H. R. 116TH CONGRESS
2D SESSION

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

Ms. PORTER introduced the following bill; which was 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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mental Health Justice Act of 2020”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Needless institutionalization (including in psychiatric hospitals) of people with disabilities is generally a violation of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the failure to provide sufficient community-based services (such as supported housing, assertive community treatment, mobile crisis, peer support, and supported employment) has resulted in needless institutionalization as well as incarceration of persons with mental illness or an intellectual or developmental disability.

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

(3) Regulations promulgated by the Attorney General in 1991 affirm that title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) requires public entities to “administer serv-
ices, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities” (28 C.F.R. 35.130(d)). The regulation defines “the most integrated setting” as one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible” (28 C.F.R. pt. 35, App. B).

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

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

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

(5) Many of the police encounters that lead to the incarceration (and in too many cases, death) of people with mental illness or an intellectual or developmental disability could be avoided by having in
place systems that ensure that calls to 911 or to law enforcement result in dispatch of mental health professionals, peer support workers, or others rather than law enforcement officers.

(6) Many people who are incarcerated would be better served in community services. If there were sufficient community services, and persons with mental illness or an intellectual or developmental disability were connected to those services rather than being arrested, thousands of people with mental illness or an intellectual or developmental disability would avoid needless admissions to hospitals or jails. Further, jails and hospitals would experience less crowding.

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

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”), acting through the Assistant Secretary for Mental Health and Substance Use and in consultation with the Assistant Attorney General for the Civil Rights Division of the Department of Justice (in this section referred to as the “Assistant Attorney General”), shall award grants to States and political subdivisions of States—
(1) to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies in which—

(A) an individual calling 911 or another emergency hotline states that a person—

(i) is in a mental health crisis; or

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

(B) a law enforcement officer or other first responder identifies a person as having (or possibly having) a mental illness or an intellectual or developmental disability; or

(C) a law enforcement officer or other first responder identifies a person as being (or possibly being) under the influence of a legal or illegal substance;

(2) to include in the training for mental health professionals pursuant to paragraph (1) training in the principles of de-escalation and anti-racism;

(3) to ensure that such mental health professionals link persons described in subparagraph (A), (B), or (C) of paragraph (1) with community-based services where appropriate; and
(4) to train the staff of dispatch centers regarding the proper handling of a report of an emergency described in paragraph (1).

(b) DELEGATION.—The Secretary shall delegate responsibility for carrying out the Secretary’s responsibilities under this section and section 4 to the Director of the Center for Mental Health Services of the Substance Abuse and Mental Health Services Administration.

c) ADDITIONAL AWARDS.—The Secretary shall make an additional award of funds under this section each fiscal year to grantees that demonstrate that their programs under this section resulted in—

(1) a notable reduction in the incarceration and death of persons with mental illness or an intellectual or developmental disability; or

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

d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to States and political subdivisions of States that—
(1) have high rates of arrests and incarceration of persons with a mental illness or an intellectual or developmental disability; or

(2) commit to increasing resources for mental health and community-based support services or solutions for such persons.

(e) REPORTING.—

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

(A) a quarterly report on—

(i) the number and percentage of emergencies where mental health professionals were dispatched in lieu of law enforcement officers pursuant to assistance under this section;

(ii) such other matters as the Secretary may require for determining whether the recipient should receive an additional award under subsection (c); and

(iii) any increase or decrease, compared to any previous quarter, in incarceration or institutionalization as a result of dispatching mental health professionals pursuant to assistance under this section, disaggregated to include data specific to
persons with intellectual and developmental disabilities and mental illnesses where available, so as—

(I) to provide a critical baseline analysis; and

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

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

(2) By Secretary.—Not later than 1 year after awarding the first grant under this section, and annually thereafter, the Secretary shall submit to the Congress a report on the grant program under this section.

(f) Revocation of Grant.—If the Secretary finds, based on reporting under subsection (e) or other information, that activities funded through a grant under this section are leading to a significant increase in incarceration or institutionalization—

(1) the Secretary shall revoke the grant; and

(2) the grantee shall repay to the Federal Government any amounts that the grantee—

(A) received through the grant; and

(B) has not obligated or expended.
(g) FUNDING.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2021 and each subsequent fiscal year.

SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVISIONS OF A STATE.

The Secretary of Health and Human Service, acting through the Assistant Secretary for Mental Health and Substance Use and in consultation with the Assistant Attorney General for the Civil Rights Division of the Department of Justice, shall provide technical assistance to grantees under section 3 (or other Federal law), other political subdivisions of States, and States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers, as described in section 3.

SEC. 5. STUDY.

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

(b) QUALITATIVE AND LONGITUDINAL EXAMINATION.—The study under subsection (a) shall include a qualitative and longitudinal study of—
(1) the number of persons diverted from arrests; and
(2) short- and long-term outcomes for those persons, including reduced recidivism, reduced incidences of use of force, and reduced utilization of resources.

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

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