

117TH CONGRESS
1ST SESSION

S. 1902

To empower communities to establish a continuum of care for individuals experiencing mental or behavioral health crisis, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Ms. CORTEZ MASTO (for herself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To empower communities to establish a continuum of care for individuals experiencing mental or behavioral health crisis, 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 “Behavioral Health Cri-
5 sis Services Expansion Act”.

6 **SEC. 2. CRISIS RESPONSE CONTINUUM OF CARE.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services (in this section referred to as the “Sec-
9 retary”) shall establish standards for a continuum of care

1 for use by health care providers and communities in re-
2 sponding to individuals experiencing a mental or behav-
3 ioral health crisis, including those individuals with co-oc-
4 ccurring substance use disorders (referred to in this section
5 as the “crisis response continuum”).

6 (b) REQUIREMENTS.—

7 (1) SCOPE OF STANDARDS.—Such standards
8 shall define—

9 (A) minimum requirements of core crisis
10 services, as determined by the Secretary, to in-
11 clude requirements that each entity that fur-
12 nishes such services should—

13 (i) not require prior authorization
14 from an insurance provider nor referral
15 from a health care provider prior to the de-
16 livery of services;

17 (ii) serve all individuals regardless of
18 age or ability to pay;

19 (iii) operate 24 hours a day, 7 days a
20 week, and provide care to all individuals;
21 and

22 (iv) provide care and support through
23 resources described in paragraph (2)(A)
24 until the individual has been stabilized or

1 transfer the individual to the next level of
2 crisis care; and

3 (B) psychiatric stabilization, including the
4 point at which a case may be closed for—

5 (i) individuals screened over the
6 phone; and

7 (ii) individuals stabilized on the scene
8 by mobile teams.

9 (2) IDENTIFICATION OF ESSENTIAL FUNC-
10 TIONS.—The Secretary shall identify the essential
11 functions of each service in the crisis response con-
12 tinuum, which shall include at least the following:

13 (A) Identification of resources for referral
14 and enrollment in continuing behavioral health
15 and other human services for the individual in
16 crisis where necessary.

17 (B) Delineation of access and entry points
18 to services within the crisis response continuum.

19 (C) Development of and adherence to pro-
20 tocols and agreements for the transfer and re-
21 ceipt of individuals to and from other segments
22 of the crisis response continuum segments as
23 needed, and from outside referrals including
24 health care providers, law enforcement, EMS,

1 fire, education institutions, and community-
 2 based organizations.

3 (D) Description of the qualifications of cri-
 4 sis services staff, including roles for physicians,
 5 licensed clinicians, case managers, and peers (in
 6 accordance with State licensing requirements).

7 (E) Requirements for the convention of
 8 collaborative meetings of crisis response service
 9 providers, first responders, and community
 10 partners operating in a common region for the
 11 discussion of case management, best practices,
 12 and general performance improvement.

13 (3) SERVICE CAPACITY AND QUALITY STAND-
 14 ARDS.—Such standards shall include definitions of—

15 (A) adequate volume of services to meet
 16 population need;

17 (B) appropriate timely response; and

18 (C) capacity to meet the needs of different
 19 patient populations, including all age groups,
 20 cultural and linguistic minorities, and individ-
 21 uals with co-occurring mental health and sub-
 22 stance use disorder crisis, individuals with cog-
 23 nitive disabilities experiencing behavioral health
 24 crises, and individuals with chronic medical con-

1 ditions and physical disabilities experiencing be-
2 havioral health crises.

3 (4) OVERSIGHT AND ACCREDITATION.—The
4 Secretary shall designate entities charged with the
5 oversight and accreditation of entities within the cri-
6 sis response continuum.

7 (5) IMPLEMENTATION TIMEFRAME.—Not later
8 than 1 year after the date of enactment of this Act,
9 the Secretary shall establish the standards under
10 this section.

11 (6) DATA COLLECTION AND EVALUATIONS.—

12 (A) IN GENERAL.—The Secretary, directly
13 or through grants, contracts, or interagency
14 agreements, shall collect data and conduct eval-
15 uations with respect to the provision of services
16 and programs offered on the crisis response
17 continuum for purposes of assessing the extent
18 to which the provision of such services and pro-
19 grams meet certain objectives and outcomes
20 measures as determined by the Secretary. Such
21 objectives shall include—

22 (i) a reduction in inappropriate ar-
23 rests of individuals who are in mental
24 health crisis;

1 (ii) a reduction in inappropriate emer-
 2 gency room admissions and readmissions;
 3 and

4 (iii) evidence of adequate access to
 5 crisis care centers and crisis bed services.

