

118TH CONGRESS
1ST SESSION

S. 1342

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide incentives for States to implement policy changes to reduce prison populations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide incentives for States to implement policy changes to reduce prison populations, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Smart Sentencing Ad-
5 justments Act”.

1 **SEC. 2. GRANT PROGRAM.**

2 (a) IN GENERAL.—Title I of the Omnibus Crime
3 Control and Safe Street Act of 1968 (34 U.S.C. 10101
4 et seq.) is amended by adding at the end the following:

5 **“PART PP—STATE PRISON POPULATION**
6 **REDUCTION GRANT PROGRAM.**

7 **“SECTION 3061. DEFINITIONS.**

8 “In this part:

9 “(1) IMPLEMENTATION GRANT.—The term ‘im-
10 plementation grant’ means a grant awarded to a
11 State for the purpose of reducing the prison popu-
12 lation of the State by not less than 20 percent,
13 based on the average total prison population of the
14 State for the 3-year period preceding the date on
15 which the State applies for the implementation grant
16 under section 3062(d).

17 “(2) PLANNING GRANT.—The term ‘planning
18 grant’ means a grant awarded to a State for the
19 purpose of—

20 “(A) analyzing criminal justice trends and
21 factors to better understand excessive and un-
22 necessary prison incarceration; and

23 “(B) exploring the feasibility of developing,
24 adopting, and implementing policy changes to
25 ameliorate criminal justice trends and factors

1 causing excessive and unnecessary prison incar-
2 ceration.

3 “(3) PRISON.—The term ‘prison’ means a pub-
4 licly or privately operated institution of a State for
5 the confinement of an individual convicted of a
6 criminal offense with a sentence of not less than 1
7 year.

8 “(4) STATE.—The term ‘State’ has the mean-
9 ing given the term in section 901.

10 **“SEC. 3062. GRANT PROGRAM.**

11 “(a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of the Smart Sentencing Adjustments
13 Act, the Attorney General shall award planning grants
14 and implementation grants to States, on a competitive
15 basis, in accordance with this section.

16 “(b) PLANNING GRANTS.—

17 “(1) APPLICATIONS.—A State seeking a plan-
18 ning grant under this section shall submit to the At-
19 torney General an application at such time and in
20 such manner as the Attorney General may require,
21 which shall include—

22 “(A) a description of the State’s need for
23 a planning grant; and

24 “(B) a description of the activities the
25 State will carry out with the planning grant.

1 “(2) USE OF FUNDS.—A State that receives a
2 planning grant under this section shall use the grant
3 solely for the purpose of developing plans for the
4 policy changes that would be required to carry out
5 subsection (c)(3).

6 “(3) PLANNING GRANT REPORT.—Not later
7 than 60 days after the end of the period of the plan-
8 ning grant of a State, the State shall submit to the
9 Attorney General a report that describes—

10 “(A) the projects to be undertaken by the
11 State using amounts made available under the
12 planning grant; and

13 “(B) any additional information deter-
14 mined appropriate by the Attorney General.

15 “(c) IMPLEMENTATION GRANTS.—

16 “(1) ELIGIBILITY.—In order to be eligible to
17 apply for an implementation grant under paragraph
18 (2), a State shall apply for, receive, and fully execute
19 a planning grant under subsection (b).

20 “(2) APPLICATIONS.—A State seeking an im-
21 plementation grant under this section shall submit
22 to the Attorney General an application at such time
23 and in such manner as the Attorney General may re-
24 quire, which shall include—

1 “(A) the total prison population of the
2 State, including racial, ethnic, gender, and so-
3 cioeconomic information of the population and
4 information relating to the income, education,
5 and housing status of the population;

6 “(B) the rate of prison population growth
7 of the State in relative and absolute estimates
8 during the 25 year-period preceding the date of
9 the application; and

10 “(C) a comprehensive and coherent plan
11 detailing the proposals of the State to use
12 amounts from the implementation grant that—

13 “(i) is based upon the activities the
14 State performed with a planning grant re-
15 ceived under this section; and

16 “(ii) describes the policy changes
17 planned to carry out paragraph (3) to
18 achieve the purpose of the implementation
19 grant.

