

MENTALLY ILL OFFENDER TREATMENT AND CRIME  
REDUCTION ACT OF 2004

---

OCTOBER 5, 2004.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

---

Mr. SENSENBRENNER, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany S. 1194]

[Including Committee Cost Estimate]

The Committee on the Judiciary, to whom was referred the bill (S. 1194) to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
The Amendment .....	2
Purpose and Summary .....	8
Background and Need for the Legislation .....	8
Hearings .....	8
Committee Consideration .....	9
Vote of the Committee .....	9
Committee Oversight Findings .....	9
New Budget Authority and Tax Expenditures .....	9
Committee Cost Estimate .....	9
Performance Goals and Objectives .....	9
Constitutional Authority Statement .....	9
Section-by-Section Analysis and Discussion .....	10
Changes in Existing Law Made by the Bill, as Reported .....	10
Committee Jurisdiction Letters .....	19
Markup Transcript .....	22

## THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Mentally Ill Offender Treatment and Crime Reduction Act of 2004”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness, and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

**SEC. 3. PURPOSE.**

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) protect public safety by intervening with adult and juvenile offenders with mental illness or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through graduated sanctions in appropriate cases involving nonviolent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health and substance abuse treatment personnel about criminal offenders with mental illness or co-occurring substance abuse disorders and the appropriate response to such offenders in the criminal justice system;

(6) promote communication among adult or juvenile justice personnel, mental health and co-occurring mental illness and substance abuse disorders treatment personnel, nonviolent offenders with mental illness or co-occurring mental illness and substance abuse disorders, and support services such as housing, job placement, community, faith-based, and crime victims organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.

**SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

**“PART HH—ADULT AND JUVENILE COLLABORATION  
PROGRAM GRANTS**

**“SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.**

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

“(2) COLLABORATION PROGRAM.—The term ‘collaboration program’ means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

“(A) a criminal or juvenile justice agency or a mental health court; and

“(B) a mental health agency.

“(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term ‘criminal or juvenile justice agency’ means an agency of a State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

“(4) DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.—

“(A) IN GENERAL.—The terms ‘diversion’ and ‘alternative prosecution and sentencing’ mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

“(B) APPROPRIATE USE.—In this paragraph, the term ‘appropriate use’ includes the discretion of the judge or supervising authority, the leveraging of graduated sanctions to encourage compliance with treatment, and law enforcement diversion, including crisis intervention teams.

“(C) GRADUATED SANCTIONS.—In this paragraph, the term ‘graduated sanctions’ means an accountability-based graduated series of sanctions (including incentives, treatments, and services) applicable to mentally ill offenders within both the juvenile and adult justice system to hold individuals accountable for their actions and to protect communities by providing appropriate sanctions for inducing law-abiding behavior and preventing subsequent involvement in the criminal justice system.

“(5) MENTAL HEALTH AGENCY.—The term ‘mental health agency’ means an agency of a State or local government or its contracted agency that is responsible for mental health services or co-occurring mental health and substance abuse services.

“(6) MENTAL HEALTH COURT.—The term ‘mental health court’ means a judicial program that meets the requirements of part V of this title.

“(7) MENTAL ILLNESS.—The term ‘mental illness’ means a diagnosable mental, behavioral, or emotional disorder—

“(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

“(B)(i) that, in the case of an adult, has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities; or

“(ii) that, in the case of a juvenile, has resulted in functional impairment that substantially interferes with or limits the juvenile’s role or functioning in family, school, or community activities.

“(8) NONVIOLENT OFFENSE.—The term ‘nonviolent offense’ means an offense that does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another or is not a felony that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

“(9) PRELIMINARILY QUALIFIED OFFENDER.—The term ‘preliminarily qualified offender’ means an adult or juvenile accused of a nonviolent offense who—

“(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

“(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

“(B) has faced, is facing, or could face criminal charges for a misdemeanor or nonviolent offense and is deemed eligible by a diversion process, designated pretrial screening process, or by a magistrate or judge, on

the ground that the commission of the offense is the product of the person's mental illness.

"(10) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(11) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

"(b) PLANNING AND IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets preliminarily qualified offenders in order to promote public safety and public health.

"(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

"(A) mental health courts or other court-based programs for preliminarily qualified offenders;

"(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel serving those with co-occurring mental illness and substance abuse problems in procedures for identifying the symptoms of preliminarily qualified offenders in order to respond appropriately to individuals with such illnesses;

"(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

"(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

"(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

"(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

"(3) APPLICATIONS.—

"(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

"(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"(4) PLANNING GRANTS.—

"(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

"(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

"(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

"(D) AMOUNT.—The amount of a planning grant may not exceed \$75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

“(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

“(5) IMPLEMENTATION GRANTS.—

“(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a non-renewable implementation grant to develop a collaboration program.

“(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

“(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

“(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to provide supervision of offenders and jointly ensure that the provision of mental health treatment services and substance abuse services for individuals with co-occurring mental health and substance abuse disorders are coordinated, which may range from consultation or collaboration to integration in a single setting or treatment model;

“(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

“(iv) involve, to the extent practicable, in developing the grant application—

“(I) preliminarily qualified offenders;

“(II) the families and advocates of such individuals under sub-clause (I); and

“(III) advocates for victims of crime.

“(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:

“(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—

“(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

“(II) develop guidelines that can be used by personnel of an adult or juvenile justice agency to identify preliminarily qualified offenders.

“(ii) SERVICES.—Applicants for an implementation grant shall—

“(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, validated, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

“(II) specify plans for making mental health, or mental health and substance abuse, treatment services available and accessible to preliminarily qualified offenders at the time of their release from the criminal justice system, including outside of normal business hours;

“(III) ensure that there are substance abuse personnel available to respond appropriately to the treatment needs of preliminarily qualified offenders;

“(IV) determine eligibility for Federal benefits;

“(V) ensure that preliminarily qualified offenders served by the collaboration program will have adequate supervision and access to effective and appropriate community-based mental health services, including, in the case of individuals with co-occurring mental health and substance abuse disorders, coordinated services, which may range from consultation or collaboration to integration in a single setting treatment model;

“(VI) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

“(VII) include strategies, to the extent practicable, to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

“(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

“(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

“(F) FINANCIAL.—Applicants for an implementation grant shall—

“(i) explain the applicant’s inability to fund the collaboration program adequately without Federal assistance;

“(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as Medicaid, Medicare, and the State Children’s Insurance Program); and

“(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

“(G) OUTCOMES.—Applicants for an implementation grant shall—

“(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

“(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

“(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

“(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

“(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

“(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title, other court-based programs, or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

“(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

“(I) criminal justice system personnel to identify and respond appropriately to the unique needs of preliminarily qualified offenders; or

“(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

“(iii) SERVICE DELIVERY.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

“(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment and transitional services for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.

“(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

“(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

“(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

“(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

“(3) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and re-entry services for such individuals; and

“(4) have the support of both the Attorney General and the Secretary.

“(d) MATCHING REQUIREMENTS.—

“(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

“(A) 80 percent of the total cost of the program during the first 2 years of the grant;

“(B) 60 percent of the total cost of the program in year 3; and

“(C) 25 percent of the total cost of the program in years 4 and 5.

“(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

“(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

“(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

“(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

“(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

“(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

“(5) develop a uniform program evaluation process; and

“(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

“(f) INTERAGENCY TASK FORCE.—

“(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

“(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

“(A) identify policies within their departments that hinder or facilitate local collaborative initiatives for preliminarily qualified offenders; and

“(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to preliminarily qualified offenders.

