

117TH CONGRESS
1ST SESSION

S. _____

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 SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Ms. KLOBUCHAR, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mental Health Justice
3 Act of 2021”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

17 (2) In the landmark 1999 Supreme Court case
18 *Olmstead v. L.C.*, the Supreme Court ruled that the
19 “unjustified institutional isolation of persons with
20 disabilities is a form of discrimination” prohibited by
21 the Americans with Disabilities Act of 1990 (42
22 U.S.C. 12101 et seq.).

23 (3) Regulations promulgated by the Attorney
24 General in 1991 affirm that title II of the Ameri-
25 cans with Disabilities Act of 1990 (42 U.S.C. 12131
26 et seq.) requires public entities to “administer serv-

1 ices, programs, and activities in the most integrated
2 setting appropriate to the needs of qualified individ-
3 uals with disabilities” (28 C.F.R. 35.130(d)). The
4 regulation defines “the most integrated setting” as
5 one that “enables individuals with disabilities to
6 interact with nondisabled persons to the fullest ex-
7 tent possible” (28 C.F.R. pt. 35, App. B).

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

12 (A) One out of every 4 of the deaths
13 caused by law enforcement officers is a person
14 with mental illness.

15 (B) Persons with a mental illness or an in-
16 tellectual or developmental disability are often
17 charged with minor, nonviolent offenses. For
18 many of these persons, arrest and incarceration
19 could have been avoided if they had access to
20 intensive community-based services and stable
21 housing.

22 (5) Many of the police encounters that lead to
23 the incarceration (and in too many cases, death) of
24 people with mental illness or an intellectual or devel-
25 opmental disability could be avoided by having in

1 place systems that ensure that calls to 911 or to law
2 enforcement result in dispatch of mental health pro-
3 fessionals, peer support workers, or others rather
4 than law enforcement officers.

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

15 **SEC. 3. GRANTS FOR MENTAL HEALTH PROFESSIONALS TO**
16 **ACT AS FIRST RESPONDERS.**

17 (a) IN GENERAL.—The Secretary of Health and
18 Human Services (in this section referred to as the “Sec-
19 retary”), acting through the Assistant Secretary for Men-
20 tal Health and Substance Use and in consultation with
21 the Assistant Attorney General for the Civil Rights Divi-
22 sion of the Department of Justice (in this section referred
23 to as the “Assistant Attorney General”), shall award
24 grants to States and political subdivisions of States—

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

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

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

7 (ii) may have a mental illness or an
8 intellectual or developmental disability;

9 (B) a law enforcement officer or other first
10 responder identifies a person as having (or pos-
11 sibly having) a mental illness or an intellectual
12 or developmental disability; or

13 (C) a law enforcement officer or other first
14 responder identifies a person as being (or pos-
15 sibly being) under the influence of a legal or il-
16 legal substance;

17 (2) to include in the training for mental health
18 professionals pursuant to paragraph (1) training
19 in—

20 (A) the principles of de-escalation and
21 anti-racism; and

22 (B) age-appropriate mechanisms for car-
23 rying out the professionals' responsibilities;

24 (3) to ensure that such mental health profes-
25 sionals link persons described in subparagraph (A),

1 (B), or (C) of paragraph (1) with voluntary commu-
2 nity-based services where appropriate; and

3 (4) to train the staff of dispatch centers regard-
4 ing the proper handling of a report of an emergency
5 described in paragraph (1), including training in the
6 principles of de-escalation and anti-racism referred
7 to in paragraph (2)(A).

8 (b) DELEGATION.—The Secretary shall delegate re-
9 sponsibility for carrying out the Secretary’s responsibil-
10 ities under this section and section 4 to the Director of
11 the Center for Mental Health Services of the Substance
12 Abuse and Mental Health Services Administration.

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

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

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

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

4 (1) have high rates of arrests and incarceration
5 of persons with a mental illness or an intellectual or
6 developmental disability;

7 (2) commit to increasing resources for mental
8 health and community-based support services or so-
9 lutions for such persons; or

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

12 (e) REPORTING.—

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

15 (A) a quarterly report on—

16 (i) the number and percentage of
17 emergencies where mental health profes-
18 sionals were dispatched in lieu of law en-
19 forcement officers pursuant to assistance
20 under this section;

21 (ii) such other matters as the Sec-
22 retary may require for determining wheth-
23 er the recipient should receive an addi-
24 tional award under subsection (c); and

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

10 (I) to provide a critical baseline
11 analysis; and

12 (II) to ensure that mental health
13 practitioners are not simply funneling
14 individuals into other institutionalized
15 settings; and

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

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

22 (3) DISAGGREGATION OF DATA.—The reporting
23 pursuant to paragraphs (1) and (2) shall be
24 disaggregated by age, gender, race, and ethnicity, to
25 the extent the Secretary determines appropriate.

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

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

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

9 (A) received through the grant; and

10 (B) has not obligated or expended.

11 **SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVI-**
12 **SIONS OF A STATE.**

13 The Secretary of Health and Human Services, acting
14 through the Assistant Secretary for Mental Health and
15 Substance Use and in consultation with the Assistant At-
16 torney General for the Civil Rights Division of the Depart-
17 ment of Justice, shall provide technical assistance to
18 grantees under section 3 (or other Federal law), other po-
19 litical subdivisions of States, and States to hire, employ,
20 train, and dispatch mental health professionals to respond
21 in lieu of law enforcement officers, as described in section
22 3.

23 **SEC. 5. STUDY.**

24 (a) IN GENERAL.—The Secretary of Health and
25 Human Services and the Assistant Attorney General for

1 the Civil Rights Division of the Department of Justice
2 shall conduct a study of the effectiveness of programs and
3 activities under sections 3 and 4.

4 (b) QUALITATIVE AND LONGITUDINAL EXAMINA-
5 TION.—The study under subsection (a) shall include a
6 qualitative and longitudinal study of—

7 (1) the number of persons diverted from ar-
8 rests; and

9 (2) short- and long-term outcomes for those
10 persons, including reduced recidivism, reduced
11 incidences of use of force, and reduced utilization of
12 resources.

13 (c) COMPLETION; REPORT.—Not later than 3 years
14 after the date of enactment of this Act, the Secretary of
15 Health and Human Services and the Assistant Attorney
16 General for the Civil Rights Division of the Department
17 of Justice shall—

18 (1) complete the study under subsection (a);

19 (2) submit a report to Congress on the results
20 of such study; and

21 (3) publish such report.

22 **SEC. 6. FUNDING.**

23 To carry out this legislation, there are authorized to
24 be appropriated such sums as may be necessary for fiscal
25 year 2021 and each subsequent fiscal year.