

118TH CONGRESS  
1ST SESSION

# H. R. 5811

To use Byrne JAG funds for deflection and diversion programs, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2023

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

---

## A BILL

To use Byrne JAG funds for deflection and diversion programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Safety and  
5 Community Support Act”.

6 **SEC. 2. DEFLECTION AND PRE-ARREST DIVERSION.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Law enforcement officers and other first re-  
9 sponders are at the front line of the opioid epidemic.

10 However, a traditional law enforcement response to

1 substance use often fails to disrupt the cycle of ad-  
2 diction and arrest, or reduce the risk of overdose.

3 (2) Law enforcement-assisted deflection and di-  
4 version programs have the potential to improve pub-  
5 lic health, decrease the number of people entering  
6 the criminal justice system for low-level offenses,  
7 and address racial disparities.

8 (3) According to the Bureau of Justice Assist-  
9 ance of the Department of Justice, “Five pathways  
10 have been most commonly associated with opioid  
11 overdose prevention and diversion to treatment.”  
12 The 6 pathways are—

13 (A) “self-referral”, in which—

14 (i) an individual voluntarily initiates  
15 contact with a first responder, such as a  
16 law enforcement officer, firefighter, or  
17 emergency medical services professional,  
18 for a treatment referral (without fear of  
19 arrest); and

20 (ii) the first responder personally in-  
21 troduces the individual to a treatment pro-  
22 vider (commonly known as a “warm hand-  
23 off”);

24 (B) “active outreach”, in which a law en-  
25 forcement officer or other first responder—

1 (i) identifies or seeks out individuals  
2 in need of substance use disorder treat-  
3 ment; and

4 (ii) makes a warm handoff of such an  
5 individual to a treatment provider, who en-  
6 gages the individual in treatment;

7 (C) “naloxone plus”, in which a law en-  
8 forcement officer or other first responder en-  
9 gages an individual in treatment as a follow-up  
10 to an overdose response;

11 (D) “officer prevention referral”, in which  
12 a law enforcement officer or other first re-  
13 sponder initiates treatment engagement with an  
14 individual, but no criminal charges are filed  
15 against the individual;

16 (E) “officer intervention referral”, in  
17 which—

18 (i) a law enforcement officer or other  
19 first responder initiates treatment engage-  
20 ment with an individual; and

21 (ii)(I) criminal charges are filed  
22 against the individual and held in abey-  
23 ance; or

24 (II) a citation is issued to the in-  
25 dividual; and

1 (F) “community response”, in which a  
2 team comprising community-based behavioral  
3 health professionals engages individuals to help  
4 de-escalate crises, mediate low-level conflicts, or  
5 address quality of life issues by providing a re-  
6 ferral to treatment, services or to a case man-  
7 ager.

8 (4) As of the date of enactment of this Act,  
9 there are no national best practices or guidelines for  
10 law enforcement-assisted deflection and diversion  
11 programs.

12 (b) USE OF BYRNE JAG FUNDS FOR DEFLECTION  
13 AND DIVERSION PROGRAMS.—Section 501 of title I of the  
14 Omnibus Crime Control and Safe Streets Act of 1968 (34  
15 U.S.C. 10152) is amended—

16 (1) in subsection (a)(1)(E), by inserting before  
17 the period at the end the following: “, including law  
18 enforcement-assisted deflection programs and law  
19 enforcement-assisted pre-arrest and pre-booking di-  
20 version programs (as those terms are defined in sub-  
21 section (h))”; and

22 (2) by adding at the end the following:

23 “(h) LAW ENFORCEMENT-ASSISTED DEFLECTION  
24 PROGRAMS AND LAW ENFORCEMENT-ASSISTED PRE-AR-  
25 REST AND PRE-BOOKING DIVERSION PROGRAMS.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) COVERED GRANT.—The term ‘cov-  
3 ered grant’ means a grant for a deflection or di-  
4 version program awarded under subsection  
5 (a)(1)(E).

