

Calendar No. 329

111TH CONGRESS
2^D SESSION**H. R. 1741**

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2009

Received; read twice and referred to the Committee on the Judiciary

MARCH 22 (legislative day, MARCH 19), 2010

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

AN ACT

To require the Attorney General to make competitive grants to eligible State, tribal, and local governments to establish and maintain certain protection and witness assistance programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Witness Security and
5 ~~Protection Grant Program Act of 2009~~”.

1 **SEC. 2. ESTABLISHMENT OF WITNESS PROTECTION GRANT**
2 **PROGRAM.**

3 (a) **IN GENERAL.**—The Attorney General shall make
4 competitive grants to eligible State, tribal, and local gov-
5 ernments to establish or maintain programs that provide
6 protection or assistance to witnesses in court proceedings
7 involving homicide, or involving a serious violent felony or
8 serious drug offense as defined in section 3559(c)(2) of
9 title 18, United States Code. The Attorney General shall
10 ensure that, to the extent reasonable and practical, such
11 grants are made to achieve an equitable geographical dis-
12 tribution of such programs throughout the United States.

13 (b) **STATE DEFINED.**—For purposes of this Act, the
14 term “State” means any State of the United States, the
15 District of Columbia, the Commonwealth of Puerto Rico,
16 the Virgin Islands, American Samoa, Guam, and the Com-
17 monwealth of the Northern Mariana Islands.

18 **SEC. 3. USE OF GRANTS.**

19 A grant made under section 2 may be used only to
20 pay all or part of the cost of the program for which such
21 grant is made.

22 **SEC. 4. PRIORITY.**

23 In making grants under section 2, the Attorney Gen-
24 eral shall give priority to applications submitted under sec-
25 tion 5 involving programs in States with an average of
26 not less than 100 murders per year during the most recent

1 5-year period, as calculated using the latest available
2 crime statistics from the Federal Bureau of Investigation.

3 **SEC. 5. APPLICATION.**

4 To be eligible for a grant under section 2, a State,
5 tribal, or local government shall submit to the Office of
6 Justice Programs an application in such form and man-
7 ner, at such time, and accompanied by such information
8 as the Attorney General specifies.

9 **SEC. 6. TECHNICAL ASSISTANCE.**

10 From amounts made available to carry out this Act,
11 the Attorney General, upon request of a recipient of a
12 grant under section 2, shall provide technical assistance
13 to such recipient to the extent the Attorney General deter-
14 mines such technical assistance is needed to establish or
15 maintain a program described in such section.

16 **SEC. 7. BEST PRACTICES.**

17 (a) REPORT.—Each recipient of a grant under sec-
18 tion 2 shall submit to the Attorney General a report, in
19 such form and manner and containing such information
20 as specified by the Attorney General, that evaluates each
21 program established or maintained pursuant to such
22 grant, including policies and procedures under the pro-
23 gram.

24 (b) DEVELOPMENT OF BEST PRACTICES.—Based on
25 the reports submitted under subsection (a), the Attorney

1 General shall develop best practice models to assist States
2 and other relevant entities in addressing—

3 (1) witness safety;

4 (2) short-term and permanent witness reloca-
5 tion;

6 (3) financial and housing assistance; and

7 (4) any other services related to witness protec-
8 tion or assistance that are determined by the Attor-
9 ney General to be necessary.

10 (e) DISSEMINATION TO STATES.—Not later than 1
11 year after the development of best practice models under
12 subsection (b), the Attorney General shall disseminate to
13 States and other relevant entities such models.

14 (d) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that States and other relevant entities should use
16 the best practice models developed and disseminated in ac-
17 cordance with this Act to evaluate, improve, and develop
18 witness protection or witness assistance as appropriate.

19 (e) CLARIFICATION.—Nothing in this Act requires
20 the dissemination of any information if the Attorney Gen-
21 eral determines such information is law enforcement sen-
22 sitive and should only be disclosed within the law enforce-
23 ment community or that such information poses a threat
24 to national security.

1 **SEC. 8. REPORT TO CONGRESS.**

2 Not later than December 31, 2015, the Attorney
3 General shall submit a report to Congress on the programs
4 funded by grants awarded under section 2, including on
5 matters specified under section 7(b).

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated to carry out
8 this Act \$30,000,000 for each of the fiscal years 2010
9 through 2014.

10 **SECTION 1. SHORT TITLE.**

11 *This Act may be cited as the “Witness Security and*
12 *Protection Grant Program Act of 2010”.*

13 **SEC. 2. WITNESS PROTECTION GRANT PROGRAM.**

14 *Subtitle Q of title III of the Violent Crime Control and*
15 *Law Enforcement Act of 1994 (42 U.S.C. 13861 et seq.)*
16 *is amended by inserting after section 31702 the following:*

17 **“SEC. 31702A. WITNESS PROTECTION GRANTS.**

18 *“(a) IN GENERAL.—Under paragraph (5) of section*
19 *31702, the Attorney General shall make competitive grants*
20 *to eligible State, tribal, and local governments to establish*
21 *or maintain programs that provide protection or assistance*
22 *to witnesses in—*

23 *“(1) court proceedings involving homicide, or in-*
24 *volving a serious violent felony or serious drug offense*
25 *as defined in section 3559(c)(2) of title 18, United*
26 *States Code; and*

1 “(2) court proceedings involving gangs or orga-
2 nized crime.

