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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

Be it enacted by the Senate and House of Representa-
tives 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. IMPROVING NATIONAL DATA COLLECTION AND REPORTING FOR YOUTH IN YOUTH RESIDENTIAL PROGRAMS.

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

"PART J—IMPROVING NATIONAL DATA COLLECTION AND REPORTING FOR YOUTH IN YOUTH RESIDENTIAL PROGRAMS

"SEC. 596. FEDERAL WORK GROUP ON YOUTH RESIDENTIAL PROGRAMS.

"(a) In general.—The Secretary shall establish the Federal Work Group on Youth Residential Programs (referred to in this section as the ‘Work Group’) to improve the dissemination and implementation of best practices regarding the health and safety (including with respect to the use of seclusion and restraints), care, treatment, and appropriate placement of youth in youth residential programs.

"(b) Composition.—

"(1) In general.—The Secretary shall appoint 9 representatives to the Work Group from the Administration for Children and Families, the Administration for Community Living, the Substance Abuse and Mental Health Services Administration, the Department of Education, the Department of Justice,
the Indian Health Service, and the Centers for Medicare & Medicaid Services.

“(2) OTHER FEDERAL AGENCIES.—The Work Group may include representatives from other Federal agencies, as the Secretary determines appropriate, appointed by the head of the relevant agency.

“(c) CONSULTATION.—In carrying out the duties described in subsection (d), the Work Group 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) experts on issues related to child abuse and neglect in youth residential programs;

“(9) administrators of youth residential programs;

“(10) education professionals who provide services to youth in youth residential programs;

“(11) Indian Tribes and Tribal organizations;

“(12) State legislators;

“(13) State licensing agencies; and

“(14) others, as appropriate.

“(d) DUTIES.—The Work Group shall—

“(1) develop and publish recommendations regarding a national database that aggregates 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 safety maintained in school and community at least 6-months after discharge;

“(2) beginning not later than 2 years after the date of enactment of the Stop Institutional Child Abuse Act, and every 2 years thereafter, submit to the Secretary and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Education and the Workforce, the Committee on Energy and Commerce, and the Committee on Ways and Means of the House of Representatives, a report containing policy recommendations designed to—

“(A) improve the coordination of the dissemination and implementation of best practices regarding the health and safety (including use of seclusion and restraints), care, treatment, and appropriate placement of youth in youth residential programs;

“(B) promote the coordination of the dissemination and implementation of best practices regarding the care and treatment of youth in youth residential programs among State child welfare agencies, State Medicaid agencies, and State mental and behavioral health agencies; and
“(C) promote the adoption and implementation of best practices regarding the care and treatment of youth in youth residential programs among child welfare systems, licensing agencies, accreditation organizations, and other relevant monitoring and enforcement entities;

“(3) develop and utilize 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;

“(4) 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 overrepresented 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 usage 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;

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

“(6) provide 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;

“(7) perform other activities, such as activities relating to 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; and

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

“SEC. 596A. DEFINITIONS.

“In this part:
“(1) Child abuse or neglect.—The term ‘child abuse or neglect’ has the meaning given such term in section 3 of the Child Abuse Prevention and Treatment Act.

“(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.

“(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.

“(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.

“(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 sec-
tion 472(k)(4) of the Social Security Act;

“(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 the State;

or

“(ii) a foster family home that 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 that is licensed and regulated by the State as a foster family home.”.

SEC. 3. 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 recommenda-
(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, issue a report informed by the study conducted under such subsection that includes—

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

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

(3) identification of existing Federal and State regulation of youth residential programs, including alternative licensing standards or licensing exemptions for youth residential programs;

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

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

(6) recommendations for coordination by Federal and State agencies of data on youth in youth residential programs; and
(7) recommendations for the improvement of Federal and State oversight of youth residential programs receiving Federal funding.

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