

117TH CONGRESS
2^D SESSION

H. R. 7254

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

MARCH 28, 2022

Ms. PORTER (for herself and Mrs. DINGELL) 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mental Health Justice
3 and Parity Act of 2022”.

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. For ex-
12 ample—

13 (A) one out of every four of the deaths
14 caused by law enforcement officers is a person
15 with mental illness; and

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

23 (5) Many of the police encounters that lead to
24 the incarceration (and in too many cases, death) of
25 people with mental illness or an intellectual or devel-

1 opmental disability could be avoided by having in
2 place systems that ensure that calls to 9–1–1 or to
3 law enforcement result in dispatch of mental health
4 professionals, peer support workers, or others rather
5 than law enforcement officers.

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

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

18 (a) IN GENERAL.—The Secretary of Health and
19 Human Services (in this section referred to as the “Sec-
20 retary”), acting through the Assistant Secretary for Men-
21 tal Health and Substance Use and in consultation with
22 the Assistant Attorney General for the Civil Rights Divi-
23 sion of the Department of Justice (in this section referred
24 to as the “Assistant Attorney General”), shall award
25 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 9–1–1, 9–8–8, or
5 another emergency hotline states that a per-
6 son—

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

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

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

14 (C) a law enforcement officer or other first
15 responder determines the situation warrants a
16 mental health professional because they identify
17 a person as being (or possibly being) under the
18 influence of a legal or illegal substance;

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

22 (A) the principles of deescalation and
23 antiracism; and

24 (B) age-appropriate techniques;

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

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

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

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

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

22 (2) a notable reduction in the use of force by
23 police and a notable increase in referrals of persons
24 with a mental illness or intellectual or developmental
25 disability to community-based, voluntary support

1 services (other than institutionalization or carceral
2 support services).

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

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

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

12 (3) include in their current first responder
13 model mental health professionals, such as—

14 (A) social workers; or

15 (B) peer-support specialists.

16 (e) REPORTING.—

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

19 (A) a quarterly report on—

20 (i) the number of mental health pro-
21 fessionals and peer-support specialists
22 hired;

23 (ii) the percentage of emergencies
24 where mental health professionals were dis-

1 patched in lieu of law enforcement officers
2 pursuant to assistance under this section;

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

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

16 (I) to provide a critical baseline
17 analysis; and

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

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

23 (2) BY SECRETARY.—Not later than 1 year
24 after awarding the first grant under this section,
25 and annually thereafter, the Secretary shall submit

1 to the Congress a report on the grant program
2 under this section.

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

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

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

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

15 (A) received through the grant; and

16 (B) has not obligated or expended.

17 (g) FUNDING.—To carry out this section, there are
18 authorized to be appropriated such sums as may be nec-
19 essary for fiscal year 2023 and each subsequent fiscal
20 year.

21 **SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVI-**
22 **SIONS OF A STATE.**

23 The Secretary of Health and Human Services, acting
24 through the Assistant Secretary for Mental Health and
25 Substance Use and in consultation with the Assistant At-

1 torney General for the Civil Rights Division of the Depart-
2 ment of Justice, shall provide technical assistance to
3 grantees under section 3 (or other Federal law), other po-
4 litical subdivisions of States, and States to hire, employ,
5 train, and dispatch mental health professionals to respond
6 in lieu of law enforcement officers, as described in section
7 3.

8 **SEC. 5. STUDY.**

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

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

17 (1) the number of persons diverted from ar-
18 rests;

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

23 (3) the number of full-time equivalent mental
24 health professionals hired to carry out activities
25 funded through a grant under section 3.

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

- 6 (1) complete the study under subsection (a);
- 7 (2) submit a report to Congress on the results
8 of such study; and
- 9 (3) publish such report.

10 **SEC. 6. ELIMINATING THE OPT-OUT FOR NONFEDERAL**
11 **GOVERNMENTAL HEALTH PLANS.**

12 Section 2722(a)(2) of the Public Health Service Act
13 (42 U.S.C. 300gg–21(a)(2)) is amended by adding at the
14 end the following new subparagraph:

15 “(F) SUNSET OF ELECTION OPTION.—

16 “(i) IN GENERAL.—Notwithstanding
17 the preceding provisions of this para-
18 graph—

19 “(I) no election described in sub-
20 paragraph (A) with respect to the pro-
21 visions of section 2726 may be made
22 on or after the date of enactment of
23 this subparagraph; and

24 “(II) except as provided in clause
25 (ii), no such election with respect to

1 the provisions of section 2726 expir-
2 ing on or after the date that is 180
3 days after the date of such enactment
4 may be renewed.

5 “(ii) EXCEPTION FOR CERTAIN COL-
6 LECTIVELY BARGAINED PLANS.—Notwith-
7 standing clause (i)(II), a plan described in
8 subparagraph (B)(ii) that is subject to
9 multiple agreements described in such sub-
10 paragraph of varying lengths and that has
11 an election in effect under subparagraph
12 (A) as of the date of enactment of this
13 subparagraph that expires on or after the
14 date that is 180 days after the date of
15 such enactment may extend such election
16 until the date on which the term of the last
17 such agreement expires.”.

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