“(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

“(1) \$50,000,000 for fiscal year 2005; and

“(2) such sums as may be necessary for fiscal years 2006 through 2009.”.

(b) LIST OF “BEST PRACTICES”.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of “best practices” for appropriate diversion from incarceration of adult and juvenile offenders.

#### PURPOSE AND SUMMARY

S. 1194, the “Mentally Ill Offender Treatment and Crime Reduction Act of 2004,” creates a grant program to encourage state and local governments to improve their treatment of mentally ill offenders. The grants can be used: to fund mental health courts or diversion programs; to promote cooperation between the criminal justice and mental health personnel; or to train criminal justice and mental health personnel on issues relating to mentally ill offenders.

On June 22, 2004, the Subcommittee on Crime, Terrorism, and Homeland Security held a hearing to examine the prevalence of mental illness in the criminal justice system and to explore ways to improve the situation. The Bureau of Justice Statistics (“BJS”) estimates that as many as 16% of inmates in the nation’s prisons and jails suffer from mental illness. Mentally ill inmates are more expensive to house, and they are generally confined for longer periods than other inmates because their illness complicates their release.

The Committee adopted an amendment in the nature of a substitute that ensures an appropriate role for victims and law enforcement personnel in dealing with mentally ill offenders, encourages graduated sanctions, limits the amount of authorizations, and encourages continued monitoring of mentally ill offenders after release.

#### BACKGROUND AND NEED FOR THE LEGISLATION

BJS estimated in 1999 that 16% of State prison inmates, 7% of Federal inmates, and 16% of inmates in local jails or on probation reported either a mental condition or an overnight stay in a mental hospital. According to BJS, white inmates were more likely than blacks or Hispanics to report a mental illness, and offender mental illness was highest for those between the ages of 45 and 54.

According to this study and others, homelessness and unemployment are more prevalent among the mentally ill. Additional statistics show that six in ten mentally ill State inmates were under the influence of alcohol or drugs at the time of the offense, and one third of all mentally ill offenders were dependent on alcohol. BJS also found that six in ten of the mentally ill received treatment while incarcerated.

These statistics show the importance of mental health treatment as well as additional assistance for mentally ill offenders. They also illustrate the importance of treating substance abuse problems as well as the underlying mental illnesses.

#### HEARINGS

The Committee’s Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on S. 1194 on June 22, 2004. Testimony was received from 4 witnesses, representing various organizations, with additional material submitted for the record by other individuals and organizations.

#### COMMITTEE CONSIDERATION

On September 23, 2004, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered favorably reported the bill S. 1194, with an amendment, by a voice vote, a quorum being present. On September 30, 2004, the Committee met in open session and ordered favorably reported the bill S. 1194, with an amendment, by voice vote, a quorum being present.

## VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee's consideration of S. 1194.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee notes that the bill authorizes \$50 million for the current fiscal year 2005, and such sums as shall be necessary for fiscal years 2006 through 2009. All authorized amounts are subject to appropriations of the authorized amounts, and the costs for this fiscal year and the five following fiscal years will be the amounts that Congress appropriates pursuant to these authorizations. The Committee did not receive any estimates of the costs of this legislation from any other government agency as outlined in clause 3(d)(2)(B) of rule XIII. The bill authorizes new programs so the Committee cannot provide a comparison with relevant programs under current law as outlined in clause 3(d)(2)(C) of rule XIII.

## PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, S. 1194 will help to reduce recidivism among mentally ill offenders in the criminal justice system.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, § 8 of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following discussion describes the bill as reported by the Committee.

*Section 1. Short title.*

This section establishes the short title of the bill as the "Mentally Ill Offender Treatment and Crime Reduction Act of 2004."

*Section 2. Findings*

This section makes findings regarding the prevalence of mentally ill offenders in correctional institutions in America.

*Section 3. Purpose*

This section provides that the purpose of this bill is to reduce recidivism among mentally ill offenders; to establish mental health treatment options for courts; to maximize the use of alternatives to prosecution for the mentally ill in appropriate cases; to promote training for criminal justice system personnel; and to promote communication and collaboration between criminal justice system personnel and mental health treatment providers.

*Section 4. Department of Justice Mental Health and Criminal Justice Collaboration Program*

This section authorizes the Department of Justice to make planning and implementation grants to state and local governments to create or expand mental health courts or diversion programs; to train criminal justice personnel and mental health personnel; to support cooperation between criminal and juvenile justice agencies and the mental health community; to assist mentally ill offenders in seeking employment or housing; and to provide mental health services both during incarceration and during the transition back to society. The Committee notes that mental conditions resulting from neurological injury or disease qualify in the definition of mental illness and, for purposes of this Act, those who have mental conditions with a discernible neurological cause should be considered eligible to meet the criteria for having a mental illness.

Each state shall receive a minimum allocation of not less than .75 percent of the amount allocated under this bill. Participants in the collaboration programs must match a percentage of the Federal funds allocated.

The Attorney General and the Secretary of Health and Human Services are required to establish an interagency task force to address barriers to collaboration on issues relating to mentally ill offenders. Additionally, the Attorney General and the Secretary shall develop a list of best practices for addressing these offenders. Finally, this section authorizes \$50 million for FY2005 and such sums as may be necessary for FY2006 through FY2009.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

**OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF  
1968**

\* \* \* \* \*

**TITLE I—JUSTICE SYSTEM IMPROVEMENT**

\* \* \* \* \*

**PART HH—ADULT AND JUVENILE  
COLLABORATION PROGRAM GRANTS**

**SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.**

(a) *DEFINITIONS.*—In this section, the following definitions shall apply:

(1) *APPLICANT.*—The term “applicant” means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

(2) *COLLABORATION PROGRAM.*—The term “collaboration program” means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

(A) a criminal or juvenile justice agency or a mental health court; and

(B) a mental health agency.

(3) *CRIMINAL OR JUVENILE JUSTICE AGENCY.*—The term “criminal or juvenile justice agency” means an agency of a State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

(4) *DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.*—

(A) *IN GENERAL.*—The terms “diversion” and “alternative prosecution and sentencing” mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

(B) *APPROPRIATE USE.*—In this paragraph, the term “appropriate use” includes the discretion of the judge or supervising authority, the leveraging of graduated sanctions to encourage compliance with treatment, and law enforcement diversion, including crisis intervention teams.

(C) *GRADUATED SANCTIONS.*—In this paragraph, the term “graduated sanctions” means an accountability-based graduated series of sanctions (including incentives, treatments, and services) applicable to mentally ill offenders within both the juvenile and adult justice system to hold individuals accountable for their actions and to protect communities by providing appropriate sanctions for inducing law-abiding behavior and preventing subsequent involvement in the criminal justice system.

(5) *MENTAL HEALTH AGENCY.*—The term “mental health agency” means an agency of a State or local government or its contracted agency that is responsible for mental health services or co-occurring mental health and substance abuse services.

(6) *MENTAL HEALTH COURT.*—The term “mental health court” means a judicial program that meets the requirements of part V of this title.

