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JUVENILE JUSTICE AND DELINQUENCY PREVENTION REAUTHORIZATION ACT OF 2008

SEPTEMBER 18 (legislative day, September 17), 2008.—Ordered to be printed

Mr. LEAHY, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 3155]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 3155), to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

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I. BACKGROUND AND PURPOSE OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION REAUTHORIZATION ACT OF 2008

A. BACKGROUND AND NEED FOR THE LEGISLATION

The Juvenile Justice and Delinquency Prevention Reauthorization Act (JJDPRA or “the Act”) sets out Federal policy and standards and authorizes key Federal resources for States to improve their juvenile justice systems and for communities to develop programs to prevent juveniles from entering the juvenile justice system in the first place. For this reauthorization, the Committee has reexamined Federal juvenile justice policy in light of new studies and evidence that have emerged since the last 2002 reauthorization. In setting new Federal standards and refining existing ones, the Committee has also been guided by changes that States have been making to their own juvenile justice systems. As one commentator noted on the critical issue of whether to place juveniles in adult jails:

States are rethinking and, in some cases, retooling juvenile sentencing laws. They’re responding to new research on the adolescent brain, and studies that indicate teens sent to adult court end up worse off than those who are not: They get in trouble more often, they do it faster and the offenses are more serious.¹

Building on the States’ juvenile justice experiences, this bill makes several changes to the Act that reinforce what has been working in State juvenile justice systems, and changes what has not been working. It seeks to ensure that communities and State juvenile justice systems have the resources they need to prevent juvenile crime and to deal effectively with juvenile offenders in the system to ensure their successful reintegration into their communities. One principal goal of this reauthorization is to foster a return to the strong support for State and local law enforcement that Congress showed in the 1990s, as demonstrated by the Community Oriented Policing Services (COPS) Program and other key grant programs that contributed to historic declines in violent crime. Declining funding for these programs in recent years has contributed to a reversal of that trend and to recent increases in crime rates. Though rates of juvenile crime have continued to decrease, effective prevention programs have faced significant cuts in Federal support, creating a dangerous vacuum. This bill aims to reverse this trend and to help our communities implement programs proven to help juveniles turn their lives around.

A careful examination of how to keep juveniles from entering or reentering the criminal justice system not only makes our communities safer by reducing the number of juveniles who go on to lives of crime as adults, but it also ensures that juveniles will lead safer and more fulfilling lives. For example, the Washington Post reported recently on a study by the Centers for Disease Control and Prevention, led by an independent Taskforce on Community Preventative Services, that determined that children who are prosecuted as adults commit more crimes, and more serious crimes,

¹Sharon Cohen, “Prosecuting Kids as Adults: Some States Ponder Changes,” Associated Press, Dec. 1, 2007.

considered carefully with this reauthorization whether that policy is working in the face of strong evidence to the contrary. This reauthorization takes steps to ensure that juveniles in States participating in JJDPA programs are held pretrial in adult jails and lock ups only after careful consideration and weighing of all relevant factors. It makes these and other changes with appropriate respect for, and deference to, the varied policy choices, needs, and fiscal realities of the States.

The Committee understands the importance of holding criminals accountable for their crimes. It also recognizes the importance of boosting support for State and local law enforcement and of balancing strong law enforcement with prevention programs aimed at keeping juveniles out of the criminal justice system. This reauthorization recognizes that some problems persist throughout the Nation's juvenile justice systems, including disturbing episodes of mistreatment of children and the continuing disproportionate representation of youth of color in the juvenile justice system. It takes strong steps to address these concerns, and to encourage both the Office of Juvenile Justice and Delinquency Programs (OJJDP) at the Department of Justice and the States that receive Federal funds under the Act to search for ways to solve these troubling patterns and disparities and continue to build upon past successes.

B. SIGNIFICANT CHANGES IN THIS REAUTHORIZATION

This bipartisan bill will strengthen the JJDPA by increasing Federal support to States for juvenile crime reduction and for improvement of State juvenile justice systems, and by encouraging important reforms. Among its most significant changes from the last reauthorization are increases in Federal funding for prevention, intervention and treatment programs designed to reduce the incidence of juvenile crime. These include increased funding for critical title V prevention programs to discourage juvenile contact with the justice system, such as after-school care and mentoring; increased funding to assist States in achieving and maintaining compliance with the JJDPA's goals and particularly its core requirements; and the promotion of evidence-based and promising practices to ensure that Federal dollars have maximum impact.

This bill also encourages States to make critical new improvements to their juvenile justice systems. For example, the bill places significant new emphasis on the crucial issues of mental health and substance abuse, including expanding the allowable use of grant funds for mental health and substance abuse training and treatment, encouraging States to focus more on juveniles with those needs, and providing new incentive grants for these purposes. A recent letter to the editor of the New York Times aptly summed up the dangers of leaving children in need of mental health care untreated: "children with psychiatric disorders were twice as likely to be involved in the criminal justice system as young adults than children with no disorder . . . [y]et less than half of children with multiple psychiatric disorders receive any mental health services."⁴

⁴ Stephen Bates Billick, (Past) Chairman of the American Psychiatric Association Corresponding Committee on Juvenile Justice Issues, Letter to the Editor, New York Times, Dec. 4, 2007.

treatment, encouraging States to focus more on juveniles with those needs, and providing new incentive grants for these purposes. A recent letter to the editor of the New York Times aptly summed up the dangers of leaving children in need of mental health care untreated: “children with psychiatric disorders were twice as likely to be involved in the criminal justice system as young adults than children with no disorder . . . [y]et less than half of children with multiple psychiatric disorders receive any mental health services.”⁴ This bill seeks to fill this gap by providing new directives to States, together with new authorizations to implement these directives.⁵

The reauthorization compels States to continue working toward reducing racial and ethnic disparities in the juvenile justice systems. Marian Wright Edelman, President of the Children’s Defense Fund, noted in a recent editorial, “Black and Latino teens end up in adult facilities in numbers disproportionately higher than their representation in the general population. Nationally, according to [a] Campaign for Youth Justice report, three out of four young people admitted to adult prison in 2002 were either Black or Latino.”⁶ In their landmark report, *And Justice for Some*, the National Council on Crime and Delinquency recognized that youth of color face a “cumulative disadvantage” in the justice system (where the disparities grow deeper as youth continue through the justice system).⁷ Since many data systems fail to disaggregate ethnicity from race, data on the extent to which young people of color are overrepresented in the juvenile justice system are generally underreported. The bill seeks to address this troubling trend by asking States to take concrete steps to reduce these disparities.

The bill further requires States to devise strategies to eliminate the incidence of dangerous practices, unreasonable restraints, and isolation of juveniles through the increased use of training and best practices.⁸

This legislation also places common sense limits on the pretrial detention of juveniles in adult jails and lock ups and the detention of juveniles for status offenses. Youth held in adult jails and lock-

⁴ Stephen Bates Billick, (Past) Chairman of the American Psychiatric Association Corresponding Committee on Juvenile Justice Issues, Letter to the Editor, *New York Times*, Dec. 4, 2007.

⁵ The bill also encourages States to provide more services to juvenile inmates with disabilities—a problem recently highlighted in a *New York Times* editorial. See “Writing Off Disabled Children,” Editorial, *The New York Times*, Aug. 9, 2008 (noting that Texas public education deficiencies in treating students with disabilities leads to higher numbers of disabled children in the State juvenile justice system.).

⁶ Marian Wright Edelman, “Juveniles Don’t Belong in Adult Prisons,” *The Huffington Post*, Aug. 4, 2008.

⁷ The National Council on Crime and Delinquency. (2007, January). *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*. Retrieved from: http://www.nccdcrc.org/nccd/pubs/2007jan_justice_for_some.pdf; and Poe-Yamagata, E., & Jones, M. *And Justice for Some*. The National Council on Crime and Delinquency. Retrieved from <http://www.buildingblocksforyouth.org/justiceforsome/jfs.pdf>.

⁸ In this reauthorization, the Committee defines “restraints” and “dangerous practices.” The term “unreasonable restraints” means the excessive use of restraints or the use of restraints that are not reasonably calculated to meet legitimate correctional needs in managing juvenile detention facilities. Examples of “dangerous practices” would include, but would not be limited to, hogtying, the use of four- or five-point restraints, choking, the use of belly belts or belly chains on pregnant females, the use of psychotropic medication without adherence to appropriate medical standards regarding dosage or for purposes unrelated to medical treatment such as coercion, punishment or convenience, and the use of restraints on a female who is in labor, is delivering a baby, or is in post-delivery recuperation, when such female does not reasonably present a risk of danger or escape. The Committee does not intend to prevent correctional officers from using reasonable physical force, or, in exceptional circumstances, chemical agents, as a matter of last resort in order to meet legitimate correctional needs in managing juvenile detention facilities, nor does the Committee intend to prevent correctional officers from using other reasonable techniques that are necessary to protect the safety of inmates, officers or staff.

ups are at great risk of physical and sexual abuse and 19 times more likely to commit suicide than youth held in juvenile facilities.⁹ Adult facilities are also generally less well-equipped to meet the educational and other specialized needs of youth. Under this bill, juveniles charged as adults may not be placed in a jail or lock-up or have any contact with adult inmates without a hearing. A judge must consider meaningful factors and make detailed written findings to ensure that such placement is “in the interest of justice.” This process is intended to ensure that the particular needs of juveniles are taken into account and that youth are not unduly exposed to the risks of being housed with adults.

Similarly, the bill ensures that “status offenders”—juveniles arrested for offenses that would not be criminal if committed by adults (e.g., runaways, truants)—not be placed in secure detention unless absolutely necessary, establishes strict time limits on the length of detention, and contains a provision that will repeal the valid court order provision entirely within three years unless, with due diligence, a State is unable to comply with the Act’s core requirement relating to the deinstitutionalization of status offenders.

Recent research also demonstrates that a large number of youth involved in the juvenile justice system are in need of mental health services. The American Journal of Psychiatry has published a report finding that children with psychiatric disorders were twice as likely to be involved with the criminal justice system as those without a disorder.¹⁰ According to the most recent statistics from the National Center for Mental Health and Juvenile Justice which indicate that nearly 70 percent of youth placed in juvenile justice can be diagnosed with a mental health disorder—one in five of these youths have serious mental health problems, and in the most recent report from the Federal Advisory Committee on Juvenile Justice, 30 States identified mental health treatment for youth in the juvenile justice system to be a major concern.¹¹

The facts about the number of children with mental health issues detained in juvenile facilities are truly disturbing and a meaningful response is long overdue. The bill as amended authorizes important grants to support State efforts to conduct a mental health screening for detained juveniles within 24 hours of detention, the period when juveniles are at the highest risk of suicide. These provisions receive the strong support of the American Academy of Pediatrics, Human Rights Watch and the Mental Health Liaison Group, representing over 50 national, professional, research, voluntary, health, consumer, family and citizen advocacy organizations concerned about mental health and addiction disorders.

Finally, the bill reaffirms and strengthens the Federal-State partnership. It supports States’ efforts to comply with JJDPA core requirements by making funds withheld due to non-compliance

⁹The National Council on Crime and Delinquency. (January, 2007). And Justice for Some: Differential Treatment of Youth of Color in the Justice System Retrieved from: http://www.nccd-crc.org/nccd/pubs/2007jan_justice_for_some.pdf; and Poe-Yamagata, E., & Jones, M. And Justice for Some. The National Council on Crime and Delinquency. Retrieved from <http://www.buildingblocksforyouth.org/justiceforsome/jfs.pdf>.

¹⁰William E. Copeland, Ph.D., et al., Childhood Psychiatric Disorders and Young Adult Crime: A Prospective, Population-Based Study, 164 American Journal of Psychiatry, 1668–75, November 2007.

¹¹Kathleen R. Skowyra et al., Mental Health Screening within Juvenile Justice: The Next Frontier, National Center for Mental Health and Juvenile Justice (2008); Federal Advisory Committee on Juvenile Justice, “Annual Report 2007”, Aug. 2007, at 9.

available to States as improvement grants meant to enable States to become compliant. It also strengthens research and technical assistance by the OJJDP to encourage States to adopt best practices, encourages agencies to look for community-based alternatives, expands training and technical assistance to ensure that the most effective programs and practices are implemented around the country, and increases transparency by making State plans and OJJDP decision-making publicly available.

This bipartisan bill enjoys the support of numerous law enforcement and children's advocacy groups, including the Children's Defense Fund, the National Juvenile Justice & Delinquency Prevention Coalition, the National Juvenile Justice Network, Fight Crime: Invest in Kids, the National Association of Counties, the Coalition for Juvenile Justice, and the Council of Juvenile Correctional Administrators.

II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

A. INTRODUCTION OF THE BILL

Senators Leahy, Specter, and Kohl introduced S. 3155, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008, on June 18, 2008. The bill was referred to the Committee on the Judiciary. Since the bill's introduction, Senators Collins, Feinstein, Snowe, Durbin, Coleman, and Smith have joined as cosponsors.

B. COMMITTEE CONSIDERATION

On December 5, 2007, Senator Leahy chaired a Committee hearing on "Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities." The witnesses were Anne Marie Ambrose, Director of Child Welfare and Juvenile Justice Services, Pennsylvania Department of Public Welfare; Shay Bilchik, Founder and Director, Center for Juvenile Justice Reform, Georgetown University Public Policy Institute; J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Department of Justice; Richard Miranda, Chief of Police for the City of Tucson, Arizona; and Deirdre Wilson Garton, Chair of the State Advisory Group for the State of Wisconsin.

