S. 1351

One Hundred Eighteenth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and twenty four

An Act

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Institutional Child Abuse Act".

SEC. 2. NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE STUDY.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of Health and Human Services shall seek to enter into a contract with the National Academies of Sciences, Engineering, and Medicine (referred to in this section as the "National Academies") to conduct a study to examine the state of youth in youth residential programs and make recommendations.

(b) STUDY COMPONENTS.—Pursuant to the contract under subsection (a), the National Academies shall, not later than 3 years after the date of enactment of the Stop Institutional Child Abuse Act, and every 2 years thereafter for a period of 10 years, issue a report informed by the study conducted under such subsection that includes—

(1) identification of the nature, prevalence, severity, and scope of child abuse, neglect, and deaths in youth residential programs, including types of abuse and neglect, causes of abuse, neglect, and deaths, and criteria used to assess abuse, neglect, and deaths;

(2) identification of all Federal and State funding sources for youth residential programs;

(3) identification of Federal data collection sources on youth in youth residential programs;

(4) identification of existing regulation of youth residential programs, including alternative licensing standards or licensing exemptions for youth residential programs;

(5) identification of existing standards of care of national accreditation entities that provide accreditation or certification of youth residential programs;

(6) identification of existing barriers in policy for blending and braiding of funding sources to serve youth in community-based settings;

(7) recommendations for coordination by agencies of data on youth in youth residential programs;

(8) recommendations for the improvement of oversight of youth residential programs receiving Federal funding;

(9) identification of risk assessment tools, including projects that provide for the development of research-based strategies for risk assessments relating to the health, safety (including with respect to the use of seclusion and restraints), and well-being of youth in youth residential programs;

(10) recommendations to support the development and implementation of education and training resources for professional and paraprofessional personnel in the fields of health care, law enforcement, judiciary, social work, child protection (including the prevention, identification, and treatment of child abuse and neglect), education, child care, and other relevant fields, and individuals such as court appointed special advocates and guardians ad litem, including education and training resources regarding—

(A) the unique needs, experiences, and outcomes of youth with lived experience in youth residential programs;

(B) the enhancement of interagency communication among child protective service agencies, protection and advocacy systems, State licensing agencies, State Medicaid agencies, and accreditation agencies;

(C) best practices to eliminate the use of physical, mechanical, and chemical restraint and seclusion, and to promote the use of positive behavioral interventions and supports, culturally and linguistically sensitive services, mental health supports, trauma- and grief-informed care, and crisis de-escalation interventions; and

(D) the legal duties of such professional and paraprofessional personnel and youth residential program personnel and the responsibilities of such professionals and personnel to protect the legal rights of children in youth residential programs, consistent with applicable State and Federal law;

(11) recommendations to improve accessibility and development of community-based alternatives to youth residential programs;

(12) recommendations for innovative programs designed to provide community support and resources to at-risk youth, including programs that—

(A) support continuity of education, including removing barriers to access;

(B) provide mentorship;

(C) support the provision of crisis intervention services and in-home or outpatient mental health and substance use disorder treatment; and

(D) provide other resources to families and parents or guardians that assist in preventing the need for out-of-home placement of youth in youth residential programs;

(13) recommendations relating to the development, dissemination, outreach, engagement, or training associated with advancing least-restrictive, evidence-based, trauma and grief-informed, and developmentally and culturally competent care for youth in youth residential programs and youth at risk of being placed in such programs;

(14) recommendations on best practices regarding the health and safety (including reduction or elimination of use

of seclusion and restraints), care, and treatment of youth in youth residential programs to convey to States;

(15) recommendations to improve the coordination, dissemination, and implementation of best practices regarding the health and safety (including use, reduction, or elimination of seclusion and restraints), care, and treatment of youth in youth residential programs among child welfare systems, licensing agencies, accreditation organizations, other relevant monitoring and enforcement entities, State child welfare agencies, State Medicaid agencies, State mental and behavioral health agencies, consumers, and State protection advocacy centers; and

(16) identification of aggregate data, including process-oriented data such as length of stay and use of restraints, and seclusion and outcome-oriented data such as discharge setting and ability to be safely maintained in school and community at least 12 months after discharge, including—

(A) recommendations on how such data should be shared across child-placing agencies and stakeholders, including individuals receiving services, families of such individuals, and advocates; and

(B) identification of barriers to sharing information across child-placing agencies.