(7) *MENTAL ILLNESS.*—The term “mental illness” means a diagnosable mental, behavioral, or emotional disorder—

(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the *Diagnostic and Statis-*

*tical Manual of Mental Disorders published by the American Psychiatric Association; and*

*(B)(i) that, in the case of an adult, has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities; or*

*(ii) that, in the case of a juvenile, has resulted in functional impairment that substantially interferes with or limits the juvenile's role or functioning in family, school, or community activities.*

*(8) NONVIOLENT OFFENSE.—The term “nonviolent offense” means an offense that does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another or is not a felony that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.*

*(9) PRELIMINARILY QUALIFIED OFFENDER.—The term “preliminarily qualified offender” means an adult or juvenile accused of a nonviolent offense who—*

*(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or*

*(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and*

*(B) has faced, is facing, or could face criminal charges for a misdemeanor or nonviolent offense and is deemed eligible by a diversion process, designated pretrial screening process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.*

*(10) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.*

*(11) UNIT OF LOCAL GOVERNMENT.—The term “unit of local government” means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.*

*(b) PLANNING AND IMPLEMENTATION GRANTS.—*

*(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets preliminarily qualified offenders in order to promote public safety and public health.*

*(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—*

*(A) mental health courts or other court-based programs for preliminarily qualified offenders;*

*(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel serving those with co-occurring mental illness and substance abuse problems in proce-*

dures for identifying the symptoms of preliminarily qualified offenders in order to respond appropriately to individuals with such illnesses;

(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

(3) APPLICATIONS.—

(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

(4) PLANNING GRANTS.—

(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

(D) AMOUNT.—The amount of a planning grant may not exceed \$75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

(E) *COLLABORATION SET ASIDE.*—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the *Mentally Ill Offender Treatment and Crime Reduction Act of 2004*.

(5) *IMPLEMENTATION GRANTS.*—

(A) *APPLICATION.*—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

(B) *COLLABORATION.*—To receive an implementation grant, the joint applicants shall—

(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to provide supervision of offenders and jointly ensure that the provision of mental health treatment services and substance abuse services for individuals with co-occurring mental health and substance abuse disorders are coordinated, which may range from consultation or collaboration to integration in a single setting or treatment model;

(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

(iv) involve, to the extent practicable, in developing the grant application—

(I) preliminarily qualified offenders;

(II) the families and advocates of such individuals under subclause (I); and

(III) advocates for victims of crime.

(C) *CONTENT.*—To be eligible for an implementation grant, joint applicants shall comply with the following:

(i) *DEFINITION OF TARGET POPULATION.*—Applicants for an implementation grant shall—

(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

(II) develop guidelines that can be used by personnel of an adult or juvenile justice agency to identify preliminarily qualified offenders.

(ii) *SERVICES.*—Applicants for an implementation grant shall—

(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, validated, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

(II) specify plans for making mental health, or mental health and substance abuse, treatment

*services available and accessible to preliminarily qualified offenders at the time of their release from the criminal justice system, including outside of normal business hours;*

*(III) ensure that there are substance abuse personnel available to respond appropriately to the treatment needs of preliminarily qualified offenders;*

*(IV) determine eligibility for Federal benefits;*

*(V) ensure that preliminarily qualified offenders served by the collaboration program will have adequate supervision and access to effective and appropriate community-based mental health services, including, in the case of individuals with co-occurring mental health and substance abuse disorders, coordinated services, which may range from consultation or collaboration to integration in a single setting treatment model;*

*(VI) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and*

*(VII) include strategies, to the extent practicable, to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.*

*(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.*

*(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.*

*(F) FINANCIAL.—Applicants for an implementation grant shall—*

*(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;*

*(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as Medicaid, Medicare, and the State Children's Insurance Program); and*

*(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.*

(G) *OUTCOMES.*—Applicants for an implementation grant shall—

(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

(H) *STATE PLANS.*—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

(I) *USE OF FUNDS.*—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

(i) *MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.*—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title, other court-based programs, or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

(ii) *TRAINING.*—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

(I) criminal justice system personnel to identify and respond appropriately to the unique needs of preliminarily qualified offenders; or

(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

(iii) *SERVICE DELIVERY.*—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

(iv) *IN-JAIL AND TRANSITIONAL SERVICES.*—Funds may be used to promote and provide mental health treatment and transitional services for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.

(J) *GEOGRAPHIC DISTRIBUTION OF GRANTS.*—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

(c) *PRIORITY.*—*The Attorney General, in awarding funds under this section, shall give priority to applications that—*

(1) *demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;*

(2) *demonstrate the active participation of each co-applicant in the administration of the collaboration program;*

(3) *document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and re-entry services for such individuals; and*

(4) *have the support of both the Attorney General and the Secretary.*

(d) *MATCHING REQUIREMENTS.*—

(1) *FEDERAL SHARE.*—*The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—*

(A) *80 percent of the total cost of the program during the first 2 years of the grant;*

(B) *60 percent of the total cost of the program in year 3; and*

(C) *25 percent of the total cost of the program in years 4 and 5.*

(2) *NON-FEDERAL SHARE.*—*The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.*

(e) *FEDERAL USE OF FUNDS.*—*The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—*

(1) *research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;*

(2) *offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;*

(3) *provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;*

(4) *help localities build public understanding and support for community reintegration of individuals with mental illness;*

(5) *develop a uniform program evaluation process; and*

(6) *conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.*

(f) *INTERAGENCY TASK FORCE.*—

(1) *IN GENERAL.*—*The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.*

(2) *RESPONSIBILITIES.*—*The task force established under paragraph (1) shall—*

(A) *identify policies within their departments that hinder or facilitate local collaborative initiatives for preliminarily qualified offenders; and*

(B) *submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to preliminarily qualified offenders.*

(g) *MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.*

(h) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—*

- (1) \$50,000,000 for fiscal year 2005; and*
- (2) such sums as may be necessary for fiscal years 2006 through 2009.*

## COMMITTEE JURISDICTION LETTERS

W.J. "BILLY" TAVEL, LOUISIANA  
 PAUL M. HALL, TEXAS  
 MICHAEL BILIRAKIS, FLORIDA  
 FRED LUTTEN, WISCONSIN  
 CLIFF STEARNS, FLORIDA  
 PAUL E. SULLIVAN, OHIO  
 JAMES C. GREENWOOD, PENNSYLVANIA  
 CHRISTOPHER COX, CALIFORNIA  
 NATHAN DEAL, GEORGIA  
 RICHARD BURR, NORTH CAROLINA  
 ED WHITFIELD, KENTUCKY  
 CHARLIE WERWIG, GEORGIA  
 BARBARA CUBIN, WYOMING  
 JOHN SHIMMUS, ILLINOIS  
 HEATHER WALSON, NEW MEXICO  
 JOHN S. SHANLEY, ARIZONA  
 CHARLES W. "CHIP" PICKERING, MISSISSIPPI  
 VITO MARSELLA, NEW YORK  
 STEVE RYAN, INDIANA  
 GEORGE RADANOVICH, CALIFORNIA  
 CHARLES F. BASS, NEW HAMPSHIRE  
 JOSEPH R. PITTS, PENNSYLVANIA  
 MARY BONO, CALIFORNIA  
 GREG WALDEN, OREGON  
 LES TERRY, NEBRASKA  
 MIKE PERDUE, NEW JERSEY  
 MIKE ROGERS, MICHIGAN  
 DANIELLE ISSA, CALIFORNIA  
 C.L. "BUCKEY" OTTER, IDAHO  
 JOHN SULLIVAN, OKLAHOMA

ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives  
 Committee on Energy and Commerce  
 Washington, DC 20515-6115

