

114TH CONGRESS  
1ST SESSION

# S. 2205

To establish a grant program to assist tribal governments in establishing tribal healing to wellness courts, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 2015

Mr. TESTER (for himself and Mr. FRANKEN) introduced the following bill;  
which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To establish a grant program to assist tribal governments in establishing tribal healing to wellness courts, 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 “Tribal Healing to  
5 Wellness Courts Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) INDIAN TRIBE.—The term “Indian tribe”  
9 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance  
2 Act (25 U.S.C. 450b).

3 (2) TRIBAL GOVERNMENT.—The term “tribal  
4 government” means the governing body of an Indian  
5 tribe.

6 **SEC. 3. ESTABLISHMENT OF GRANT PROGRAM.**

7 (a) AUTHORIZATIONS.—

8 (1) IN GENERAL.—The Attorney General may  
9 make grants to eligible entities for tribal healing to  
10 wellness courts for members of Indian tribes, includ-  
11 ing adults, juveniles, and families, that involve—

12 (A) continuing judicial supervision over of-  
13 fenders and other individuals under the juris-  
14 diction of the court with substance abuse prob-  
15 lems; and

16 (B) the integrated administration of other  
17 sanctions and services, which may include—

18 (i) mandatory periodic testing for  
19 each participant for the use of controlled  
20 substances or other addictive substances  
21 during any period of participation in the  
22 tribal healing to wellness court;

23 (ii) substance abuse treatment for  
24 each participant;

1 (iii) diversion, probation, or other su-  
 2 pervised release involving the possibility of  
 3 prosecution, confinement, or incarceration  
 4 based on noncompliance with program re-  
 5 quirements or failure to show satisfactory  
 6 progress; and

7 (iv) offender management, and serv-  
 8 ices such as relapse prevention, health  
 9 care, education, vocational training, job  
 10 placement, housing placement, and child  
 11 care or other family support services for  
 12 each participant who requires such serv-  
 13 ices.

14 (2) CULTURAL ACTIVITIES.—At the option of  
 15 the eligible entity establishing the tribal healing to  
 16 wellness court, the tribal healing to wellness court  
 17 may include cultural activities in the services pro-  
 18 vided under paragraph (1).

19 (b) ELIGIBLE ENTITIES.—Entities eligible to receive  
 20 a grant under this section are tribal governments—

21 (1) acting directly or through agreements with  
 22 other public or private entities; and

23 (2) acting in partnership with States or units of  
 24 local government.

1 (c) APPLICATIONS.—To receive a grant under this  
2 section, an eligible entity shall submit to the Attorney  
3 General an application at such time, in such manner, and  
4 containing such information as the Attorney General may  
5 require, including—

6 (1) a long-term strategy and detailed implemen-  
7 tation plan;

8 (2) an explanation of the inability of the appli-  
9 cant to fund the tribal healing to wellness court ade-  
10 quately without the grant;

11 (3) a certification that the grant provided will  
12 be used to supplement, and not supplant, State, In-  
13 dian tribal, and local sources of funding that would  
14 otherwise be available;

15 (4) an identification of related governmental or  
16 community initiatives that complement or will be co-  
17 ordinated with the proposal;

18 (5) a certification that—

19 (A) there has been appropriate consulta-  
20 tion with all affected agencies; and

21 (B) there will be appropriate coordination  
22 with all affected agencies during the implemen-  
23 tation of the tribal healing to wellness program;

24 (6) a certification that participating offenders  
25 will be supervised by 1 or more designated judges

1 with responsibility for the tribal healing to wellness  
2 court;

3 (7) a specification of plans for obtaining nec-  
4 essary support and continuing the proposed tribal  
5 healing to wellness court following the conclusion of  
6 the grant period; and

7 (8) a description of the methodology that will  
8 be used in evaluating the tribal healing to wellness  
9 court.

10 (d) GEOGRAPHIC DISTRIBUTION.—The Attorney  
11 General shall ensure, to the maximum extent practicable,  
12 the equitable geographic distribution of grant awards  
13 under this Act.

14 **SEC. 4. MANDATORY DRUG TESTING AND MANDATORY**  
15 **SANCTIONS AND RESPONSES.**

16 (a) MANDATORY TESTING.—

17 (1) IN GENERAL.—Grant amounts under this  
18 Act may be used for a tribal healing to wellness  
19 court only if the tribal healing to wellness court has  
20 mandatory periodic testing as described in section  
21 3(a)(1)(B)(i).

22 (2) REGULATIONS.—

23 (A) IN GENERAL.—The Attorney General,  
24 by issuing guidelines or promulgating regula-  
25 tions, shall describe standards for the timing

1 and manner of complying with the requirements  
2 of paragraph (1).

3 (B) STANDARDS.—The standards under  
4 subparagraph (A)—

5 (i) shall ensure that—

6 (I) each participant is tested for  
7 any controlled substance the Attorney  
8 General or the court may require; and

9 (II) the testing is accurate and  
10 practicable; and

11 (ii) may require approval of the drug  
12 testing regime to ensure that adequate  
13 testing occurs.

14 (b) MANDATORY SANCTIONS AND RESPONSES.—

15 (1) IN GENERAL.—The Attorney General, by  
16 issuing guidelines or promulgating regulations, may  
17 require that grant amounts under this section may  
18 be used for a tribal healing to wellness court only if  
19 the tribal healing to wellness court imposes grad-  
20 uated sanctions that increase punitive responses,  
21 therapeutic responses, or both, if a participant fails  
22 a drug test.