Anne Marie Ambrose emphasized in her testimony that "devastating cuts in Federal funding over the past few years have forced the [State Advisory Committee for Pennsylvania] to reevaluate our work and focus even more on prevention as well as on sustainability of programs."¹² Shay Bilchik, the former head of OJJDP, viewed "the recent uptick in juvenile arrests as a possible warning that we cannot safely continue to reduce our commitment to effective programming for at-risk and system involved juveniles if we are to sustain our progress and provide services at a level needed to give every youth the chance to succeed and become a pro-

¹²Testimony of Anne Marie Ambrose, Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities, Before the Senate Comm. on the Judiciary, 110th Cong. (2007), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3043&wit_id=6804.

ductive and law-aiding citizen.”¹³ Tucson Chief of Police Richard Miranda emphasized the need to clarify the disproportionate minority representation provisions of the JJDPA because the current standards are “vague.”¹⁴ He added, “I just can’t arrest away our problems. There have to be other alternatives, there have to be other processes to get these kids on the right track.”¹⁵

Deirdre Wilson Garton urged the Committee to “substantially increase the training and technical assistance provided to States and communities that will help them embrace evidence-based delinquency prevention programs and intervention programs that work.”¹⁶ And J. Robert Flores, the current head of OJJDP, acknowledged that “much remains to be done to prevent, intervene in, and treat delinquent behavior.”¹⁷

On July 31, 2008, the Committee on the Judiciary considered S. 3155. Senators Leahy, Specter and Kohl offered an amendment, in the nature of a substitute, which was adopted by unanimous consent. This amendment made a number of changes to clarify and strengthen the bill.

Senator Grassley offered an amendment to require a comprehensive audit of OJJDP as well as grantees that receive funding from OJJDP. This amendment was rejected on a rollcall vote, with opposing Senators expressing concerns that the proposed audit appeared to duplicate oversight requirements already in the bill, to unnecessarily tax scarce State resources, and to inappropriately question the existence of key juvenile justice programs. The vote record is as follows:

TALLY: 9 YEAS, 10 NAYS

Yeas (9): Brownback (R-KS), Coburn (R-OK), Cornyn (R-TX), Graham (R-SC), Grassley (R-IA), Hatch (R-UT), Kyl (R-AZ), Sessions (R-AL), Specter (R-PA).

Nays (10): Biden (D-DE), Cardin (D-MD), Durbin (D-IL), Feingold (D-WI), Feinstein (D-CA), Kennedy (D-MA), Kohl (D-WI), Leahy (D-VT), Schumer (D-NY), Whitehouse (D-RI).

Senator Feinstein offered an amendment to add additional requirements for facilities in the screening and treatment of juveniles with mental health and/or substance abuse issues. The amendment was accepted on a rollcall vote. The vote record is as follows:

¹³ Testimony of Shay Bilchik, Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities, Before the Senate Comm. on the Judiciary, 110th Cong. (2007), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3043&wit_id=6802.

¹⁴ Testimony of Richard Miranda, Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities, Before the Senate Comm. on the Judiciary, 110th Cong. (2007), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3043&wit_id=6803.

¹⁵ Transcript of Hearing at 41, Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities, Before the Senate Comm. on the Judiciary, 110th Cong. (2007).

¹⁶ Testimony of Deirdre Wilson Garton, Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities, Before the Senate Comm. on the Judiciary, 110th Cong. (2007), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3043&wit_id=6803.

¹⁷ Testimony of J. Robert Flores, Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities, Before the Senate Comm. on the Judiciary, 110th Cong. (2007), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3043&wit_id=6801.

TALLY: 18 YEAS, 1 NAY

Yeas (18): Biden (D-DE), Brownback (R-KS), Cardin (D-MD), Coburn (R-OK), Cornyn (R-TX), Durbin (D-IL), Feingold (D-WI), Feinstein (D-CA), Hatch (R-UT), Kennedy (D-MA), Kohl (D-WI), Kyl (R-AZ), Leahy (D-VT), Graham (R-SC), Grassley (R-IA), Schumer (D-NY), Specter (R-PA), Whitehouse (D-RI).

Nays (1): Sessions (R-AL).

Senator Cardin offered an amendment to phase out the valid court order exception to the deinstitutionalization of status offenders, a core requirement of the Act. The amendment was accepted on a rollcall vote. The vote record is as follows:

TALLY: 11 YEAS, 7 NAYS, 1 PASS

Yeas (11): Brownback (R-KS), Biden (D-DE), Cardin (D-MD), Coburn (R-OK), Durbin (D-IL), Feingold (D-WI), Feinstein (D-CA), Hatch (R-UT), Kennedy (D-MA), Specter (R-PA), Whitehouse (D-RI).

Nays (7): Cornyn (R-TX), Graham (R-SC), Grassley (R-IA), Kohl (D-WI), Kyl (R-AZ), Schumer (D-NY), Sessions (R-AL).

Pass (1): Leahy (D-VT).

Senator Grassley offered three additional amendments to provide for increased accountability for the expenditure of Federal funds on the part of the OJJDP and grantees of Federal funds that were accepted by unanimous consent.

The Committee then voted to report the bill, as amended, favorably to the Senate. The Committee proceeded by voice vote.

III. SECTION-BY-SECTION SUMMARY OF THE BILL¹⁸

Section 1. Short title

This section cites the short title of the Act as the “Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008.”

Section 2. Table of contents

This section provides the table of contents for the Act.

Section 101. Findings

This section contains congressional findings supporting the need for reauthorization.

Section 102. Purposes

This section contains the Act’s purposes, including a new purpose to support a continuum of programs including delinquency prevention, intervention, mental health and substance abuse treatment, and aftercare, to address the needs of at-risk youth and youth who come into contact with the justice system.

Section 103. Definitions

This section amends certain existing definitions, and adds several new definitions. The term “adult inmate” is amended to give States the authority to retain youth who are placed in juvenile facilities after they reach the age of maximum age of extended jurisdiction. The section also defines for the first time: “core require-

¹⁸ Committee amendments are described separately in Section II.B, supra.

ments,” “chemical agent,” “isolation,” “restraint,” “evidence based,” “promising,” and “dangerous practice.”

Section 201. Concentration of Federal efforts

This section clarifies the date on which the Administrator must issue the annual plan for coordinating Federal juvenile justice efforts.

Section 202. Coordinating Council on Juvenile Justice and Delinquency Prevention

This section provides for the addition of several members to the Coordinating Council on Juvenile Justice and Delinquency Prevention, including individuals from the mental health fields.

Section 203. Annual report

This section modifies several existing reporting requirements in the OJJDP Administrator’s annual report, including requiring data on conditions of confinement (isolation and restraints), release from custody, and status offenders.

This section also requires that the Administrator include a description of the criteria used to determine what programs qualify as evidence-based and promising programs under JJDPA titles II and V, and a comprehensive list of those programs that have been determined to meet the criteria, as well as a description of funding provided to Indian tribes under this Act.

Section 204. Allocation of funds

This section clarifies that funds should be allocated to States under Juvenile Justice and Delinquency Prevention Act (JJDPA) based on the most recent census data available.

This section authorizes the reinvestment of funds withheld due to noncompliance with one or more of the core requirements as an “incentive grant” aimed at helping States to regain compliance. It also requires that the Administrator provide support and technical assistance to the States in achieving and maintaining compliance with the Act.

Section 205. State plan

This section makes a number of changes to the information that participating States must include in their State plans.

Specifically, this section requires States to publicly disclose their State plan on-line within 30 days of its approval by the Administrator.

This section changes the composition of the State advisory group to include volunteers who work with delinquent youth or youth at risk of delinquency, including volunteers who work with youth of color, the State’s Runaway and Homeless Youth Act executive director, persons with expertise and competence in preventing and addressing mental health or substance abuse problems in juvenile delinquents and those at risk of delinquency, and representatives of victim or witness advocacy groups.

This section requires States to inform stakeholders about the State’s plan and compliance with the core requirements. In addition, the plan must also provide alternatives to detention, including diversion to home-based detention or community-based services or

treatment for those youth in need of mental health, substance abuse, or co-occurring disorder services at the time the juvenile first came into contact with the juvenile justice system. And it must include a plan to reduce the number of children housed in secure detention and corrections facilities who are awaiting placement in residential treatment programs, a plan to encourage inclusion of family members in the design and delivery of juvenile delinquency prevention and treatment services, particularly post-placement, and a plan to use community-based services to address the needs of at-risk youth or youth who have come into contact with the juvenile justice system.

This section ensures that States advisory groups use JJDPA funds for the provision of training, technical assistance and consultation with State and local juvenile justice and child welfare agencies to develop coordinated dependence and delinquency system plans for early intervention and treatment of youth who have a history of abuse, as well as those juveniles who have prior involvement with the juvenile justice system. JJDPA funds must also be used for programs to improve the recruitment, selection, training, and retention of professional personnel in the fields of medicine, law enforcement, judiciary juvenile justice, social work and child protection, education, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of delinquency. The funds must also go toward expanding access to publicly supported, court-appointed legal counsel and enhancing capacity for the competent representation of every child.

This section encourages the use of community-based alternatives to secure detention.

This section expands the jail removal requirement to keep youth awaiting trial in adult criminal court out of adult lock-ups under certain circumstances. The section requires that a youth be placed in a juvenile facility unless a judge determines it is in the “interest of justice” for the youth to be held in an adult facility. The interest of justice shall be determined by looking at a variety of factors, including the age, physical and mental maturity of the juvenile, the nature and circumstances of the alleged offense, the relative ability of the available adult jails and lock ups and juvenile detention facilities to meet the specific needs of the juvenile, and the protection of the public among other relevant considerations. The procedural protections for juveniles charged as adults are strengthened by, among other new protections, requiring the court to hold a review hearing at least every 30 days, if it determines that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults or have contact with adult inmates. The juvenile may not be held for more than 180 days unless the court, in writing, determines that there is a good cause exception.

This section updates the Disproportionate Minority Contact core requirement by providing additional direction to States and localities on how to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system and by mandating that community-based services are both culturally and linguistically competent.

This section updates the Valid Court Order exception by ensuring that “status offenders”—juveniles arrested for offenses that

would not be criminal if committed by adults—are not placed in secure detention unless it is in the best interest of that juvenile. If a juvenile is taken into custody for violating a valid court order issued for committing a status offense, this section requires the court to identify the court order violation, specify the factual basis for the violation, and provide findings of fact that support a determination that there is no appropriate less restrictive alternative available. Juveniles may not be ordered to be detained for a period exceeding seven days.

This section encourages States to ensure that records are shared between the juvenile justice system and the child welfare system for youth who have been abused or neglected.

This section requires that the plan address mental health and substance abuse screening, assessment, referral, and treatment for juveniles in the juvenile justice system. The plan must also include policies and procedures, as well as training for staff, on evidence-based and promising techniques that are designed to eliminate the use of dangerous practices and unreasonable restraints and isolation.

This section creates new procedural safeguards to improve juvenile reentry services. The safeguards include, but are not limited to, a written case plan for each juvenile that describes pre-release and post-release programs; living arrangements after discharge, and post-release support such as behavioral health care, and, as appropriate, a hearing that details the discharge plan for the juvenile that shall take place no earlier than 30 days before the scheduled release.

This section requires States who are out of compliance with the Act to submit a report to the Administrator detailing the reasons for non-compliance and a plan to regain compliance. The report must be posted on a publicly available website. The Administrator must issue a public report detailing the determination of compliance and post it on a publicly available website.

Under current law, OJJDP is empowered to take action against States that fail to comply with a core requirement “in the subsequent fiscal year.” This section strikes that limitation, and allows OJJDP to take action in the current fiscal year, if appropriate.

Section 206. Authority to make grants

This section amends the Administrator’s grant-making authority to add truancy prevention and reduction activities to the list of after-school programs that provide at-risk juveniles and juveniles in the system with a range of age-appropriate activities. Also added to the list are projects that support the establishment of partnerships between a State and a university, institution of higher education, or research center designed to improve the recruitment, selection, training and retention of professional personnel.

Section 207. Research and evaluation; statistical analyses; information dissemination

This section requires the Administrator to provide an annual written and publicly available plan to identify the purposes and goals of all programs carried out with funds. It also requires the Administrator to conduct research or evaluation relating to the prevalence and duration of behavioral needs, including mental

health, substance abuse, and co-occurring disorders, among juveniles pre-placement and post-placement when held in the custody of secure detention and corrections facilities, including an examination of the effects of confinement. The research shall also include training efforts and reforms that have produced reductions in, or elimination of, the use of dangerous practices. Finally, the report shall include a description of the best practices in discharge planning and an assessment of living arrangements for juveniles who cannot return to the homes of the juveniles.

This section requires the development of a National Recidivism Measure. It requires the Administrator to establish a uniform method of data collection and technology used to evaluate data on juvenile recidivism, establish a common national juvenile recidivism measure, and make cumulative juvenile recidivism data that is collected from States available to the public.

This section also requires the Administrator to assess the effectiveness of the practice of treating juveniles as adults for purposes in criminal court and submit the findings and conclusions of the assessment to Congress and the President as well as to the public and to conduct a study of adjudicated juveniles and publish a report on the outcomes for juveniles who have reintegrated into the community.

Section 208. Training and technical assistance

This section compels the Administrator to, among other requirements, make publicly available his or her decision-making with respect to grants to States and provide for the development and promulgation of standards of practice for attorneys representing children and ensure the adoption of these standards.

The Administrator must also coordinate training and technical assistance programs with juvenile detention and corrections personnel of States and units of local government to promote evidence based and promising methods for improving conditions of juvenile confinement, including those that are designed to minimize the use of dangerous practices, unreasonable restraints, and isolation, and to promote positive behavioral management techniques.

Section 209. Incentive grants for state and local programs

This section creates a new incentive grant program and sets forth activities that may receive incentive grant funding and the means by which States may apply for the grants. Permissible uses of incentive grant funds include increasing the use of evidence-based or promising prevention programs; improving the recruitment, selection, training and retention of professional personnel; and the establishment of a partnership between juvenile justice agencies of a State or unit of local government and mental health authorities of a State or unit of local government to enhance mental health and substance abuse services for juveniles. At least one-half of the funds allocated under this program must be authorized for evidence-based or promising programs, as those terms are now defined.

Section 210. Authorization of appropriations

This section sets authorization levels for the JJDPA title II programs as follows: (A) \$196,700,000 for fiscal year 2009, (B)

\$245,900,000 for 2010, (C) \$295,100,000 for 2011, (D) \$344,300,000 for 2012, and (E) \$393,500,000 for 2013.