JOE BARTON, TEXAS  
 CHAIRMAN

October 5, 2004

JOHN D. DINGELL, MICHIGAN  
 HENRY A. WAXMAN, CALIFORNIA  
 EDWARD J. MARKEY, MASSACHUSETTS  
 RICK SCHUCKER, VIRGINIA  
 EDOLPHUS TOWNES, NEW YORK  
 FRANK PALLONE, JR., NEW JERSEY  
 SHERRICO BROWN, OHIO  
 BART GIBBRON, TENNESSEE  
 PETER DEUTSCH, FLORIDA  
 SCOTT L. RUSH, ILLINOIS  
 ANNA G. ESCHOLZ, CALIFORNIA  
 BART STUPAC, MICHIGAN  
 FLOTT C. ENGEL, NEW YORK  
 ALBERT R. WYVA, MARYLAND  
 GENE GRETA, TEXAS  
 KAREN NICOLSON, MISSOURI  
 TED STRICKLAND, OHIO  
 DANNA SWICETTE, COLORADO  
 LOS CAPIES, CALIFORNIA  
 MICHAEL J. DOTY, PENNSYLVANIA  
 CHRISTOPHER JOHN, LOUISIANA  
 TOM ALLEN, MAINE  
 JIM DAVIS, FLORIDA  
 JAY SCHAKOWSKY, ILLINOIS  
 NEAL L. SOBEL, CALIFORNIA  
 CHARLES A. GONZALEZ, TEXAS

BUD ALBRECHT, STAFF DIRECTOR

The Honorable F. James Sensenbrenner, Jr.  
 Chairman  
 Committee on the Judiciary  
 U.S. House of Representatives  
 2138 Rayburn House Office Building  
 Washington, D.C. 20515

Dear Chairman Sensenbrenner:

Last week the Committee on the Judiciary ordered reported S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. As ordered reported by your Committee, this legislation contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce.

Section 4 of the bill requires the consultation of the Secretary of Health and Human Services in awarding non-renewable grants to an adult or juvenile collaboration program. One of the purposes of these is to promote public health. As you know, Rule X of the Rules of the House of Representatives gives the Committee on Energy and Commerce jurisdiction over public health.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over S. 1194. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on S. 1194 or similar legislation.

RECEIVED

OCT 05 2004

Committee on the Judiciary

October 5, 2004  
Page 2

I request that you include this letter as part of the Committee's Report on S. 1194. Thank you for your attention to these matters.

Sincerely,

  
Joe Barton  
Chairman

JB/jdb

cc: The Honorable John D. Dingell  
The Honorable John Conyers  
Mr. John Sullivan

\* JAMES SENSENBRENNER, JR., Wisconsin  
 CHAIRMAN  
 HENRY J. HYDE, Illinois  
 HOWARD COBLE, North Carolina  
 LAMAR S. SMITH, Texas  
 ELTON GALLEGLY, California  
 BOB DOUGLASS, Virginia  
 STEVE CHABOT, Ohio  
 WILLIAM J. JENKINS, Tennessee  
 CHRIS CANNON, Utah  
 SPENCER BACHUS, Alabama  
 JOHN H. BOETTCHER, Indiana  
 MARK GREEN, Wisconsin  
 RIC KELLER, Florida  
 MELISSA A. HART, Pennsylvania  
 JEFF FLAKE, Arizona  
 MIKE PENCE, Indiana  
 J. RANDY FORBES, Virginia  
 STEVE KING, Iowa  
 JOHN R. CARTER, Texas  
 TOM TRENTEY, Florida  
 MARSHA BLACKBURN, Tennessee

JOHN CUNYERS, JR., Michigan  
 RANKING MEMBER  
 HOWARD L. BERMAN, California  
 RICK ROUSSEY, Virginia  
 JERROLD NADLER, New York  
 ROBERT C. "BOBBY" SCOTT, Virginia  
 MELVIN L. WALT, North Carolina  
 ZOE LUFKIN, California  
 SHEILA JACKSON LEE, Texas  
 MELNIE WATSON, California  
 MARTIN T. MALFMAN, Massachusetts  
 WILLIAM DELANEY, Massachusetts  
 ROBERT WALKER, Florida  
 TARRANT DOWNEY, Wisconsin  
 ANTHONY D. WEINER, New York  
 ANITA H. SCHIFF, California  
 LINDA L. SANCHEZ, California

ONE HUNDRED EIGHTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
 COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515-6216  
 (202) 225-3951  
<http://www.house.gov/judiciary>

October 5, 2004

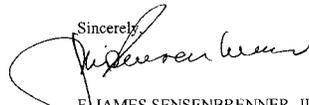
The Honorable Joe Barton  
 Chairman  
 Committee on Energy and Commerce  
 United States House of Representatives  
 Washington, D.C. 20515

Dear Chairman Barton:

Thank you for your letter regarding S. 1194, the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." As you noted, some of the provisions of the bill relating to the participation of the Secretary of Health and Human Services in the bill's grant programs fall within the Rule X jurisdiction of the Committee on Energy and Commerce. I appreciate your willingness to forgo consideration of the bill, and I acknowledge that by agreeing to waive its consideration of the bill, the Committee on Energy and Commerce does not waive its jurisdiction over these provisions.

I will include a copy of your letter and this response in the Judiciary Committee's report on S. 1194 and in the *Congressional Record* during consideration of S. 1194 on the House floor.

Thank you for your assistance in this matter.

Sincerely,  
  
 F. JAMES SENSENBRENNER, JR.  
 Chairman

cc: The Honorable J. Dennis Hastert  
 The Honorable John Conyers, Jr.  
 The Honorable John Dingell  
 The Honorable John Sullivan, Parliamentarian

MARKUP TRANSCRIPT

**BUSINESS MEETING**

**THURSDAY, SEPTEMBER 30, 2004**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:05 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda is Senate 1194, the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." The Chair recognizes the gentleman from North Carolina, Mr. Coble, the Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security for a motion.

Mr. COBLE. Mr. Chairman, the Subcommittee on Crime, Terrorism, and Homeland Security reports favorably the bill S. 1194, with a single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point. And the Subcommittee amendment in the nature of a substitute, which the Members have before them, will be considered as read, considered as the original text for purposes of amendment, and open for amendment at any point.

[The amendment in the nature of a substitute follows:]

**SUBCOMMITTEE AMENDMENT IN THE NATURE OF  
A SUBSTITUTE TO S. 1194  
(AS ORDERED REPORTED BY THE SUBCOMMITTEE  
ON CRIME, TERRORISM, AND HOMELAND SE-  
CURITY ON SEPTEMBER 23, 2004)**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Mentally Ill Offender  
3 Treatment and Crime Reduction Act of 2004".

**4 SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) According to the Bureau of Justice Statis-  
7 tics, over 16 percent of adults incarcerated in United  
8 States jails and prisons have a mental illness.

9 (2) According to the Office of Juvenile Justice  
10 and Delinquency Prevention, approximately 20 per-  
11 cent of youth in the juvenile justice system have se-  
12 rious mental health problems, and a significant  
13 number have co-occurring mental health and sub-  
14 stance abuse disorders.

15 (3) According to the National Alliance for the  
16 Mentally Ill, up to 40 percent of adults who suffer



1 from a serious mental illness will come into contact  
2 with the American criminal justice system at some  
3 point in their lives.

4 (4) According to the Office of Juvenile Justice  
5 and Delinquency Prevention, over 150,000 juveniles  
6 who come into contact with the juvenile justice sys-  
7 tem each year meet the diagnostic criteria for at  
8 least 1 mental or emotional disorder.

9 (5) A significant proportion of adults with a se-  
10 rious mental illness who are involved with the crimi-  
11 nal justice system are homeless or at imminent risk  
12 of homelessness, and many of these individuals are  
13 arrested and jailed for minor, nonviolent offenses.

