

117TH CONGRESS  
2D SESSION

# S. 3761

To support the provision of treatment family care services, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 3, 2022

Ms. BALDWIN (for herself, Mr. PORTMAN, Ms. STABENOW, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To support the provision of treatment family care services,  
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 “Treatment Family  
5 Care Services Act”.

6 **SEC. 2. SUPPORTING THE PROVISION OF TREATMENT FAM-**  
7 **ILY CARE SERVICES.**

8 (a) DEFINITIONS.—In this section:

9 (1) INDIAN TRIBE.—The term “Indian tribe”  
10 has the meaning given that term in section 4 of the

1 Indian Health Care Improvement Act (25 U.S.C.  
2 1603).

3 (2) MEDICAID PROGRAM.—The term “Medicaid  
4 program” means the program for grants to States  
5 for medical assistance programs established under  
6 title XIX of the Social Security Act (42 U.S.C. 1396  
7 et seq.).

8 (3) SECRETARY.—The term “Secretary” means  
9 the Secretary of Health and Human Services.

10 (4) STATE.—The term “State” has the mean-  
11 ing given that term in section 1101 of the Social Se-  
12 curity Act (42 U.S.C. 1301) for purposes of titles IV  
13 and XIX of such Act (42 U.S.C. 601 et seq., 1396  
14 et seq.).

15 (5) TITLE IV–E PROGRAM.—The term “title  
16 IV–E program” means the program for foster care,  
17 prevention, and permanency established under part  
18 E of title IV of the Social Security Act (42 U.S.C.  
19 670 et seq.).

20 (6) TREATMENT FAMILY CARE SERVICES.—The  
21 term “treatment family care services” means struc-  
22 tured daily services and interventions provided in a  
23 home-based or family-based setting, which may  
24 adopt a trauma-informed and gender-responsive ap-  
25 proach and may include services addressing the de-

1 velopment, improvement, monitoring, and reinforcing  
2 of age-appropriate social, communication, and be-  
3 havioral skills, crisis intervention and crisis support  
4 services, medication monitoring, counseling, and case  
5 management, for children enrolled in any Medicaid  
6 eligibility group (as such term is defined for pur-  
7 poses of the Medicaid or CHIP program) who have  
8 not attained age 21, and who, as a result of mental  
9 illness, other emotional or behavioral disorders,  
10 medically fragile conditions, or developmental dis-  
11 abilities, need additional or specialized care, the cost  
12 of which could be reimbursed under the State Med-  
13 icaid program or the title IV–E program but who  
14 can receive services in a home-based or family-based  
15 setting.

16 (b) GUIDANCE ON TREATMENT FAMILY CARE SERV-  
17 ICES.—

18 (1) IN GENERAL.—Not later than 180 days  
19 after the date of enactment of this Act, the Sec-  
20 retary, in consultation with the Administrator of the  
21 Centers for Medicare & Medicaid Services and the  
22 Assistant Secretary of the Administration for Chil-  
23 dren and Families, shall develop and issue guidance  
24 to States and Indian tribes identifying opportunities

1 to fund treatment family care services for children  
2 enrolled in any Medicaid eligibility group.

3 (2) ADDITIONAL REQUIREMENTS.—The guid-  
4 ance required under paragraph (1) shall include de-  
5 scriptions of the following:

6 (A) Existing opportunities and flexibilities  
7 under the Medicaid or CHIP program, includ-  
8 ing under waivers authorized under section  
9 1115 or 1915 of the Social Security Act (42  
10 U.S.C. 1315, 1396n), for States to receive Fed-  
11 eral funding under that program for the provi-  
12 sion of treatment family care services for chil-  
13 dren enrolled in any Medicaid eligibility group,  
14 and as requested by States and subject to ap-  
15 proval by the Secretary.

16 (B) Funding opportunities and flexibilities  
17 under the title IV–E program, including for  
18 specialized training and consultation for biologi-  
19 cal parents, relative and kinship caregivers,  
20 adoptive parents, and foster parents, adminis-  
21 trative costs related to in-home prevention serv-  
22 ices to candidates for foster care and their par-  
23 ents or kin caregivers, and reunification services  
24 for youth returning from foster care, as well as  
25 other services identified by the Secretary.

1           (C) How States can employ and coordinate  
2           funding provided under the Medicaid or CHIP  
3           program, the title IV–E program, and other  
4           programs administered by the Secretary to sup-  
5           port the provision of treatment family care  
6           services.

7           (c) BEST PRACTICES FOR ESTABLISHING PROGRAMS  
8           TO PROVIDE TREATMENT FAMILY CARE SERVICES.—

9           (1) IN GENERAL.—Not later than 2 years after  
10          the date of enactment of this Act, the Secretary, in  
11          consultation with the Administrator of the Centers  
12          for Medicare & Medicaid Services and the Assistant  
13          Secretary of the Administration for Children and  
14          Families, shall develop and issue guidance to States  
15          identifying best practices for establishing programs  
16          to provide treatment family care services.

17          (2) COLLABORATION REQUIRED.—Before  
18          issuing guidance on best practices, the Secretary  
19          shall solicit input from representatives of States and  
20          Indian tribes, health care providers with expertise in  
21          child trauma and child development, children with  
22          mental illness, or other emotional or behavioral dis-  
23          orders, recipients of treatment family care services,  
24          foster and kinship care families, and other relevant  
25          experts and stakeholders.

1           (3) ADDITIONAL REQUIREMENTS.—The guid-  
2           ance required under paragraph (1) shall include the  
3           following:

4                   (A) Best practices for the organization and  
5                   provision of treatment family care services and  
6                   supports.

7                   (B) Identification of services and supports  
8                   included in successful programs that provide  
9                   treatment family care services.

10                   (C) Descriptions of State standards for li-  
11                   censing and accrediting programs that provide  
12                   treatment family care services to ensure pro-  
13                   viders are appropriately licensed and trained to  
14                   provide high-quality treatment family care serv-  
15                   ices, including best practices concerning State  
16                   requirements for such licensure and accredita-  
17                   tion by recognized national independent, not-  
18                   for-profit entities that accredit health care orga-  
19                   nizations or by any other independent, not-for-  
20                   profit accrediting organizations approved by the  
21                   State.

22           (4) RULE OF CONSTRUCTION.—Nothing in this  
23           subsection shall be construed as requiring the Sec-  
24           retary to establish an advisory committee subject to

1 the provisions of the Federal Advisory Committee  
2 Act (5 U.S.C. App.).

3 (d) GAO STUDY AND REPORT.—Not later than 2  
4 years after the date of enactment of this Act, the Comp-  
5 troller General of the United States shall conduct a study  
6 and submit a report to Congress assessing States' and  
7 Tribes' progress in taking steps to ensure foster parents  
8 and other caregivers who are eligible for training for which  
9 Federal payments are available under the title IV–E pro-  
10 gram are provided with necessary and appropriate train-  
11 ing to meet the individual needs of foster children placed  
12 in their care, consistent with the requirements of sections  
13 471(a)(24) and 477(b)(3)(D) of the Social Security Act  
14 (42 U.S.C. 671(a)(24), 677(b)(3)(D)). Such assessment  
15 shall also include an analysis of, and recommendations,  
16 if any, to relevant Federal agencies to improve, State re-  
17 view, approval and oversight of all such training (whether  
18 provided directly by the State or under contract with a  
19 public or private agency responsible for finding, placing,  
20 or monitoring the placement of children in foster family  
21 homes).

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