20 “(3) USE OF FUNDS.—A State that receives an
21 implementation grant under this section shall use
22 amounts from the grant to—

23 “(A) reduce the prison population of the
24 State by—

1 “(i) establishing or supporting pro-
2 grams that divert individuals from incar-
3 ceration;

4 “(ii) eliminating policies, with a retro-
5 active effect, that drive excessive and un-
6 necessarily lengthy terms of imprisonment,
7 including by—

8 “(I) repealing mandatory min-
9 imum penalties for certain offenses;

10 “(II) repealing sentencing en-
11 hancements for certain offenses; and

12 “(III) downgrading certain crimi-
13 nal offenses, such as reducing felony
14 offenses to misdemeanor offenses;

15 “(iii) implementing policies, with a
16 retroactive effect, that help promote pro-
17 portionality and fairness in sentencing, in-
18 cluding by—

19 “(I) capping sentences; and

20 “(II) reviewing and modifying
21 sentences automatically after 15
22 years;

23 “(iv) implementing policies, with a
24 retroactive effect, that increase opportuni-
25 ties for early release, including by—

1 “(I) expanding opportunities and
2 incentives for incarcerated individuals
3 to earn time off of their custodial sen-
4 tence;

5 “(II) repealing policies that re-
6 strict or reduce parole eligibility, such
7 as truth in sentencing laws; and

8 “(III) eliminating policies that
9 delay initial parole eligibility beyond
10 10 years;

11 “(v) reducing or eliminating the use
12 of incarceration as a sanction for non-
13 criminal rule violations of community su-
14 pervision, such as technical parole and pro-
15 bation violations, including missing drug
16 treatment classes;

17 “(vi) improving the executive func-
18 tions of the State that can promote early
19 release by—

20 “(I) establishing or expanding
21 the use of mechanisms providing for
22 the early release of incarcerated indi-
23 viduals based on specific criteria, such
24 as advanced age and terminal illness,
25 by—

1 “(aa) convening or staffing
2 boards of experts to advise offi-
3 cials of the State with the au-
4 thority to promulgate sentencing
5 policy on the exercise of the
6 State’s compassionate, medical,
7 and geriatric release power;

8 “(bb) broadening eligibility
9 criteria for release;

10 “(cc) streamlining and clari-
11 fying application for release re-
12 view protocols; and

13 “(dd) increasing the number
14 of compassionate, medical, and
15 geriatric releases; and

16 “(II) improving clemency proc-
17 esses, including by—

18 “(aa) convening or staffing
19 boards of experts to advise offi-
20 cials of the State with the au-
21 thority to promulgate sentencing
22 policy on the exercise of the
23 State’s clemency power;

24 “(bb) broadening eligibility
25 for clemency;

1 “(cc) streamlining and clari-
2 fying clemency application review
3 protocols; and

4 “(dd) increasing the number
5 of clemency grants;

6 “(vii) improving prosecutorial func-
7 tions to correct extreme, disproportionate,
8 unjust, or wrongful criminal convictions
9 and custodial sentences by—

10 “(I) establishing or expanding
11 conviction integrity units or conviction
12 review units within prosecutorial of-
13 fices that work to prevent, identify,
14 and remedy false convictions; or

15 “(II) establishing or expanding
16 sentencing review units within pros-
17 ecutorial offices to address over-
18 crowding, racial inequities, and
19 lengthy prison sentences that are con-
20 sidered extreme or disproportionate;
21 and

22 “(viii) improving the quality of indi-
23 gent defense; or

24 “(B) reduce the recurrence of recidivism
25 after a term of incarceration and reduce the

1 collateral consequences experienced by individ-
2 uals with criminal records by—

3 “(i) expanding programming for in-
4 carcerated populations within prisons that
5 enables those populations to successfully
6 transition back into society;