14 (6) The majority of individuals with a mental  
15 illness or emotional disorder who are involved in the  
16 criminal or juvenile justice systems are responsive to  
17 medical and psychological interventions that inte-  
18 grate treatment, rehabilitation, and support services.

19 (7) Collaborative programs between mental  
20 health, substance abuse, and criminal or juvenile  
21 justice systems that ensure the provision of services  
22 for those with mental illness or co-occurring mental  
23 illness and substance abuse disorders can reduce the  
24 number of such individuals in adult and juvenile cor-



1 rections facilities, while providing improved public  
2 safety.

3 **SEC. 3. PURPOSE.**

4 The purpose of this Act is to increase public safety  
5 by facilitating collaboration among the criminal justice, ju-  
6 venile justice, mental health treatment, and substance  
7 abuse systems. Such collaboration is needed to—

8 (1) protect public safety by intervening with  
9 adult and juvenile offenders with mental illness or  
10 co-occurring mental illness and substance abuse dis-  
11 orders;

12 (2) provide courts, including existing and new  
13 mental health courts, with appropriate mental health  
14 and substance abuse treatment options;

15 (3) maximize the use of alternatives to prosecu-  
16 tion through graduated sanctions in appropriate  
17 cases involving nonviolent offenders with mental ill-  
18 ness;

19 (4) promote adequate training for criminal jus-  
20 tice system personnel about mental illness and sub-  
21 stance abuse disorders and the appropriate re-  
22 sponses to people with such illnesses;

23 (5) promote adequate training for mental health  
24 and substance abuse treatment personnel about  
25 criminal offenders with mental illness or co-occur-



1 ring substance abuse disorders and the appropriate  
2 response to such offenders in the criminal justice  
3 system;

4 (6) promote communication among adult or ju-  
5 venile justice personnel, mental health and co-occur-  
6 ring mental illness and substance abuse disorders  
7 treatment personnel, nonviolent offenders with men-  
8 tal illness or co-occurring mental illness and sub-  
9 stance abuse disorders, and support services such as  
10 housing, job placement, community, faith-based, and  
11 crime victims organizations; and

12 (7) promote communication, collaboration, and  
13 intergovernmental partnerships among municipal,  
14 county, and State elected officials with respect to  
15 mentally ill offenders.

16 **SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND**  
17 **CRIMINAL JUSTICE COLLABORATION PRO-**  
18 **GRAM.**

19 (a) IN GENERAL.—Title I of the Omnibus Crime  
20 Control and Safe Streets Act of 1968 (42 U.S.C. 3711  
21 et seq.) is amended by adding at the end the following:



1           **“PART HH—ADULT AND JUVENILE**  
 2           **COLLABORATION PROGRAM GRANTS**

3   **“SEC. 2991. ADULT AND JUVENILE COLLABORATION PRO-**  
 4           **GRAMS.**

5           “(a) **DEFINITIONS.**—In this section, the following  
 6 definitions shall apply:

7           “(1) **APPLICANT.**—The term ‘applicant’ means  
 8 States, units of local government, Indian tribes, and  
 9 tribal organizations that apply for a grant under this  
 10 section.

11           “(2) **COLLABORATION PROGRAM.**—The term  
 12 ‘collaboration program’ means a program to promote  
 13 public safety by ensuring access to adequate mental  
 14 health and other treatment services for mentally ill  
 15 adults or juveniles that is overseen cooperatively  
 16 by—

17           “(A) a criminal or juvenile justice agency  
 18 or a mental health court; and

19           “(B) a mental health agency.

20           “(3) **CRIMINAL OR JUVENILE JUSTICE AGEN-**  
 21 **CY.**—The term ‘criminal or juvenile justice agency’  
 22 means an agency of a State or local government or  
 23 its contracted agency that is responsible for detec-  
 24 tion, arrest, enforcement, prosecution, defense, adju-  
 25 dication, incarceration, probation, or parole relating



1 to the violation of the criminal laws of that State or  
2 local government.

3 “(4) DIVERSION AND ALTERNATIVE PROSECU-  
4 TION AND SENTENCING.—

5 “(A) IN GENERAL.—The terms ‘diversion’  
6 and ‘alternative prosecution and sentencing’  
7 mean the appropriate use of effective mental  
8 health treatment alternatives to juvenile justice  
9 or criminal justice system institutional place-  
10 ments for preliminarily qualified offenders.

11 “(B) APPROPRIATE USE.—In this para-  
12 graph, the term ‘appropriate use’ includes the  
13 discretion of the judge or supervising authority,  
14 the leveraging of graduated sanctions to encour-  
15 age compliance with treatment, and law en-  
16 forcement diversion, including crisis interven-  
17 tion teams.

18 “(C) GRADUATED SANCTIONS.—In this  
19 paragraph, the term ‘graduated sanctions’  
20 means an accountability-based graduated series  
21 of sanctions (including incentives, treatments,  
22 and services) applicable to mentally ill offenders  
23 within both the juvenile and adult justice sys-  
24 tem to hold individuals accountable for their ac-  
25 tions and to protect communities by providing



1 appropriate sanctions for inducing law-abiding  
 2 behavior and preventing subsequent involvement  
 3 in the criminal justice system.

4 “(5) MENTAL HEALTH AGENCY.—The term  
 5 ‘mental health agency’ means an agency of a State  
 6 or local government or its contracted agency that is  
 7 responsible for mental health services or co-occur-  
 8 ring mental health and substance abuse services.

9 “(6) MENTAL HEALTH COURT.—The term  
 10 ‘mental health court’ means a judicial program that  
 11 meets the requirements of part V of this title.

12 “(7) MENTAL ILLNESS.—The term ‘mental ill-  
 13 ness’ means a diagnosable mental, behavioral, or  
 14 emotional disorder—

15 “(A) of sufficient duration to meet diag-  
 16 nostic criteria within the most recent edition of  
 17 the Diagnostic and Statistical Manual of Men-  
 18 tal Disorders published by the American Psy-  
 19 chiatric Association; and

20 “(B)(i) that, in the case of an adult, has  
 21 resulted in functional impairment that substan-  
 22 tially interferes with or limits 1 or more major  
 23 life activities; or

24 “(ii) that, in the case of a juvenile, has re-  
 25 sulted in functional impairment that substan-



1 tially interferes with or limits the juvenile's role  
2 or functioning in family, school, or community  
3 activities.

4 “(8) NONVIOLENT OFFENSE.—The term ‘non-  
5 violent offense’ means an offense that does not have  
6 as an element the use, attempted use, or threatened  
7 use of physical force against the person or property  
8 of another or is not a felony that by its nature in-  
9 volves a substantial risk that physical force against  
10 the person or property of another may be used in  
11 the course of committing the offense.

12 “(9) PRELIMINARILY QUALIFIED OFFENDER.—  
13 The term ‘preliminarily qualified offender’ means an  
14 adult or juvenile accused of a nonviolent offense  
15 who—

16 “(A)(i) previously or currently has been di-  
17 agnosed by a qualified mental health profes-  
18 sional as having a mental illness or co-occurring  
19 mental illness and substance abuse disorders; or

20 “(ii) manifests obvious signs of mental ill-  
21 ness or co-occurring mental illness and sub-  
22 stance abuse disorders during arrest or confine-  
23 ment or before any court; and

24 “(B) has faced, is facing, or could face  
25 criminal charges for a misdemeanor or non-



1 violent offense and is deemed eligible by a di-  
2 version process, designated pretrial screening  
3 process, or by a magistrate or judge, on the  
4 ground that the commission of the offense is  
5 the product of the person's mental illness.

6 “(10) SECRETARY.—The term ‘Secretary’  
7 means the Secretary of Health and Human Services.

