

**PREA Amendment
Justice for All Reauthorization Act of 2016
Fact Sheet**

Signed into law on December 16, 2016, the PREA amendment under the Justice for All Reauthorization Act (JFARA) of 2016 (Pub. L. No. 114-324), includes a number of important changes to the PREA statute. This fact sheet provides governors and other stakeholders with obligations under PREA with an overview of key provisions in the PREA amendment, how the amendment will impact efforts across the country to implement the PREA Standards, and important information regarding the Department of Justice's (DOJ's) ongoing efforts to implement these new requirements. Please check this page frequently for updates, forthcoming frequently asked questions (FAQs) on the amendment, and more.

The following key provisions of the PREA amendment are described below:

- I. New grant funding abeyance option for states submitting an assurance;
- II. Impact on DOJ grant programs;
- III. New reporting requirements; and
- IV. Sunset of the assurance option.

For a more comprehensive understanding of the new provisions, we recommend that you examine the [statute](#).

I. New Grant Funding Abeyance Option for States Submitting an Assurance

Governors not able to certify full compliance with the PREA Standards now have two options:

- 1) Use not less than 5 percent of impacted DOJ grant funds to work towards and achieve full compliance with the PREA Standards in future years; or
- 2) Request that the Attorney General hold these grant funds in abeyance.

Disposition of Grant Funds Held in Abeyance

The PREA amendment describes how funds held in abeyance will be managed and expended. *See* 42 U.S.C. §15607(e)(2)(E).

- States¹ that select the abeyance option and that are able to submit a certification within three years following enactment of the JFARA will, upon submission of the certification, be able to reclaim the balance of funds held in abeyance to be used for the original purpose(s) of the impacted DOJ grant program(s).
- States that select the abeyance option and that are unable to submit a certification in the 3-year period following enactment of the JFARA that have audited at least 2/3 of facilities under the operational control of the executive branch will have the option to submit an assurance and receive the funds held in abeyance to be used solely for PREA compliance purposes.
- States that select the abeyance option and, within the 3-year period following enactment of the JFARA, are unable to certify full compliance or provide an assurance that at least 2/3 of applicable facilities have been audited will relinquish the balance held in abeyance for redistribution to other states to be used for the original purpose(s) of the impacted DOJ grant program(s).

¹ In this fact sheet, "state" refers to states, U.S. territories, and the District of Columbia.

Abeyance Timeline

The abeyance option will sunset three years following the date of enactment of the JFARA, on December 16, 2019. Therefore, governors who submit an assurance will have three opportunities to use the abeyance option: FY 2017, FY 2018, and FY 2019. A timeline of key dates is presented below.

- **FY 2017: Audit Year 3 of Cycle 1** (August 20, 2015 – August 19, 2016)
The deadline for this certification or assurance was October 15, 2016. Because the JFARA was enacted after the submission deadline, governors who submitted an assurance will have until March 22, 2017 to choose whether funds affected by the assurance are reallocated to the state to use for PREA compliance purposes or held in abeyance pending disposition of funds as described above.
- **FY 2018: Audit Year 1 of Cycle 2** (August 20, 2016 – August 19, 2017)
Governors who submit an assurance will be asked to choose whether their covered DOJ grant funds will be reallocated to the state to use for PREA compliance purposes or held in abeyance pending disposition of funds as described above. The deadline for this certification/assurance submission is October 15, 2017. Information on submission requirements will be provided to states in August 2017.
- **FY 2019: Audit Year 2 of Cycle 2** (August 20, 2017 – August 19, 2018)
Governors who submit an assurance will be asked to choose whether their covered DOJ grant funds will be reallocated to the state to use for PREA compliance purposes or held in abeyance pending disposition of funds as described above. The deadline for this certification/assurance submission is October 15, 2018. Information on submission requirements will be provided to states in August 2018.
- **FY 2020: Audit Year 3 of Cycle 2** (August 20, 2018 – August 19, 2019)
The final disposition of funds held in abeyance will be determined based on governors' certification and assurance submissions for Audit Year 3 of Cycle 2. The deadline for this certification/assurance submission is October 15, 2019. Information on submission requirements will be provided to states in August 2019.

II. Impact on DOJ Grant Programs

The PREA amendment exempts grant programs administered by the Office on Violence Against Women; therefore, starting in FY 2017, the Services, Training, Officers, and Prosecutors (STOP) Violence Against Women Formula Grant Program will no longer be subject to the 5 percent reallocation or reduction under the PREA statute. See 42 U.S.C. § 15607(e)(1)(A).

Two remaining DOJ grant programs are subject to this statutory provision:

- 1) Edward Byrne Memorial Justice Assistance Grant Program administered by the Bureau of Justice Assistance, and
- 2) Juvenile Justice and Delinquency Prevention Act Formula Grant Program administered by the Office of Juvenile Justice and Delinquency Prevention.

III. New Reporting Requirements

The PREA amendment includes several new reporting requirements for states submitting certifications and assurances, as well as additional provisions designed to enhance transparency regarding states' ongoing work to implement the PREA Standards. The PREA amendment requires:

- Governors to provide certain compliance information with their annual certification or assurance submission to DOJ.
- The Attorney General to post all final audit reports for facilities considered to be under the operational control of each state's executive branch to an appropriate website, and to update this website annually.

More information will be forthcoming regarding DOJ's implementation of these requirements and the timeline for compliance.

IV. Sunset of the Assurance Option

The PREA statute provides that, if a governor is not able to certify to DOJ that his/her state is in full compliance with the PREA Standards, the governor has the option to submit an assurance to DOJ that not less than 5 percent of certain DOJ grant funds will be used solely for the purpose of enabling the state to achieve and certify full compliance with the Standards in future years, or held in abeyance pursuant to the PREA amendment under the JFARA. See 42 U.S.C. §15607(e)(2)(A)(ii). The PREA amendment makes the following additional changes to the assurance option:

- The assurance option will sunset six years following the date of enactment of the JFARA, in December 2022.
- For two years following the assurance sunset, a governor who can certify that the state has had audits for at least 90% of facilities covered by the certification/assurance may request that the Attorney General allow submission of an emergency assurance.

Additional information regarding implementation of the above provisions will be forthcoming. This update is provided for information purposes only and does not constitute legal advice.