6 “(B) DEFLECTION OR DIVERSION PRO-  
7 GRAM.—The term ‘deflection or diversion pro-  
8 gram’ means a law enforcement-assisted deflec-  
9 tion program or a law enforcement-assisted pre-  
10 arrest or pre-booking diversion, including a pro-  
11 gram under which—

12 “(i) an individual voluntarily initiates  
13 contact with a first responder for a sub-  
14 stance use disorder or mental health treat-  
15 ment referral without fear of arrest and re-  
16 ceives a warm handoff to such treatment;

17 “(ii) a law enforcement officer or  
18 other first responder identifies or seeks out  
19 individuals in need of substance use dis-  
20 order or mental health treatment and a  
21 warm handoff is made to a treatment pro-  
22 vider, who engages the individuals in treat-  
23 ment;

24 “(iii) a law enforcement officer or  
25 other first responder engages an individual

1 in substance use disorder treatment as  
2 part of an overdose response;

3 “(iv) a law enforcement officer or  
4 other first responder initiates substance  
5 use disorder or mental health treatment  
6 engagement, but no criminal charges are  
7 filed;

8 “(v) a law enforcement officer or  
9 other first responder initiates substance  
10 use disorder or mental health treatment  
11 engagement with an individual; or

12 “(vi) charges are filed against an indi-  
13 vidual who has committed an offense that  
14 is not a crime against a person, and the  
15 primary cause of which appears to be  
16 based on a substance use disorder or men-  
17 tal health disorder and held in abeyance or  
18 a citation is issued to such an individual.

19 “(C) LAW ENFORCEMENT-ASSISTED DE-  
20 FLECTION PROGRAM.—The term ‘law enforce-  
21 ment-assisted deflection program’ means a pro-  
22 gram under which a law enforcement officer,  
23 when encountering an individual who is not en-  
24 gaged in criminal activity but appears to have  
25 a substance use disorder or mental health dis-

1 order, instead of taking no action at the time  
2 of contact or taking action at a later time, at-  
3 tempts to connect the individual to substance  
4 use disorder treatment providers or mental  
5 health treatment providers—

6 “(i) without the use of coercion or  
7 fear of arrest; and

8 “(ii) using established pathways for  
9 connections to local, community-based  
10 treatment.

11 “(D) LAW ENFORCEMENT-ASSISTED PRE-  
12 ARREST OR PRE-BOOKING DIVERSION PRO-  
13 GRAM.—The term ‘law enforcement-assisted  
14 pre-arrest or pre-booking diversion program’  
15 means a program—

16 “(i) under which a law enforcement  
17 officer, when encountering an individual  
18 who has committed an offense that is not  
19 a crime against a person, and the primary  
20 cause of which appears to be based on a  
21 substance use disorder or the mental  
22 health disorder of the individual, instead of  
23 arresting the individual, or instead of  
24 booking the individual after having ar-  
25 rested the individual, attempts to connect

1 the individual to substance use disorder  
2 treatment providers or mental health treat-  
3 ment providers—

4 “(I) without the use of coercion;

5 and

6 “(II) using established pathways

7 for connections to local, community-  
8 based treatment;

9 “(ii) under which, in the case of pre-  
10 arrest diversion, a law enforcement officer  
11 described in clause (i) may decide to—

12 “(I) issue a civil citation; or

13 “(II) take no action with respect  
14 to the offense for which the officer  
15 would otherwise have arrested the in-  
16 dividual described in clause (i); and

17 “(iii) that may authorize a law en-  
18 forcement officer to refer an individual to  
19 substance use disorder treatment providers  
20 or mental health treatment providers if the  
21 individual appears to have a substance use  
22 disorder or mental health disorder and the  
23 officer suspects the individual of chronic  
24 violations of law but lacks probable cause



1 to arrest the individual (commonly known  
2 as a ‘social contact referral’).

3 “(2) SENSE OF CONGRESS REGARDING DEFLEC-  
4 TION OR DIVERSION PROGRAMS.—It is the sense of  
5 Congress that a deflection or diversion program  
6 funded under this subpart should not exclude indi-  
7 viduals who are chronically exposed to the criminal  
8 justice system.