8 “(11) UNIT OF LOCAL GOVERNMENT.—The  
9 term ‘unit of local government’ means any city,  
10 county, township, town, borough, parish, village, or  
11 other general purpose political subdivision of a  
12 State, including a State court, local court, or a gov-  
13 ernmental agency located within a city, county,  
14 township, town, borough, parish, or village.

15 “(b) PLANNING AND IMPLEMENTATION GRANTS.—

16 “(1) IN GENERAL.—The Attorney General, in  
17 consultation with the Secretary, may award non-  
18 renewable grants to eligible applicants to prepare a  
19 comprehensive plan for and implement an adult or  
20 juvenile collaboration program, which targets pre-  
21 liminarily qualified offenders in order to promote  
22 public safety and public health.

23 “(2) PURPOSES.—Grants awarded under this  
24 section shall be used to create or expand—



1           “(A) mental health courts or other court-  
2           based programs for preliminarily qualified of-  
3           fenders;

4           “(B) programs that offer specialized train-  
5           ing to the officers and employees of a criminal  
6           or juvenile justice agency and mental health  
7           personnel serving those with co-occurring men-  
8           tal illness and substance abuse problems in pro-  
9           cedures for identifying the symptoms of prelimi-  
10          narily qualified offenders in order to respond  
11          appropriately to individuals with such illnesses;

12          “(C) programs that support cooperative ef-  
13          forts by criminal and juvenile justice agencies  
14          and mental health agencies to promote public  
15          safety by offering mental health treatment serv-  
16          ices and, where appropriate, substance abuse  
17          treatment services for—

18                 “(i) preliminarily qualified offenders  
19                 with mental illness or co-occurring mental  
20                 illness and substance abuse disorders; or

21                 “(ii) adult offenders with mental ill-  
22                 ness during periods of incarceration, while  
23                 under the supervision of a criminal justice  
24                 agency, or following release from correc-  
25                 tional facilities; and



1           “(D) programs that support intergovern-  
2           mental cooperation between State and local gov-  
3           ernments with respect to the mentally ill of-  
4           fender.

5           “(3) APPLICATIONS.—

6           “(A) IN GENERAL.—To receive a planning  
7           grant or an implementation grant, the joint ap-  
8           plicants shall prepare and submit a single appli-  
9           cation to the Attorney General at such time, in  
10          such manner, and containing such information  
11          as the Attorney General and the Secretary shall  
12          reasonably require. An application under part V  
13          of this title may be made in conjunction with an  
14          application under this section.

15          “(B) COMBINED PLANNING AND IMPL-  
16          MENTATION GRANT APPLICATION.—The Attor-  
17          ney General and the Secretary shall develop a  
18          procedure under which applicants may apply at  
19          the same time and in a single application for a  
20          planning grant and an implementation grant,  
21          with receipt of the implementation grant condi-  
22          tioned on successful completion of the activities  
23          funded by the planning grant.

24          “(4) PLANNING GRANTS.—



1           “(A) APPLICATION.—The joint applicants  
 2           may apply to the Attorney General for a non-  
 3           renewable planning grant to develop a collabo-  
 4           ration program.

5           “(B) CONTENTS.—The Attorney General  
 6           and the Secretary may not approve a planning  
 7           grant unless the application for the grant in-  
 8           cludes or provides, at a minimum, for a budget  
 9           and a budget justification, a description of the  
 10          outcome measures that will be used to measure  
 11          the effectiveness of the program in promoting  
 12          public safety and public health, the activities  
 13          proposed (including the provision of substance  
 14          abuse treatment services, where appropriate)  
 15          and a schedule for completion of such activities,  
 16          and the personnel necessary to complete such  
 17          activities.

18          “(C) PERIOD OF GRANT.—A planning  
 19          grant shall be effective for a period of 1 year,  
 20          beginning on the first day of the month in  
 21          which the planning grant is made. Applicants  
 22          may not receive more than 1 such planning  
 23          grant.

24          “(D) AMOUNT.—The amount of a plan-  
 25          ning grant may not exceed \$75,000, except that



1 the Attorney General may, for good cause, ap-  
2 prove a grant in a higher amount.

3 “(E) COLLABORATION SET ASIDE.—Up to  
4 5 percent of all planning funds shall be used to  
5 foster collaboration between State and local  
6 governments in furtherance of the purposes set  
7 forth in the Mentally Ill Offender Treatment  
8 and Crime Reduction Act of 2004.

9 “(5) IMPLEMENTATION GRANTS.—

10 “(A) APPLICATION.—Joint applicants that  
11 have prepared a planning grant application may  
12 apply to the Attorney General for approval of a  
13 nonrenewable implementation grant to develop  
14 a collaboration program.

15 “(B) COLLABORATION.—To receive an im-  
16 plementation grant, the joint applicants shall—

17 “(i) document that at least 1 criminal  
18 or juvenile justice agency (which can in-  
19 clude a mental health court) and 1 mental  
20 health agency will participate in the ad-  
21 ministration of the collaboration program;

22 “(ii) describe the responsibilities of  
23 each participating agency, including how  
24 each agency will use grant resources to  
25 jointly ensure that the provision of mental



1 health treatment services and substance  
 2 abuse services for individuals with co-oc-  
 3 ccurring mental health and substance abuse  
 4 disorders are coordinated, which may  
 5 range from cooperation, consultation, col-  
 6 laboration, or supervision, to integration in  
 7 a single setting or treatment model;

8 “(iii) in the case of an application  
 9 from a unit of local government, document  
 10 that a State mental health authority has  
 11 provided comment and review; and

12 “(iv) involve, to the extent practicable,  
 13 in developing the grant application—

14 “(I) preliminarily qualified of-  
 15 fenders;

16 “(II) the families and advocates  
 17 of such individuals under subclause  
 18 (I); and

19 “(III) advocates for victims of  
 20 erime.

21 “(C) CONTEXT.—To be eligible for an im-  
 22 plementation grant, joint applicants shall com-  
 23 ply with the following:



1                   “(i) DEFINITION OF TARGET POPU-  
 2                   LATION.—Applicants for an implementa-  
 3                   tion grant shall—

4                   “ (I) describe the population with  
 5                   mental illness or co-occurring mental  
 6                   illness and substance abuse disorders  
 7                   that is targeted for the collaboration  
 8                   program; and

9                   “ (II) develop guidelines that can  
 10                   be used by personnel of an adult or  
 11                   juvenile justice agency to identify pre-  
 12                   liminarily qualified offenders.

13                   “(ii) SERVICES.—Applicants for an  
 14                   implementation grant shall—

15                   “ (I) ensure that preliminarily  
 16                   qualified offenders who are to receive  
 17                   treatment services under the collabo-  
 18                   ration program will first receive indi-  
 19                   vidualized, validated, needs-based as-  
 20                   sessments to determine, plan, and co-  
 21                   ordinate the most appropriate services  
 22                   for such individuals;

23                   “ (II) specify plans for making  
 24                   mental health, or mental health and  
 25                   substance abuse, treatment services



1 available and accessible to prelimi-  
 2 narily qualified offenders at the time  
 3 of their release from the criminal jus-  
 4 tice system, including outside of nor-  
 5 mal business hours;

6 “(III) ensure that there are sub-  
 7 stance abuse personnel available to re-  
 8 spond appropriately to the treatment  
 9 needs of preliminarily qualified offend-  
 10 ers;

11 “(IV) determine eligibility for  
 12 Federal benefits;

13 “(V) ensure that preliminarily  
 14 qualified offenders served by the col-  
 15 laboration program will have access to  
 16 effective and appropriate community-  
 17 based mental health services, includ-  
 18 ing, in the case of individuals with co-  
 19 occurring mental health and substance  
 20 abuse disorders, coordinated services,  
 21 which may range from cooperation,  
 22 consultation, collaboration, or super-  
 23 vision, to integration in a single set-  
 24 ting treatment model;



1           “(VI) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender’s successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

2           “(VII) include strategies, to the extent practicable, to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

3           “(D) HOUSING AND JOB PLACEMENT.—

4           Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

5           “(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are



1 facing charges that would trigger a constitu-  
2 tional right to counsel.

