting” as
12 one that “enables individuals with disabilities to
13 interact with nondisabled persons to the fullest ex-
14 tent possible” (28 C.F.R. pt. 35, App. B).

15 (4) Yet today, persons with a mental illness or
16 an intellectual or developmental disability are more
17 likely to be incarcerated and to be subject to exces-
18 sive use of force by law enforcement officers:

19 (A) One out of every four of the deaths
20 caused by law enforcement officers is a person
21 with mental illness.

22 (B) Persons with a mental illness or an in-
23 tellectual or developmental disability are often
24 charged with minor, nonviolent offenses. For
25 many of these persons, arrest and incarceration

1 could have been avoided if they had access to
2 intensive community-based services and stable
3 housing.

4 (5) Many of the police encounters that lead to
5 the incarceration (and in too many cases, death) of
6 people with mental illness or an intellectual or devel-
7 opmental disability could be avoided by having in
8 place systems that ensure that calls to 911 or to law
9 enforcement result in dispatch of mental health pro-
10 fessionals, peer support workers, or others rather
11 than law enforcement officers.

12 (6) Many people who are incarcerated would be
13 better served in community services. If there were
14 sufficient community services, and persons with
15 mental illness or an intellectual or developmental
16 disability were connected to those services rather
17 than being arrested, thousands of people with men-
18 tal illness or an intellectual or developmental dis-
19 ability would avoid needless admissions to hospitals
20 or jails. Further, jails and hospitals would experi-
21 ence less crowding.

22 **SEC. 3. GRANTS FOR MENTAL HEALTH PROFESSIONALS TO**
23 **ACT AS FIRST RESPONDERS.**

24 (a) IN GENERAL.—The Secretary of Health and
25 Human Services (in this section referred to as the “Sec-

1 retary”), acting through the Assistant Secretary for Men-
2 tal Health and Substance Use and in consultation with
3 the Assistant Attorney General for the Civil Rights Divi-
4 sion of the Department of Justice (in this section referred
5 to as the “Assistant Attorney General”), shall award
6 grants to States and political subdivisions of States—

7 (1) to hire, employ, train, and dispatch mental
8 health professionals to respond in lieu of law en-
9 forcement officers in emergencies in which—

10 (A) an individual calling 911, 988, or an-
11 other emergency hotline states that a person—

12 (i) is in a mental health crisis; or

13 (ii) may have a mental illness or an
14 intellectual or developmental disability;

15 (B) a law enforcement officer or other first
16 responder identifies a person as having (or pos-
17 sibly having) a mental illness or an intellectual
18 or developmental disability; or

19 (C) a law enforcement officer or other first
20 responder identifies a person as being (or pos-
21 sibly being) under the influence of a legal or il-
22 legal substance;

23 (2) to include in the training for mental health
24 professionals pursuant to paragraph (1) training
25 in—

1 (A) the principles of deescalation and
2 antiracism; and

3 (B) age-appropriate techniques;

4 (3) to ensure that such mental health profes-
5 sionals link persons described in subparagraph (A),
6 (B), or (C) of paragraph (1) with voluntary commu-
7 nity-based services where appropriate; and

8 (4) to train the staff of dispatch centers regard-
9 ing the proper handling of a report of an emergency
10 described in paragraph (1), including training in the
11 principles of deescalation and antiracism referred to
12 in paragraph (2)(A).

13 (b) DELEGATION.—The Secretary shall delegate re-
14 sponsibility for carrying out the Secretary’s responsibil-
15 ities under this section and section 4 to the Director of
16 the Center for Mental Health Services of the Substance
17 Abuse and Mental Health Services Administration.

18 (c) ADDITIONAL AWARDS.—The Secretary shall
19 make an additional award of funds under this section each
20 fiscal year to grantees that demonstrate that their pro-
21 grams under this section resulted in—

22 (1) a notable reduction in the incarceration and
23 death of persons with mental illness or an intellec-
24 tual or developmental disability; or

1 (2) a notable reduction in the use of force by
2 police and a notable increase in referrals of persons
3 with a mental illness or intellectual disability to com-
4 munity-based, voluntary support services (other than
5 institutionalization or carceral support services).

