

118TH CONGRESS
1ST SESSION

S. 1351

To study and prevent child abuse in youth residential programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Mr. MERKLEY (for himself, Mr. CORNYN, Mr. LUJÁN, Mr. TUBERVILLE, Mr. MURPHY, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To study and prevent child abuse in youth residential programs, 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 “Stop Institutional
5 Child Abuse Act”.

1 **SEC. 2. IMPROVING NATIONAL DATA COLLECTION AND RE-**
 2 **PORTING FOR YOUTH IN YOUTH RESIDEN-**
 3 **TIAL PROGRAMS.**

4 Title V of the Public Health Service Act (42 U.S.C.
 5 290aa et seq.) is amended by inserting after part I (42
 6 U.S.C. 290jj et seq.) the following:

7 **“PART J—IMPROVING NATIONAL DATA COLLEC-**
 8 **TION AND REPORTING FOR YOUTH IN YOUTH**
 9 **RESIDENTIAL PROGRAMS**
 10 **“SEC. 596. FEDERAL WORK GROUP ON YOUTH RESIDENTIAL**
 11 **PROGRAMS.**

12 “(a) IN GENERAL.—The Secretary shall establish the
 13 Federal Work Group on Youth Residential Programs (re-
 14 ferred to in this section as the ‘Work Group’) to improve
 15 the dissemination and implementation of best practices re-
 16 garding the health and safety (including with respect to
 17 the use of seclusion and restraints), care, treatment, and
 18 appropriate placement of youth in youth residential pro-
 19 grams.

20 “(b) COMPOSITION.—

21 “(1) IN GENERAL.—The Secretary shall appoint
 22 9 representatives to the Work Group from the Ad-
 23 ministration for Children and Families, the Adminis-
 24 tration for Community Living, the Substance Abuse
 25 and Mental Health Services Administration, the De-
 26 partment of Education, the Department of Justice,

1 the Indian Health Service, and the Centers for
2 Medicare & Medicaid Services.

3 “(2) OTHER FEDERAL AGENCIES.—The Work
4 Group may include representatives from other Fed-
5 eral agencies, as the Secretary determines appro-
6 priate, appointed by the head of the relevant agency.

7 “(c) CONSULTATION.—In carrying out the duties de-
8 scribed in subsection (d), the Work Group shall consult
9 with—

10 “(1) child advocates, including attorneys experi-
11 enced in working with youth overrepresented in the
12 child welfare system or the juvenile justice system;

13 “(2) health professionals, including mental
14 health and substance use disorder professionals,
15 nurses, physicians, social workers and other health
16 care providers who provide services to youth who
17 may be served by residential programs;

18 “(3) protection and advocacy systems;

19 “(4) individuals experienced in working with
20 youth with disabilities, including emotional, mental
21 health, and substance use disorders;

22 “(5) individuals with lived experience as chil-
23 dren and youth in youth residential programs, in-
24 cluding individuals with intellectual or developmental

1 disabilities and individuals with emotional, mental
2 health, or substance use disorders;

3 “(6) representatives of State and local child
4 protective services agencies and other relevant public
5 agencies;

6 “(7) parents or guardians of children and youth
7 with emotional, mental health, or substance use dis-
8 order needs;

9 “(8) experts on issues related to child abuse
10 and neglect in youth residential programs;

11 “(9) administrators of youth residential pro-
12 grams;

13 “(10) education professionals who provide serv-
14 ices to youth in youth residential programs;

15 “(11) Indian Tribes and Tribal organizations;

16 “(12) State legislators;

17 “(13) State licensing agencies; and

18 “(14) others, as appropriate.

19 “(d) DUTIES.—The Work Group shall—

20 “(1) develop and publish recommendations re-
21 garding a national database that aggregates data,
22 including process-oriented data such as length of
23 stay and use of restraints, and seclusion and out-
24 come-oriented data such as discharge setting and

1 ability to be safety maintained in school and commu-
2 nity at least 6-months after discharge;

3 “(2) beginning not later than 2 years after the
4 date of enactment of the Stop Institutional Child
5 Abuse Act, and every 2 years thereafter, submit to
6 the Secretary and the Committee on Health, Edu-
7 cation, Labor, and Pensions and the Committee on
8 Finance of the Senate, and the Committee on Edu-
9 cation and the Workforce, the Committee on Energy
10 and Commerce, and the Committee on Ways and
11 Means of the House of Representatives, a report
12 containing policy recommendations designed to—