3 “(F) FINANCIAL.—Applicants for an im-  
4 plementation grant shall—

5 “(i) explain the applicant’s inability to  
6 fund the collaboration program adequately  
7 without Federal assistance;

8 “(ii) specify how the Federal support  
9 provided will be used to supplement, and  
10 not supplant, State, local, Indian tribe, or  
11 tribal organization sources of funding that  
12 would otherwise be available, including bill-  
13 ing third-party resources for services al-  
14 ready covered under programs (such as  
15 Medicaid, Medicare, and the State Chil-  
16 dren’s Insurance Program); and

17 “(iii) outline plans for obtaining nec-  
18 essary support and continuing the pro-  
19 posed collaboration program following the  
20 conclusion of Federal support.

21 “(G) OUTCOMES.—Applicants for an im-  
22 plementation grant shall—

23 “(i) identify methodology and outcome  
24 measures, as required by the Attorney  
25 General and the Secretary, to be used in



1 evaluating the effectiveness of the collabora-  
2 tion program;

3 “(ii) ensure mechanisms are in place  
4 to capture data, consistent with the meth-  
5 odology and outcome measures under  
6 clause (i); and

7 “(iii) submit specific agreements from  
8 affected agencies to provide the data need-  
9 ed by the Attorney General and the Sec-  
10 retary to accomplish the evaluation under  
11 clause (i).

12 “(H) STATE PLANS.—Applicants for an  
13 implementation grant shall describe how the  
14 adult or juvenile collaboration program relates  
15 to existing State criminal or juvenile justice and  
16 mental health plans and programs.

17 “(I) USE OF FUNDS.—Applicants that re-  
18 ceive an implementation grant may use funds  
19 for 1 or more of the following purposes:

20 “(i) MENTAL HEALTH COURTS AND  
21 DIVERSION/ALTERNATIVE PROSECUTION  
22 AND SENTENCING PROGRAMS.—Funds may  
23 be used to create or expand existing men-  
24 tal health courts that meet program re-  
25 quirements established by the Attorney



1 General under part V of this title, other  
2 court-based programs, or diversion and al-  
3 ternative prosecution and sentencing pro-  
4 grams (including crisis intervention teams  
5 and treatment accountability services for  
6 communities) that meet requirements es-  
7 tablished by the Attorney General and the  
8 Secretary.

9 “(ii) TRAINING.—Funds may be used  
10 to create or expand programs, such as cri-  
11 sis intervention training, which offer spe-  
12 cialized training to—

13 “(I) criminal justice system per-  
14 sonnel to identify and respond appro-  
15 priately to the unique needs of pre-  
16 liminarily qualified offenders; or

17 “(II) mental health system per-  
18 sonnel to respond appropriately to the  
19 treatment needs of preliminarily quali-  
20 fied offenders.

21 “(iii) SERVICE DELIVERY.—Funds  
22 may be used to create or expand programs  
23 that promote public safety by providing the  
24 services described in subparagraph (C)(ii)  
25 to preliminarily qualified offenders.



1           “(iv) IN-JAIL AND TRANSITIONAL  
2 SERVICES.—Funds may be used to pro-  
3 mote and provide mental health treatment  
4 and transitional services for those inarcerated  
5 ated or for transitional re-entry programs  
6 for those released from any penal or cor-  
7 rectional institution.

8           “(j) GEOGRAPHIC DISTRIBUTION OF  
9 GRANTS.—The Attorney General, in consulta-  
10 tion with the Secretary, shall ensure that plan-  
11 ning and implementation grants are equitably  
12 distributed among the geographical regions of  
13 the United States and between urban and rural  
14 populations.

15           “(e) PRIORITY.—The Attorney General, in awarding  
16 funds under this section, shall give priority to applications  
17 that—

18           “(1) demonstrate the strongest commitment to  
19 ensuring that such funds are used to promote both  
20 public health and public safety;

21           “(2) demonstrate the active participation of  
22 each co-applicant in the administration of the col-  
23 laboration program;

24           “(3) document, in the case of an application for  
25 a grant to be used in whole or in part to fund treat-



1 ment services for adults or juveniles during periods  
2 of incarceration or detention, that treatment pro-  
3 grams will be available to provide transition and re-  
4 entry services for such individuals; and

5 “(4) have the support of both the Attorney  
6 General and the Secretary.

7 “(d) MATCHING REQUIREMENTS.—

8 “(1) FEDERAL SHARE.—The Federal share of  
9 the cost of a collaboration program carried out by a  
10 State, unit of local government, Indian tribe, or trib-  
11 al organization under this section shall not exceed—

12 “(A) 80 percent of the total cost of the  
13 program during the first 2 years of the grant;

14 “(B) 60 percent of the total cost of the  
15 program in year 3; and

16 “(C) 25 percent of the total cost of the  
17 program in years 4 and 5.

18 “(2) NON-FEDERAL SHARE.—The non-Federal  
19 share of payments made under this section may be  
20 made in cash or in-kind fairly evaluated, including  
21 planned equipment or services.

22 “(e) FEDERAL USE OF FUNDS.—The Attorney Gen-  
23 eral, in consultation with the Secretary, in administering  
24 grants under this section, may use up to 3 percent of  
25 funds appropriated to—



1           “(1) research the use of alternatives to prosecu-  
2           tion through pretrial diversion in appropriate cases  
3           involving individuals with mental illness;

4           “(2) offer specialized training to personnel of  
5           criminal and juvenile justice agencies in appropriate  
6           diversion techniques;

7           “(3) provide technical assistance to local gov-  
8           ernments, mental health courts, and diversion pro-  
9           grams, including technical assistance relating to pro-  
10          gram evaluation;

11          “(4) help localities build public understanding  
12          and support for community reintegration of individ-  
13          uals with mental illness;

14          “(5) develop a uniform program evaluation  
15          process; and

16          “(6) conduct a national evaluation of the col-  
17          laboration program that will include an assessment  
18          of its cost-effectiveness.

19          “(f) INTERAGENCY TASK FORCE.—

20                 “(1) IN GENERAL.—The Attorney General and  
21                 the Secretary shall establish an interagency task  
22                 force with the Secretaries of Housing and Urban  
23                 Development, Labor, Education, and Veterans Af-  
24                 airs and the Commissioner of Social Security, or  
25                 their designees.



1           “(2) RESPONSIBILITIES.—The task force estab-  
2           lished under paragraph (1) shall—

3                   “(A) identify policies within their depart-  
4                   ments that hinder or facilitate local collabora-  
5                   tive initiatives for preliminarily qualified of-  
6                   fenders; and

7                   “(B) submit, not later than 2 years after  
8                   the date of enactment of this section, a report  
9                   to Congress containing recommendations for  
10                  improved interdepartmental collaboration re-  
11                  garding the provision of services to prelimi-  
12                  narily qualified offenders.