This section also sets authorization levels for the new incentive grants program at \$80,000,000 for each of fiscal years 2009, 2010, 2011, 2012, and 2013. Of the sums appropriated for a fiscal year to carry out the incentive grants program, at least 40% of the funds shall be used for programs that are carrying out an activity described in subparagraph (C), (D), or (E) of section 271(b)(1).

Section 211. Administrative authority

This section strikes the word “requirements” as described in paragraphs (11), (12), and (13) of section 223(a), and replaces it with “core requirements.”

Section 212. Technical and conforming amendments

This section makes several technical and conforming amendments.

Section 301. Definitions

This section adds a definition for the term “mentoring.”

Section 302. Grants for delinquency prevention programs

This section adds mentoring as an allowable use of JJDPA title V delinquency prevention programs.

Section 303. Authorization of appropriations

This section sets authorization levels for the JJDPA title V programs as follows: (1) \$272,200,000 for fiscal year 2009; (2) \$322,800,000 for fiscal year 2010; (3) \$373,400,000 for fiscal year 2011; (4) \$424,000,000 for fiscal year 2012; and (5) \$474,600,000 for fiscal year 2013.

Section 304. Technical and conforming amendment

This section makes several technical and conforming amendments.

IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee sets forth, with respect to the bill, S. 3155, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

AUGUST 18, 2008.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has completed the enclosed cost estimate for S. 3155, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008.

The CBO staff contact for this estimate is Mark Grabowicz.
 Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 3155—Juvenile Justice and Delinquency Prevention Act

Summary: S. 3155 would authorize the appropriation of \$3.7 billion over the 2009–2013 period for the Department of Justice (DOJ) to make grants to state and local governments for programs to reduce juvenile delinquency and improve the juvenile justice system. In addition, the bill would authorize the appropriation of such sums as may be necessary for juvenile delinquency block grants and state challenge grants.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 3155 would cost about \$2.3 billion over the 2009–2013 period and another \$2 billion in subsequent years. Enacting the legislation would not affect direct spending or revenues.

S. 3155 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3155 is shown in the following table. The cost of this legislation falls within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
<i>Programs with Specified Funding Levels:</i>						
Authorization Level	549	649	749	848	948	3,743
Estimated Outlays	66	232	409	583	750	2,040
<i>Other Programs:</i>						
Estimated Authorization Level	97	100	103	106	109	515
Estimated Outlays	12	39	64	86	103	304
<i>Total Changes:</i>						
Estimated Authorization Level	646	749	852	954	1,057	4,258
Estimated Outlays	78	271	473	669	853	2,344

Basis of estimate: CBO estimates that S. 3155 would authorize a total of nearly \$4.3 billion over the 2009–2013 period for the juvenile justice and delinquency prevention programs covered by the bill. That total includes the \$3.7 billion specified in the bill for various programs and an estimated \$515 million for juvenile justice block grants and state challenge grants. CBO estimated the cost of the block grants and challenge grants by adjusting the amounts appropriated for those programs for 2008 for anticipated inflation.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 3155 would cost about \$2.3 billion over the 2009–2013 period, with the remaining amounts spent in subsequent years. For this estimate, CBO assumes that the authorized and estimated amounts will be appropriated near the start of each fiscal year and that spending will follow the historical spending patterns for these activities.

Intergovernmental and private-sector impact: S. 3155 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would add new requirements for governments that participate in certain federal programs related to juvenile justice. Assuming appropriation of the authorized amounts, state, local, and tribal

governments would receive about \$2.3 billion over the 2009–2013 period.

Estimate prepared by: Federal Costs: Mark Grabowicz, Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: MarDestinee C. Perez.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 3155.

VI. CONCLUSION

This legislation seeks to move the country in new directions to protect our communities and give our children the chance they need to grow up to be productive members of society. But the Committee was careful to do so with full respect for the discretion due to law enforcement and judges, with deference to States, and with a regard for difficult fiscal realities. We urge its prompt passage in the full Senate.

VII. ADDITIONAL AND MINORITY VIEWS

ADDITIONAL VIEWS FROM SENATOR KYL

I submit these additional views simply to note my intent to offer an amendment to this bill on the Senate floor that I had filed but did not have time to offer in the Judiciary Committee. The amendment, a copy of which is attached to this statement, would allow federal prosecutors, without having to seek a judge's permission, to prosecute a 16- or 17-year-old as an adult if that individual is charged with committing murder, forcible rape, or kidnapping, or an attempt to commit such an offense. Under current law, before any juvenile can be prosecuted as an adult in federal court for any offense, the prosecutor must seek the judge's permission, and the judge must decide that such prosecution is "in the interest of justice." Current application of this standard varies widely depending on the ideological predisposition of the presiding judge, and far too many district judges fail to take the interest in public safety into account when applying this test. My amendment would ensure that, for the most serious violent crimes—rape, murder, and kidnapping—prosecutors will have the discretion to seek a sentence that is appropriate to the crime and that will protect the public.

Many states currently allow or even require juveniles as young as 14 years old to be prosecuted as adults for a broad range of offenses. Some critics of the amendment that I circulated in the Judiciary Committee have argued that prosecuting and incarcerating a 16- or 17-year-old as an adult could undermine his rehabilitation; they cite studies indicating that juveniles who were prosecuted as adults are more likely to commit new crimes in the future.

I agree that for many crimes, such as theft or even drug crimes, society ought rightly be concerned with a juvenile offender's rehabilitation. In the case of crimes such as murder or rape, however, the balance of interests tips decisively in favor of protecting society from the offender. The maximum penalty for these crimes is life in prison, and all sentences for these offenses tend to be very long and to cover all of an offender's crime-prone years. When an offender commits a rape or a murder, the interest in his rehabilitation is greatly reduced; society must place greater emphasis on the offender's incapacitation and the prevention of additional crimes. And as for the "studies" cited above, I think that it is obvious that the reason that juveniles who were prosecuted as adults are more likely to commit new crimes in the future is that juveniles who commit the kinds of crimes that typically result in adult prosecution are more criminally inclined to begin with. Under current state law, a juvenile who commits a rape is much more likely to be prosecuted as an adult than one who commits shoplifting or vandalism. Is it

any surprise that a 17-year-old who commits a rape is also more likely to commit serious crimes in the future than is a juvenile who has only committed shoplifting or vandalism? The very best indicator of whether an individual is likely to commit a crime in the future is whether he has been convicted of committing a criminal offense in the past.

Does anyone seriously believe that, in the case of a 16-year-old who murders another person, or a 17-year-old who rapes a woman or a child, society should be focused on counseling the offender and releasing him into the public when he is 21 years old? This amendment is necessary for the public safety. Its rejection would inevitably result in the commission of more rapes and murders that easily could have been prevented through appropriate incarceration of the offender.

Some critics have also opposed my amendment on the basis that it applies to inchoate offenses. The version of the amendment that I will offer on the Senate floor will also apply to attempted murder, rape, and kidnapping. I think that this makes sense. The law generally recognizes that an attempt to commit rape or murder, for example, is just as serious as a completed offense, and the fortuity that the victim of an attempted murder survived is a good thing, but not one that should not inure to the benefit of the perpetrator of the offense.

JON KYL.

Attachment to Senator Kyl's views

AMENDMENT NO.

Calendar No.

Purpose: To allow juveniles aged 16 or 17 years who commit murder, rape, or kidnapping to be prosecuted as adults.

IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.

S.3155

To reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

Referred to the Committee on and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 At the appropriate place, insert the following:

2 SEC. . TRANSFER OF JUVENILES FOR MURDER, RAPE,

OR KIDNAPPING.

⁴ Section 5032 of title 18, United States Code, is

5 amended—

(1) by designating the eleven undesigned

7 paragr

⁸ *tively:*

2

1 (2) in subsection (a) (as designated by this
2 Act), by striking "A juvenile" and inserting, "Ex-
3 cept as provided in subsection (l), a juvenile";

4 (3) in subsection (d) (as designated by this
5 Act), by striking "this paragraph" and inserting
6 "this subsection";

7 (4) in subsection (e) (as designated by this
8 Act), by striking "this paragraph" and inserting
9 "this subsection"; and

10 (5) by adding at the end the following:

11 "(l)(1) The Attorney General may prosecute as an
12 adult a juvenile who—

13 "(A) is alleged to have committed an act that
14 if committed by an adult would constitute the of-
15 fense of murder (as described in section 1111), rape
16 (as described in subsection (a) or (b) of section
17 2241), or kidnapping (as described in section 1201),
18 or an attempt to commit such an offense; and

19 "(B) on the date of the alleged act, is not less
20 than 16 years of age.

21 "(2) The decision whether to prosecute a juvenile as
22 an adult under this subsection is not subject to judicial
23 review in any court.

24 "(3) In a prosecution under this subsection, a juve-
25 nile may be—

3

- 1 “(A) prosecuted and convicted as an adult for
- 2 any offense that is properly joined under the Federal
- 3 Rules of Criminal Procedure with the offense de-
- 4 scribed in paragraph (1)(A) alleged to have been
- 5 committed by the juvenile; and
- 6 “(B) convicted as an adult of any lesser in-
- 7 cluded offense of the offense described in paragraph
- 8 (1)(A) alleged to have been committed by the juve-
- 9 nile.”.

MINORITY VIEWS FROM SENATORS GRASSLEY, COBURN AND KYL

The Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008 (S. 3155) does not include any major reforms that address problems with grant management by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Together with the increased spending authorizations contained in S. 3155, this reauthorization misses the mark when it comes to reforming grant management and ensuring that taxpayer dollars that are provided to juvenile justice grantees are free from fraud, waste, or abuse.

The Department of Justice Office of the Inspector General (DOJ Inspector General) has labeled grant management as one of the top management and performance challenges at the Justice Department. For example, the DOJ Inspector General found that “Department components that award grants still lack adequate financial and programmatic oversight of their varied grant programs . . . raising questions about how effectively these grant funds are being spent.”¹⁹ The DOJ Inspector General also stated, “OIG audits continue to identify a variety of management concerns regarding the Department’s oversight of its grant programs, including problems in the grant closeout process, improper use of grant funds, difficulties in meeting grant objectives, and poor performance measurement of grant effectiveness.”²⁰

In addition to the Department-wide problems associated with grant management, the DOJ Inspector General has conducted audits of individual grantees that receive funding from OJJDP under the Juvenile Justice and Delinquency Prevention Act (JJDP). These audits reveal a series of problems associated with grant management and performance and are evidence of the need for a comprehensive evaluation of OJJDP grant recipients. For example, a series of audit reports entered into the Committee hearing record at the July 31, 2008, mark-up show that grantees across the country from California to Florida had serious errors and failures in complying with program requirements. These audits found problems such as unauthorized expenditures by grantees, undocumented expenditures, unallowable costs, inadequate supporting documentation, untimely submission of documentation, subgrantees failure to comply with audit requirements, failure to follow competitive bidding requirements, programs failing to accomplish goals, and failure to provide support for staff salaries and fringe benefits. These are serious program failures that need to be corrected so that taxpayer dollars are not lost to fraud, waste, and abuse.

¹⁹ Office of the Inspector General, United States Department Of Justice, Top Management And Performance Challenges in the Department Of Justice (2007), available at <http://www.usdoj.gov/oig/challenges/2007/> (last visited Sept. 5, 2008).

²⁰ *Id.*

To address the concerns raised with grant management and individual grantee compliance by the DOJ Inspector General, Senator Grassley offered four amendments designed to strengthen accountability and oversight of OJJDP and grantees who are awarded federal funding under the JJDPA. The first amendment offered would have required a top-to-bottom review of OJJDP and an audit and evaluation of a statistically significant sample of grantees who received funds under the JJDPA. Specifically, the amendment would have required the Director of the Office of Audit, Assessment, and Management (OAAM)—the internal auditing arm of the Office of Justice Programs (OJP)—to conduct an audit and evaluation of OJJDP to evaluate whether it has successfully carried out the mission and goals of the original JJDPA.

The amendment provided guidance to the Director of OAAM by setting forth twelve considerations to examine when conducting the audit and evaluation of OJJDP. These twelve considerations were designed to help the Director critically examine OJJDP to determine: (a) whether the goals of the JJDPA were being met, (b) whether OJJDP programs and efforts were duplicative with other DOJ programs, (c) if cost savings could be achieved through program consolidation, (d) how successful grants have been, (e) whether greater oversight of grants was needed. The purpose of adding these specific considerations was to help OAAM structure the audit and evaluation in a manner that would provide Congress with as much information as possible assess whether the concerns regarding grant management and performance raised by the DOJ Inspector General continue to exist in grants managed by OJJDP.

The amendment would have also required OAAM to conduct an audit and evaluation of a statistically significant sample of OJJDP grantees. This audit and evaluation was included in the amendment in an effort to collect a larger sample of information from OJJDP grantees and to verify the results of the individual audits conducted by the DOJ Inspector General. The previous audits conducted by the DOJ Inspector General pointed to significant problems on the part of OJJDP grantees in meeting the requirements of the grant program and in appropriately spending grant monies. If the problems outlined by the individual audits extend to a larger portion of OJJDP grantees, it is possible that hundreds of millions of dollars could be at risk of waste, fraud, or abuse. The amendment required OAAM to complete both audits and evaluations and issue reports to Congress no later than December 2009.

Unfortunately, the amendment was defeated by a roll call vote of 10 nays, 9 yeas. Those who opposed the amendment cited concerns that the amendment would duplicate oversight requirements already in the bill and unduly burden scarce resources. These concerns are without merit; the current bill only requires annual reporting to Congress by OJJDP and not by an independent auditor such as OAAM. While the annual report submitted to Congress by OJJDP is necessary, it does not provide the type of critical analysis that an independent auditor can bring, given the inherent conflict of interest of OJJDP in painting the best picture of their agency and their performance to Congress. Further, the annual report required by the reauthorization does not include considerations that will help Congress obtain the necessary information to determine

if the agency is in fact meeting its mission and stated goals of the JJDPA. It is our view that a critical, objective analysis of the program by an independent auditor such as OAAM or the Comptroller General is necessary given the documented problems with grant management and grantee performance, as well as the significant increase to program authorizations included in this bill.