6 (B) RULEMAKING.—The Secretary shall
 7 carry out this subsection through notice and
 8 comment rulemaking, following a request for in-
 9 formation from stakeholders.

10 (C) AUTHORIZATION OF APPROPRIA-
 11 TIONS.—To carry out this subsection, there is
 12 authorized to be appropriated such sums as are
 13 necessary to remain available until expended.

14 (c) COMPONENTS OF CRISIS RESPONSE CON-
 15 TINUUM.—The crisis response continuum consists of at
 16 least the following components:

17 (1) CRISIS CALL CENTERS.—Regional clinically
 18 managed crisis call centers that provide telephonic
 19 crisis intervention capabilities. Such centers should
 20 meet National Suicide Prevention Lifeline oper-
 21 ational guidelines regarding suicide risk assessment
 22 and engagement and offer air traffic control-quality
 23 coordination of crisis care in real-time.

24 (2) MOBILE CRISIS RESPONSE TEAM.—Teams
 25 of providers that are available to reach any indi-

vidual in the service area in their home, workplace,
or any other community-based location of the indi-
vidual in crisis in a timely manner.

(3) CRISIS RECEIVING AND STABILIZATION FA-
CILITIES.—Subacute inpatient facilities and other
facilities specified by the Secretary that provide
short-term observation and crisis stabilization serv-
ices to all referrals, including the following services:

(A) 23-HOUR CRISIS STABILIZATION SERV-
ICES.—A direct care service that provides indi-
viduals in severe distress with up to 23 consecu-
tive hours of supervised care to assist with de-
escalating the severity of their crisis or need for
urgent care in a sub-acute inpatient setting.

(B) SHORT-TERM CRISIS RESIDENTIAL
SERVICES.—A direct care service that assists
with deescalating the severity of an individual's
level of distress or need for urgent care associ-
ated with a substance use or mental health dis-
order in a residential setting.

(4) BEHAVIORAL HEALTH URGENT CARE FA-
CILITIES.—Ambulatory services available 12-24
hours per day, 7 days a week, where individuals ex-
periencing crisis can walk in without an appointment

1 to receive crisis assessment, crisis intervention,
2 medication, and connection to continuity of care.

3 (5) ADDITIONAL FACILITIES AND PROVIDERS.—

4 The Secretary shall specify additional facilities and
5 health care providers as part of the crisis response
6 continuum, as the Secretary determines appropriate.

7 (d) RELATIONSHIP TO STATE LAW.—

8 (1) IN GENERAL.—Subject to paragraph (2),
9 the standards established under this section are min-
10 imum standards and nothing in this section may be
11 construed to preclude a State from establishing ad-
12 ditional standards, so long as such standards are not
13 inconsistent with the requirements of this section or
14 other applicable law.

15 (2) WAIVER OR MODIFICATION.—The Secretary
16 shall establish a process under which a State may
17 request a waiver or modification of a standard estab-
18 lished under this section.

19 **SEC. 3. COVERAGE OF CRISIS RESPONSE SERVICES.**

20 (a) COVERAGE UNDER THE MEDICARE PROGRAM.—

21 (1) IN GENERAL.—Section 1861(s)(2) of the
22 Social Security Act (42 U.S.C. 1395x(s)(2)) is
23 amended—

24 (A) in subparagraph (GG), by striking
25 “and” at the end;

1 (B) in subparagraph (HH), by striking the
 2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following new
 4 subparagraph:

5 “(II) crisis response services as defined in sub-
 6 section (III);”.

7 (2) CRISIS RESPONSE SERVICES DEFINED.—
 8 Section 1861 of the Social Security Act (42 U.S.C.
 9 1395x) is amended by adding at the end the fol-
 10 lowing new subsection:

11 “Crisis Response Services Defined

12 “(III)(1) IN GENERAL.—The term ‘crisis response
 13 services’ means mental or behavioral health services that
 14 are furnished by a mobile crisis response team, a crisis
 15 receiving and stabilization facility, behavioral health ur-
 16 gent care facility, or other appropriate provider, as deter-
 17 mined by the Secretary, to an individual experiencing a
 18 mental or behavioral health crisis. Such term includes
 19 services identified by the Secretary as part of the crisis
 20 response continuum of care under section 2 of the Behav-
 21 ioral Health Crisis Services Expansion Act.