13           “(g) MINIMUM ALLOCATION.—Unless all eligible ap-  
14           plications submitted by any State or unit of local govern-  
15           ment within such State for a planning or implementation  
16           grant under this section have been funded, such State, to-  
17           gether with grantees within the State (other than Indian  
18           tribes), shall be allocated in each fiscal year under this  
19           section not less than 0.75 percent of the total amount ap-  
20           propriated in the fiscal year for planning or implementa-  
21           tion grants pursuant to this section.

22           “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
23           are authorized to be appropriated to the Department of  
24           Justice to carry out this section—



1           “(1) \$50,000,000 for each of fiscal years 2005  
2           and 2006; and

3           “(2) such sums as may be necessary for fiscal  
4           years 2007 through 2009.”.

5           (b) LIST OF “BEST PRACTICES”.—The Attorney  
6           General, in consultation with the Secretary of Health and  
7           Human Services, shall develop a list of “best practices”  
8           for appropriate diversion from incarceration of adult and  
9           juvenile offenders.



Chairman SENSENBRENNER. The Chair recognizes the gentleman from North Carolina, Mr. Coble, to strike the last word.

Mr. COBLE. I thank the Chairman and I won't take the full 5 minutes, Mr. Chairman.

This bill was unanimously approved when Mr. Scott and I held our markup I guess last week. It came from the Senate side. Mr. DeWine was the primary sponsor, but during the markup we made a few minor changes and reported the bill favorably.

Members forming a bipartisan coalition have realized the need for this legislation, as up to 16 percent of the inmates in the United States suffer from mental illness, according to the Bureau of Justice statistics. In response to this problem S. 1194 provides the needed grant program to encourage States to address the issue, and I think it is a worthwhile proposal, and I urge the passage and submit it to the full House.

Yield back the balance of my time.

Chairman SENSENBRENNER. Does the gentleman from Virginia wish to give an opening statement?

Mr. SCOTT. Yes, Mr. Chairman. And—

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Thank you. Mr. Chairman, I want to thank you for convening this markup on S. 1194, the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." I am a cosponsor of the House version of the bill and pleased to see it move forward.

This bill has been developed with the collaboration of Advocates For Mental Health and Substance Abuse, our staffs as well as the staffing of Senator DeWine, Congressman Strickland, Congressman Delahunt, and the Members. They are all to be commended for their hard work and excellent product that we have before us.

I want to express particular gratitude, Mr. Chairman, to you and Subcommittee Chairman Coble and your staffs not only for scheduling this markup—scheduling the markup of this bill in a very cramped schedule with lots of competition for slots—but also for your openness in developing a bill in a bipartisan fashion and your diligence in assuring that it moves forward as a product of which we can all be proud.

I urge my colleagues to support the bill, and I yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will appear in the record at this point.

Mr. COBLE. Mr. Chairman.

Chairman SENSENBRENNER. Are there amendments? Gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, the gentleman from Massachusetts, Mr. Delahunt, has an amendment that we are willing to accept, but I don't know whether he is on his way or not. But it would improve the bill.

Chairman SENSENBRENNER. Well, without objection the bill will be temporarily laid aside until either Mr. Delahunt or his amendment arrive.

Mr. COBLE. I thank you, Mr. Chairman.

Chairman SENSENBRENNER. Without objection, so ordered, and we will get back to this when either the Member or the amendment or both appear.

[Intervening business.]

Chairman SENSENBRENNER. The unfinished business is consideration of the bill Senate 1194, the Mentally Ill Offender Treatment and Crime Reduction Act, which was temporarily laid aside earlier today. Without objection, the bill will be brought again before the Committee and the bill is open for amendment at any point. The gentleman from Massachusetts, Mr. Delahunt, has an amendment.

Mr. DELAHUNT. Yes, Mr. Chairman. I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

The CLERK. Amendment to S. 1194 offered by Mr. Delahunt of Massachusetts. Page 13—

[The amendment follows:]

**AMENDMENT TO S. 1194****OFFERED BY MR. DELAHUNT OF MASSACHUSETTS**

Page 13, line 25, insert “provide supervision of offenders and” before “jointly ensure”.

Page 14, lines 5–6, strike “from cooperation, consultation, collaboration, or supervision, to” and insert “from consultation or collaboration to”.

Page 16, line 15, insert “adequate supervision and” before “access”.

Page 16, lines 21–23, strike “from cooperation, consultation, collaboration, or supervision, to” and insert “from consultation or collaboration to”.

Page 25, lines 1–2, strike “for each of fiscal years 2005 and 2006” and insert “for fiscal year 2005”.

Page 25, line 4, strike “2007” and insert “2006”.

Mr. DELAHUNT. Mr. Chairman, I ask unanimous consent that the——

Chairman SENSENBRENNER. Without objection, so ordered, and the gentleman from Massachusetts is recognized for 5 minutes.

Mr. DELAHUNT. I thank the Chair, and I want to particularly acknowledge Chairman Coble and Ranking Member Scott and Representative Ted Strickland for their leadership on this bill. This is a very important piece of legislation, and I am pleased to be a co-sponsor.

Sadly, our Nation's jails and prisons are in a state of crisis as they struggle to provide mental health services for incarcerated individuals, and it is simply wrong that families must resort to the police in order to obtain assistance and treatment for family members and loved ones suffering from an extreme episode of mental illness. Yet, during times of extreme distress, families face no alternatives.

Now, this comprehensive legislation is a step in the right direction in order to move away from laws that criminalize mental illness. State and local correctional facilities will now be able to create a program.

Chairman SENSENBRENNER. Will the gentleman yield?

Mr. DELAHUNT. I yield.

Chairman SENSENBRENNER. I have reviewed the gentleman's amendment, and I believe it is a very good one in broadening some of the functions of what is considered in this act to better treat people who suffer from mental illness. But probably most importantly in terms of getting this bill passed, the authorization is a 1-year authorization so that we have to jump through fewer hoops in order to get the bill on the floor next week and hopefully get the amendment concurred in by the Senate and the signature of the President on the bottom.

So I am happy to support the amendment of the gentleman from Massachusetts. It makes a better bill and it saves money.

Mr. DELAHUNT. I thank the Chair, and with that, I will conclude my remarks and yield back.

Chairman SENSENBRENNER. The question is on agreeing to the amendments.

Mr. SCOTT. Mr. Chairman.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, had we adopted a substitute on this? No? Yes?

Chairman SENSENBRENNER. There is a Subcommittee substitute, but this is an amendment to the substitute.

Mr. SCOTT. Right.

Chairman SENSENBRENNER. And the substitute was not adopted. It was laid down as the base text but not adopted.

Mr. SCOTT. And this is an amendment to that substitute?

Chairman SENSENBRENNER. Yes, it is.

Mr. SCOTT. Thank you.

Chairman SENSENBRENNER. The question is on agreeing to the amendment of the gentleman from Massachusetts to the amend-

ment in the nature of a substitute. Those in favor will say aye. Opposed, no. The ayes appear to have it. The ayes have it, and the amendment to the amendment in the nature of a substitute is agreed to.

Are there further amendments? If there are no further amendments, the question is on agreeing to the Subcommittee amendment in the nature of a substitute. All those in favor will say aye. Opposed, no. The ayes appear to have it. The ayes have it, and the amendment in the nature of a substitute is agreed to.

The question occurs on the motion to report the Senate bill 1194 favorably, as amended. A reporting quorum is present. All in favor will say aye. Opposed, no. The ayes appear to have it. The ayes have it and the motion to report favorably is adopted.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendment adopted here today. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by House rules in which to submit additional, dissenting, supplemental, or minority views.

