

118TH CONGRESS
1ST SESSION

S. 3388

To amend the Public Health Service Act to authorize grants to States, Indian Tribes, Tribal organizations, and political subdivisions thereof to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2023

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

A BILL

To amend the Public Health Service Act to authorize grants to States, Indian Tribes, Tribal organizations, and political subdivisions thereof to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mental Health Justice
3 Act of 2023”.

4 **SEC. 2. GRANTS FOR MENTAL HEALTH PROFESSIONALS TO**
5 **ACT AS FIRST RESPONDERS.**

6 Subpart 3 of part B of title V of the Public Health
7 Service Act (42 U.S.C. 290bb–31 et seq.) is amended by
8 adding at the end the following:

9 **“SEC. 5200. GRANTS FOR MENTAL HEALTH PROFES-**
10 **SIONALS TO ACT AS FIRST RESPONDERS.**

11 “(a) IN GENERAL.—The Secretary, acting through
12 the Assistant Secretary, and in consultation with the As-
13 sistant Attorney General for the Civil Rights Division of
14 the Department of Justice, shall award grants to States,
15 Indian Tribes, Tribal organizations, and political subdivi-
16 sions thereof to establish or expand programs—

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

20 “(A) an individual calling 911, 988, or an-
21 other emergency hotline states that a person—

22 “(i) is in a mental health crisis;

23 “(ii) may have a mental illness, a sub-
24 stance use disorder, a co-occurring mental
25 illness and substance use disorder, or an
26 intellectual or developmental disability; or

1 “(iii) otherwise appears to need the
2 immediate support of mental health profes-
3 sionals;

4 “(B) a law enforcement officer or other
5 first responder identifies a person as having (or
6 possibly having) a mental illness or an intellec-
7 tual or developmental disability (or otherwise
8 appears to need the support of mental health
9 professionals); or

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

14 “(2) to include in the training for mental health
15 professionals pursuant to paragraph (1) training
16 in—

17 “(A) the principles of deescalation; and

18 “(B) developmentally appropriate tech-
19 niques;

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

24 “(4) to train the staff of dispatch centers re-
25 garding the proper handling of a report of an emer-

1 agency described in paragraph (1), including training
2 in the principles and techniques referred to in sub-
3 paragraphs (A) and (B) of paragraph (2); and

4 “(5) to coordinate with first responder agencies.

5 “(b) ADDITIONAL AWARDS.—The Secretary shall
6 make an additional award of funds under this section each
7 fiscal year to grantees that—

8 “(1) are in compliance with all conditions of
9 their awards under this section, including the condi-
10 tions specified in subsections (a) and (d); and

11 “(2) demonstrate that their programs under
12 this section resulted in—

13 “(A) a notable reduction in the incarceration
14 and death of persons with mental illness
15 or an intellectual or developmental disability; or

16 “(B) a notable reduction in the use of
17 force by police and a notable increase in refer-
18 rals of persons with a mental illness or intellec-
19 tual disability to community-based, voluntary
20 support services (other than institutionalization
21 or carceral support services).

22 “(c) PRIORITY.—In awarding grants under this sec-
23 tion, the Secretary shall give priority to States, Indian
24 Tribes, Tribal organizations, and political subdivisions
25 thereof that—

1 “(1) have high rates of arrests and incarceration
2 of persons with a mental illness, a substance
3 use disorder, a co-occurring mental health and sub-
4 stance use disorder, or an intellectual or develop-
5 mental disability;

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

9 “(3) include peer support specialists in their
10 current first responder model.

11 “(d) REPORTING.—

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

14 “(A) a quarterly report on—

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

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

24 “(iii) any increase or decrease, com-
25 pared to any previous quarter, in incarcer-

1 ation or institutionalization as a result of
2 dispatching mental health professionals
3 pursuant to assistance under this section,
4 disaggregated to include data specific to
5 persons with intellectual and developmental
6 disabilities and mental illnesses where
7 available and permitted to be disclosed
8 under applicable privacy law, so as—

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

11 “(II) to ensure that mental
12 health practitioners are not simply
13 funneling individuals into other insti-
14 tutionalized settings; and

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

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

22 “(3) DISAGGREGATION OF DATA.—The report-
23 ing pursuant to paragraphs (1) and (2) shall, to the
24 extent determined by the Secretary to be applicable,

1 be disaggregated by age, sex, gender, race, and eth-
2 nicity.

3 “(e) REVOCATION OF GRANT.—If the Secretary
4 finds, based on reporting under subsection (d) or other
5 information, that activities funded through a grant under
6 this section are leading to a significant increase in incar-
7 ceration or institutionalization—

8 “(1) the Secretary shall revoke the grant; and

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

11 “(A) received through the grant; and

12 “(B) has not obligated or expended.

13 “(f) TECHNICAL ASSISTANCE.—The Secretary, act-
14 ing through the Assistant Secretary, and in consultation
15 with the Assistant Attorney General for the Civil Rights
16 Division of the Department of Justice, shall provide tech-
17 nical assistance to grantees under this section (or other
18 Federal law), and to other States, Indian Tribes, Tribal
19 organizations, and political subdivisions thereof, to hire,
20 employ, train, and dispatch mental health professionals to
21 respond in lieu of law enforcement officers, as described
22 in subsection (a).

