

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To incentivize States and localities to improve access to justice, and for  
other purposes.

\_\_\_\_\_  
IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

## **A BILL**

To incentivize States and localities to improve access to  
justice, 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 “Providing a Quality  
5       Defense Act of 2023” or the “Quality Defense Act”.

### 6       **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

8               (1) to protect the constitutional rights to due  
9       process and a fair criminal prosecution under the  
10       Fifth, Sixth, and Fourteenth Amendments to the

1 Constitution of the United States, including the  
2 right to counsel, in State and local courts, as articu-  
3 lated by the Supreme Court of the United States in  
4 *Gideon v. Wainwright*, 372 U.S. 335 (1963), and its  
5 progeny;

6 (2) to protect the right to counsel for juveniles  
7 in delinquency proceedings, including the determina-  
8 tion of whether a juvenile should be tried as an  
9 adult, under the Due Process Clause of the Four-  
10 teenth Amendment as articulated by the Supreme  
11 Court in *In re Gault*, 387 U.S. 1 (1967);

12 (3) to collect data related to public defense in  
13 order to facilitate evidence-based reforms and im-  
14 provements; and

15 (4) to ensure that compensation for public de-  
16 fenders and panel attorneys reflects the constitu-  
17 tional guarantee of the right to counsel and does not  
18 disincentivize attorneys from pursuing a career in  
19 public defense.

20 **SEC. 3. DEFINITIONS.**

21 In this Act, except as otherwise provided in section  
22 7:

23 (1) **APPLICABLE PUBLIC DEFENDER’S OF-**  
24 **FICE.**—The term “applicable public defender’s of-  
25 fice”, with respect to an eligible entity that is—

1 (A) a public defender's office, means the  
2 eligible entity;

3 (B) a State or unit of local government,  
4 means—

5 (i) the public defender's office of the  
6 eligible entity; and

7 (ii) a public defender's office of a unit  
8 of local government within the eligible enti-  
9 ty; and

10 (C) a Tribal organization, means the pub-  
11 lic defender's office of the Tribal organization.

12 (2) ASSIGNED COUNSEL PROGRAM.—The term  
13 “assigned counsel program” means a program or  
14 procedure by which a court assigns an attorney to  
15 provide quality legal representation to a client who  
16 is—

17 (A) financially unable to hire counsel; and

18 (B) legally entitled under the Sixth  
19 Amendment or the laws of the applicable State  
20 to have counsel assigned to represent the client.

21 (3) CASE.—The term “case” includes all  
22 charges against an individual involved in a single in-  
23 cident of alleged criminal or delinquent conduct.

24 (4) CASE TYPE.—

1 (A) IN GENERAL.—The term “case type”  
2 means the classification of a client’s case into  
3 1 of the following categories, as defined under  
4 State or local law:

5 (i) Juvenile.

6 (ii) Misdemeanor.

7 (iii) Felony for which the death pen-  
8 alty may be imposed.

9 (iv) Felony for which a sentence of up  
10 to life imprisonment may be imposed.

11 (v) Felony not described in clause (iii)  
12 or (iv).

13 (vi) Violation of probation or parole.

14 (vii) School proceeding.

15 (viii) Other.

16 (B) MULTIPLE CHARGES.—If a case in-  
17 volves multiple charges, the case type shall be  
18 determined according to the most serious  
19 charge under the applicable State or local law.

20 (5) CORRESPONDING PROSECUTOR’S OFFICE.—

21 The term “corresponding prosecutor’s office”, with  
22 respect to a public defender’s office or panel attor-  
23 neys, means a prosecutorial unit that appears ad-  
24 verse to the public defender’s office or panel attor-  
25 neys in criminal proceedings.

1           (6) DATA GRANT.—The term “data grant”  
2 means a grant awarded under section 4(a)(1).

3           (7) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means a State, unit of local government, Tribal  
5 organization, public defender’s office, or assigned  
6 counsel program that—

7               (A) in the case of an application for a data  
8 grant, has not, as of the date of application, de-  
9 veloped and implemented a data collection proc-  
10 ess that meets the requirements under section  
11 4(b)(2); and

12               (B) in the case of an application for a hir-  
13 ing grant, as of the date of the application,  
14 has—

15                   (i) received a data grant; and

16                   (ii) fulfilled the requirements of the  
17 data grant.

18           (8) HIRING GRANT.—The term “hiring grant”  
19 means a grant awarded under section 4(a)(2).