Senator Grassley offered three additional amendments that were accepted by unanimous consent. These three amendments require OJJDP to include new information in their annual report to Congress. Specifically, OJJDP must: (1) report on internal controls that exist to ensure that grantees follow grant program requirements, (2) report a detailed accounting to Congress regarding activities of the Coordinating Council on Juvenile Justice including a cost accounting of expenses for meetings held, (3) provide an analysis of payments made to grantees who violated grant program rules and determine if OJJDP ever recovered the funds that were inappropriately spent. These amendments help to enhance the annual report submitted by OJJDP to Congress; however, they are not a substitute for a comprehensive evaluation to be conducted by a disinterested auditor.

The original JJDPA has been around for over 30 years with the last reauthorization occurring in 2002. While the JJDPA has laudable goals and has helped to create a national policy for the way juvenile offenders are treated, this does not mean that Congress should not require a comprehensive evaluation of the program prior to or as part of any significant reauthorization. The selected audits conducted by the DOJ Inspector General raise serious questions that need to be addressed by Congress. S. 3155 authorizes billions of dollars in new spending that is not offset by any reduction in spending authorized by the Committee in other areas. As such, the Committee continues to authorize new spending without critically reviewing programs or making the tough decisions about where to reduce authorized funding for an offset. The end result of continued authorizations is a loss of control by the authorizing Committee, placing the Appropriations Committee in a position to set policy by choosing which programs to fund and which to ignore. It is our opinion that any significant reauthorization should address the problems highlighted by the DOJ Inspector General before authorizing billions of dollars in new spending of taxpayer dollars.

CHUCK GRASSLEY.
TOM COBURN.
JON KYL.

VIII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 3155, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman).

UNITED STATES CODE

TITLE 42—PUBLIC HEALTH AND WELFARE

* * * * *

CHAPTER 72—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

* * * * *

[SEC. 101 FINDINGS.]

[(a) The Congress finds the following:

[(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

[(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society \$1,700,000 to \$2,300,000 annually.

[(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

[(4) More than ½ of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

[(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose 132 percent.

[(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970's, 19 States reported youth gang problems. By the late 1990's, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843

percent, and the number of counties reporting gang problems increased more than 1,000 percent.

[(7) According to a national crime survey of individuals 12 years of age or older during 1999, those 12 to 19 years old are victims of violent crime at higher rates than individuals in all other age groups. Only 30.8 percent of these violent victimizations were reported by youth to police in 1999.]

[(8) One-fifth of juveniles 16 years of age who had been arrested were first arrested before attaining 12 years of age. Juveniles who are known to the juvenile justice system before attaining 13 years of age are responsible for a disproportionate share of serious crimes and violence.]

[(9) The increase in the arrest rates for girls and young juvenile offenders has changed the composition of violent offenders entering the juvenile justice system.]

[(10) These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

[(A) quality prevention programs that—

[(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (including child abuse and neglect); and

[(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

[(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.]

[(11) Coordinated juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles from becoming delinquent and help delinquent youth return to a productive life.]

[(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030.]

SEC. 101. FINDINGS.

Congress finds the following:

(1) A growing body of adolescent development research supports the use of developmentally appropriate services and sanctions for youth in the juvenile justice system and those at risk for delinquent behavior to help prevent youth crime and to suc-

cessfully intervene with youth who have already entered the system.

(2) Research has shown that targeted investments to redirect offending juveniles onto a different path are cost effective and can help reduce juvenile recidivism and adult crime.

(3) Minorities are disproportionately represented in the juvenile justice system.

(4) Between 1990 and 2004, the number of youth in adult jails increased by 208 percent.

(5) Every day in the United States, an average of 7,500 youth are incarcerated in adult jails.

(6) Youth who have been previously tried as adults are, on average, 34 percent more likely to commit crimes than youth retained in the juvenile justice system.

(7) Research has shown that every dollar spent on evidence based programs can yield up to \$13 in cost savings.

(8) Each child prevented from engaging in repeat criminal offenses can save the community \$1,700,000 to \$3,400,000.

(9) Youth are 19 times more likely to commit suicide in jail than youth in the general population and 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.

(10) Seventy percent of youth in detention are held for non-violent charges, and more than 2/3 are charged with property offenses, public order offenses, technical probation violations, or status offenses, such as truancy, running away, or breaking curfew.

(11) The prevalence of mental disorders among youth in juvenile justice systems is 2 to 3 times higher than among youth in the general population.

(12) Eighty percent of juveniles in juvenile justice systems have a nexus to substance abuse.

(13) The proportion of girls entering the justice system has increased steadily over the past several decades, rising from 20 percent in 1980 to 29 percent in 2003.

SEC 102. PURPOSE.

The purposes of this subchapter and subchapter II of this chapter are—

(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; [and]

(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency[.]; and

(4) to support a continuum of programs (including delinquency prevention, intervention, mental health and substance abuse treatment, and aftercare) to address the needs of at-risk youth and youth who come into contact with the justice system.

SEC. 103. DEFINITIONS.

For purposes of this chapter—

(1) the term “community based” facility, program, or service means a small, open group home or other suitable place located near the juvenile’s home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

(2) the term “Federal juvenile delinquency program” means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this chapter;

(3) the term “juvenile delinquency program” means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity designed to reduce known risk factors for juvenile delinquent behavior, provides [FN1] activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior;

(4)(A) the term “Bureau of Justice Assistance” means the bureau established by section 3741 of this title;

(B) the term “Office of Justice Programs” means the office established by section 3711 of this title;

(C) the term “National Institute of Justice” means the institute established by section 3722(a) of this title; and

(D) the term “Bureau of Justice Statistics” means the bureau established by section 3732(a) of this title;

(5) the term “Administrator” means the agency head designated by section 5611(b) of this title;

(6) the term “law enforcement and criminal justice” means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(8) the term “unit of local government” means—

(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

(B) any law enforcement district or judicial enforcement district that—

- (i) is established under applicable State law; and
 - (ii) has the authority to, in a manner independent of other State entities, establish a budget and raise revenues;
- [(C) an Indian Tribe that performs law enforcement functions, as determined by the Secretary of the Interior; or]
- (D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—
 - (i) the District of Columbia; or
 - (ii) any Trust Territory of the United States;
- (9) the term “combination” as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a juvenile justice and delinquency prevention plan;
- (10) the term “construction” means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects’ fees but not the cost of acquisition of land for buildings);
- (11) the term “public agency” means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;
- (12) the term “secure detention facility” means any public or private residential facility which—
 - (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and
 - (B) is used for the temporary placement of any juvenile who is accused of having committed an offense, or of any other individual accused of having committed a criminal offense;
- (13) the term “secure correctional facility” means any public or private residential facility which—
 - (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and
 - (B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense;
- (14) the term “serious crime” means criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem, kidnapping, aggravated assault, drug trafficking, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony;
- (15) the term “treatment” includes but is not limited to medical, educational, special education, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect

the public, including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and susceptibility to addiction or use;

(16) the term "valid court order" means a court order given by a juvenile court judge to a juvenile—

(A) who was brought before the court and made subject to such order;

(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States; and

(C) Repealed. Pub.L. 107-273, Div. C, Title II, § 12204(7)(B), Nov. 2, 2002, 116 Stat. 1871.

(17) the term "Council" means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 5616(a)(1) of this title;

[(18) the term "Indian Tribe" means—

[(A) a federally recognized Indian tribe; or

[(B) an Alaskan Native organization;]

(18) the term "Indian tribe" has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);

(19) the term "comprehensive and coordinated system of services" means a system that—

(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

(20) the term "gender-specific services" means services designed to address needs unique to the gender of the individual to whom such services are provided;

(21) the term "home-based alternative services" means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention;

(22) the term "jail or lockup for adults" means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain [or confine adults—

[(A) pending the filing of a charge of violating a criminal law;

[(B) awaiting trial on a criminal charge; or

- [(C) convicted of violating a criminal law;] or confine adult inmates;**
- (23) the term “nonprofit organization” means an organization described in section 501(c)(3) of Title 26 that is exempt from taxation under section 501(a) of Title 26;
- (24) the term “graduated sanctions” means an accountability-based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;
- (25) the term “contact” means the degree of interaction allowed between juvenile offenders in a secure custody status and incarcerated adults under section 31.303(d)(1)(i) of title 28, Code of Federal Regulations, as in effect on December 10, 1996;
- [(26) the term “adult inmate” means an individual who—**
- [(A) has reached the age of full criminal responsibility under applicable State law; and**
 - [(B) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense;]**
- (26) the term “adult inmate”—**
- (A) means an individual who—**
 - (i) has reached the age of full criminal responsibility under applicable State law; and**
 - (ii) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal charge offense; and**
 - (B) does not include an individual who—**
 - (i) at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable State law; and**
 - (ii) was committed to the care and custody of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable State law;**
- (27) the term “violent crime” means—**
- (A) murder or nonnegligent manslaughter, forcible rape, or robbery, or**
 - (B) aggravated assault committed with the use of a firearm;**
- (28) the term “collocated facilities” means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; [and]**
- (29) the term “related complex of buildings” means 2 or more buildings that share—**
- (A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or**

- (B) the specialized services that are allowable under section 31.303(e) (3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996[.];
- (30) the term "core requirements" means the requirements described in paragraphs (11), (12), (13), and (15) of section 223(a);
- (31) the term "chemical agent" means a spray used to temporarily incapacitate a person, including oleoresin capsicum spray, tear gas, and 2-chlorobenzalmalononitrile gas;
- (32) the term "isolation"—
- (A) means any instance in which a youth is confined alone for more than 15 minutes in a room or cell; and
 - (B) does not include confinement during regularly scheduled sleeping hours, or for not more than 1 hour during any 24-hour period, in the room or cell in which the youth usually sleeps, protective confinement (for injured youths or youths whose safety is threatened), separation based on an approved treatment program, confinement that is requested by the youth, or the separation of the youth from a group in a non-locked setting for the purpose of calming;
- (33) the term "restraint" has the meaning given that term in section 591 of the Public Health Service Act (42 U.S.C. 290ii);
- (34) the term "evidence based" means a program or practice that is demonstrated to be effective and that—
- (A) is based on a clearly articulated and empirically supported theory;
 - (B) has measurable outcomes, including a detailed description of what outcomes were produced in a particular population; and
 - (C) has been scientifically tested, optimally through randomized control studies or comparison group studies;
- (35) the term "promising" means a program or practice that is demonstrated to be effective based on positive outcomes from 1 or more objective evaluations, as documented in writing to the Administrator; and
- (36) the term "dangerous practice" means an act, procedure, or program that creates an unreasonable risk of physical injury, pain, or psychological harm to a juvenile subjected to the act, procedure, or program.

* * * * *

Subchapter II—Programs and Offices

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

SEC. 204. CONCENTRATION OF FEDERAL EFFORTS.

(a) IMPLEMENTATION OF POLICY BY ADMINISTRATOR; CONSULTATION WITH COUNCIL AND ADVISORY COMMITTEE.—

(1) The Administrator shall develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan, for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In

carrying out the functions of the Administrator, the Administrator shall consult with the Council.

(2)(A) The plan described in paragraph (1) shall—

(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this subchapter; and

(ii) provide for coordinating the administration programs and activities under this subchapter with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

(B) The Administrator shall review the plan described in paragraph (1) annually, revise the plan as the Administrator considers appropriate, and publish the plan in the Federal Register—

(i) not later than [240 days after November 4, 1992] *July 2, 2009*, in the case of the initial plan required by paragraph (1); and

(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.

SEC. 206. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) ESTABLISHMENT; MEMBERSHIP.—

(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention composed of the Attorney General, the Secretary of Health and Human Services, *the Administrator of the Substance Abuse and Mental Health services Administration, the Secretary of Defense, the Secretary of Agriculture*, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, the [Commissioner of Immigration and Naturalization] *Assistant Secretary for Immigration and Customs Enforcement*, such other officers of Federal agencies who hold significant decision-making authority as the President may designate, and individuals appointed under paragraph (2).

(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice (*including at least 1 representative from the mental health fields*) and who are not officers or employees of the United States.

(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

(ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

(iii) Three members shall be appointed by the President.

(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

- (I) 1 shall be appointed for a term of 1 year;
- (II) 1 shall be appointed for a term of 2 years; and
- (III) 1 shall be appointed for a term of 3 years; as designated at the time of appointment.

(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.

(b) CHAIRMAN AND VICE CHAIRMAN.—The Attorney General shall serve as Chairman of the Council. The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) FUNCTIONS.—

(1) The function of the Council shall be to coordinate all Federal juvenile delinquency programs (in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles, and all Federal programs relating to missing and exploited children. The Council shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and shall make recommendations to the President, and to the Congress, at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities and all Federal programs and activities that detain or care for unaccompanied juveniles. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of [paragraphs (12)(A), (13), and (14) of section 5633(a) of this title] *the core requirements*. The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.

(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) of this section shall collectively, *on an annual basis*—

(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 5614(a)(1) of this title; [and]

(B) not later than [180 days after November 4, 1992] *May 3, 2009*, submit such recommendations to the Admin-

istrator, the Chairman of the [Committee on Education and the Workforce] Committee on Education and Labor of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate[.]; and

(C) not later than 120 days after the completion of the last meeting in any fiscal year, submit to Congress a report regarding the recommendations described in subparagraph (A), which shall—

(i) include a detailed account of the activities conducted by the Council during the fiscal year, including a complete detailed accounting of expenses incurred by the Coordinating Council to conduct operations in accordance with this section;

(ii) be published on the websites of the Department of Justice and the Coordinating Council; and

(iii) be in addition to the annual report required by section 207.

(d) MEETINGS.—The Council shall meet at least quarterly.

(e) APPOINTMENT OF PERSONNEL OR STAFF SUPPORT BY ADMINISTRATOR.—The Administrator shall, with the approval of the Council, appoint such personnel or staff support as the Administrator considers necessary to carry out the purposes of this subchapter.

(f) EXPENSES OF COUNCIL MEMBERS; REIMBURSEMENT.—Members appointed under subsection (a)(2) of this section shall serve without compensation. Members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of sums available to carry out this part, not more than \$200,000 shall be available to carry out this section.

SEC. 207. ANNUAL REPORT.