22 “(2) DEFINITIONS.—In this subsection, the terms
 23 ‘mobile crisis response team’, ‘crisis receiving and sta-
 24 bilization facility’, and ‘behavioral health urgent care facil-

1 ity' have the meaning given those terms for purposes of
2 such section.”.

3 (3) PAYMENT.—Section 1833(a)(1) of the So-
4 cial Security Act (42 U.S.C. 1395l(a)(1)) is amend-
5 ed—

6 (A) by striking “and (DD)” and inserting
7 “(DD)”; and

8 (B) by inserting before the semicolon at
9 the end the following: “and (EE) with respect
10 to crisis response services described in section
11 1861(s)(2)(II), the amounts paid shall be 80
12 percent of the lesser of the actual charge for
13 the service or the fee schedule amount provided
14 under section 1848”.

15 (4) AMBULANCE TRANSPORT OF INDIVIDUALS
16 IN CRISIS.—

17 (A) IN GENERAL.—Section 1834(l) of the
18 Social Security Act (42 U.S.C. 1395m(l)) is
19 amended by adding at the end the following
20 new paragraph:

21 “(18) TRANSPORTATION OF INDIVIDUALS IN
22 CRISIS.—With respect to ambulance services fur-
23 nished on or after the date that is 3 years after the
24 date of the enactment of the Behavioral Health Cri-
25 sis Services Expansion Act, the regulations described

1 in section 1861(s)(7) shall provide coverage under
 2 such section for ambulance services to transport an
 3 individual experiencing a mental or behavioral health
 4 crisis to an appropriate facility, such as a commu-
 5 nity mental health center (as defined in section
 6 1861(ff)(3)(B)) or other facility or provider identi-
 7 fied by the Secretary as part of the crisis response
 8 continuum of care under section 2 of the Behavioral
 9 Health Crisis Services Expansion Act, as appro-
 10 priate, for crisis response services described in sec-
 11 tion 1861(s)(2)(II).”.

12 (B) CONFORMING AMENDMENT.—Section
 13 1861(s)(7) of such Act (42 U.S.C. 1395x(s)(7))
 14 is amended by striking “section 1834(l)(14)”
 15 and inserting “paragraphs (14) and (18) of sec-
 16 tion 1834(l)”.

17 (5) EFFECTIVE DATE.—The amendments made
 18 by this subsection shall apply to services furnished
 19 on or after the date that is 3 years after the date
 20 of the enactment of this Act.

21 (b) MANDATORY COVERAGE OF CRISIS RESPONSE
 22 SERVICES UNDER THE MEDICAID PROGRAM.—

23 (1) IN GENERAL.—Title XIX of the Social Se-
 24 curity Act (42 U.S.C. 1396 et seq.) is amended—

1 (A) in section 1902(a)(10)(A), in the mat-
 2 ter preceding clause (i), by striking “and (30)”
 3 and inserting “(30), and (31)”; and

4 (B) in section 1905—

5 (i) in subsection (a)—

6 (I) in paragraph (30), by striking
 7 “; and” and inserting a semicolon;

8 (II) by redesignating paragraph
 9 (31) as paragraph (32); and

10 (III) by inserting the following
 11 paragraph after paragraph (30):

12 “(31) subject to subsection (jj), crisis response
 13 services (as defined in section 1861(l)); and”; and

14 (ii) by adding at the end the following
 15 new subsection:

16 “(jj) EXCEPTION TO REQUIREMENT TO PROVIDE
 17 COVERAGE FOR CRISIS RESPONSE SERVICES.—The re-
 18 quirement to provide services described in paragraph (31)
 19 of subsection (a) shall not apply with respect to a State
 20 for a fiscal year, if before the beginning of such year the
 21 State certifies to the satisfaction of the Secretary that im-
 22 plementing such requirement statewide for all individuals
 23 eligible to enroll in the State plan (or waiver of the State
 24 plan) would not be feasible by reason of a shortage of
 25 qualified providers of crisis response services, or facilities

1 providing such treatment, that will contract with the State
 2 or a managed care entity with which the State has a con-
 3 tract under section 1903(m) or under section
 4 1905(t)(3).”.