23 (2) INCLUSIONS.—The sanctions and responses  
24 under paragraph (1) may include—

25 (A) incarceration;

- 1 (B) detoxification treatment;
- 2 (C) residential treatment;
- 3 (D) increased time in the program;
- 4 (E) termination from the program;
- 5 (F) increased drug screening requirements;
- 6 (G) increased court appearances;
- 7 (H) increased counseling;
- 8 (I) increased supervision;
- 9 (J) electronic monitoring;
- 10 (K) in-home restriction;
- 11 (L) community service;
- 12 (M) family counseling;
- 13 (N) anger management classes; and
- 14 (O) additional assessments.

15 **SEC. 5. PROHIBITION ON PARTICIPATION BY VIOLENT OF-**  
16 **FENDERS.**

17 (a) DEFINITIONS.—In this section:

18 (1) VIOLENT OFFENDER.—Except as provided  
19 in paragraph (2), the term “violent offender” means  
20 a person who—

21 (A) is charged with or convicted of an of-  
22 fense or conduct that is punishable by a term  
23 of imprisonment exceeding 1 year, during the  
24 course of which offense or conduct—

1 (i) the person carried, possessed, or  
2 used a firearm or dangerous weapon;

3 (ii) there occurred the death of or se-  
4 rious bodily injury to any person; or

5 (iii) there occurred the use of force  
6 against the person of another, without re-  
7 gard to whether any of the circumstances  
8 described in clause (i) or (ii) is an element  
9 of the offense or conduct of which or for  
10 which the person is charged or convicted;

11 or

12 (B) has 1 or more prior convictions for a  
13 felony crime of violence involving the use or at-  
14 tempted use of force against a person with the  
15 intent to cause death or serious bodily harm.

16 (2) VIOLENT OFFENDER DEFINITION FOR PUR-  
17 POSES OF JUVENILE DRUG COURTS.—For purposes  
18 of juvenile drug courts, the term “violent offender”  
19 means a juvenile who has been convicted of, or adju-  
20 dicated delinquent for, a felony-level offense that—

21 (A) has as an element, the use, attempted  
22 use, or threatened use of physical force against  
23 the person or property of another, or the pos-  
24 session or use of a firearm; or



1 (B) by its nature, involves a substantial  
2 risk that physical force against the person or  
3 property of another may be used in the course  
4 of committing the offense.

5 (b) PROHIBITION.—The Attorney General shall—

6 (1) issue regulations or guidelines to ensure  
7 that the tribal healing to wellness courts carried out  
8 using a grant under this Act do not permit partici-  
9 pation by violent offenders; and

10 (2) immediately suspend funding for any tribal  
11 healing to wellness court receiving a grant under  
12 this Act, pending compliance, if the Attorney Gen-  
13 eral finds that violent offenders are participating in  
14 the tribal healing to wellness court.

15 (c) WAIVER.—

16 (1) IN GENERAL.—The Attorney General may  
17 waive the application of this section to a tribal heal-  
18 ing to wellness court if the applicable entity receiv-  
19 ing grant amounts under this Act applies for a waiv-  
20 er.

21 (2) REQUIREMENTS.—The Attorney General  
22 shall establish requirements for a waiver under para-  
23 graph (1) in consultation with Indian tribes.

1 **SEC. 6. TECHNICAL ASSISTANCE AND TRAINING; SUPPORT**  
2 **SERVICES.**

3 (a) TECHNICAL ASSISTANCE AND TRAINING.—

4 (1) IN GENERAL.—The Attorney General, act-  
5 ing through the Bureau of Justice Assistance or  
6 through grants, contracts, or other cooperative ar-  
7 rangements with national or regional organizations,  
8 shall provide to each eligible entity receiving a grant  
9 under this Act technical assistance and training—

10 (A) to assist that eligible entity in success-  
11 fully competing for future funding under this  
12 Act; and

13 (B) to strengthen existing tribal healing to  
14 wellness courts.

15 (2) RURAL NEEDS.—In providing technical as-  
16 sistance and training under paragraph (1), the Bu-  
17 reau of Justice Assistance shall consider and re-  
18 spond to the unique needs of eligible entities located  
19 in rural States, rural areas, and rural communities.

20 (b) SUPPORT SERVICES.—The Indian Health Service  
21 and the Substance Abuse and Mental Health Services Ad-  
22 ministration shall provide to each eligible entity receiving  
23 a grant under this Act support services to assist the eligi-  
24 ble entity in carrying out the tribal healing to wellness  
25 court receiving grant amounts under this Act.

1 **SEC. 7. REPORT.**

2 An eligible entity receiving a grant under this Act,  
3 for each fiscal year of the grant period and on a date spec-  
4 ified by the Attorney General, shall submit to the Attorney  
5 General a report that describes the effectiveness of this  
6 Act.

7 **SEC. 8. ADMINISTRATION.**

8 (a) CONSULTATION.—The Attorney General shall  
9 consult with the Secretary of Health and Human Services  
10 and any other appropriate officials in carrying out this  
11 Act.

12 (b) USE OF COMPONENTS.—The Attorney General  
13 may use any component or components of the Department  
14 of Justice in carrying out this Act.

15 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) IN GENERAL.—There is authorized to be appro-  
17 priated to carry out this Act \$10,000,000 for each of fiscal  
18 years 2016 through 2020, to remain available until ex-  
19 pended.

20 (b) TRAINING AND TECHNICAL ASSISTANCE.—Each  
21 fiscal year, not more than 5 percent of funds made avail-  
22 able under subsection (a) for the fiscal year may be used  
23 by the Attorney General to provide training and technical  
24 assistance to carry out this Act.

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