Public Law 94-237
94th Congress

An Act

To amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

Mar. 19, 1976
[S. 2017]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 (21 U.S.C. 1101) of the Drug Abuse Office and Treatment Act of 1972 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

Drug Abuse Office and Treatment Act of 1972, amendments.

"(10) Although the Congress observed a significant apparent reduction in the rate of increase of drug abuse during the three-year period subsequent to the date of enactment of this Act, and in certain areas of the country apparent temporary reductions in its incidence, the increase and spread of heroin consumption since 1974, and the continuing abuse of other dangerous drugs, clearly indicate the need for effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy.".

SEC. 2. Section 102 of the Act (21 U.S.C. 1102) is amended by striking "immediate objective of significantly reducing the incidence of drug abuse in the United States within the shortest possible period of time, and to develop" and inserting in lieu thereof "objective of significantly reducing the incidence, as well as the social and personal costs, of drug abuse in the United States, and to develop and assure the implementation of".

SEC. 3. Section 103(b) of the Act (21 U.S.C. 1103(b)) is amended by changing "education, training," to read "education or training (including preventive efforts directed to individuals who are not users of drugs and to individuals who are marginal users of drugs).".

SEC. 4. (a) Section 103 of the Act is amended by adding at the end thereof the following new subsection:

21 USC 1103.

"(d) The term 'drug abuse function' means any function described in subsection (b) or (c) of this section, or both.".

"Drug abuse function."

(b) The Act is amended by inserting after title I the following new title:

"TITLE II—OFFICE OF DRUG ABUSE POLICY

"CHAPTER	Sec.
"1. GENERAL PROVISIONS	201
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"Chapter 1.—GENERAL PROVISIONS

"Sec.
"201. Establishment of Office.
"202. Appointment of Director.
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"209. Compensation of Director and Deputy Director.
"210. Statutory authority unaffected.
"211. Appropriations authorized.

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"§ 201. Establishment of Office

Office of Drug Abuse Policy.
21 USC 1111.

"There is established in the Executive Office of the President an office to be known as the Office of Drug Abuse Policy (hereinafter in this Act referred to as the 'Office'). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (1) to information, documents, and studies in the possession of, or conducted by, the Office or (2) to personnel of the Office.

"§ 202. Appointment of Director

21 USC 1112.

"The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall not hold office in any other department or agency of the United States, whether on an acting basis or otherwise, except on such occasions as may be appropriate in connection with the performance of such duties as may be assigned to him pursuant to section 222.

"§ 203. Appointment of Deputy Director

21 USC 1113.

"There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may assign or delegate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

"§ 204. Delegation

21 USC 1114.

"Unless specifically prohibited by law, the Director may, without being relieved of his responsibility, perform any of his functions or duties or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Office as he may designate.

"§ 205. Officers and employees

21 USC 1115.

"(a) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him. At the discretion of the Director, any officer or employee of the Office may be allowed and paid travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for individuals employed intermittently.

"(b) In addition to the number of positions which may be placed in grades GS-16, GS-17, and GS-18 under section 5108 of title 5, United States Code, and without prejudice to the placement of other positions in the Office in such grades under any authority other than this subsection, not to exceed four positions in the Office may be placed in grades GS-16, GS-17, and GS-18, but in accordance with the standards and procedures prescribed by chapter 51 of such title.

5 USC 5101 *et seq.*

"§ 206. Employment of experts and consultants

21 USC 1116.

"The Director may procure services as authorized by section 3109 of title 5, United States Code, and may pay a rate for such services not in excess of the rate in effect for grade GS-18 of the General Schedule. The Director may employ individuals under this section without regard to any limitation, applicable to services procured under such section 3109, on the number of days or the period of such services, except that, at any one time, not more than six individuals may be employed under this section without regard to such limitation.

5 USC 5332 note.

"§ 207. Acceptance of uncompensated services

"The Director is authorized to accept and employ in furtherance of the purpose of this Act voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). 21 USC 1117.

"§ 208. Notice relating to the control of dangerous drugs

"Whenever the Attorney General determines that there is evidence that— 21 USC 1118.

"(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or 21 USC 802.

"(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act, 21 USC 812.

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. 21 USC 811. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the Director.

"§ 209. Compensation of Director and Deputy Director

"(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(64) Director of the Office of Drug Abuse Policy.'.