20           (9) MOST SERIOUS CHARGE.—The term “most  
21 serious charge”, with respect to a case that involves  
22 multiple charges, means the charge that carries the  
23 most severe or lengthy maximum penalty.

24           (10) PANEL ATTORNEY.—The term “panel at-  
25 torney” means a private attorney assigned by the

1 court who serves the same function as a public de-  
2 fender, without regard to whether the role is full-  
3 time or part-time.

4 (11) PROSECUTOR.—The term “prosecutor”—

5 (A) has the meaning given the term in sec-  
6 tion 3001(b) of title I of the Omnibus Crime  
7 Control and Safe Streets Act of 1968 (34  
8 U.S.C. 10671(b)); and

9 (B) includes a full-time employee of a  
10 Tribal organization who—

11 (i) is continually licensed to practice  
12 law; and

13 (ii) carries out activities equivalent to  
14 those of a prosecutor referred to in sub-  
15 paragraph (A).

16 (12) PUBLIC DEFENDER.—The term “public  
17 defender”—

18 (A) has the meaning given the term in sec-  
19 tion 3001(b) of title I of the Omnibus Crime  
20 Control and Safe Streets Act of 1968 (34  
21 U.S.C. 10671(b)); and

22 (B) includes an attorney employed by a  
23 Tribal organization who—

24 (i) is continually licensed to practice  
25 law; and

1 (ii) carries out activities equivalent to  
2 those of a public defender referred to in  
3 subparagraph (A).

4 (13) PROSECUTOR'S OFFICE; PUBLIC DE-  
5 FENDER'S OFFICE.—The terms “prosecutor's office”  
6 and “public defender's office” mean an agency or of-  
7 fice of a State, unit of local government, or Tribal  
8 organization that employs prosecutors or public de-  
9 fenders, respectively.

10 (14) RESOLUTION.—The term “resolution”,  
11 with respect to a case, means the manner in which  
12 the case concludes, including by—

13 (A) dismissal by the prosecutor;

14 (B) dismissal based on a motion, such as  
15 a motion to suppress evidence;

16 (C) a plea agreement at first appearance;

17 (D) a plea agreement entered into at any  
18 point in the criminal prosecution other than  
19 first appearance;

20 (E) diversion; or

21 (F) a bench or jury trial and the outcome  
22 of the trial, including the sentence if the de-  
23 fendant is convicted of any offense charged.

24 (15) SECONDARY CHARGE.—The term “sec-  
25 ondary charge”, with respect to a case that involves

1 multiple charges, means any charge that is not the  
2 most serious charge.

3 (16) STATE.—The term “State” has the mean-  
4 ing given the term in section 901 of title I of the  
5 Omnibus Crime Control and Safe Streets Act of  
6 1968 (34 U.S.C. 10251).

7 (17) TRIBAL ORGANIZATION.—The term “Trib-  
8 al organization” has the meaning given the term  
9 “tribal organization” in section 4(l) of the Indian  
10 Self-Determination and Education Assistance Act  
11 (25 U.S.C. 5304(l)).

12 (18) UNIT OF LOCAL GOVERNMENT.—The term  
13 “unit of local government” has the meaning given  
14 the term in section 901 of title I of the Omnibus  
15 Crime Control and Safe Streets Act of 1968 (34  
16 U.S.C. 10251).

17 **SEC. 4. PUBLIC DEFENSE GRANT PROGRAM.**

18 (a) GRANT AUTHORITY.—The Attorney General may  
19 award a grant to an eligible entity to—

20 (1) develop, implement, and update a data col-  
21 lection process under subsection (b)(2); or

22 (2) hire additional public defense attorneys or  
23 carry out related activities under subsection (c)(3).

24 (b) DATA GRANTS.—



1           (1) TERM.—The term of a data grant shall be  
2       3 fiscal years.

3           (2) REQUIRED DATA COLLECTION.—An eligible  
4       entity that receives a data grant shall develop and  
5       implement a process for collecting the following data  
6       for attorneys employed by each applicable public de-  
7       fender’s office, and for panel attorneys within the ju-  
8       risdiction of the eligible entity, during each fiscal  
9       year of the grant period:

10           (A) The mean number of hours per month  
11       worked per attorney.

