

117TH CONGRESS  
1ST SESSION

# H. R. 5034

To establish a new Justice Department grant program to reduce the number of individuals incarcerated in local jails, reduce the number of days individuals are incarcerated in local jails, and support community-led local justice reinvestment.

---

## IN THE HOUSE OF REPRESENTATIVES

AUGUST 13, 2021

Mr. TRONE (for himself and Mr. ARMSTRONG) introduced the following bill;  
which was referred to the Committee on the Judiciary

---

## A BILL

To establish a new Justice Department grant program to reduce the number of individuals incarcerated in local jails, reduce the number of days individuals are incarcerated in local jails, and support community-led local justice reinvestment.

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 “Community First Pre-  
5       trial Reform and Jail Decarceration Act”.

1 **SEC. 2. GRANTS AUTHORIZED.**

2 (a) GRANTS AUTHORIZED.—The Attorney General,  
3 acting through the Bureau of Justice Assistance, shall  
4 make grants to eligible partnerships for purposes of reduc-  
5 ing the number of individuals in jails operated by units  
6 of local government and the number of days such individ-  
7 uals spend in jail as follows:

8 (1) Grants for analysis and planning, which  
9 shall be used to—

10 (A) collect and analyze local criminal jus-  
11 tice and incarceration data, including data on  
12 racial and ethnic disparities; and

13 (B) develop a strategic, collaborative plan  
14 to decrease local jail incarceration that shall be  
15 public facing.

16 (2) Grants for implementation of the plan de-  
17 scribed in paragraph (1)(B) and which may be used  
18 for activities to reduce the number of individuals in-  
19 carcerated in local jails and to reduce the number of  
20 days that individuals are so incarcerated including—

21 (A) eliminating or reducing the use of cash  
22 bail;

23 (B) reducing revocations of conditional re-  
24 lease;

25 (C) creating or increasing the availability  
26 of pretrial services, including efforts undertaken

1 in collaboration with community-based organi-  
2 zations and nonprofits;

3 (D) investing in case processing and proc-  
4 esses to reduce overall time to disposition and  
5 time between court events;

6 (E) ensuring early assignment of counsel  
7 and presence of counsel at individuals' first  
8 court appearance or bail hearing;

9 (F) providing training to various actors  
10 within the criminal justice system on indigent  
11 defense that is aligned with best practices in  
12 the field;

13 (G) creating or expanding diversion pro-  
14 grams that do not require an individual to enter  
15 into a guilty plea and do not use incarceration  
16 as a sanction for noncompliance—

17 (i) at the pre-arrest phase;

18 (ii) at the pre-booking phase; and

19 (iii) at the post-booking phase; or

20 (H) any other emerging, promising, or evi-  
21 dence-based practices that an eligible partner-  
22 ship proposes and the Attorney General deems  
23 likely to reduce local jail incarceration.

1 (b) ELIGIBLE PARTNERSHIP.—An eligible partner-  
2 ship is a partnership between not less than two of the fol-  
3 lowing:

4 (1) A unit of local government.

5 (2) A territory.

6 (3) An Indian tribe.

7 (4) A nonprofit organization.

8 (c) APPLICATION.—An application for a grant shall  
9 include the following:

10 (1) Details of the range of pretrial services  
11 available within the jurisdiction where the jail being  
12 targeted for incarceration rate reduction under this  
13 Act is located.

14 (2) A plan to ensure that individuals in pretrial  
15 contact with the justice system will be subject to the  
16 least restrictive conditions or combination of condi-  
17 tions necessary to reasonably address the imminent  
18 risk of willful flight or the risk of imminent threat  
19 of serious physical harm to a reasonably identifiable  
20 person.

21 (3) A plan for ongoing process evaluation and  
22 outcome evaluation.

23 (4) Either—

24 (A) data—

(i) disaggregated by race, ethnicity, and gender on incarceration for correctional facilities within the local jurisdiction for each of the last five calendar years that includes—

(I) the average daily population;

(II) the percentage of individuals held pretrial and post-conviction; and

(III) the average length of stay for individuals held pretrial and post-conviction; and

(ii) disaggregated by race, ethnicity, and gender on arrests made by all law enforcement entities operating within the local jurisdiction over each of the last five calendar years; or

(B) in the event that elements of such incarceration or arrest data are not able to be compiled and reported, a comprehensive plan to obtain as much of the unavailable data as possible within the first year of the award.

