

## **42 U.S.C.A. § 3796hh**

### **Grants to Encourage Arrest Policies and Enforcement of Protection Orders**

#### **(a) Purpose**

The purpose of this subchapter is to encourage States, Indian tribal governments, State and local courts (including juvenile courts), tribal courts, and units of local government to treat domestic violence, dating violence, sexual assault, and stalking as serious violations of criminal law.

#### **(b) Grant authority**

The Attorney General may make grants to eligible States, Indian tribal governments, State, tribal, territorial, and local courts (including juvenile courts), or units of local government for the following purposes:

- (1)** To implement pro-arrest programs and policies in police departments, including policies for protection order violations.
- (2)** To develop policies, educational programs, protection order registries, and training in police departments to improve tracking of cases involving domestic violence, dating violence, sexual assault, and stalking. Policies, educational programs, protection order registries, and training described in this paragraph shall incorporate confidentiality, and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- (3)** To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence, dating violence, sexual assault, and stalking cases in teams or units of police officers, prosecutors, parole and probation officers, or judges.
- (4)** To coordinate computer tracking systems to ensure communication between police, prosecutors, parole and probation officers, and both criminal and family courts.
- (5)** To strengthen legal advocacy service programs for victims of domestic violence, dating violence, sexual assault, and stalking, including strengthening assistance to such victims in immigration matters.
- (6)** To educate judges in criminal and civil courts (including juvenile courts) about domestic violence, dating violence, sexual assault, and stalking and to improve judicial handling of such cases.
- (7)** To provide technical assistance and computer and other equipment to police departments, prosecutors, courts, and tribal jurisdictions to facilitate the widespread enforcement of protection orders, including interstate enforcement, enforcement

between States and tribal jurisdictions, and enforcement between tribal jurisdictions.

**(8)** To develop or strengthen policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of domestic violence and sexual assault against older individuals (as defined in section 3002 of this title) and individuals with disabilities (as defined in section 12102(2) of this title).

**(9)** To develop State, tribal, territorial, or local policies, procedures, and protocols for preventing dual arrests and prosecutions in cases of domestic violence, dating violence, sexual assault, and stalking, and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

**(10)** To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from non-profit, non-governmental victim services organizations, law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to improve safety, access to services, and confidentiality for victims and families. Although funds may be used to support the co-location of project partners under this paragraph, funds may not support construction or major renovation expenses or activities that fall outside of the scope of the other statutory purpose areas.

**(11)** To develop and implement policies and training for police, prosecutors, probation and parole officers, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.

**(12)** To develop, enhance, and maintain protection order registries.

**(13)** To develop human immunodeficiency virus (HIV) testing programs for sexual assault perpetrators and notification and counseling protocols.

**(c) Eligibility**

Eligible grantees are States, Indian tribal governments, State and local courts (including juvenile courts), or units of local government that--

**(1)** certify that their laws or official policies--

**(A)** encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

**(B)** encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;

(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; and

(5) certify that, not later than 3 years after January, 5, 2006, their laws, policies, or practices will ensure that--

(A) no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense; and

(B) the refusal of a victim to submit to an examination described in subparagraph (A) shall not prevent the investigation of the offense.

(d) Speedy notice to victims

A State or unit of local government shall not be entitled to 5 percent of the funds allocated under this part unless the State or unit of local government--

(1) certifies that it has a law or regulation that requires--

(A) the State or unit of local government at the request of a victim to administer to a defendant, against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented;

(B) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and

(C) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available in accordance with subparagraph (B); or

(2) gives the Attorney General assurances that its laws and regulations will be in compliance with requirements of paragraph (1) within the later of--

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years.

(e) Allotment for Indian tribes

(1) In general

Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 3796gg-10 of this title.

(2) Applicability of subchapter

The requirements of this subchapter shall not apply to funds allocated for the program described in paragraph (1).

## **42 U.S.C.A. § 3796hh-1**

### **Applications**

(a) Application

An eligible grantee shall submit an application to the Attorney General that—

(1) contains a certification by the chief executive officer of the State, Indian tribal government, or local government entity that the conditions of [section 3796hh\(c\)](#) of this title are met or will be met within the later of—

(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

(B) 2 years of September 13, 1994 or, in the case of the condition set forth in subsection [\[FN1\]](#) 3796hh(c)(4) of this title, the expiration of the 2-year period beginning on October 28, 2000;

(2) describes plans to further the purposes stated in [section 3796hh\(a\)](#) of this title;

(3) identifies the agency or office or groups of agencies or offices responsible for carrying out the program; and

(4) includes documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

(b) Priority

In awarding grants under this subchapter, the Attorney General shall give priority to applicants that—

(1) do not currently provide for centralized handling of cases involving domestic violence, dating violence, sexual assault, or stalking by police, prosecutors, and courts;

(2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence, dating violence, sexual assault, or stalking, including the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions);

(3) have established cooperative agreements or can demonstrate effective ongoing collaborative arrangements with neighboring jurisdictions to facilitate the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions); and

(4) in applications describing plans to further the purposes stated in [paragraph \(4\) or \(7\) of section 3796hh\(b\)](#) of this title, will give priority to using the grant to develop and install data collection and communication systems, including computerized systems, and training on how to use these systems effectively to link police, prosecutors, courts, and tribal jurisdictions for the purpose of identifying and tracking protection orders and violations of protection orders, in those jurisdictions where such systems do not exist or are not fully effective.

(c) Dissemination of information

The Attorney General shall annually compile and broadly disseminate (including through electronic publication) information about successful data collection and communication systems that meet the purposes described in this section. Such dissemination shall target States, State and local courts, Indian tribal governments, and units of local government.

**42 U.S.C.A. § 3796hh-2**

**Reports**

Each grantee receiving funds under this subchapter shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this subchapter and containing such additional information as the Attorney General may prescribe.

#### **42 U.S.C.A. § 3796hh-3**

##### **Regulations or guidelines**

Not later than 120 days after September 13, 1994, the Attorney General shall publish proposed regulations or guidelines implementing this subchapter. Not later than 180 days after September 13, 1994, the Attorney General shall publish final regulations or guidelines implementing this subchapter.

#### **42 U.S.C.A. § 3796hh-4**

##### **Definitions and grant conditions**

In this subchapter the definitions and grant conditions in section 13925 of this title shall apply.