"(b) Paragraph (95) of section 5315 of such title is amended to read as follows: 5 USC 5315.

"'(95) Deputy Director of the Office of Drug Abuse Policy.'.

"§ 210. Statutory authority unaffected

"Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans. 21 USC 1119.

"§ 211. Appropriations authorized

"For purposes of carrying out this title, there is authorized to be appropriated $700,000 for the fiscal year ending June 30, 1976, $500,000 for the period July 1, 1976, through September 30, 1976, $2,000,000 for the fiscal year ending September 30, 1977, and $2,000,000 for the fiscal year ending September 30, 1978. 21 USC 1120.

"Chapter 2.—FUNCTIONS OF THE DIRECTOR

"Sec.

"221. Concentration of Federal effort.
"222. International negotiations.
"223. Annual report.

"§ 221. Concentration of Federal effort

"(a) The Director shall make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions to implement the policies, priorities, and objectives recommended under this subsection. Recommendations to President. 21 USC 1131.

"(b) To carry out subsection (a), the Director shall—

"(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

"(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

"(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem.

"(c) Federal departments and agencies engaged in drug abuse functions shall submit to the Director such information and reports with respect to such functions as he may reasonably require to carry out the purposes of this title.

"§ 222. International negotiations

21 USC 1132.

"The President may designate the Director to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

"§ 223. Annual report

21 USC 1133.

"The Director shall submit to the President and the Congress, prior to March 1 of each year which begins after the enactment of this title, a written report on the activities of the Office. The report shall specify the objectives, activities, and accomplishments of the Office, and shall contain an accounting of funds expended under this title.".

Repeal.

(c)(1) Section 104 of the Act is repealed.

21 USC 1104.
21 USC 1162.

(2) Section 302 of the Act is amended by striking out "Special Action Office of Drug Abuse Prevention until the date specified in section 104 of this Act" and inserting in lieu thereof "Office of Drug Abuse Policy".

(3) Section 302 of the Act is amended by striking out "and" before "other officials", and by striking out the period after "appropriate" and inserting in lieu thereof "and no fewer than three members from outside the Federal Government.".

21 USC 1164.

(4) Section 304 of the Act is amended by adding at the end thereof the following:

"(4) from time to time make recommendations to, and coordinate with, the Director of the Office of Drug Abuse Policy with respect to the performance of his functions under this Act.".

(5) The following provisions of law are each amended by striking out "Special Action Office for Drug Abuse Prevention" and inserting in lieu thereof "Office of Drug Abuse Policy":

(A) Sections 302 and 408(g) of the Act (21 U.S.C. 1162 and 1175(g)).

(B) Subsections (b)(1) and (d) of section 303 of Public Law 93-282 (21 U.S.C. 1175 note).

(C) Section 454 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750c).

(D) Section 206(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)).

Repeal.

(6) Sections 5316(131) and 5313(21) of title 5, United States Code, are repealed.

SEC. 5. Section 305 of the Act (21 U.S.C. 1165) is amended by striking out "from time to time as the President deems appropriate, but not less often than once a year" and inserting in lieu thereof "prior to June 1 of each year".

SEC. 6. (a) Section 407 of the Act (21 U.S.C. 1174) is amended to read as follows:

"§ 407. Admission of drug abusers to private and public hospitals

"(a) Drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their drug abuse or drug dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency. 21 USC 1174.

"(b)(1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of drug abusers in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital. Regulations.

"(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse or drug dependence. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.".

(b) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 407 (b)(2) of the Act, (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 407(b)(1) of the Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 407(b)(1) and shall timely publish such report in the Federal Register. Reports to congressional committees. 21 USC 1174 note. 21 USC 1174. Publication in Federal Register.

(c) The item relating to section 407 in the table of sections of title IV of the Act is amended by striking out "hospitals for emergency treatment" and inserting in lieu thereof "private and public hospitals". 21 USC 1171.

SEC. 7. The first sentence of section 409(a) of the Act (21 U.S.C. 1176(a)) is amended by changing "and $45,000,000 for the fiscal year ending June 30, 1975", to read "$45,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976, $11,250,000 for the period

July 1, 1976, through September 30, 1976, and $45,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978".