### **SEC. 3. REQUIREMENTS.**

(a) IN GENERAL.—Grantees shall—

(1) consult in all phases of planning, implementation, and evaluation with municipal, county, and

1 state law enforcement agencies, courts in the local  
2 jurisdiction, public defense organizations and criminal  
3 defense practitioners in the local jurisdiction,  
4 local substance use and mental health authorities,  
5 local community members, local community members  
6 who have been justice-involved, and community-  
7 based organizations and service providers;

8 (2) analyze local jail incarceration and arrest  
9 data to identify the drivers of jail incarceration and  
10 racial and ethnic disparities and ground jail population  
11 reduction strategies in that data;

12 (3) reduce incarceration rates by no less than  
13 5 percent the first year of an implementation grant,  
14 10 percent in each subsequent year, and 50 percent  
15 by the end of the grant period;

16 (4) in consultation with the Bureau of Justice  
17 Assistance—

18 (A) adopt and implement a methodology  
19 for measuring racial and ethnic disparities in  
20 jail incarceration;

21 (B) set goals for the reduction of racial  
22 and ethnic jail incarceration disparities; and

23 (C) decrease levels of incarceration across  
24 all races and ethnicities;

1           (5) engage an external evaluator to coordinate  
2           data collection and reporting in an ongoing fashion  
3           and perform both a process and outcome evaluation,  
4           with support from the Bureau of Justice Assistance;  
5           and

6           (6) use financial savings created through de-  
7           creased incarceration to sustain programmatic and  
8           community-based efforts to reduce jail incarceration.

9           (b) GRANT OVERSIGHT REQUIREMENT.—

10           (1) IN GENERAL.—If a grantee fails to meet  
11           the incarceration rate and racial and ethnic dispari-  
12           ties reduction requirements under subsection (a)(3)  
13           in any year of the award, the Bureau of Justice As-  
14           sistance shall perform an audit of the use of their  
15           award and the grantee shall implement new strate-  
16           gies based on that audit. If a grantee fails to meet  
17           the incarceration rate and racial and ethnic dispari-  
18           ties reduction requirements under subsection (a)(3)  
19           in any two consecutive years of the award, the At-  
20           torney General shall terminate the award.

21           (2) MODIFICATION AUTHORITY.—The Bureau  
22           of Justice Assistance may grant a modification to  
23           the incarceration rate reduction requirement under  
24           subsection (a)(3) if the Bureau determines after an  
25           audit that the failure to meet the incarceration rate

1 reduction requirement was caused by an increase in  
 2 population in the covered jurisdiction. If a grantee  
 3 fails to meet the modified reduction requirements in  
 4 any two subsequent years of the award, the Attorney  
 5 General shall terminate the award.

6 **SEC. 4. GRANT AMOUNTS.**

7 (a) PLANNING GRANTS.—A grant under section  
 8 2(a)(1) may be for not more than \$100,000 for a single  
 9 grantee, and shall be for a term of 1 year.

10 (b) IMPLEMENTATION GRANTS.—A grant under sec-  
 11 tion 2(a)(2) shall be for a term of 6 years, and shall be  
 12 structured as follows:

13 (1) For the first year of the grant term, an  
 14 amount shall be disbursed that is to be not less than  
 15 \$500,000 and not more than \$3,000,000, contingent  
 16 upon acceptance of a grantee's proposed budget for  
 17 activities under the grant, which may be subject to  
 18 revision during the award process.

19 (2) Award amounts shall decrease annually  
 20 by—

- 21 (A) 10 percent in the second year;
- 22 (B) 15 percent in the third year;
- 23 (C) 20 percent in the fourth year; and
- 24 (D) 25 percent in the fifth year.



1           (3) Award amounts during the sixth year of the  
2           award may not be used for programmatic activities  
3           and shall support only program evaluation and the  
4           drafting of a final report, and such funds shall be  
5           available to the grantees until expended.

