

116TH CONGRESS
1ST SESSION

H. R. 1336

To require the Federal Government to provide mental health services to each child who has been separated from one or more parent as a result of implementation of the Trump Administration’s zero tolerance policy at the United States border, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2019

Ms. BARRAGÁN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Federal Government to provide mental health services to each child who has been separated from one or more parent as a result of implementation of the Trump Administration’s zero tolerance policy at the United States border, 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 “Mental Health Care
5 for Children Inhumanely Separated from Parents by the
6 Federal Government Act of 2019”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) On April 6, 2018, Attorney General Jeff
4 Sessions announced that the Trump Administration
5 would begin implementing a new zero tolerance pol-
6 icy for immigrants crossing the border into the
7 United States illegally.

8 (2) Between April 19 and May 31, 2018, 1,995
9 children were separated by the Department of
10 Homeland Security from their migrant parents at
11 the border.

12 (3) On May 8, 2018, the president of the Amer-
13 ican Academy of Pediatrics issued a statement op-
14 posing separation of children and parents at the bor-
15 der, explaining that “highly stressful experiences,
16 like family separation, can cause irreparable harm,
17 disrupting a child’s brain architecture and affecting
18 his or her short- and long-term health. This type of
19 prolonged exposure to serious stress—known as
20 toxic stress—can carry lifelong consequences for
21 children.”.

22 (4) On May 29, 2018, the president of the
23 American Psychological Association issued a state-
24 ment regarding the “traumatic effects of separating
25 immigrant families”, explaining that “[t]he longer
26 that children and parents are separated, the greater

1 the reported symptoms of anxiety and depression for
2 the children. Negative outcomes for children include
3 psychological distress, academic difficulties and dis-
4 ruptions in their development.”.

5 (b) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the separation of children from migrating par-
7 ents, as is resulting from the Trump Administration’s im-
8 plementation of the zero tolerance immigration policy, is
9 cruel, inhumane, and harmful to the mental health of sep-
10 arated children.

11 **SEC. 3. MENTAL HEALTH SERVICES FOR CHILDREN SEPA-**
12 **RATED BY THE DEPARTMENT OF HOMELAND**
13 **SECURITY AT THE BORDER.**

14 (a) IN GENERAL.—The Federal Government shall,
15 including through contracts with qualified mental health
16 professionals, ensure that—

17 (1) beginning not later than 24 hours after a
18 child is separated from one or more parent by the
19 Department of Homeland Security at the United
20 States border, such child receives a mental health
21 assessment by such a professional who is not em-
22 ployed by the Federal Government;

23 (2) not later than 24 hours after the date of the
24 enactment of this Act, any child who was separated
25 from one or more parent at the United States border

1 at any time on or after April 6, 2018, shall receive
2 a mental health assessment from such a professional
3 who is not employed by the Federal Government;

4 (3) on an ongoing basis and as described in
5 subsection (c), a child described in paragraph (1) or
6 (2) is, subject to subsection (b), provided with men-
7 tal health services by such a professional regardless
8 of whether such child remains in a detention center
9 or is released to a family member or guardian (pro-
10 vided such child remains in the United States) and
11 an adequate network of such professionals is avail-
12 able nationwide to enable access to such services;
13 and

14 (4) 100 percent of the costs of such assessment
15 and services provided to a child pursuant to this
16 subsection are covered by the Federal Government,
17 without any cost-sharing or other related obligation
18 with respect to such assessment or services provided
19 to such child.

20 (b) OPT-OUT.—After release from a detention center,
21 the parent or legal guardian of a child described in sub-
22 section (a) may choose for such child to not receive serv-
23 ices otherwise made available pursuant to paragraph (3)
24 of such subsection and to not be provided an independent
25 assessment described in subsection (c).

1 (c) TERMINATION.—On an annual basis, a child re-
2 ceiving mental health services provided pursuant to sub-
3 section (a)(3) shall be subject to an independent assess-
4 ment by a qualified mental health professional who is not
5 directly involved in the provision of mental health services
6 to such child and who is not employed by the Federal Gov-
7 ernment to determine whether such child continues to
8 need such services or if such services should be termi-
9 nated. In the case a determination is made pursuant to
10 the previous sentence that such services should be termi-
11 nated, the requirements under subsection (a) with respect
12 to such child shall terminate. Prior to the termination of
13 services, the qualified mental health professional involved
14 in the provision of mental health services to such child
15 shall consult the parent or guardian of such child in plan-
16 ning for reducing and then terminating such services.

17 (d) QUALIFIED MENTAL HEALTH PROFESSIONAL
18 DEFINED.—In this section, the term “qualified mental
19 health professional” means a provider of mental health
20 services who is eligible to participate as such a provider
21 under a State plan under the Medicaid program under
22 title XIX of the Social Security Act or under a State child
23 health plan under the Children’s Health Insurance Pro-
24 gram under title XXI of such Act and who—

1 (1) has training in the treatment of mental ill-
2 ness in children and adolescents; and

3 (2) agrees to maintain patient records for chil-
4 dren and adolescents receiving mental health serv-
5 ices under this Act in accordance with State and
6 Federal health information privacy and security laws
7 in the same manner and to the same extent as such
8 provider would be required under such laws to main-
9 tain such records for such children and adolescents
10 if such children and adolescents were nationals of
11 the United States (as such term is defined in para-
12 graph (22) of section 101 of the Immigration and
13 Nationality Act (8 U.S.C. 1101)).

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