

No. 2006-36

AN ACT

HB 15

Amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the Substance Abuse Education and Demand Reduction Fund, for driving under influence of alcohol or controlled substance and for penalties.

The General Assembly finds and declares as follows:

(1) Driving under the influence of alcohol or a controlled substance is a crime with thousands of victims in this Commonwealth.

(2) Evidence exists that victim impact panels are effective in reducing offender recidivism and restoring balance to victims' lives in driving under the influence cases.

(3) The purpose of this act is to recognize the value of victim impact panels at reducing offender recidivism and addressing victims' issues, to encourage counties to implement the panels and to establish a coordinating committee to provide standardized guidance for the panels.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7508.1(f), (g) and (i) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 7508.1. Substance Abuse Education and Demand Reduction Fund.

* * *

(f) Grants.—Notwithstanding any other provision of law, the commission shall, upon written application and subsequent approval, use moneys received under this section to *annually* award grants to [eligible organizations] *approved applicants* in the following manner:

[(1) No more than 45% of grant moneys awarded annually shall go to programs to provide research-based approaches to prevention, intervention, training, treatment and education services to reduce substance abuse and Statewide programs to assist families in accessing such services.]

(1) (i) Subject to the provisions of subparagraph (ii), 45% of grant moneys deposited into the fund each fiscal year shall be made available to nonprofit organizations to provide research-based approaches to prevention, intervention, training, treatment and education services to reduce substance abuse or to provide resources to assist families in assessing the services. Nonprofit organizations may jointly apply for grant moneys with a local government unit but shall not be required to do so.

(ii) (A) *Up to 20% of grant moneys available under subparagraph (i) may be used to:*

(I) Assist in the start-up of victim impact panel programs under 75 Pa.C.S. § 3804(f.1) (relating to penalties).

(II) Study the impact outcome and benefits of victim impact panels within this Commonwealth, including the impact of victim impact panels on driving under the influence recidivism and their impact on the well-being of participating victims.

(III) Provide assistance for the ongoing operation of victim impact panels.

(B) An applicant for a grant under this subparagraph may be an entity other than a nonprofit organization.

(2) [No more than 20% of grant moneys awarded annually shall go to Statewide programs to educate about the dangers of substance abuse and increase the awareness of the benefits of a drug-free Pennsylvania through public service announcement campaigns targeted toward youth, caregivers of youth and employers.] *Twenty percent of grant moneys deposited into the fund each fiscal year shall be made available to eligible organizations to educate youth, caregivers of youth and employers about the dangers of substance abuse and to increase the awareness of the benefits of a drug-free Pennsylvania through media-related efforts that may include public service announcements, public awareness campaigns and media literacy.*

(3) [No more than 20% of grant moneys awarded annually shall go to Statewide programs] *Twenty percent of grant moneys deposited into the fund each fiscal year shall be made available to eligible organizations to educate employers, unions and employees about the dangers of substance abuse in the workplace and provide comprehensive drug-free workplace programs and technical resources for businesses, including, but not limited to, training for working parents to keep their children drug free.*

(4) *Ten percent of the grant moneys [available to be awarded annually] deposited into the fund each fiscal year shall be transferred annually to the Community Drug Abuse Prevention Grant Program within the Office of Attorney General.*

(g) Administration.—*The commission shall develop guidelines, procedures and all applications] and procedures necessary to implement the grant program. The commission shall equitably distribute grant moneys to approved applicants [who apply for grants] under subsection (f)(1) [and (2) across all classes of counties.] and eligible organizations under subsection (f)(2) and (3). Each fiscal year the commission shall make available grant moneys equaling, except for funds to be transferred under subsection (f)(4) and administrative funds as provided for in this subsection, the balance of moneys deposited into the fund as of June 30 of the previous fiscal year. No more than 5% of total moneys deposited in the*

fund during a fiscal year may be used by the commission to administer the provisions of this section.

* * *

(i) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Commission.” The Pennsylvania Commission on Crime and Delinquency.

“Eligible organization.” *A Statewide organization that meets all of the following requirements:*

(1) *Possesses five or more consecutive years of experience carrying out substance abuse education and demand reduction or substance abuse treatment programs.*

(2) *Maintains a drug-free workplace policy.*

(3) *Has as its purpose the reduction of substance abuse.*

“Fund.” The Substance Abuse Education and Demand Reduction Fund established by this section.

Section 2. Section 3802(g)(1) of Title 75 is amended to read:

§ 3802. Driving under influence of alcohol or controlled substance.

* * *

(g) Exception to two-hour rule.—Notwithstanding the provisions of subsection (a), (b), (c), (e) or (f), where alcohol or controlled substance concentration in an individual’s blood or breath is an element of the offense, evidence of such alcohol or controlled substance concentration more than two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle is sufficient to establish that element of the offense under the following circumstances:

(1) where the Commonwealth shows good cause explaining why the chemical test *sample* could not be [performed] *obtained* within two hours; and

* * *

Section 3. Section 3804 of Title 75 is amended by adding a subsection to read:

§ 3804. Penalties.

* * *

(f.1) Victim impact panels.—

(1) *In addition to any other penalty imposed under this section, the court may order a person who violates section 3802 to attend a victim impact panel program.*

(2) *A victim impact panel program shall provide a nonconfrontational forum for driving under the influence crash victims, their family members, their friends or other pertinent persons to speak to driving under the influence offenders about the impact of the crash on victims’ lives and on the lives of families, friends and neighbors.*

(3) *A victim impact panel shall be administrated through the local office of probation and parole or other office as the court shall*

determine and shall be operated in consultation with the Mothers Against Drunk Driving - Pennsylvania State Organization.

(4) A victim impact panel program may assess a reasonable participation fee to achieve program self-sufficiency but may not operate for profit. The department shall establish an acceptable range of fees.

(5) The department shall develop standards and incentives to encourage counties to establish victim impact panel programs. In developing these standards, the department shall establish and chair a coordinating committee among pertinent agencies and organizations, including the Department of Health, the Pennsylvania Commission on Crime and Delinquency, the Office of Victim Advocate, the Administrative Office of Pennsylvania Courts, county officials, the Mothers Against Drunk Driving - Pennsylvania State Organization and the Pennsylvania DUI Association. The standards shall address items including all of the following:

(i) Prototype design and structure standards for victim impact panels.

(ii) Training standards and curricula for presenters, facilitators and administrators.

(iii) Operations policy and guidelines manual.

(iv) Evaluation standards, design and structure allowing for the tracking and analysis of recidivism data.

(v) Standards for counseling and debriefing activities for victim presenters.

(vi) Standards for reimbursing reasonable costs to victims for participation in panels.

(vii) Assistance to counties through coordinating potential Federal and State funding streams to carry out this subsection and to assist counties as may be needed.

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Section 4. This act shall take effect immediately.

APPROVED—The 11th day of May, A.D. 2006.

EDWARD G. RENDELL