23 “(g) DEFINITIONS.—In this section:

24 “(1) The term ‘first responder’ means an indi-
25 vidual who, in the course of such individual’s profes-

1 sional duties, is dispatched to respond to fire, med-
2 ical, public safety, or mental health emergencies.

3 “(2) The terms ‘Indian Tribe’ and ‘Tribal orga-
4 nization’ have the meanings given to the terms ‘In-
5 dian tribe’ and ‘tribal organization’, respectively, in
6 section 4 of the Indian Health Care Improvement
7 Act.

8 “(3) The term ‘peer support specialist’ means
9 an individual who—

10 “(A) has lived experience of a mental
11 health condition, a substance use disorder, or a
12 co-occurring mental health and substance use
13 disorder; and

14 “(B) specializes in supporting individuals
15 with mental health conditions, substance use
16 disorders, or co-occurring mental health and
17 substance use disorders.

18 “(h) FUNDING.—To carry out this section, there is
19 authorized to be appropriated \$250,000,000 for the period
20 of the 5 fiscal years following the date of enactment of
21 this section.”.

22 **SEC. 3. STUDY.**

23 (a) IN GENERAL.—The Secretary of Health and
24 Human Services and the Assistant Attorney General for
25 the Civil Rights Division of the Department of Justice

1 shall conduct a study on the effectiveness of programs and
2 activities under section 5200 of the Public Health Service
3 Act, as added by section 2.

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

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

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

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

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

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

21 (3) publish such report.

22 **SEC. 4. BEST PRACTICES.**

23 (a) IN GENERAL.—The Secretary of Health and
24 Human Services, acting in consultation with the Assistant
25 Attorney General for Civil Rights, shall develop and pub-

1 lish best practices relating to the deployment of mental
2 health professionals acting as first responders.

3 (b) CONTENTS.—The best practices under subsection
4 (a) shall—

5 (1) be informed by lessons learned from the
6 grant program under section 5200 of the Public
7 Health Service Act, as added by section 2; and

8 (2) include best practices for the proper han-
9 dling and dispatch of a report of an emergency de-
10 scribed in each of subparagraphs (A), (B), and (C)
11 of section 5200(a)(1) of the Public Health Service
12 Act, as added by section 2, including best practices
13 for training in—

14 (A) the principles and techniques in proc-
15 essing calls for persons who—

16 (i) are experiencing a mental health
17 crisis;

18 (ii) may have a mental illness, a sub-
19 stance use disorder, a co-occurring mental
20 health and substance use disorder, or an
21 intellectual or developmental disability; or

22 (iii) otherwise appear to need the im-
23 mediate support of mental health profes-
24 sionals;

25 (B) the principles of deescalation; and

1 (C) developmentally appropriate tech-
2 niques.

3 (c) **TIMELINE; UPDATES.**—The Secretary of Health
4 and Human Services shall—

5 (1) not later than 1 year after the date of en-
6 actment of this Act, develop and publish initial best
7 practices under this section; and

8 (2) not less than every 5 years thereafter, de-
9 velop and publish updated best practices under this
10 section.

11 (d) **DEFINITION.**—In this section, the term “first re-
12 sponder” has the meaning given to such term in section
13 5200 of the Public Health Service Act, as added by sec-
14 tion 2.

15 **SEC. 5. RULES OF CONSTRUCTION.**

16 (a) **HIRING OF LAW ENFORCEMENT OFFICERS.**—
17 Nothing in this Act (or the amendments made by this Act)
18 shall be construed to remove, supplant, alter, or limit the
19 authority of States, public agencies, or municipalities from
20 hiring or recruiting career law enforcement officers (as de-
21 fined in section 1709 of the Omnibus Crime Control and
22 Safe Streets Act of 1968 (34 U.S.C. 10389)) to engage
23 in or supervise the prevention, detection, or investigation
24 of violations of criminal laws when appropriate.

1 (b) CIRCUMSTANCES OF IMMINENT OR IMMEDIATE
2 DANGER.—Nothing in this Act (or the amendments made
3 by this Act) shall be construed to impede, supplant, alter,
4 or limit the use of career law enforcement officers during
5 emergencies—

6 (1) which such career law enforcement officers
7 may be best suited to handle; and

8 (2) in which a person poses a direct threat to
9 the health and safety of others that cannot be elimi-
10 nated by a modification of policies, practices or pro-
11 cedures, or by the provision of auxiliary aids or serv-
12 ices.

13 (c) NONDISCRIMINATION.—Nothing in this Act (or
14 the amendments made by this Act) shall be construed to
15 limit or alter the protections and requirements of applica-
16 ble Federal and State civil rights laws and regulations.

17 (d) DEFINITIONS.—In this section, the term “direct
18 threat” has the meaning given to such term in sections
19 35.139 and 35.104 of title 28, Code of Federal Regula-
20 tions (as in effect on the date of enactment of this Act).

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