5 (2) PRESUMPTIVE ELIGIBILITY DETERMINA-
 6 TION BY CRISIS RESPONSE SERVICE PROVIDERS.—
 7 Section 1902(a)(47)(B) of the Social Security Act
 8 (42 U.S.C. 1396a(a)(47)(B)) is amended by insert-
 9 ing “or provider of crisis response services (as de-
 10 fined in section 1861(l))” after “any hospital”.

11 (3) EFFECTIVE DATE.—

12 (A) IN GENERAL.—Except as provided in
 13 subparagraph (B), the amendments made by
 14 this section shall take effect on the date that is
 15 3 years after the date of the enactment of this
 16 Act.

17 (B) DELAY PERMITTED IF STATE LEGISLA-
 18 TION REQUIRED.—In the case of a State plan
 19 under title XIX of the Social Security Act (42
 20 U.S.C. 1396 et seq.) which the Secretary of
 21 Health and Human Services determines re-
 22 quires State legislation (other than legislation
 23 appropriating funds) in order for the plan to
 24 meet the additional requirements imposed by
 25 the amendments made by this section, the State

1 plan shall not be regarded as failing to comply
 2 with the requirements of such title solely on the
 3 basis of the failure of the plan to meet such ad-
 4 ditional requirements before the 1st day of the
 5 1st calendar quarter beginning after the close
 6 of the 1st regular session of the State legisla-
 7 ture that begins after the date of enactment of
 8 this Act. For purposes of the previous sentence,
 9 in the case of a State that has a 2-year legisla-
 10 tive session, each year of such session shall be
 11 deemed to be a separate regular session of the
 12 State legislature.

13 (c) ESSENTIAL HEALTH BENEFITS.—Section
 14 1302(b)(1)(E) of the Patient Protection and Affordable
 15 Care Act (42 U.S.C. 18022(b)(1)(E)) is amended by in-
 16 serting “and crisis response services (as defined in section
 17 1861(l)) of the Social Security Act)” before the period.

18 (d) GROUP HEALTH PLANS.—Section 2707 of the
 19 Public Health Service Act (42 U.S.C. 300gg–6) is amend-
 20 ed by adding at the end the following:

21 “(e) CRISIS RESPONSE SERVICES.—A group health
 22 plan or a health insurance issuer that offers health insur-
 23 ance coverage in the large group market shall ensure that
 24 such coverage includes crisis response services (as defined
 25 in section 1861(l)) of the Social Security Act).”.

1 (e) TRICARE COVERAGE.—

2 (1) IN GENERAL.—The Secretary of Defense
3 shall provide coverage under the TRICARE program
4 for crisis response services, as defined in section
5 1861(III) of the Social Security Act (42 U.S.C.
6 1395x) (as amended by section 3).

7 (2) TRICARE PROGRAM DEFINED.—In this
8 section, the term “TRICARE program” has the
9 meaning given the term in section 1072 of title 10,
10 United States Code.

11 (f) REIMBURSEMENT FOR CRISIS RESPONSE SERV-
12 ICES FOR VETERANS.—Section 1725(f)(1) of title 38,
13 United States Code, is amended, in the matter preceding
14 subparagraph (A), by inserting “, including crisis response
15 services (as defined in subsection (III) of section 1861 of
16 the Social Security Act (42 U.S.C. 1395x)),” after “serv-
17 ices”.

18 (g) COVERAGE UNDER FEHB.—

19 (1) IN GENERAL.—Section 8902 of title 5,
20 United States Code, is amended by adding at the
21 end the following:

22 “(p) Each contract for a plan under this chapter shall
23 require the carrier to provide coverage for crisis response
24 services, as that term is defined in subsection (III) of sec-
25 tion 1861 of the Social Security Act (42 U.S.C. 1395x).”.

1 (2) EFFECTIVE DATE.—The amendment made
 2 by paragraph (1) shall apply beginning with respect
 3 to the third contract year for chapter 89 of title 5,
 4 United States Code, that begins on or after the date
 5 that is 3 years after the date of enactment of this
 6 Act.