Not later than 180 days after the end of [a fiscal year] each fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged;

(B) the race, ethnicity, and gender of the juveniles;

(C) the ages of the juveniles;

(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

(E) the number of juveniles who died while in custody and the circumstances under which they died; **[and]**

(F) the educational status of juveniles, including information relating to learning *and other* disabilities, failing performance, grade retention, and dropping out of school**[.]**;

(G) *a summary of data from 1 month of the applicable fiscal year of the use of restraints and isolation upon juveniles held in the custody of secure detention and correctional facilities operated by a State or unit of local government;*

(H) *the number of juveniles released from custody and the type of living arrangement to which each such juvenile was released; and*

(I) *the number of status offense cases petitioned to court, number of status offenders held in secure detention, and the average period of time a status offender was held in secure detention.*

(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

(3) A description, based on the most recent data available, of the extent to which each State complies with section 5633 of this title and with the plan submitted under such section by the State for such fiscal year.

(4) An evaluation of the programs funded under this subchapter and their effectiveness in reducing the incidence of juvenile delinquency, particularly violent crime, committed by juveniles.

(5) *A description of the criteria used to determine what programs qualify as evidence based and promising programs under this title and title V and a comprehensive list of those programs the Administrator has determined meet such criteria.*

(6) *A description of funding provided to Indian tribes under this Act, including direct Federal grants and funding provided to Indian tribes through a State or unit of local government.*

(7) *An analysis and evaluation of the internal controls at Office of Juvenile Justice and Delinquency Prevention to determine if grantees are following the requirements of Office of Juvenile Justice and Delinquency Prevention grant programs and what remedial action Office of Juvenile Justice and Delinquency Prevention has taken to recover any grant funds that are expended in violation of the grant programs, including instances where supporting documentation was not provided for cost reports, where unauthorized expenditures occurred, and where subrecipients of grant funds were not compliant with program requirements.*

(8) *An analysis and evaluation of the total amount of payments made to grantees that were recouped by the Office of Juvenile Justice and Delinquency Prevention from grantees that were found to be in violation of policies and procedures of the Office of Juvenile Justice and Delinquency Prevention grant programs. This analysis shall include the full name and location of the grantee, the violation of the program found, the*

amount of funds sought to be recouped by the Office of Juvenile Justice and Delinquency Prevention, and the actual amount recouped by the Office of Juvenile Justice and Delinquency Prevention.

SEC. 221. AUTHORITY TO MAKE GRANTS AND CONTRACTS.

(a) IN GENERAL.—The Administrator is authorized to make grants to States and units of local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(b) TECHNICAL ASSISTANCE.—

(1) With not to exceed [2 percent] 5 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments [FN1] (and combinations thereof), and local private agencies to facilitate compliance with section 5633 of this title and implementation of the State plan approved under section 5633(c) of this title.

(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance.

SEC. 222. ALLOCATION OF FUNDS.

(a) TIME; BASIS; AMOUNTS.—

(1) Subject to paragraph (2) and in accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under [age eighteen.] 18 years of age, based on the most recent census data to monitor any significant changes in the relative population of people under 18 years of age occurring in the States.

(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this subchapter is less than \$75,000,000, then the amount allocated to each State for such fiscal year shall be not less than \$325,000, or such greater amount up to \$400,000 as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 2000 except that the amount allocated to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be not less than \$75,000, or such greater amount up to \$100,000 as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 2000, each.

(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this subchapter equals or exceeds \$75,000,000, then the amount allocated to each State for such fiscal year shall be not less than \$600,000, except that

the amount allocated to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be not less than \$100,000, or such greater amount up to \$100,000 as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 2000 each.

(3) If, as a result of paragraph (2), the amount allocated to a State for a fiscal year would be less than the amount allocated to such State for fiscal year 2000, then the amounts allocated to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allocate to such State for the fiscal year the amount allocated to such State for fiscal year 2000.

(b) REALLOCATION OF UNOBLIGATED FUNDS.—If any amount so allocated remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Any amount so reallocated shall be in addition to the amounts already allocated and available to the State, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands for the same period.

(c)(1) If any amount allocated under subsection (a) is withheld from a State due to noncompliance with the core requirements, the funds shall be reallocated for an improvement grant designed to assist the State in achieving compliance with the core requirements.

(2) The Administrator shall condition a grant described in paragraph (1) on—

(A) the State, with the approval of the Administrator, developing specific action steps designed to restore compliance with the core requirements; and

(B) submitting to the Administrator semiannually a report on progress toward implementing the specific action steps developed under subparagraph (A).

(3) The Administrator shall provide appropriate and effective technical assistance directly or through an agreement with a contractor to assist a State receiving a grant described in paragraph (1) in achieving compliance with the core requirements.

[(c)] (d) USE OF ALLOCATED FUNDS FOR DEVELOPMENT, ETC., OF STATE PLANS; LIMITATIONS; MATCHING REQUIREMENTS.—In accordance with regulations promulgated under this part, a portion of any allocation to any State under this part shall be available to develop a State plan or for other pre-award activities associated with such State plan, and to pay that portion of the expenditures which are necessary for [efficient administration, including monitoring, evaluation, and one full-time staff position] *effective and efficient administration, including the designation of at least 1 person to coordinate efforts to achieve and sustain compliance with the core requirements.* Not more than 10 percent of the total annual allocation of such State shall be available for such purposes except that any amount expended or obligated by such State, or by units of local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The State shall make available needed funds for planning

and administration to units of local government or combinations thereof within the State on an equitable basis.

[(d)] (e) MINIMUM ANNUAL ALLOCATION FOR ASSISTANCE OF ADVISORY GROUP.—In accordance with regulations promulgated under this part, [5 per centum of the minimum] *not more than 5 percent of the annual allocation to any State under this part shall be available to assist the advisory group established under section 5633(a)(3) of this title.*

SEC. 223. STATE PLANS.

(a) REQUIREMENTS.—In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, projects, and activities. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. *Not later than 30 days after the date on which a plan or amended plan submitted under this subsection is finalized, a State shall make the plan or amended plan publicly available by posting the plan or amended plan on a publicly available website.* In accordance with regulations which the Administrator shall prescribe, such plan shall—

- (1) designate the State agency described in section 5671(c)(1) of this title as the sole agency for supervising the preparation and administration of the plan;
- (2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;
- (3) provide for an advisory group, that—
 - (A) shall consist of not less than 15 and not more than 33 members appointed by the chief executive officer of the State—
 - (i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency, the administration of juvenile justice, or the reduction of juvenile delinquency;
 - (ii) which members include—
 - (I) at least 1 locally elected official representing general purpose local government;
 - (II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, [counsel for children and youth] *publicly supported court-appointed legal counsel for children and youth charged in delinquency matters,* and probation workers;
 - (III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, [mental health, education, special education] *children's mental health, education, child and adolescent substance abuse, special education, services for youth with disabilities, recreation, and youth services;*

(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

(V) volunteers who work with ~~delinquents or potential delinquents~~ *delinquent youth or youth at risk of delinquency, including volunteers who work with youth of color*;

(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; ~~and~~

(VIII) *the executive director or the designee of the executive director of a public or nonprofit entity that is located in the State and receiving a grant under part A of title III;*

(IX) persons with expertise and competence in preventing and addressing mental health or substance abuse problems in juvenile delinquents and those at-risk of delinquency;

(X) representatives of victim or witness advocacy groups; and

~~(VIII)~~ (XI) persons with special experience and competence in addressing problems related to learning ~~disabilities~~ and other disabilities, truancy reduction or school failure, emotional difficulties, child abuse and neglect, and youth violence;

(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

(v) at least 3 members who have been or are currently under the jurisdiction of the juvenile justice system;

(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

(D) shall, consistent with this subchapter—

(i) advise the State agency designated under paragraph (1) and its supervisory board; and

(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the [requirements of paragraphs (11), (12), and (13)] *core requirements*; and

(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

(E) may, consistent with this subchapter—

(i) advise on State supervisory board and local criminal justice advisory board composition; and

(ii) review progress and accomplishments of projects funded under the State plan;

(4) provide for the active consultation with and participation of units of local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of units of local government, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;

(5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66 2/3 per centum of funds received by the State under section 5632 of this title reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding funds made available to the State advisory group under [section 5632(d)] *section 5632(e)* of this title, shall be expended—

(A) through programs of units of local government or combinations thereof, to the extent such programs are consistent with the State plan;

(B) through programs of local private agencies, to the extent such programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of local government or combination thereof; and

(C) to provide funds for programs of [Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (11), (12), and (13), applicable to the detention and confinement of juveniles] *Indian tribes that agree to attempt to comply with the core requirements applicable to the detention and confinement of juveniles*, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age;

(6) provide for an equitable distribution of the assistance received under section 5632 of this title within the State, including in rural areas;

(7)(A) provide for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State [(including any geographical area in which an Indian tribe performs law enforcement functions)] (*including any geographical area of which an Indian tribe has jurisdiction*), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State; and

(B) contain—

[(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services;] (i) *a plan for ensuring that the chief executive officer of the State, State legislature, and all appropriate public agencies in the State with responsibility for provision of services to children, youth and families are informed of the requirements of the State plan and the compliance with the core requirements;*

(ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

(iii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; [and]

[(iv) a plan for providing needed mental health services to juveniles in the juvenile justice system, including information on how such plan is being implemented and how such services will be targeted to those juveniles in such system who are in greatest need of such services;] (iv) *a plan to provide alternatives to detention, including diversion to home-based or community-based services that are culturally and linguistically competent or treatment for those youth in need of mental health, substance abuse, or co-occurring disorder services at the time such juveniles first come into contact with the juvenile justice system;*

(v) *a plan to reduce the number of children housed in secure detention and corrections facilities who are awaiting placement in residential treatment programs;*

(vi) *a plan to engage family members in the design and delivery of juvenile delinquency prevention and treatment services, particularly post-placement; and*

(vii) *a plan to use community-based services to address the needs of at-risk youth or youth who have come into contact with the juvenile justice system;*

(8) provide for the coordination and maximum utilization of [existing] *evidence based and promising juvenile delinquency programs*, programs operated by public and private agencies

and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;

(9) provide that not less than 75 percent of the funds available to the State under section 5632 of this title, other than funds made available to the State advisory group under [section 5632(d)] *section 5632(e)* of this title, whether expended directly by the State, by the unit of local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, including—

(i) for *status offenders and other youth* who need temporary placement: crisis intervention, shelter, and after-care; and

(ii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

(B) community-based programs and services to work with—

(i) [parents and other family members] *status offenders, other youth, and the parents and other family members of such offenders and youth* to strengthen families, including parent self-help groups, so that juveniles may [be retained] *remain* in their homes;

(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

(E) providing training and technical assistance to, and consultation with, juvenile justice and child welfare agencies of states and units of local government to develop co-ordinated plans for early intervention and treatment of youth who have a history of abuse and juveniles who have prior involvement with the juvenile justice system;

[(E)] (F) educational programs or supportive services for delinquent or other juveniles

(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and

(iii) enhance [FN3] coordination with the local schools that such juveniles would otherwise attend, to ensure that—

(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

[F] **[G]** *[expanding] programs to expand the use of probation officers—*

(i) particularly for the purpose of permitting non-violent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

(ii) to ensure that juveniles follow the terms of their probation;

(H) programs to improve the recruitment, selection, training, and retention of professional personnel in the fields of medicine, law enforcement, judiciary, juvenile justice, social work and child protection, education, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of delinquency;

(I) expanding access to publicly supported, court-appointed legal counsel and enhancing capacity for the competent representation of every child;

[G] *(J) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;*

[H] *(K) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other juveniles with disabilities;*

[(I)] (L) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

[(J)] (M) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

[(K)] (N) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

- (i) a sense of safety and structure;
- (ii) a sense of belonging and membership;
- (iii) a sense of self-worth and social contribution;
- (iv) a sense of independence and control over one's life; and
- (v) a sense of closeness in interpersonal relationships;

[(L)] (O) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

(i) encourage courts to develop and implement a continuum of post-adjudication **[restraints]** *alternatives* that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

(ii) assist in the provision **[by the provision]** by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

[(M)] (P) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;

[(N)] (Q) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and other barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

[(O)] (R) programs designed to prevent and to reduce hate crimes committed by juveniles;

[(P)] (S) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring,

mentoring, and other educational and enrichment activities;

[(Q)] (T) community-based programs that provide follow-up post-placement services to adjudicated juveniles, to promote successful reintegration into the community;

[(R)] (U) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system; and

[(S)] (V) programs designed to provide mental health services for incarcerated juveniles suspected to be in need of such services, including assessment, development of individualized treatment plans, and discharge plans[.];

(10) provide for the development of an adequate research, training, and evaluation capacity within the State;

(11) shall, in accordance with rules issued by the Administrator, provide that—

(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of Title 18 or of a similar State law;

(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State; shall not be placed in secure detention facilities or secure correctional facilities; [and]

(B) juveniles—

(i) who are not charged with any offense; and

(ii) who are—

(I) aliens; or

(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities; and

(C) encourage the use of community-based alternatives to secure detention, including programs of public and non-profit entities receiving a grant under part A of title III;

(12) provide that—

(A) juveniles alleged to be or found to be delinquent or juveniles within the purview of paragraph (11) will not be detained or confined in any institution in which they have contact with adult inmates; and

(B) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, have been trained and certified to work with juveniles;

(13) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

(i) for processing or release;

(ii) while awaiting transfer to a juvenile facility; or
 (iii) in which period such juveniles make a court appearance;

and only if such juveniles do not have contact with adult inmates and only if there is in effect in the State a policy that requires individuals who work with both such juveniles and adult inmates in collocated facilities have been trained and certified to work with juveniles;

(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup—

(i) in which—

(I) such juveniles do not have contact with adult inmates; and

(II) there is in effect in the State a policy that requires individuals who work with both such juveniles and adults inmates in collocated facilities have been trained and certified to work with juveniles; and

(ii) that—

(I) is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;

(14) require that—

(A) *not later than 3 years after the date of enactment of the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008, unless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility—*

(i) shall not have contact with adult inmates; and

(ii) except as provided in paragraph (13), may not be held in any jail or lockup for adults;