(c) CONSULTATION.—In carrying out the duties described in subsection (b), the National Academies shall consult with—

(1) child advocates, including attorneys experienced in working with youth overrepresented in the child welfare system or the juvenile justice system;

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

(3) protection and advocacy systems;

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

(5) individuals with lived experience as children and youth in youth residential programs, including individuals with intellectual or developmental disabilities and individuals with emotional, mental health, or substance use disorders;

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

(7) parents or guardians of children and youth with emotional, mental health, or substance use disorder needs;

(8) parents of children and youth with intellectual disabilities and autism;

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

(10) administrators of youth residential programs;

(11) education professionals who provide services to youth with complex needs in youth residential programs;

(12) State educational agencies;

(13) local educational agencies;

(14) Indian Tribes and Tribal organizations;

(15) State legislators;

(16) State licensing agencies;

(17) the Administration for Children and Families;

(18) the Administration for Community Living;

(19) the Substance Abuse and Mental Health Services Administration;

(20) the Department of Justice;

(21) the Indian Health Service;

(22) the Centers for Medicare & Medicaid Services;

(23) the National Council on Disability; and

(24) others, as appropriate.

(d) REPORT SUBMISSION AND PUBLICATION.—The National Academies shall submit to the Secretary for dissemination to relevant State agencies, and make publicly available, a report on the comprehensive review conducted under subsection (b), including the findings of the National Academies under subsection (b);

(e) DEFINITIONS.—In this section:

(1) CHILD ABUSE AND NEGLECT.—The term "child abuse and neglect" has the meaning given such term in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note).

(2) CULTURALLY COMPETENT.—The term "culturally competent" has the meaning given such term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms "Indian Tribe" and "Tribal organization" have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(4) PROTECTION AND ADVOCACY SYSTEMS.—The term "protection and advocacy system" means a system established by a State or Indian Tribe under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) YOUTH.—The term "youth" means an individual who has not attained the age of 22.

(7) YOUTH RESIDENTIAL PROGRAM.—

(A) IN GENERAL.—The term "youth residential program" means each location of a facility or program operated by a public or private entity that, with respect to one or more youth who are unrelated to the owner or operator of the facility or program—

(i) provides a residential environment, such as—

(I) a program with a wilderness or outdoor experience, expedition, or intervention;

(II) a boot camp experience or other experience designed to simulate characteristics of basic military training or correctional regimes;

(III) an education or therapeutic boarding school;

(IV) a behavioral modification program;

(V) a residential treatment center or facility;

(VI) a qualified residential treatment program (as defined in section 472(k)(4) of the Social Security Act (42 U.S.C. 672(k)(4)));

(VII) a psychiatric residential treatment program that meets the requirements of subpart D

of part 441 of title 42, Code of Federal Regulations (or any successor regulations);

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

(IX) an intermediate care facility for individuals with intellectual disabilities; or

(X) any residential program that is utilized as an alternative to incarceration for justice involved youth, adjudicated youth, or youth deemed delinquent; and

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

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

(II) a substance misuse or use disorder, including alcohol misuse or use disorders; or

(III) an intellectual, developmental, physical, or sensory disability.

(B) EXCLUSION.—The term "youth residential program" does not include—

(i) a hospital licensed by a State; or

(ii) a foster family home that—

(I) provides 24-hour substitute care for children placed away from their parents or guardians and for whom the State child welfare services agency has placement and care responsibility; and

(II) is licensed and regulated by the State as a foster family home.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.