21 USC 1176.

SEC. 8. (a) Section 409(c)(1) of the Act is amended by—

(1) inserting "(A)" immediately after "(c)(1)";

(2) adding before the period at the end of subparagraph (A) the following: ", except that in the case of a State (other than the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands) which can demonstrate a need (determined in accordance with the methodology established under subparagraph (B)(iii)) for an allotment for a fiscal year in an amount not less than $150,000, the allotment for such State for such fiscal year may not be less than $150,000 multiplied by such fraction"; and

(3) inserting at the end thereof the following new subparagraph:

Notice of proposed rulemaking.

"(B)(i) Not later than June 15 of each year, the Secretary, after consultation with the Director of the National Institute on Drug Abuse, shall publish a notice of proposed rulemaking setting forth a formula to be used in making allotments pursuant to subparagraph (A) of this paragraph. Such notice of published rulemaking shall be in accordance with section 553 of title 5, United States Code, except that a sixty-day period shall be allowed for public comment.

Final regulations, publication.

"(ii) Not later than the first day of each fiscal year, the Secretary shall publish final regulations setting forth the allotment formula to be used pursuant to subparagraph (A) of this paragraph in making allotments during such fiscal year.

"(iii) In determining, for the purposes of paragraph (1), the extent of need for more effective conduct of drug abuse prevention functions, the Secretary shall (within one hundred and eighty days after the date of enactment of this paragraph) by regulation establish a methodology to assess and determine the incidence and prevalence of drug abuse to be applied in determining such need.".

Effective date. 21 USC 1176 note.

(b) The amendments made by subsection (a) of this section shall be effective with respect to fiscal years beginning on and after October 1, 1976.

SEC. 9. (a)(1) Section 409(e) of the Act (21 U.S.C. 1176(e)) is amended—

(A) by inserting in the first sentence thereof ", not later than July 15 of each calendar year," immediately after "Secretary";

(B) by inserting in the second sentence thereof "shall pertain to the twelve-month period commencing October 1 of the calendar year in which it is required to be submitted, and" immediately after "Each State plan";

(C) by inserting "in accordance with such needs" immediately before the semicolon at the end of paragraph (5) thereof;

(D) by striking "and" at the end of paragraph (11) thereof;

(E) by redesignating paragraph (12) thereof as paragraph (13); and

(F) by inserting immediately after paragraph (11) thereof the following new paragraph:

"(12) provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects; and".

Effective date. 21 USC 1176 note.

(2) The amendments made by paragraph (1) shall take effect January 1, 1976.

(b)(1) Section 409(f) of the Act is amended by adding at the end the following: "A State plan submitted under subsection (e) may also contain provisions relating to alcoholism or mental health. The Secretary, acting through the National Institute on Drug Abuse, shall establish procedures by which the National Institute on Drug Abuse shall review each State plan submitted pursuant to subsection (e) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted, or not later than sixty days after the plan is received by the National Institute on Drug Abuse, whichever is later.". 21 USC 1176.

Review of State plans.

(2) The amendment made by paragraph (1) shall take effect January 1, 1976. Effective date. 21 USC 1176 note.

SEC. 10. (a) Section 410(a) of the Act (21 U.S.C. 1177(a)) is amended by adding at the end thereof the following: "In the implementation of his authority under this section, the Secretary shall accord a high priority to applications for grants or contracts for primary prevention programs. For purposes of the preceding sentence, primary prevention programs include programs designed to discourage persons from beginning drug abuse. To the extent that appropriations authorized under this section are used to fund treatment services, the Secretary shall not limit such funding to treatment for opiate abuse, but shall also provide support for treatment for non-opiate drug abuse including polydrug abuse.".

(b) Section 410(c) of the Act (21 U.S.C. 1177(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Each applicant within a State, upon filing its application with the Secretary for a grant or contract to provide treatment or rehabilitation services shall provide a proposed performance standard or standards, to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation program or project.".

SEC. 11. Section 410(b) of the Act (21 U.S.C. 1177(b)) is amended by changing "and $160,000,000 for the fiscal year ending June 30, 1975." to read "$160,000,000 for each of the fiscal years ending June 30, 1975 and June 30, 1976; $40,000,000 for the period July 1, 1976, through September 30, 1976; and $160,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978,".

SEC. 12. (a)(1) The first sentence of section 501(a) of the Act is amended by changing "section" to read "title" both places it appears therein. 21 USC 1191.

(2) Section 501(b) of the Act (21 U.S.C. 1191(b)) is amended by inserting "(hereinafter in this title referred to as the 'Director')" immediately after "Director".