12           (B) The mean number of hours spent per  
13       month by an attorney on—

14               (i) discovery and investigation, includ-  
15       ing witness interviews;

16               (ii) court time, including preparation  
17       and appearances;

18               (iii) client communication and care;

19               (iv) research, motions, practice, and  
20       other writing; and

21               (v) administrative work.

22           (C) The number of cases handled, broken  
23       down by—

24               (i) case type, including by—

25                       (I) the most serious charge; and

- 1 (II) each secondary charge;
- 2 (ii) the race, ethnicity, age, and gen-
- 3 der of the client;
- 4 (iii) the date on which the attorney
- 5 was appointed to the case;
- 6 (iv) whether the case remained open
- 7 as of the last day of the fiscal year, and
- 8 if not, the date on which the case was
- 9 closed; and
- 10 (v) the resolution of the case, if the
- 11 case was concluded by the last day of the
- 12 fiscal year.

13 (D) Any other information as the Attorney

14 General determines appropriate.

15 (3) RENEWAL.—Upon application from an eligi-

16 ble entity that received a data grant, the Attorney

17 General may award a subsequent data grant to the

18 eligible entity for an additional term that may begin

19 upon termination of the initial data grant.

20 (c) HIRING GRANTS.—

21 (1) APPLICATION REQUIREMENTS.—An eligible

22 entity desiring a hiring grant shall submit to the At-

23 torney General an application that includes, as of

24 the date of the application—

1 (A) the caseload and number of, and pay  
2 scale for, attorneys and other staff of each ap-  
3 plicable public defender's office; and

4 (B)(i) the number of panel attorneys with-  
5 in the jurisdiction of the eligible entity;

6 (ii) the total number of cases assigned to  
7 the attorneys described in clause (i); and

8 (iii) the average number of hours spent on  
9 a case by an attorney described in clause (i).

10 (2) TERM.—The term of a hiring grant shall be  
11 3 years.

12 (3) USE OF FUNDS.—An eligible entity may use  
13 a hiring grant to—

14 (A) hire additional public defenders;

15 (B) increase compensation for public de-  
16 fenders or panel attorneys to achieve pay parity  
17 with corresponding prosecutor's offices;

18 (C) hire case workers, social workers, in-  
19 vestigators, or paralegals; or

20 (D) establish or fund a loan assistance  
21 program for public defenders.

22 (4) SUPPLEMENT, NOT SUPPLANT.—An eligible  
23 entity may not use a hiring grant to supplant funds  
24 that the eligible entity would otherwise have used for

1 any authorized purpose described in paragraph (3)  
2 during the grant period.

3 (5) REQUIRED DATA COLLECTION.—During  
4 each fiscal year of the grant period, an eligible entity  
5 that receives a hiring grant shall collect the data de-  
6 scribed in subsection (b)(2).

7 (d) SUBMISSION REQUIREMENT.—Not later than 60  
8 days after the end of a fiscal year, an eligible entity that  
9 receives a data grant or hiring grant shall submit to the  
10 Attorney General the data described in subsection (b)(2)  
11 for that fiscal year.

12 (e) MULTIPLE DEFENDANTS.—If a prosecutor's  
13 charging document states that multiple defendants were  
14 involved in a single incident of alleged criminal or delin-  
15 quent conduct, each defendant shall be considered a sepa-  
16 rate case for purposes of the collection of data described  
17 in subsection (b)(2).

18 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Attorney General  
20 such sums as may be necessary to carry out this section.

21 **SEC. 5. STUDIES.**

22 (a) STUDIES.—

23 (1) CASELOAD LIMITS STUDY.—

24 (A) IN GENERAL.—After the end of the  
25 first fiscal year for which data grants are

1 awarded, the Attorney General, acting through  
2 the Director of the Bureau of Justice Assist-  
3 ance, shall—

4 (i) conduct a study to analyze the  
5 data submitted to the Attorney General  
6 under section 4(d) for that fiscal year re-  
7 lated to public defender and panel attorney  
8 caseloads and correlated outcomes;

9 (ii) review studies, reports, and other  
10 data published or provided by professional  
11 organizations, legal associations, and bar  
12 associations related to public defender and  
13 panel attorney caseloads; and

14 (iii) develop and publish best practices  
15 and recommendations for setting public de-  
16 fender and panel attorney caseloads based  
17 on the information described in clauses (i)  
18 and (ii) to ensure—

19 (I) reasonably effective assistance  
20 of counsel pursuant to constitutional  
21 standards and prevailing professional  
22 norms; and

23 (II) competent representation  
24 pursuant to applicable rules of profes-  
25 sional responsibility.