(B) in determining under subparagraph (A) whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have contact with adult inmates, a court shall consider—

(i) the age of the juvenile;

- (ii) the physical and mental maturity of the juvenile;
 - (iii) the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
 - (iv) the nature and circumstances of the alleged offense;
 - (v) the juvenile's history of prior delinquent acts;
 - (vi) the relative ability of the available adult and juvenile detention facilities to meet the specific needs of the juvenile and to protect the public;
 - (vii) whether placement in a juvenile facility will better serve the long-term interests of the juvenile and be more likely to prevent recidivism;
 - (viii) the availability of programs designed to treat the juvenile's behavioral problems; and
 - (ix) any other relevant factor; and
- (C) if a court determines under subparagraph (A) that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have contact with adult inmates—
- (i) the court shall hold a hearing not less frequently than once every 30 days to review whether it is still in the interest of justice to permit the juvenile to be so held or have such contact; and
 - (ii) the juvenile shall not be held in any jail or lockup for adults, or permitted to have contact with adult inmates, for more than 180 days, unless the court, in writing, determines there is good cause for an extension or the juvenile expressly waives this limitation;
- (15) implement policy, practice, and system improvement strategies at the State, territorial, local, and tribal levels, as applicable, to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system, without establishing or requiring numerical standards or quotas, by—
- (A) establishing coordinating bodies, composed of juvenile justice stakeholders at the State, local, or tribal levels, to oversee and monitor efforts by States, units of local government, and Indian tribes to reduce racial and ethnic disparities;
 - (B) identifying and analyzing key decision points in State, local, or tribal juvenile justice systems to determine which points create racial and ethnic disparities among youth who come into contact with the juvenile justice system;
 - (C) developing and implementing data collection and analysis systems to identify where racial and ethnic disparities exist in the juvenile justice system and to track and analyze such disparities;
 - (D) developing and implementing a work plan that includes measurable objectives for policy, practice, or other system changes, based on the needs identified in the data collection and analysis under subparagraphs (B) and (C); and

(E) publicly reporting, on an annual basis, the efforts made in accordance with subparagraphs (B), (C), and (D); [(14)] (16) provide for an [adequate system] effective system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the [requirements of paragraphs (11), (12), and (13) are met, and for annual reporting of the results of such monitoring to the Administrator] the core requirements are met, and for annual reporting to the Administrator of such plan, including the results of such monitoring and all related enforcement and educational activities, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraphs (11) and (12), and which has enacted legislation which conforms to such requirements and which contains[in the opinion of the Administrator,] sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

[(15)] (17) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, ethnicity, family income, and disability;

[(16)] (18) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

[(17)] (19) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

[(18)] (20) provide assurances that—

(A) any assistance provided under this chapter will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

(B) activities assisted under this chapter will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;

[(19)] (21) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this subchapter;

[(20)] (22) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of

the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

[(21)] (23) provide that the State agency designated under paragraph (1) will—

(A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;

(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and

(C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;

[(22)] address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;]

[(23)] (24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

(B) not later than 24 hours during which such juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; **[and]**

(C) not later than 48 hours during which such juvenile is so held—

(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; **[and]**

(ii) such court shall conduct a hearing to determine—

(I) whether there is reasonable cause to believe that such juvenile violated such order; and

(II) the appropriate placement of such juvenile pending disposition of the violation alleged; and

(iii) if such court determines the juvenile should be placed in a secure detention facility or correctional facility for violating such order—

(I) the court shall issue a written order that—

(aa) identifies the valid court order that has been violated;

(bb) specifies the factual basis for determining that there is reasonable cause to believe that the juvenile has violated such order;

(cc) includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the juvenile in such a facility, with due consideration to the best interest of the juvenile;

(dd) specifies the length of time, not to exceed 7 days, that the juvenile may remain in a secure detention facility or correctional facility, and includes a plan for the juvenile's release from such facility; and

(ee) may not be renewed or extended; and

(II) the court may not issue a second or subsequent order described in subclause (I) relating to a juvenile, unless the juvenile violates a valid court order after the date on which the court issues an order described in subclause (I);

(D) there are procedures in place to ensure that any juvenile held in a secure detention facility or correctional facility pursuant to a court order described in this paragraph does not remain in custody longer than 7 days or the length of time authorized by the court, whichever is shorter; and

(E) not later than 3 years after the date of enactment of the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008 with a 1 year extension for each additional year that the State can demonstrate hardship as determined by the Administrator, the State will eliminate the use of valid court orders to provide secure lockup of status offenders;

[(24)] *(25) provide an assurance that if the State receives under section 5632 of this title for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 2000, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services;*

[(25)] *(26) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 5632 of this title (other than funds made available to the State advisory group under [section 5632(d)] section 5632(e) of this title) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units;*

[(26)] *(27) provide that the State, to the maximum extent practicable and in accordance with confidentiality concerns, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court[;], so as to provide for—*

(A) a compilation of data reflecting information on juveniles entering the juvenile justice system with a prior re-

ported history as victims of child abuse or neglect through arrest, court intake, probation and parole, juvenile detention, and corrections; and

(B) a plan to use the data described in subparagraph (A) to provide necessary services for the treatment of victims of child abuse and neglect who have entered, or are at risk of entering, the juvenile justice system;

[(27)] **(28)** [establish policies] establish protocols, policies, procedures, and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; [and]

[(28)] **(29)** provide assurances that juvenile offenders whose placement is funded through section 672 of this title receive the protections specified in section 671 of this title, including a case plan and case plan review as defined in section 675 of this title[.];

(30) provide for the coordinated use of funds provided under this Act with other Federal and State funds directed at juvenile delinquency prevention and intervention programs;

(31) develop policies and procedures, and provide training for facility staff to eliminate the use of dangerous practices, unreasonable restraints, and unreasonable isolation, including by developing effective behavior management techniques;

(32) describe—

(A) how the State will ensure that mental health and substance abuse screening, assessment, referral, and treatment for juveniles in the juvenile justice system includes efforts to implement an evidence-based mental health and substance abuse disorder screening and assessment program for all juveniles held in a secure facility for a period of more than 24 hours that provides for 1 or more initial screenings and, if an initial screening of a juvenile demonstrates a need, further assessment; and

(B) the method to be used by the State to provide or arrange for mental health and substance abuse disorder treatment for juveniles determined to be in need of such treatment;

(33) provide procedural safeguards to adjudicated juveniles, including—

(A) a written case plan for each juvenile, based on an assessment of the needs of the juvenile and developed and updated in consultation with the juvenile, the family of the juvenile, and, if appropriate, counsel for the juvenile, that—

(i) describes the pre-release and postrelease programs and reentry services that will be provided to the juvenile;

(ii) describes the living arrangement to which the juvenile is to be discharged; and

(iii) establishes a plan for the enrollment of the juvenile in post-release health care, behavioral health care, educational, vocational, training, family support, public assistance, and legal services programs, as appropriate;

(B) as appropriate, a hearing that—

(i) shall take place in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not earlier than 30 days before the date on which the juvenile is scheduled to be released, and at which the juvenile would be represented by counsel; and

(ii) shall determine the discharge plan for the juvenile, including a determination of whether a safe, appropriate, and permanent living arrangement has been secured for the juvenile and whether enrollment in health care, behavioral health care, educational, vocational, training, family support, public assistance and legal services, as appropriate, has been arranged for the juvenile; and

(C) policies to ensure that discharge planning and procedures—

(i) are accomplished in a timely fashion prior to the release from custody of each adjudicated juvenile; and
(ii) do not delay the release from custody of the juvenile; and

(34) provide a description of the use by the State of funds for reentry and aftercare services for juveniles released from the juvenile justice system.

(b) APPROVAL BY STATE AGENCY.—The State agency designated under subsection (a)(1) of this section, after receiving and considering the advice and recommendations of the advisory group referred to in subsection (a) of this section, shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c) COMPLIANCE WITH STATUTORY REQUIREMENTS.—If a State fails to comply with any of the [applicable requirements of paragraphs (11), (12), (13), and (22) of subsection (a)] *core requirements* of this section in any fiscal year beginning after September 30, [2001] 2008, then—

(1) subject to paragraph (2), the amount allocated to such State under section 5632 of this title for the [subsequent fiscal year] *that fiscal year* shall be reduced by not less than 20 percent for each such paragraph with respect to which the failure occurs, [and];

(2) the State shall be ineligible to receive any allocation under such section for such fiscal year unless—

(A) the State agrees to expend 50 percent of the amount allocated to the State for such fiscal year to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

(B) the Administrator determines that the State—

(i) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

(ii) has made, through appropriate executive, *administrative*, or legislative action, an unequivocal commitment to achieving full compliance with such applicable

requirements within a reasonable time [.]*, as specified in the section 222(c); and*

(3) the State shall submit to the Administrator a report detailing the reasons for noncompliance with the core requirements, including the plan of the State to regain full compliance, and the State shall make publicly available such report, not later than 30 days after the date on which the Administrator approves the report, by posting the report on a publicly available website.

(d) NONSUBMISSION OR NONQUALIFICATION OF PLAN; EXPENDITURE OF ALLOTTED FUNDS; AVAILABILITY OF REALLOCATED FUNDS.—In the event that any State chooses not to submit a plan, fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 3783, 3784, and 3785 of this title, determines does not meet the requirements of this section, the Administrator shall endeavor to make that State's allocation under the provisions of section 5632(a) of this title, excluding funds the Administrator shall make available to satisfy the requirement specified in [section 5632(d)] *section 5632(e)* of this title, available to local public and private nonprofit agencies within such State for use in carrying out activities of the kinds [described in paragraphs (11), (12), (13), and (22) of subsection (a)] *described in the core requirements* of this section. The Administrator shall make funds which remain available after disbursements are made by the Administrator under the preceding sentence, and any other unobligated funds, available on an equitable basis and to those States that have achieved full compliance with [the requirements under paragraphs (11), (12), (13), and (22) of subsection (a)] *the core requirements* of this section.

(e) Notwithstanding any other provision of law, the Administrator shall establish appropriate administrative and supervisory board membership requirements for a State agency designated under subsection (a)(1) of this section and permit the State advisory group appointed under subsection (a)(3) of this section to operate as the supervisory board for such agency, at the discretion of the chief executive officer of the State.

[f] TECHNICAL ASSISTANCE.—

[1] IN GENERAL.—The Administrator shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under subsection (a)(3) of this section to assist such organization to carry out the functions specified in paragraph (2).

[2] ASSISTANCE.—To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

[A] conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

[B] disseminating information, data, standards, advanced techniques, and program models;

[C] reviewing Federal policies regarding juvenile justice and delinquency prevention;

[(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and
 [(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.]

(f) *COMPLIANCE DETERMINATION.*—

(1) *IN GENERAL.*—Not later than 60 days after the date of receipt of information indicating that a State may be out of compliance with any of the core requirements, the Administrator shall determine whether the State is in compliance with the core requirements.

(2) *REPORTING.*—The Administrator shall—

(A) issue an annual public report—

(i) describing any determination described in paragraph (1) made during the previous year, including a summary of the information on which the determination is based and the actions to be taken by the Administrator (including a description of any reduction imposed under subsection (c)); and

(ii) for any such determination that a State is out of compliance with any of the core requirements, describing the basis for the determination; and

(B) make the report described in subparagraph (A) available on a publicly available website.

(g) *TECHNICAL ASSISTANCE.*—

(1) *ORGANIZATION OF STATE ADVISORY GROUP MEMBER REPRESENTATIVES.*—The Administrator shall provide technical and financial assistance to an agency, institution, or organization to assist in carrying out the activities described in paragraph (3). The functions and activities of an agency, institution, or organization under this subsection shall not be subject to the Federal Advisory Committee Act.

(2) *COMPOSITION.*—To be eligible to receive assistance under this subsection, an agency, institution, or organization shall—

(A) be governed by individuals who—

(i) have been appointed by a chief executive of a State to serve as a member of a State advisory group established under subsection (a)(3); and

(ii) are elected to serve as a governing officer of such an agency, institution, or organization by a majority of the member Chairs (or the designees of the member Chairs) of all State advisory groups established under subsection (a)(3);

(B) include member representatives—

(i) from a majority of the State advisory groups established under subsection (a)(3); and

(ii) who are representative of regionally and demographically diverse State jurisdictions; and

(C) annually seek advice from the Chairs (or the designees of the member Chairs) of each State advisory group established under subsection (a)(3) to implement the advisory functions specified in subparagraphs (D) and (E) of paragraph (3) of this subsection.

(3) ACTIVITIES.—To be eligible to receive assistance under this subsection, an agency, institution, or organization shall agree to—

- (A) conduct an annual conference of the member representatives of the State advisory groups established under subsection (a)(3) for purposes relating to the activities of such State advisory groups;
- (B) disseminate information, data, standards, advanced techniques, and program models;
- (C) review Federal policies regarding juvenile justice and delinquency prevention;
- (D) advise the Administrator regarding particular functions or aspects of the work of the Office; and
- (E) advise the President and Congress regarding State perspectives on the operation of the Office and Federal legislation relating to juvenile justice and delinquency prevention.

SEC. 241. AUTHORITY TO MAKE GRANTS.