13 “(A) improve the coordination of the dis-
14 semination and implementation of best practices
15 regarding the health and safety (including use
16 of seclusion and restraints), care, treatment,
17 and appropriate placement of youth in youth
18 residential programs;

19 “(B) promote the coordination of the dis-
20 semination and implementation of best practices
21 regarding the care and treatment of youth in
22 youth residential programs among State child
23 welfare agencies, State Medicaid agencies, and
24 State mental and behavioral health agencies;
25 and

1 “(C) promote the adoption and implemen-
2 tation of best practices regarding the care and
3 treatment of youth in youth residential pro-
4 grams among child welfare systems, licensing
5 agencies, accreditation organizations, and other
6 relevant monitoring and enforcement entities;

7 “(3) develop and utilize risk assessment tools,
8 including projects that provide for the development
9 of research-based strategies for risk assessments re-
10 lating to the health, safety (including with respect to
11 the use of seclusion and restraints), and well-being
12 of youth in youth residential programs;

13 “(4) support the development and implementa-
14 tion of education and training resources for profes-
15 sional and paraprofessional personnel in the fields of
16 health care, law enforcement, judiciary, social work,
17 child protection (including the prevention, identifica-
18 tion, and treatment of child abuse and neglect), edu-
19 cation, child care, and other relevant fields, and indi-
20 viduals such as court appointed special advocates
21 and guardians ad litem, including education and
22 training resources regarding—

23 “(A) the unique needs, experiences, and
24 outcomes of youth overrepresented in youth res-
25 idential programs;

1 “(B) the enhancement of interagency com-
2 munication among child protective service agen-
3 cies, protection and advocacy systems, State li-
4 censing agencies, State Medicaid agencies, and
5 accreditation agencies;

6 “(C) best practices to eliminate the usage
7 of physical, mechanical, and chemical restraint
8 and seclusion, and to promote the use of posi-
9 tive behavioral interventions and supports, cul-
10 turally and linguistically sensitive services, men-
11 tal health supports, trauma- and grief-informed
12 care, and crisis de-escalation interventions; and

13 “(D) the legal duties of such professional
14 and paraprofessional personnel and youth resi-
15 dential program personnel and the responsibil-
16 ities of such professionals and personnel to pro-
17 tect the legal rights of children in youth resi-
18 dential programs, consistent with applicable
19 State and Federal law;

20 “(5) improve accessibility and development of
21 community-based alternatives to youth residential
22 programs;

23 “(6) provide recommendations for innovative
24 programs designed to provide community support

1 and resources to at-risk youth, including programs
2 that—

3 “(A) support continuity of education, in-
4 cluding removing barriers to access;

5 “(B) provide mentorship;

6 “(C) support the provision of crisis inter-
7 vention services and in-home or outpatient men-
8 tal health and substance use disorder treat-
9 ment; and

10 “(D) provide other resources to families
11 and parents or guardians that assist in pre-
12 venting the need for out-of-home placement of
13 youth in youth residential programs;

14 “(7) perform other activities, such as activities
15 relating to development, dissemination, outreach, en-
16 gagement, or training associated with advancing
17 least-restrictive, evidence-based, trauma and grief-in-
18 formed, and developmentally and culturally com-
19 petent care for youth in youth residential programs
20 and youth at risk of being placed in such programs;
21 and

22 “(8) provide recommendations on best practices
23 to convey Work Group recommendations to States.

24 **“SEC. 596A. DEFINITIONS.**

25 “In this part:

1 “(1) CHILD ABUSE OR NEGLECT.—The term
2 ‘child abuse or neglect’ has the meaning given such
3 term in section 3 of the Child Abuse Prevention and
4 Treatment Act.

5 “(2) CULTURALLY COMPETENT.—The term
6 ‘culturally competent’ has the meaning given such
7 term in section 102 of the Developmental Disabil-
8 ities Assistance and Bill of Rights Act of 2000.

9 “(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—
10 The terms ‘Indian Tribe’ and ‘Tribal organization’
11 have the meanings given such terms in section 4 of
12 the Indian Self-Determination and Education Assist-
13 ance Act.

14 “(4) PROTECTION AND ADVOCACY SYSTEMS.—
15 The term ‘protection and advocacy system’ means a
16 system established by a State or Indian Tribe under
17 section 143 of the Developmental Disabilities Assist-
18 ance and Bill of Rights Act of 2000.

