

SECTION-BY-SECTION SUMMARY
OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

For Background

Title I – Findings and Declaration of Purpose

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 majority. The section also defines for the first time: “core requirements,” “chemical agent,” “isolation,” “restraint,” “evidence based,” “promising,” “dangerous practice”, “assessment:”, “screening”, “contact.”

Title II – Juvenile Justice and Delinquency Prevention

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, status offenders and the number of pregnant juveniles.

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 JJDP 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 (JJDP) 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 Plans. 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 JJDP A 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. JJDP A 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 a judge to determine whether 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 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.

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 for 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 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.

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: (1) 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, (2) conduct a study of adjudicated juveniles and publish a report on the outcomes for juveniles who have reintegrated into the community, and (3) publish a report on the differences between male and female offenders, including an analysis of the mental health needs of delinquent girls, risk factors specific to the development of delinquent behavior in girls and prevention and intervention programs that are effective among girls..

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. It also requires a study of the number of disabled juveniles in the juvenile justice system to determine the prevalence of disabilities and the services they may need.

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.

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 State or unit of local government to enhance mental health and substance abuse services for juveniles.

To provide training and technical assistance regarding the appropriate placement for youth with mental health or substance abuse needs to the relevant people involved with the juvenile justice system.

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, (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 \$60,000,000 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 50% 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.

Title V – Incentive Grants for Local Delinquency Prevention Programs

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.