(a) GRANTS TO ELIGIBLE STATES.—The Administrator may make grants to eligible States, from funds allocated under section 5652 of this title, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

- (1) projects that provide treatment (including treatment for mental health problems) to *status offenders*, juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law;
- (2) educational projects or supportive services for delinquent or other juveniles—
 - (A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;
 - (B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;
 - (C) to assist in identifying learning difficulties (including learning disabilities);
 - (D) to prevent unwarranted and arbitrary suspensions and expulsions;
 - (E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;
 - (F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other juveniles with disabilities;
 - (G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies; or
 - (H) to provide services to juveniles with serious mental and emotional disturbances (SED) in need of mental health services;
- (3) projects which expand the use of probation officers—

- (A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and
- (B) to ensure that juveniles follow the terms of their probation;
- (4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;
- (5) community-based projects and services (including literacy and social service programs) which work with ~~juvenile offenders and juveniles~~ *status offenders, juvenile offenders, and juveniles* who are at risk of becoming juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;
- (6) projects designed to provide for the treatment (including mental health services) of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;
- (7) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;
- (8) projects which provide for an initial intake screening of each juvenile taken into custody—
- (A) to determine the likelihood that such juvenile will commit a subsequent offense; and
- (B) to provide appropriate interventions (including mental health services) to prevent such juvenile from committing subsequent offenses;
- (9) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

- (10) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private non-profit agencies, and public recreation agencies offering services to juveniles, *including juveniles with disabilities*;
- (11) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);
- (12) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;
- (13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;
- (14) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;
- (15) programs that focus on the needs of young girls at risk of delinquency or status offenses;
- (16) projects which provide for—
 - (A) an assessment by a qualified mental health professional of incarcerated juveniles who are suspected to be in need of mental health services;
 - (B) the development of an individualized treatment plan for those incarcerated juveniles determined to be in need of such services;
 - (C) the inclusion of a discharge plan for incarcerated juveniles receiving mental health services that addresses aftercare services; and
 - (D) all juveniles receiving psychotropic medications to be under the care of a licensed mental health professional;
- (17) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, *truancy prevention and reduction*, and other educational and enrichment activities;
- (18) programs related to the establishment and maintenance of a school violence hotline, based on a public-private partnership, that students and parents can use to report suspicious, violent, or threatening behavior to local school and law enforcement authorities;
- (19) programs (excluding programs to purchase guns from juveniles) designed to reduce the unlawful acquisition and illegal use of guns by juveniles, including partnerships between law

enforcement agencies, health professionals, school officials, firearms manufacturers, consumer groups, faith-based groups and community organizations;

(20) programs designed to prevent animal cruelty by juveniles and to counsel juveniles who commit animal cruelty offenses, including partnerships among law enforcement agencies, animal control officers, social services agencies, and school officials;

(21) programs that provide suicide prevention services for incarcerated juveniles and for juveniles leaving the incarceration system;

(22) programs to establish partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

(23) programs that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system;

(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; [and]

(25) projects that support the establishment of partnerships between a State and university, institution of higher education, or research center designed to improve the recruitment, selection, training, and retention of professional personnel in the fields of medicine, law enforcement, judiciary, juvenile justice, social work and child protection, education, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of delinquency; and

[(25)] (26) other activities that are likely to prevent juvenile delinquency.

(b) GRANTS TO ELIGIBLE INDIAN TRIBES.—The Administrator may make grants to eligible Indian tribes from funds allocated under section 5652(b) of this title, to carry out projects of the kinds described in subsection (a) of this section.

SEC. 246. GRANTS TO INDIAN TRIBES.

(a) ELIGIBILITY.—

(1) APPLICATION.—To be eligible to receive a grant under section 5651(b) of this title, an Indian tribe shall submit to the Administrator an application in accordance with this section, in such form and containing such information as the Administrator may require by rule.

(2) PLANS.—Such application shall include a plan for conducting programs, projects, and activities described in section 5651(a) of this title, which plan shall—

[(A) provide evidence that the applicant Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);]

[(B)] (A) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be

addressed by activities conducted with funds provided by the grant for which such application is submitted, by the Indian tribe in the geographical area under the jurisdiction of the Indian tribe;

[(C)] (B) provide for fiscal control and accounting procedures that—

(i) are necessary to ensure the prudent use, proper disbursement, and accounting of grants received by applicants under this section; and

(ii) are consistent with the requirement specified in **[(subparagraph (B)] subparagraph (A); and**

[(D)] (C) comply with the requirements specified in section 5633(a) of this title (excluding any requirement relating to consultation with a State advisory group) and with the requirements specified in section 5632(c) of this title; and

[(E)] (D) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably require by rule to ensure the effectiveness of the projects for which grants are made under section 5651(b) of this title.

(b) FACTORS FOR CONSIDERATION.—For the purpose of selecting eligible applicants to receive grants under section 5651(b) of this title, the Administrator shall consider—

(1) the resources that are available to each applicant Indian tribe that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

(2) with respect to each such applicant—

(A) the juvenile population; and

(B) the population and the entities that will be served by projects proposed to be carried out with the grant for which the application is submitted.

(c) GRANT PROCESS.—

(1) SELECTION OF GRANT RECIPIENTS.—

(A) SELECTION REQUIREMENTS.—Except as provided in paragraph (2), the Administrator shall—

(i) make grants under this section on a competitive basis; and

(ii) specify in writing to each applicant selected to receive a grant under this section, the terms and conditions on which such grant is made to such applicant.

(B) PERIOD OF GRANT.—A grant made under this section shall be available for expenditure during a 2-year period.

(2) EXCEPTION.—If—

(A) in the 2-year period for which a grant made under this section shall be expended, the recipient of such grant applies to receive a subsequent grant under this section; and

(B) the Administrator determines that such recipient performed during the year preceding the 2-year period for which such recipient applies to receive such subsequent grant satisfactorily and in accordance with the terms and conditions applicable to the grant received;

then the Administrator may waive the application of the competition-based requirement specified in paragraph (1)(A)(i) and may allow the applicant to incorporate by reference in the current application the text of the plan contained in the recipient's most recent application previously approved under this section.

(3) AUTHORITY TO MODIFY APPLICATION PROCESS FOR SUBSEQUENT GRANTS.—The Administrator may modify by rule the operation of subsection (a) of this section with respect to the submission and contents of applications for subsequent grants described in paragraph (2).

(d) REPORTING REQUIREMENT.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 450(f)(1) of Title 25, relating to the submission of a single-agency audit report required by chapter 75 of Title 31.

(e) MATCHING REQUIREMENT.—

(1) Funds appropriated for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

(2) Paragraph (1) shall not apply with respect to funds appropriated before November 2, 2002.

(3) If the Administrator determines that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

SEC. 251. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

(a) RESEARCH AND EVALUATION.—

(1) The Administrator [may] shall—

(A) [plan and identify] annually provide a written and publicly available plan to identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

(B) conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

[*(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;*] [*(iii) successful efforts to prevent status offenders and first-time minor offenders from subsequent involvement with the criminal justice system;*]

(iv) successful efforts to prevent recidivism;

(v) the juvenile justice system;

(vi) juvenile violence;

[*(vii) appropriate mental health services for juveniles and youth at risk of participating in delinquent activities;*] [*(vii) the prevalence and duration of behav-*

ioral health needs (including mental health, substance abuse, and co-occurring disorders) among juveniles pre-placement and post-placement when held in the custody of secure detention and corrections facilities, including an examination of the effects of confinement;

(viii) reducing the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups;

(ix) training efforts and reforms that have produced reductions in or elimination of the use of dangerous practices;

(x) methods to improve the recruitment, selection, training, and retention of professional personnel in the fields of medicine, law enforcement, judiciary, juvenile justice, social work and child protection, education, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of delinquency;

[(ix)] (xi) evaluating services, treatment, and aftercare placement of juveniles who were under the care of the State child protection system before their placement in the juvenile justice system;

[(x)] (xii) determining—

(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to this subparagraph and subsection (b); and

(II) the frequency, degree of harm, and morbidity of violent incidents, particularly firearm-related injuries and fatalities, by youth in schools and communities in the States, including information with respect to—

(aa) the relationship between victims and perpetrators;

(bb) demographic characteristics of victims and perpetrators; and

(cc) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation; and

[(xi)] (xiii) other purposes consistent with the purposes of this subchapter and subchapter I of this chapter.

(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

(3) Nothing in this subsection shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies, or in data-collection efforts, carried out under paragraph (1)(B)(x).

(4) Not later than 1 year after the date of enactment of this paragraph and not later than 1 year after the date of enactment

of the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008, the administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of the State child welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of the State, such study shall include—

- (A) the number of juveniles in each category;
 - (B) the extent to which State juvenile justice systems and child welfare systems are coordinating services and treatment for such juveniles;
 - (C) the Federal and local sources of funds used for placements and post-placement services;
 - (D) barriers faced by State in providing services to these juveniles;
 - (E) the types of post-placement services used;
 - (F) the frequency of case plans and case plan reviews;
 - [and]
 - (G) the extent to which case plans identify and address permanency and placement barriers and treatment plans[.];
 - (H) a description of the best practices in discharge planning; and
 - (I) an assessment of living arrangements for juveniles who cannot return to the homes of juveniles.
- (b) STATISTICAL ANALYSES.—The Administrator [may] shall—
- (1) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and
 - (2) undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this subchapter and subchapter I of this chapter.
- (c) GRANT AUTHORITY AND COMPETITIVE SELECTION PROCESS.—The Administrator may make grants and enter into contracts with public or private agencies, organizations, or individuals and shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b) of this section.
- (d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) of this section with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.
- (e) INFORMATION DISSEMINATION.—The Administrator may—
- (1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this subchapter.

(f) *NATIONAL RECIDIVISM MEASURE.—The Administrator, in consultation with experts in the field of juvenile justice research, recidivism, and date collection, shall—*

(1) *establish a uniform method of data collection and technology that States shall use to evaluate data on juvenile recidivism on an annual basis;*

(2) *establish a common national juvenile recidivism measurement system; and*

(3) *make cumulative juvenile recidivism data that is collected from States available to the public.*

SEC. 252. TRAINING AND TECHNICAL ASSISTANCE.

(a) **TRAINING.**—The Administrator **[may]**—

(1) *shall develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 5602 of this title; and*

(2) *may make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 5602 of this title.*

(b) **TECHNICAL ASSISTANCE.**—The Administrator **[may]**—

(1) *shall develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; [and]*

(2) *may make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related serv-*

ices, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title[.]:

(3) shall provide technical assistance to States and units of local government on achieving compliance with the amendments made by the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008; and

(4) shall provide technical assistance to States in support of efforts to establish partnerships between the State and a university, institution of higher education, or research center designed to improve the recruitment, selection, training, and retention of professional personnel in the fields of medicine, law enforcement, judiciary, juvenile justice, social work and child protection, education, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of delinquency.

(c) TRAINING AND TECHNICAL ASSISTANCE TO MENTAL HEALTH PROFESSIONALS AND LAW ENFORCEMENT PERSONNEL.—The Administrator shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials, and correctional officers) to address or to promote the development, testing, or demonstration of promising or innovative models (including model juvenile and family courts), programs, or delivery systems that address the needs of juveniles who are alleged or adjudicated delinquent and who, as a result of such status, are placed in secure detention or confinement or in nonsecure residential placements.

(d) TECHNICAL ASSISTANCE TO STATES REGARDING LEGAL REPRESENTATION OF CHILDREN.—The Administrator shall develop and issue standards of practice for attorneys representing children, and ensure that the standards are adapted for use in States.

(e) TRAINING AND TECHNICAL ASSISTANCE FOR LOCAL AND STATE JUVENILE DETENTION AND CORRECTIONS PERSONNEL.—The Administrator shall coordinate training and technical assistance programs with juvenile detention and corrections personnel of States and units of local government to—

(1) promote methods for improving conditions of juvenile confinement, including those that are designed to minimize the use of dangerous practices, unreasonable restraints, and isolation; and

(2) encourage alternative behavior management techniques.

(f) TRAINING AND TECHNICAL ASSISTANCE TO SUPPORT MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT INCLUDING HOME-BASED OR COMMUNITY-BASED CARE.—The Administrator shall provide training and technical assistance, in conjunction with the appropriate public agencies, to individuals involved in making decisions regarding the disposition of cases for youth who enter the juvenile justice system, including—

(1) juvenile justice intake personnel;

(2) probation officers;

(3) juvenile court judges and court services personnel;

(4) prosecutors and court-appointed counsel; and

(5) family members of juveniles and family advocates.

42 U.S.C. § 5611. Establishment

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PART E—GENERAL AND ADMINISTRATIVE PROVISIONS

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PART F—INCENTIVE GRANTS FOR STATE AND LOCAL PROGRAMS***SEC. 271. INCENTIVE GRANTS.***

(a) *INCENTIVE GRANT FUNDS.*—The Administrator may make incentive grants to a State, unit of local government, or combination of States and local governments to assist a State, unit of local government, or combination thereof in carrying out an activity identified in subsection (b)(1).