9 “(3) REPORTS TO ATTORNEY GENERAL.—Not  
10 later than 2 years after the date on which a State  
11 or unit of local government is awarded a covered  
12 grant, and each year thereafter until the date that  
13 is 1 year after the date on which the period of the  
14 covered grant ends, the State or unit of local govern-  
15 ment shall submit a report to the Attorney General  
16 that includes information relating to the deflection  
17 or diversion program carried out by the State or  
18 unit of local government, including information re-  
19 lating to—

20 “(A) the goals of the deflection or diver-  
21 sion program;

22 “(B) any evidence-based interventions car-  
23 ried out under the deflection or diversion pro-  
24 gram;

1           “(C) outcomes of the deflection or diver-  
2 sion program, which shall—

3           “(i) be reported in a manner that dis-  
4 tinguishes the outcomes based on the cat-  
5 egories of, with respect to the participants  
6 in the deflection or diversion program—

7           “(I) the race of the participants;  
8           and

9           “(II) the gender of the partici-  
10 pants; and

11           “(ii) include information relating to  
12 the rate of reincarceration among partici-  
13 pants in the deflection or diversion pro-  
14 gram, if available; and

15           “(D) expenditures under the deflection or  
16 diversion program.”.

17 (c) TECHNICAL ASSISTANCE GRANT PROGRAM.—

18 (1) DEFINITIONS.—In this subsection—

19           (A) the term “deflection or diversion pro-  
20 gram” has the meaning given the term in sub-  
21 section (h) of section 501 of title I of the Omni-  
22 bus Crime Control and Safe Streets Act of  
23 1968 (34 U.S.C. 10152), as added by sub-  
24 section (b); and

1 (B) the terms “State” and “unit of local  
2 government” have the meanings given those  
3 terms in section 901 of title I of the Omnibus  
4 Crime Control and Safe Streets Act of 1968  
5 (34 U.S.C. 10251).

6 (2) GRANT AUTHORIZED.—The Attorney Gen-  
7 eral shall award a single grant to an entity with sig-  
8 nificant experience in working with law enforcement  
9 agencies, community-based treatment providers, and  
10 other community-based human service providers to  
11 develop or administer both deflection and diversion  
12 programs that use each of the 6 pathways described  
13 in subsection (a)(3), to promote and maximize the  
14 effectiveness and racial equity of deflection or diver-  
15 sion programs, in order to—

16 (A) help State and units of local govern-  
17 ment launch and expand deflection or diversion  
18 programs;

19 (B) develop best practices for deflection or  
20 diversion teams, which shall include—

21 (i) recommendations on community  
22 input and engagement in order to imple-  
23 ment deflection or diversion programs as  
24 rapidly as possible and with regard to the  
25 particular needs of a community, including

1 regular community meetings and other  
2 mechanisms for engagement with—

3 (I) law enforcement agencies;

4 (II) community-based treatment  
5 providers and other community-based  
6 human service providers;

7 (III) the recovery community;

8 and

9 (IV) the community at-large; and

10 (ii) the implementation of metrics to  
11 measure community satisfaction con-  
12 cerning the meaningful participation and  
13 interaction of the community with the de-  
14 flection or diversion program and program  
15 stakeholders;

16 (C) develop and publish a training and  
17 technical assistance tool kit for deflection or di-  
18 version for public education purposes;

19 (D) disseminate uniform criteria and  
20 standards for the delivery of deflection or diver-  
21 sion program services; and

22 (E) develop outcome measures that can be  
23 used to continuously inform and improve social,  
24 clinical, financial and racial equity outcomes.

1           (3) TERM.—The term of the grant awarded  
2 under paragraph (2) shall be 5 years.

3           (4) AUTHORIZATION OF APPROPRIATIONS.—  
4 There are authorized to be appropriated to the At-  
5 torney General \$30,000,000 for the grant under  
6 paragraph (2).

○