(b)(1) Section 502 of the Act is amended to read as follows: 86 Stat. 85.

"§ 502. Technical assistance to State and local agencies 21 USC 1192.

"(a) The Director shall—

"(1) coordinate or assure coordination of Federal drug abuse prevention functions with corresponding functions of State and local governments; and

"(2) provide for a central clearinghouse for Federal, State, and local governments, public and private agencies, and individuals seeking drug abuse information and assistance from the Federal Government.

"(b) In carrying out his functions under this section, the Director may—

"(1) provide technical assistance—including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of

public officials or other persons assigned to work with State and local governments—to analyze and identify State and local drug abuse problems and assist in the development of plans and programs to meet the problems so identified;

"(2) convene conferences of State, local, and Federal officials, and such other persons as the Director shall designate, to promote the purposes of this Act, and the Director is authorized to pay reasonable expenses of individuals incurred in connection with their participation in such conferences; and

"(3) draft and make available to State and local governments model legislation with respect to State and local drug abuse programs and activities, and provide for uniform forms for, procedures for the submission of, and criteria for the consideration of applications of State and local governments and individuals for grants and contracts for drug abuse control and treatment programs.

"(c) In implementation of his authority under subsection (b)(1), the Director may—

"(1) take such action as may be necessary to request the assignment, with or without reimbursement, of any individual employed by any Federal department or agency and engaged in any Federal drug abuse prevention function or drug traffic prevention function to serve as a member of any such task force; except that no such person shall be so assigned during any one fiscal year for more than an aggregate of ninety days without the express approval of the head of the Federal department or agency with respect to which he was so employed prior to such assignment;

"(2) assign any person employed by the Institute to serve as a member of any such task force or to coordinate management of such task forces; and

"(3) enter into contracts or other agreements with any person or organization to serve on or work with such task forces.".

(2) The item relating to such section 502 in the table of sections of title V of the Act is amended to read as follows:

"502. Technical assistance to State and local agencies.".

SEC. 13. (a) Title V of the Act is amended by adding at the end thereof the following new section:

"§ 503. Encouragement of certain research and development

21 USC 1193.

"(a) The Director shall encourage and promote (by grants, contracts, or otherwise) expanded research programs to create, develop, and test—

"(1) synthetic analgesics, antitussives, and other drugs which are—

"(A) nonaddictive, or

"(B) less addictive than opium or its derivatives,

to replace opium and its derivatives in medical use;

"(2) long-lasting, nonaddictive blocking or antagonistic drugs or other pharmacological substances for treatment of heroin addiction; and

"(3) detoxification agents which, when administered, will ease the physical effects of withdrawal from heroin addiction.

In carrying out this section the Director is authorized to establish, or provide for the establishment of, clinical research facilities.

Appropriation authorization.

"(b) For purposes of carrying out subsection (a) of this section there are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1976, $1,750,000 for the period July 1, 1976, through

September 30, 1976, $7,000,000 for the fiscal year ending September 30, 1977, and $7,000,000 for the fiscal year ending September 30, 1978.".

(b) The table of sections at the beginning of title V of the Act is amended by adding at the end thereof the following new item:

"503. Encouragement of certain research and development.".

SEC. 14. (a) Section 1513(e)(1)(A)(i) of the Public Health Service Act is amended by inserting "sections 409 and 410 of the Drug Abuse Office and Treatment Act," after "Community Mental Health Centers Act". 42 USC 300*l*-2.

(b) Section 1512(b)(3)(C)(ii) of the Public Health Service Act is amended by inserting ", substance abuse treatment facilities" after "long-term care facilities". 42 USC 300*l*-1.

(c) Section 1531(3)(A) of the Public Health Service Act is amended by inserting ", substance abuse treatment facilities" after "long-term care facilities". 42 USC 300n.

Approved March 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-375 accompanying H.R. 8150 (Comm. on Interstate and Foreign Commerce) and No. 94-839 (Comm. of Conference).

SENATE REPORTS: No. 94-218 accompanying S. 1608 (Comm. on Labor and Public Welfare) and No. 94-639 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 26, considered and passed Senate.
Sept. 11, considered and passed House, amended, in lieu of H.R. 8150.

Vol. 122 (1976): Feb. 19, Senate agreed to conference report; agreed to House amendment with an amendment.
Mar. 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 20, Presidential statement.