(b) *USE OF FUNDS.—*

(1) *IN GENERAL.*—An incentive grant made by the Administrator under this section may be used to—

(A) increase the use of evidence based or promising prevention and intervention programs;

(B) improve the recruitment, selection, training, and retention of professional personnel (including in the fields of medicine, law enforcement, judiciary, juvenile justice, social work, and child prevention) who are engaged in, or intend to work in, the field of prevention, intervention, and treatment of juveniles to reduce delinquency;

(C) establish a partnership between juvenile justice agencies of a State or unit of local government and mental health authorities of State or unit of local government to establish and implement programs to ensure there are adequate mental health and substance abuse screening, assessment, referral, treatment, and after-care services for juveniles who come into contact with the justice system by—

(i) carrying out programs that divert from incarceration juveniles who come into contact with the justice system (including facilities contracted for operation by State or local juvenile authorities) and have mental health or substance abuse problems—

(I) when such juveniles are at imminent risk of being taken into custody;

(II) at the time such juveniles are initially taken into custody;

(III) after such juveniles are charged with an offense or act of juvenile delinquency;

(IV) after such juveniles are adjudicated delinquent and before case disposition; and

(V) after such juveniles are released from a juvenile facility for the purpose of attending after-care programs; or

(ii) improving treatment of juveniles with mental illness by working to ensure—

(I) that—

(aa) initial mental health screening is—

(AA) completed for a juvenile immediately upon entering the juvenile justice system or a juvenile facility; and

(BB) conducted by qualified health and mental health professionals or by staff who have been trained by qualified health, mental health, and substance abuse professionals; and

(bb) in the case of screening by staff, the screening results are reviewed by qualified health and mental health professionals not later than 24 hours after the screening;

(II) that a juvenile who suffers from an acute mental disorder, is suicidal, or is in need of detoxification is—

(aa) placed in or immediately transferred to an appropriate medical or mental health facility; and

(bb) only admitted to a secure correctional facility with written medical clearance;

(III) that—

(aa) a juvenile entering the juvenile justice system has a comprehensive assessment conducted and an individualized treatment plan written and implemented—

(AA) not later than 2 weeks after the date on which the juvenile enters the juvenile justice system; or

(BB) if a juvenile is entering a secure facility, not later than 1 week after the date on which the juvenile enters the juvenile justice system; and

(bb) the assessments described in item (aa) are completed by qualified health, mental health, and substance abuse professionals;

(IV) that—

(aa) if the need for treatment is indicated by the assessment of a juvenile, the juvenile is referred to or treated by a qualified professional;

(bb) a juvenile who is receiving treatment for a mental or emotional disorder on the date of the assessment continues to receive treatment;

(cc) treatment of a juvenile continues until an additional mental health assessment determines that the juvenile is no longer in need of treatment; and

(dd) treatment plans for juveniles are re-evaluated at least every 30 days;

(V) that—

(aa) discharge plans are prepared for an incarcerated juvenile when the juvenile enters the correctional facility in order to integrate the juvenile back into the family and the community;

(bb) discharge plans for an incarcerated juvenile are updated, in consultation with the family or guardian of a juvenile, before the juvenile leaves the facility; and

(cc) discharge plans address the provision of aftercare services;

(VI) that any juvenile in the juvenile justice system receiving psychotropic medications is—

(aa) under the care of a licensed psychiatrist; and

(bb) monitored regularly by trained staff to evaluate the efficacy and side effects of the psychotropic medications; and

(VII) that specialized treatment and services are continually available to a juvenile in the juvenile justice system who has—

(aa) a history of mental health problems or treatment;

(bb) a documented history of sexual offenses or sexual abuse, as a victim or perpetrator;

(cc) a substance abuse problem, health problem, learning disability, or history of family abuse or violence; or

(dd) developmental disabilities;

(D) provide training, in conjunction with the public or private agency that provides mental health services, to individuals involved in making decisions involving youth who enter the juvenile justice system (including intake personnel, law enforcement, prosecutors, juvenile court judges, public defenders, mental health and substance abuse service providers and administrators, probation officers, and parents) that focuses on—

(i) the availability of screening and assessment tools and the effective use of such tools;

(ii) the purpose, benefits, and need to increase availability of mental health or substance abuse treatment programs (including home-based and community-based programs) available to juveniles within the jurisdiction of the recipient;

(iii) the availability of public and private services available to juveniles to pay for mental health or substance abuse treatment programs; or

(iv) the appropriate use of effective home-based and community-based alternatives to juvenile justice or mental health system institutional placement; and

(E) develop comprehensive collaborative plans to address the service needs of juveniles with mental health or substance abuse disorders who are at risk of coming into contact with the juvenile justice system that—

(i) revise and improve the delivery of intensive home-based and community-based services to juveniles who have been in contact with or who are at risk of coming into contact with the justice system;

(ii) determine how the service needs of juveniles with mental health or substance abuse disorders who come into contact with the juvenile justice system will be furnished from the initial detention stage until after discharge in order for these juveniles to avoid further contact with the justice system;

(iii) demonstrate that the State or unit of local government has entered into appropriate agreements with all entities responsible for providing services under the plan, such as the agency of the State or unit of local government charged with administering juvenile justice programs, the agency of the State or unit of local government charged with providing mental health services, the agency of the State or unit of local government charged with providing substance abuse treatment services, the educational agency of the State or unit of local government, the child welfare system of the State or local government, and private nonprofit community-based organizations;

(iv) ensure that the State or unit of local government has in effect any laws necessary for services to be delivered in accordance with the plan;

(v) establish a network of individuals (or incorporates an existing network) to provide coordination between mental health service providers, substance abuse service providers, probation and parole officers, judges, corrections personnel, law enforcement personnel, State and local educational agency personnel, parents and families, and other appropriate parties regarding effective treatment of juveniles with mental health or substance abuse disorders;

(vi) provide for cross-system training among law enforcement personnel, corrections personnel, State and local educational agency personnel, mental health service providers, and substance abuse service providers to enhance collaboration among systems;

(vii) provide for coordinated and effective aftercare programs for juveniles who have been diagnosed with a mental health or substance abuse disorder and who are discharged from home-based care, community-based care, any other treatment program, secure detention facilities, secure correctional facilities, or jail;

(viii) provide for the purchase of technical assistance to support the implementation of the plan;

(ix) estimate the costs of implementing the plan and proposes funding sources sufficient to meet the non-Federal funding requirements for implementation of the plan under subsection (c)(2)(E);

(x) describe the methodology to be used to identify juveniles at risk of coming into contact with the juvenile justice system;

(xi) provide a written plan to ensure that all training and services provided under the plan will be culturally and linguistically competent; and

(xii) describe the outcome measures and benchmarks that will be used to evaluate the progress and effectiveness of the plan.

(2) COORDINATION AND ADMINISTRATION.—A State or unit of local government receiving a grant under this section shall ensure that—

- (A) the use of the grant under this section is developed as part of the State plan required under section 223(a); and
- (B) not more than 5 percent of the amount received under this section is used for administration of the grant under this section.

(c) APPLICATION.—

(1) IN GENERAL.—A State or unit of local government desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

(2) CONTENTS.—In accordance with guidelines that shall be established by the Administrator, each application for incentive grant funding under this section shall—

(A) describe any activity or program the funding would be used for and how the activity or program is designed to carry out 1 or more of the activities described in subsection (b);

(B) if any of the funds provided under the grant would be used for evidence based or promising prevention or intervention programs, include a detailed description of the studies, findings, or practice knowledge that support the assertion that such programs qualify as evidence based or promising;

(C) for any program for which funds provided under the grant would be used that is not evidence based or promising, include a detailed description of any studies, findings, or practice knowledge which support the effectiveness of the program;

(D) if the funds provided under the grant will be used for an activity described in subsection (b)(1)(D), include a certification that the State or unit of local government—

(i) will work with public or private entities in the area to administer the training funded under subsection (b)(1)(D), to ensure that such training is comprehensive, constructive, linguistically and culturally competent, and of a high quality;

(ii) is committed to a goal of increasing the diversion of juveniles coming under its jurisdiction into appropriate home-based or community-based care when the interest of the juvenile and public safety allow;

(iii) intends to use amounts provided under a grant under this section for an activity described in subsection (b)(1)(D) to further such goal; and

(iv) has a plan to demonstrate, using appropriate benchmarks, the progress of the agency in meeting such goal; and

(E) if the funds provided under the grant will be used for an activity described in subsection (b)(1)(D), include a cer-

tification that not less than 25 percent of the total cost of the training described in subsection (b)(1)(D) that is conducted with the grant under this section will be contributed by non-Federal sources.

(d) REQUIREMENTS FOR GRANTS TO ESTABLISH PARTNERSHIPS.—

(1) MANDATORY REPORTING.—A State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall keep records of the incidence and types of mental health and substance abuse disorders in their juvenile justice populations, the range and scope of services provided, and barriers to service. The State or unit of local government shall submit an analysis of this information yearly to the Administrator.

(2) STAFF RATIOS FOR CORRECTIONAL FACILITIES.—A State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall require that a secure correctional facility operated by or on behalf of that State or unit of local government—

(A) has a minimum ratio of not fewer than 1 mental health counselor for every 50 juveniles, who shall be professionally trained and certified or licensed;

(B) has a minimum ratio of not fewer than 1 clinical psychologist for every 100 juveniles; and

(C) has a minimum ratio of not fewer than 1 licensed psychiatrist for every 100 juveniles receiving psychiatric care.

(3) LIMITATION ON ISOLATION.—A State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall require that—

(A) isolation and seclusion are used only for immediate and short-term security or safety reasons;

(B) no juvenile is placed in isolation without approval of the facility superintendent or chief medical officer or their official staff designee;

(C) all instances in which a juvenile is placed in isolation are documented in the file of a juvenile along with the justification;

(D) a juvenile is in isolation only the amount of time necessary to achieve security and safety of the juvenile and staff;

(E) staff monitor each juvenile in isolation once every 15 minutes and conduct a professional review of the need for isolation at least every 4 hours; and

(F) any juvenile held in seclusion for 24 hours is examined by a physician or licensed psychologist.

(4) MEDICAL AND MENTAL HEALTH EMERGENCIES.—A State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall require that a correctional facility operated by or on behalf of that State or unit of local government has written policies and procedures on suicide prevention. All staff working in a correctional facility operated by or on behalf of a State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall be trained and certified annually in suicide prevention. A correctional facility operated by or on behalf of a State or unit of local

government receiving a grant for an activity described in subsection (b)(1)(C) shall have a written arrangement with a hospital or other facility for providing emergency medical and mental health care. Physical and mental health services shall be available to an incarcerated juvenile 24 hours per day, 7 days per week.

(5) *IDEA AND REHABILITATION ACT.—A State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall require that all juvenile facilities operated by or on behalf of the State or unit of local government abide by all mandatory requirements and timelines set forth under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).*

(6) *FISCAL RESPONSIBILITY.—A State or unit of local government receiving a grant for an activity described in subsection (b)(1)(C) shall provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section that are used for an activity described in subsection (b)(1)(C).*

[PART F]PART G—GENERAL AND ADMINISTRATIVE PROVISIONS

SEC. 299. AUTHORIZATION OF APPROPRIATIONS.

(a) *AUTHORIZATION OF APPROPRIATIONS FOR SUBCHAPTER II OF THIS CHAPTER (EXCLUDING [PARTS C AND E] PARTS C, E, AND F).—*

(1) *There are authorized to be appropriated to carry out [this title] this title—*

- (A) \$196,700,000 for fiscal year 2009;
- (B) \$245,900,000 for fiscal year 2010;
- (C) \$295,100,000 for fiscal year 2011;
- (D) \$344,300,000 for fiscal year 2012; and
- (E) \$393,500,000 for fiscal year 2013.

(2) *Of such sums as are appropriated for a fiscal year to carry out this subchapter (other than [parts C and E] parts C, E, and F)*

(A) *not more than 5 percent shall be available to carry out part A;*

(B) *not less than 80 percent shall be available to carry out part B; and*

(C) *not more than 15 percent shall be available to carry out part D.*

(b) *AUTHORIZATION OF APPROPRIATIONS FOR PART C OF THIS SUBCHAPTER.—There are authorized to be appropriated to carry out part C of this subchapter such sums as may be necessary for [fiscal years 2003, 2004, 2005, 2006, and 2007] fiscal years 2009, 2010, 2011, 2012, and 2013.*

(c) *AUTHORIZATION OF APPROPRIATIONS FOR PART E OF THIS SUBCHAPTER.—There are authorized to be appropriated to carry out part E of this subchapter, and authorized to remain available until expended, such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.*

(d) *AUTHORIZATION OF APPROPRIATIONS FOR PART F.—*

(1) *IN GENERAL.*—There are authorized to be appropriated to carry out part F, and authorized to remain available until expended, \$80,000,000 for each of fiscal years 2009, 2010, 2011, 2012, and 2013.

(2) *ALLOCATION.*—Of the sums that are appropriated for a fiscal year to carry out part F—

(A) not less than 40 percent shall be used to fund programs that are carrying out an activity described in subparagraph (C), (D), or (E) of section 271(b)(1); and

(B) not less than 50 percent shall be used to fund programs that are carrying out an activity described in subparagraph (A) of that section.

[(d)] (e) EXPERIMENTATION ON INDIVIDUALS; PROHIBITION; “BEHAVIOR CONTROL” DEFINED.—No funds appropriated to carry out the purposes of this subchapter may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term “behavior control” refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

SEC. 299. ADMINISTRATIVE AUTHORITY.

(a) **AUTHORITY OF ADMINISTRATOR.**—The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) **CERTAIN CRIME CONTROL PROVISIONS APPLICABLE.**—Sections 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), and 3789g(d) of this title, shall apply with respect to the administration of and compliance with this chapter, except that for purposes of this chapter—

(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

(2) the term “this chapter” as it appears in such sections shall be deemed to be a reference to this chapter.

(c) **CERTAIN OTHER CRIME CONTROL PROVISIONS APPLICABLE.**—Sections 3782(a), 3782(c), and 3787 of this title shall apply with respect to the administration of and compliance with this chapter, except that for purposes of this chapter—

(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of

Justice Assistance shall be deemed to be a reference to the Administrator;

(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

(3) the term "this chapter" as it appears in such sections shall be deemed to be a reference to this chapter.

(d) RULES, REGULATIONS, AND PROCEDURES.—The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and only to the extent necessary to ensure that there is compliance with the specific requirements of this subchapter or to respond to requests for clarification and guidance relating to such compliance.

(e) If a State requires by law compliance with the [requirements described in paragraphs (11), (12), and (13) of section 5633(a)] *core requirements* of this title, then for the period such law is in effect in such State such State shall be rebuttably presumed to satisfy such requirements.

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SUBCHAPTER V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

SEC. 502. [DEFINITION] DEFINITIONS

In [this title, the term] *this title*—

(1) *the term "mentoring" means matching 1 adult with 1 or more youths (not to exceed 4 youths) for the purpose of providing guidance, support, and encouragement aimed at developing the character of the youths, where the adult and youths meet regularly for not less than 4 hours each month for not less than a 9-month period; and*

(2) *the term "State advisory group" means the advisory group appointed by the chief executive officer of a State under a plan described in section 5633(a) of this title.*

SEC. 504. GRANTS FOR DELINQUENCY PREVENTION PROGRAMS.

(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b) of this section, for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of—

- (1) alcohol and substance abuse prevention services;
- (2) tutoring and remedial education, especially in reading and mathematics;
- (3) child and adolescent health and mental health services;
- (4) recreation services;
- (5) leadership and youth development activities;
- (6) the teaching that people are and should be held accountable for their actions;

- (7) assistance in the development of job training skills;
- [and]**
- (8) other data-driven evidence based prevention programs**[.]**;
- and*
- (9) mentoring programs.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

- (1) \$272,200,000 for fiscal year 2009;
- (2) \$322,800,000 for fiscal year 2010;
- (3) \$373,400,000 for fiscal year 2011;
- (4) \$424,000,000 for fiscal year 2012; and
- (5) \$474,600,000 for fiscal year 2013.