7 “(ii) improving access for
8 expungement and record sealing processes;

9 “(iii) adopting laws prohibiting em-
10 ployers from asking applicants about their
11 criminal history on applications for em-
12 ployment or prior to tendering an employ-
13 ment offer;

14 “(iv) eliminating fees imposed on a
15 defendant by—

16 “(I) discharging any fine or fee
17 debt for individuals who are incarcer-
18 ated or exiting prison; or

19 “(II) developing policies and pro-
20 grams to assess fines and fees based
21 on an individual’s ability to pay;

22 “(v) establishing or supporting wrap-
23 around or community-based services for in-
24 dividuals reentering their communities
25 after incarceration, including services relat-

1 ing to housing, disability, employment,
2 education, healthcare, behavior and mental
3 health, substance abuse, and childcare; or

4 “(vi) supporting community-based
5 crime prevention programs that work di-
6 rectly with formerly incarcerated individ-
7 uals or in communities that have a higher
8 prevalence of individuals with criminal
9 records, such as—

10 “(I) programs involving violence
11 prevention;

12 “(II) housing and supportive
13 housing;

14 “(III) jobs and job placement;

15 “(IV) substance abuse or mental
16 health treatment; and

17 “(V) other wrap-around support
18 services aiming to build pathways to
19 life stabilizing opportunities.

20 “(4) IMPLEMENTATION GRANT REPORT.—Not
21 later than 1 year after the date on which a State re-
22 ceives an implementation grant under this section,
23 and annually thereafter, the State shall submit to
24 the Attorney General a report, at such time, in such

1 manner, and containing such information as the At-
2 torney General may require, that—

3 “(A) identifies the programs and policies
4 funded with the grant;

5 “(B) assesses racial, ethnic, gender, age,
6 and socioeconomic impacts of the programs and
7 policies funded with the grant with independent
8 researchers or a consortium of independent re-
9 searchers, such as research or academic institu-
10 tions; and

11 “(C) includes an evaluation of increases or
12 decreases in a State’s prison population by as-
13 sessing changes in—

14 “(i) pretrial detention;

15 “(ii) sentencing;

16 “(iii) incarceration;

17 “(iv) probation;

18 “(v) parole;

19 “(vi) clemency; and

20 “(vii) compassionate, medical, or geri-
21 atric release.

22 “(5) SUBGRANTS.—

23 “(A) IN GENERAL.—A State receiving an
24 implementation grant under this section shall
25 use not less than 20 percent of the amount of

1 the grant to award subgrants to nonprofit orga-
2 nizations that meet the criteria described in
3 subparagraph (B), which shall assist in the im-
4 plementation of the policy changes described in
5 subsection (c)(2).

6 “(B) CRITERIA.—In selecting nonprofit or-
7 ganizations to receive subgrants under para-
8 graph (1), a State shall give priority to non-
9 profit organizations that—

10 “(i) have a demonstrated track record
11 of providing services to reintegrate individ-
12 uals released from prison into society with
13 a goal of reducing the recurrence of recidi-
14 vism;

15 “(ii) are based in geographic areas
16 with a higher prevalence of individuals
17 with criminal records;

18 “(iii) are led by or employ individuals
19 who have been incarcerated or have family
20 members who are or have been incarcer-
21 ated; or

22 “(iv) primarily serve individuals
23 who—

24 “(I) have been arrested or con-
25 victed of a criminal offense; or

1 “(II) have spent time in jail,
2 prison, or on probation or parole.

3 “(6) RENEWAL.—A State that receives an im-
4 plementation grant under this section may apply for
5 an additional implementation grant at the end of the
6 term of the implementation grant if the State has
7 reduced the prison population of the State by not
8 less than 20 percent, based on the average total
9 prison population of the State during the 3-year pe-
10 riod preceding the date of the application for the im-
11 plementation grant under paragraph (2).

12 “(d) TERMS AND CONDITIONS.—

13 “(1) DURATION.—

14 “(A) PLANNING GRANT.—A planning
15 grant under this section shall be awarded for a
16 period of 2 fiscal years.