7 **SEC. 4. BUILDING THE CRISIS CONTINUUM INFRASTRUC-**
 8 **TURE.**

9 (a) ADDITIONAL AMOUNTS FOR MENTAL HEALTH
 10 BLOCK GRANT.—Section 1920 of the Public Health Serv-
 11 ice Act (42 U.S.C. 300x–9) is amended by adding at the
 12 end the following:

13 “(d) SUPPORT FOR CRISIS RESPONSE SERVICES IN-
 14 FRASTRUCTURE.—

15 “(1) IN GENERAL.—In addition to amounts
 16 made available under subsection (a), there are au-
 17 thorized to be appropriated such sums as are nec-
 18 essary for each of fiscal years 2022, 2023, and
 19 2024, for purposes of supporting the infrastructure
 20 needed to provide crisis response services (as defined
 21 in section 1861(l)(3) of the Social Security Act) in the
 22 States, which may include training and continuing
 23 education, and administrative expenses with respect
 24 to the provision of such services.

1 “(2) ALLOTMENTS.—Each fiscal year for which
2 amounts are appropriated under paragraph (1), the
3 Secretary shall allot to each State that receives a
4 grant under section 1911 for the fiscal year an
5 amount that bears the same relationship to the total
6 amount appropriated under paragraph (1) for the
7 fiscal year that the amount received by the State
8 under section 1911(a) for the fiscal year bears to
9 the total amount appropriated under subsection (a)
10 for the fiscal year.”.

11 (b) TECHNICAL ASSISTANCE.—The Secretary of
12 Health and Human Services (referred to in this section
13 as the “Secretary”) shall provide to States technical as-
14 sistance regarding the provision of crisis response services,
15 as defined in section 1861(l)(3) of the Social Security Act
16 (42 U.S.C. 1395x) (as amended by section 3), including
17 guidance on how States may blend Medicaid funds avail-
18 able to States under title XIX of the Social Security Act
19 (42 U.S.C. 1396 et seq.) and funds available to States
20 under the community mental health services block grant
21 program under subpart I of part B of title XIX of the
22 Public Health Service Act (42 U.S.C. 300x et seq.) and
23 the substance abuse prevention and treatment block grant
24 program under subpart II of part B of title XIX of such
25 Act (42 U.S.C. 300x–21 et seq.) to provide such services.

1 (c) CLEARINGHOUSE OF BEST PRACTICES.—The
 2 Secretary shall develop and maintain a publicly available
 3 clearinghouse of best practices for the successful operation
 4 of each segment of the system for providing crisis response
 5 services (as defined in section 1861(l)(3) of the Social Secu-
 6 rity Act (42 U.S.C. 1395x) (as amended by section 3))
 7 and the integration of such best practices into the provi-
 8 sion of such services. The clearinghouse shall be updated
 9 annually.

10 **SEC. 5. INCIDENT REPORTING.**

11 (a) ESTABLISHMENT OF PROTOCOL PANEL.—The
 12 Secretary of Health and Human Services (referred to in
 13 this section as the “Secretary”), in consultation with the
 14 Attorney General, shall convene a panel for the purposes
 15 of making recommendations for training and protocol for
 16 911 dispatchers to respond appropriately to individuals ex-
 17 perencing a psychiatric crisis based on the characteristics
 18 of the incident and the needs of the caller.

19 (b) PANELISTS.—The Secretary shall appoint individ-
 20 uals to serve staggered 10-year terms on the panel estab-
 21 lished under subsection (a). Such individuals shall in-
 22 clude—

- 23 (1) firefighters;
- 24 (2) emergency medical services personnel;
- 25 (3) law enforcement officers;

1 (4) 911 dispatchers;

2 (5) representatives from each segment of the
3 crisis response continuum, as described in section 2,
4 including 988 dispatchers;

5 (6) individuals who have received services under
6 such crisis response continuum, including individuals
7 under the age of 18 and members of underserved
8 communities; and

9 (7) other individuals, as the Secretary deter-
10 mines appropriate.

11 (c) RECOMMENDATIONS.—

12 (1) TOPICS.—In issuing recommendations
13 under this section, the panel shall consider—

14 (A) connecting 911 callers to crisis care
15 services instead of responding with law enforce-
16 ment officers;

17 (B) integrating the 988 system into the
18 911 system, or transferring calls from the 911
19 system to the 988 system as appropriate; and

20 (C) a process for identifying 911 callers
21 who are in mental health distress and evalu-
22 ating the level of need of such callers, as de-
23 fined by standardized assessment tools such as
24 the Level of Care Utilization System (LOCUS)

1 and the Child and Adolescent Level of Care
2 Utilization System (CALOCUS).

3 (2) UPDATES.—The panel shall update rec-
4 ommendations issued under this section not less fre-
5 quently than every 5 years.

○