19 “(5) STATE.—The term ‘State’ means each of
20 the several States, the District of Columbia, the
21 Commonwealth of Puerto Rico, the Virgin Islands,
22 Guam, American Samoa, and the Commonwealth of
23 the Northern Mariana Islands.

24 “(6) YOUTH.—The term ‘youth’ means an indi-
25 vidual who has not attained the age of 22.

1 “(7) YOUTH RESIDENTIAL PROGRAM.—

2 “(A) IN GENERAL.—The term ‘youth resi-
3 dential program’ means each location of a facil-
4 ity or program operated by a public or private
5 entity that, with respect to one or more youth
6 who are unrelated to the owner or operator of
7 the facility or program—

8 “(i) provides a residential environ-
9 ment, such as—

10 “(I) a program with a wilderness
11 or outdoor experience, expedition, or
12 intervention;

13 “(II) a boot camp experience or
14 other experience designed to simulate
15 characteristics of basic military train-
16 ing or correctional regimes;

17 “(III) an education or thera-
18 peutic boarding school;

19 “(IV) a behavioral modification
20 program;

21 “(V) a residential treatment cen-
22 ter or facility;

23 “(VI) a qualified residential
24 treatment program (as defined in sec-

1 tion 472(k)(4) of the Social Security
2 Act);

3 “(VII) a psychiatric residential
4 treatment program that meets the re-
5 quirements of subpart D of part 441
6 of title 42, Code of Federal Regula-
7 tions (or any successor regulations);

8 “(VIII) a group home serving
9 children and youth placed by any
10 placing authority;

11 “(IX) an intermediate care facil-
12 ity for individuals with intellectual
13 disabilities; or

14 “(X) any residential program
15 that is utilized as an alternative to in-
16 carceration for justice involved youth,
17 adjudicated youth, or youth deemed
18 delinquent; and

19 “(ii) serves youth who have a history
20 or diagnosis of—

21 “(I) an emotional, behavioral, or
22 mental health disorder;

23 “(II) a substance misuse or use
24 disorder, including alcohol misuse or
25 use disorders; or

1 “(III) an intellectual, develop-
2 mental, physical, or sensory disability.

3 “(B) EXCLUSION.—The term ‘youth resi-
4 dential program’ does not include—

5 “(i) a hospital licensed by the State;
6 or

7 “(ii) a foster family home that pro-
8 vides 24-hour substitute care for children
9 placed away from their parents or guard-
10 ians and for whom the State child welfare
11 services agency has placement and care re-
12 sponsibility and that is licensed and regu-
13 lated by the State as a foster family
14 home.”.

15 **SEC. 3. NATIONAL ACADEMIES OF SCIENCES, ENGINEER-**
16 **ING, AND MEDICINE STUDY.**

17 (a) IN GENERAL.—Not later than 45 days after the
18 date of enactment of this Act, the Secretary of Health and
19 Human Services shall seek to enter into a contract with
20 the National Academies of Sciences, Engineering, and
21 Medicine (referred to in this section as the “National
22 Academies”) to conduct a study to examine the state of
23 youth in youth residential programs and make rec-
24 ommendations.

1 (b) STUDY COMPONENTS.—Pursuant to the contract
2 under subsection (a), the National Academies shall, not
3 later than 3 years after the date of enactment of the Stop
4 Institutional Child Abuse Act, issue a report informed by
5 the study conducted under such subsection that includes—

6 (1) identification of all Federal and State fund-
7 ing sources for youth residential programs;

8 (2) identification of Federal data collection
9 sources on youth in youth residential programs;

10 (3) identification of existing Federal and State
11 regulation of youth residential programs, including
12 alternative licensing standards or licensing exemp-
13 tions for youth residential programs;

14 (4) identification of existing standards of care
15 of national accreditation entities that provide accred-
16 itation or certification of youth residential programs;

17 (5) identification of existing barriers in Federal
18 and State policy for blending and braiding of Fed-
19 eral and State funding sources to serve youth in
20 community-based settings;

21 (6) recommendations for coordination by Fed-
22 eral and State agencies of data on youth in youth
23 residential programs; and

1 (7) recommendations for the improvement of
2 Federal and State oversight of youth residential pro-
3 grams receiving Federal funding.

4 (c) DEFINITION.—In this section, the term “youth
5 residential program” has the meaning given such term in
6 section 596A of the Public Health Service Act, as added
7 by section 2.

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