3 “(b) *CRITERIA.*—In determining whether need has
4 been demonstrated under this section, the Attorney General
5 shall evaluate applicants based upon—

6 “(1) lack of infrastructure to support a witness
7 assistance program;

8 “(2) level of witness intimidation;

9 “(3) level of cases not prosecuted due to witness
10 intimidation;

11 “(4) level of homicides;

12 “(5) level of serious violent felonies or serious
13 drug offenses, as defined in section 3559 (c)(2) of title
14 18, United States Code;

15 “(6) level of organized crime; and

16 “(7) other appropriate criteria as determined by
17 the Attorney General.

18 “(c) *TECHNICAL ASSISTANCE.*—From amounts made
19 available to carry out paragraph (5) of section 31702, the
20 Attorney General, upon request of a recipient of a grant
21 under this section, shall direct the appropriate offices with-
22 in the Department of Justice to provide technical assistance
23 to such recipient to the extent the Attorney General deter-
24 mines such technical assistance is needed to establish or
25 maintain a program described in such section.

1 “(d) *BEST PRACTICES*.—

2 “(1) *REPORT*.—*Each recipient of a grant under*
3 *this section shall submit to the Attorney General a re-*
4 *port, in such form and manner and containing such*
5 *information as specified by the Attorney General, that*
6 *evaluates each program established or maintained*
7 *pursuant to such grant, including policies and proce-*
8 *dures under the program.*

9 “(2) *DEVELOPMENT OF BEST PRACTICES*.—
10 *Based on the reports submitted under paragraph (1),*
11 *the Attorney General shall develop best practice mod-*
12 *els to assist States and other relevant entities in ad-*
13 *dressng—*

14 “(A) *witness safety;*

15 “(B) *short-term and permanent witness re-*
16 *location;*

17 “(C) *financial and housing assistance; and*

18 “(D) *any other services related to witness*
19 *protection or assistance that are determined by*
20 *the Attorney General to be necessary.*

21 “(3) *DISSEMINATION TO STATES*.—*Not later*
22 *than 1 year after the development of best practice*
23 *models under paragraph (2), the Attorney General*
24 *shall disseminate to States and other relevant entities*
25 *such models.*

1 “(4) *SENSE OF CONGRESS.*—*It is the sense of*
2 *Congress that States and other relevant entities*
3 *should use the best practice models developed and dis-*
4 *seminated in accordance with this section to evaluate,*
5 *improve, and develop witness protection or witness*
6 *assistance as appropriate.*

7 “(5) *CLARIFICATION.*—*Nothing in this section*
8 *requires the dissemination of any information if the*
9 *Attorney General determines such information is law*
10 *enforcement sensitive and should only be disclosed*
11 *within the law enforcement community or that such*
12 *information poses a threat to national security.*

13 “(e) *FEDERAL SHARE.*—

14 “(1) *IN GENERAL.*—*The Federal share of the cost*
15 *a project carried out using a grant made under this*
16 *section shall not be more than 75 percent.*

17 “(2) *IN-KIND CONTRIBUTIONS.*—

18 “(A) *IN GENERAL.*—*Subject to subpara-*
19 *graph (B), the non-Federal share for a project*
20 *carried out using a grant made under this sec-*
21 *tion may be made in the form of in-kind con-*
22 *tributions that are directly related to the purpose*
23 *for which the grant was made.*

24 “(B) *MAXIMUM PERCENTAGE.*—*Not more*
25 *than 50 percent of the non-Federal share for a*

1 *project carried out using a grant made under*
2 *this section may be in the form of in-kind con-*
3 *tributions.*

4 “(f) *ADMINISTRATIVE EXPENSES.*—*Federal adminis-*
5 *trative costs in administering the programs funded by this*
6 *section shall not exceed 5 percent of funds appropriated per*
7 *fiscal year.*

8 “(g) *GEOGRAPHIC DISTRIBUTION.*—*The Attorney Gen-*
9 *eral shall ensure that, to the extent reasonable and prac-*
10 *tical, grants authorized by this section are made to achieve*
11 *an equitable geographical distribution of such programs*
12 *throughout the United States and that due consideration*
13 *be given to applicants of rural and urban communities.*

14 “(h) *REPORT TO CONGRESS.*—*The Attorney General*
15 *shall submit a report to Congress—*

16 “(1) *not later than December 31, 2012, on the*
17 *implementation of this section and any information*
18 *on programs funded by grants made pursuant to this*
19 *section; and*

20 “(2) *not later than December 31, 2015, on the*
21 *programs funded by grants awarded under this sec-*
22 *tion, including on matters specified under subsection*
23 *(d)(2).”.*

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