17 “(B) IMPLEMENTATION GRANT.—An im-
18 plementation grant under this section shall be
19 awarded for a period of 3 fiscal years.

20 “(2) AMOUNT.—

21 “(A) PLANNING GRANT.—The amount of
22 each planning grant awarded under this section
23 shall not exceed \$700,000 for the duration of
24 the grant.

1 “(B) IMPLEMENTATION GRANT.—The
2 amount of each implementation grant awarded
3 under this section shall not exceed \$70,000,000
4 for the duration of the grant.

5 “(3) NUMBER OF GRANT AWARDS.—

6 “(A) PLANNING GRANTS.—The Attorney
7 General may award planning grants under this
8 section to not more than 25 States during each
9 fiscal year.

10 “(B) IMPLEMENTATION GRANTS.—The At-
11 torney General may award implementation
12 grants under this section to no more than 25
13 States during each fiscal year.

14 “(4) PROHIBITIONS.—

15 “(A) INMATE TRANSFERS.—During any
16 grant term under this Act, a State may not
17 transfer an individual convicted of a criminal
18 offense with a sentence of not less than 1 year
19 from a prison of the State to any penitentiary,
20 jail, or other institution or facility for the con-
21 finement of individuals convicted of criminal of-
22 fenses with sentences of less than 1 year for the
23 purpose of carrying out subsection (c)(3).

24 “(B) POLICIES.—During the term of any
25 grant awarded under this section, a State that

1 receives the grant may not establish or amend
2 any—

3 “(i) sentence enhancement or law that
4 would increase the punishment of an indi-
5 vidual previously convicted of a criminal
6 offense;

7 “(ii) habitual offender law or law that
8 imposes longer sentences on individuals
9 who have been convicted of a certain num-
10 ber of criminal offenses;

11 “(iii) truth in sentencing law or law
12 that aims to reduce the difference between
13 sentences imposed and the actual time that
14 individuals serve in prison;

15 “(iv) mandatory minimum sentencing
16 law or law that requires judges to sentence
17 offenders to a specified minimum prison
18 term for specific offenses to increase the
19 minimum prison sentence; or

20 “(v) policies that would result in in-
21 creased incarceration.

22 “(C) PROHIBITIONS.—A State receiving
23 any grant under this part may not use amounts
24 from the grant to—

1 “(i) build or maintain any prison, jail,
2 or other facility designed for the confine-
3 ment of individuals convicted of criminal
4 offenses;

5 “(ii) enter into a contract with a for-
6 profit company to build or manage prisons,
7 jails, or other correctional facilities;

8 “(iii) hire, train, or maintain sworn
9 law enforcement officers;

10 “(iv) purchase law enforcement equip-
11 ment; or

12 “(v) create or fund programs that
13 would increase incarceration.

14 “(5) PENALTY.—If the Attorney General deter-
15 mines that a State receiving a grant under this sec-
16 tion violates a provision of this part, the Attorney
17 General shall—

18 “(A) require the State to repay 10 percent
19 of the amount of the grant; and

20 “(B) prohibit the State from receiving any
21 other grant under this part for not less than 3
22 years.

23 “(6) MAXIMUMS.—The Attorney General may
24 award a State under this section—

25 “(A) not more than 1 planning grant; and

1 “(B) not more than 2 consecutive imple-
2 mentation grants.

3 “(e) RESERVATION.—The Attorney General shall re-
4 serve not more than 5 percent of the amount appropriated
5 to carry out this part for administration, oversight, and
6 technical assistance activities through the Office of Justice
7 Programs.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
9 1001(a) of title I of the Omnibus Crime Control and Safe
10 Streets Act of 1968 (34 U.S.C. 10261(a)) is amended by
11 adding at the end the following:

12 “(29) There are authorized to be appropriated to
13 carry out part PP \$2,000,000,000 for each of fiscal years
14 2024 through 2034.”.

○