## 14

1 (B) CONTINUING STUDY.—Not less fre-  
2 quently than once every 5 years, the Attorney  
3 General shall—

4 (i) study and review new studies, re-  
5 ports, or other data as described in sub-  
6 paragraph (A)(ii); and

7 (ii) update the best practices and rec-  
8 ommendations under subparagraph  
9 (A)(iii).

10 (2) COMPENSATION STUDY.—Not later than 3  
11 years after the date of enactment of this Act, the  
12 Attorney General, acting through the Director of  
13 Bureau of Justice Assistance and the Director of the  
14 Office of Access to Justice, shall—

15 (A) conduct a national study of public de-  
16 fender salaries and panel attorney rates, using  
17 prosecutors' salaries as one benchmark; and

18 (B) develop and publish best practices and  
19 recommendations relating to compensation of  
20 public defenders and panel attorneys.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated to the Attorney General  
23 to carry out this section—

1           (1) \$250,000,000 for each of the first 5 fiscal  
2       years beginning after the date of enactment of this  
3       Act; and

4           (2) such sums as may be necessary for each fis-  
5       cal year thereafter.

6       **SEC. 6. STATE DATA COLLECTION.**

7       (a) IN GENERAL.—For any fiscal year beginning  
8       after the date of enactment of this Act, a State that re-  
9       ceives funds under subpart 1 of part E of title I of the  
10      Omnibus Crime Control and Safe Streets Act of 1968 (34  
11      U.S.C. 10151 et seq.) may submit to the Office of Access  
12      to Justice of the Department of Justice data on, with re-  
13      spect to criminal cases heard by a court of the State or  
14      of a unit of local government in the State during that fis-  
15      cal year, the number of cases for which a defendant was  
16      represented in court by a public defender or panel attor-  
17      ney, broken down by—

18           (1) the most serious charge and the total num-  
19      ber of secondary charges in each case; and

20           (2) race, ethnicity, age, and gender of the de-  
21      fendant.

22      (b) APPLICABLE CRIMINAL OFFENSES.—A State  
23      that elects to submit data under subsection (a) shall in-  
24      clude data with respect to—

1           (1) criminal offenses for which a term of im-  
2           prisonment of more than 1 year may be imposed;

3           (2) criminal offenses for which a term of im-  
4           prisonment of 1 year or less may be imposed, includ-  
5           ing misdemeanors, traffic violations, and violations  
6           of municipal ordinances; and

7           (3) acts of juvenile delinquency or juvenile sta-  
8           tus offenses for which any term of detention may be  
9           imposed.

10          (c) FUNDING.—A State that receives funds under  
11          subpart 1 of part E of title I of the Omnibus Crime Con-  
12          trol and Safe Streets Act of 1968 (34 U.S.C. 10151 et  
13          seq.) may apply for, and the Attorney General may award,  
14          a 5 percent increase in those funds, to be used by the  
15          State to collect and provide to the Office of Access to Jus-  
16          tice of the Department of Justice the data described in  
17          subsection (a) of this section.

18          **SEC. 7. FUNDING FOR EDUCATIONAL PROGRAMS.**

19          (a) DEFINITION.—In this section, the term “eligible  
20          entity” means an entity that is—

21                 (1) an organization—

22                         (A) described in paragraph (3) or (6) of  
23                         section 501(c) of the Internal Revenue Code of  
24                         1986 and exempt from taxation under section  
25                         501(a) of such Code; or



1 (B) funded by a State or unit of local gov-  
2 ernment; or

3 (2) a State, unit of local government, Indian  
4 Tribal government, or political subdivision of an In-  
5 dian Tribe.

6 (b) GRANTS.—The Attorney General shall award  
7 grants to eligible entities to provide a comprehensive edu-  
8 cational program to public defenders and panel attorneys  
9 that offers—

10 (1) ongoing training and support; and

11 (2) programming that includes—

12 (A) skills training, including pretrial prac-  
13 tice, negotiation skills, trial skills, and sen-  
14 tencing advocacy;

15 (B) client-centered values;

16 (C) implicit bias training;

17 (D) leadership development; and

18 (E) ongoing support to reinforce the train-  
19 ing curriculum.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to the Attorney General  
22 to carry out this section \$5,000,000 for each of the first  
23 5 fiscal years beginning after the date of enactment of  
24 this Act.