6 (d) PRIORITY.—In awarding grants under this sec-
7 tion, the Secretary shall give priority to States and polit-
8 ical subdivisions of States that—

9 (1) have high rates of arrests and incarceration
10 of persons with a mental illness or an intellectual or
11 developmental disability;

12 (2) commit to increasing resources for mental
13 health and community-based support services or so-
14 lutions for such persons; or

15 (3) include peer support specialists in their cur-
16 rent first responder model.

17 (e) REPORTING.—

18 (1) BY GRANTEES.—A recipient of a grant
19 under this section shall submit to the Secretary—

20 (A) a quarterly report on—

21 (i) the number and percentage of
22 emergencies where mental health profes-
23 sionals were dispatched in lieu of law en-
24 forcement officers pursuant to assistance
25 under this section;

1 (ii) such other matters as the Sec-
2 retary may require for determining wheth-
3 er the recipient should receive an addi-
4 tional award under subsection (c); and

5 (iii) any increase or decrease, com-
6 pared to any previous quarter, in incarcer-
7 ation or institutionalization as a result of
8 dispatching mental health professionals
9 pursuant to assistance under this section,
10 disaggregated to include data specific to
11 persons with intellectual and developmental
12 disabilities and mental illnesses where
13 available, so as—

14 (I) to provide a critical baseline
15 analysis; and

16 (II) to ensure that mental health
17 practitioners are not simply funneling
18 individuals into other institutionalized
19 settings; and

20 (B) a final report on the use of such grant.

21 (2) BY SECRETARY.—Not later than 1 year
22 after awarding the first grant under this section,
23 and annually thereafter, the Secretary shall submit
24 to the Congress a report on the grant program
25 under this section.

1 (3) DISAGGREGATION OF DATA.—The reporting
2 pursuant to paragraphs (1) and (2) shall, to the ex-
3 tent determined by the Secretary to be applicable, be
4 disaggregated by age, gender, race, and ethnicity.

5 (f) REVOCATION OF GRANT.—If the Secretary finds,
6 based on reporting under subsection (e) or other informa-
7 tion, that activities funded through a grant under this sec-
8 tion are leading to a significant increase in incarceration
9 or institutionalization—

10 (1) the Secretary shall revoke the grant; and

11 (2) the grantee shall repay to the Federal Gov-
12 ernment any amounts that the grantee—

13 (A) received through the grant; and

14 (B) has not obligated or expended.

15 (g) FUNDING.—To carry out this section, there are
16 authorized to be appropriated such sums as may be nec-
17 essary for fiscal year 2022 and each subsequent fiscal
18 year.

19 **SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVI-**
20 **SIONS OF A STATE.**

21 The Secretary of Health and Human Service, acting
22 through the Assistant Secretary for Mental Health and
23 Substance Use and in consultation with the Assistant At-
24 torney General for the Civil Rights Division of the Depart-
25 ment of Justice, shall provide technical assistance to

1 grantees under section 3 (or other Federal law), other po-
2 litical subdivisions of States, and States to hire, employ,
3 train, and dispatch mental health professionals to respond
4 in lieu of law enforcement officers, as described in section
5 3.

6 **SEC. 5. STUDY.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services and the Assistant Attorney General for
9 the Civil Rights Division of the Department of Justice
10 shall conduct a study of the effectiveness of programs and
11 activities under sections 3 and 4.

12 (b) QUALITATIVE AND LONGITUDINAL EXAMINA-
13 TION.—The study under subsection (a) shall include a
14 qualitative and longitudinal study of—

15 (1) the number of persons diverted from ar-
16 rests; and

17 (2) short- and long-term outcomes for those
18 persons, including reduced recidivism, reduced
19 incidences of use of force, and reduced utilization of
20 resources.

21 (c) COMPLETION; REPORT.—Not later than 3 years
22 after the date of enactment of this Act, the Secretary of
23 Health and Human Services and the Assistant Attorney
24 General for the Civil Rights Division of the Department
25 of Justice shall—

- 1 (1) complete the study under subsection (a);
- 2 (2) submit a report to the Congress on the re-
- 3 sults of such study; and
- 4 (3) publish such report.

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