6 **SEC. 5. SELECTION PRIORITY.**

7           In selecting grantees, the Attorney General shall—

8           (1) give priority to applicants from jurisdictions  
9           with the highest incarceration rates that are not al-  
10          ready in decline and whose applications contain the  
11          most ambitious and attainable plans for reducing  
12          that rate;

13          (2) give additional priority to applicants from  
14          jurisdictions seeking to use funds under this Act to  
15          prevent the local government from expanding the  
16          number of beds in local correctional facilities;

17          (3) for any year in which there will only be one  
18          new or ongoing award, ensure that a small metro-  
19          politan, micropolitan, or noncore area is the recipi-  
20          ent of the award;

21          (4) for any year in which there will be more  
22          than one new or ongoing award, ensure that small  
23          metropolitan, micropolitan, or noncore areas are the  
24          recipients of at least two awards; and

1           (5) for any year in which there will be three or  
2           more new or ongoing awards, ensure that no more  
3           than one large central metropolitan area is a recipi-  
4           ent of an award.

5 **SEC. 6. DEFINITIONS.**

6           In this Act:

7           (1) The term “conditional release” means pro-  
8           bation, parole, supervised release, home confinement,  
9           community supervision, and other practices under  
10          which an individual is supervised in the community  
11          by the criminal justice system and may be incarcer-  
12          ated if found in violation of the conditions of their  
13          release.

14          (2) The term “diversion” means a program or  
15          practice that—

16                  (A) places individuals who come into con-  
17                  tact with the criminal justice system into alter-  
18                  native processes outside the standard scope of  
19                  criminal justice processing; and

20                  (B) reduces an individual’s involvement in  
21                  the criminal justice system in both the short  
22                  and long term.

23          (3) The term “emerging practice” means a pro-  
24          gram or practice—

1 (A) with initial implementation resulting in  
2 decreased local jail incarceration in one or more  
3 communities; and

4 (B) that will be evaluated through a well-  
5 designed and rigorous study.

6 (4) The term “evidence-based practice” means  
7 a program or practice that—

8 (A) is demonstrated to be effective when  
9 implemented with fidelity;

10 (B) is based on a clearly articulated and  
11 empirically supported theory;

12 (C) has measurable outcomes relevant to  
13 reducing jail incarceration, including a detailed  
14 description of the outcomes produced in a par-  
15 ticular population, whether urban or rural; and

16 (D) has been scientifically tested and prov-  
17 en effective through randomized control studies  
18 or comparison group studies and with the abil-  
19 ity to replicate and scale.

20 (5) The term “micropolitan area” has the  
21 meaning established under the Centers for Disease  
22 Control and Prevention’s (hereinafter in this Act re-  
23 ferred to as the “CDC”) National Center for Health  
24 Statistics Urban-Rural Classification Scheme for  
25 Counties.

1           (6) The term “small metropolitan area” has the  
2           meaning established under the CDC’s National Cen-  
3           ter for Health Statistics Urban-Rural Classification  
4           Scheme for Counties.

5           (7) The term “noncore areas” has the meaning  
6           established under the CDC’s National Center for  
7           Health Statistics Urban-Rural Classification Scheme  
8           for Counties.

9           (8) The term “post-booking diversion” means a  
10          program or practice that diverts individuals from  
11          formal criminal justice system processing after for-  
12          mal intake processing into jail.

13          (9) The term “pre-booking diversion” means a  
14          program or practice that diverts individuals from  
15          formal criminal justice system processing prior to  
16          arrest or prior to formal intake processing into jail.

17          (10) The term “promising practice” means a  
18          program or practice that—

19                (A) is demonstrated to be effective based  
20                on positive outcomes relevant to reducing jail  
21                incarceration from one or more objective, inde-  
22                pendent, and scientifically valid evaluations, as  
23                documented in writing to the Attorney General;  
24                and

1 (B) will be evaluated through a well-de-  
2 signed and rigorous study.

3 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated—

5 (1) \$20,000,000 for each of fiscal years 2022  
6 through 2026 for planning grants; and

7 (2) \$100,000,000 for each of fiscal years 2022  
8 through 2026 for implementation grants, of which  
9 10 percent of any appropriated amount is reserved  
10 specifically for evaluation activities.

○