

112TH CONGRESS
2D SESSION

S. 3705

To establish a commission to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2012

Mr. BAUCUS (for himself, Mr. KERRY, Ms. COLLINS, Mr. CARDIN, Mrs. SHAHEEN, Ms. SNOWE, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a commission to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

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 “Protect our Kids Act
5 of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) deaths from child abuse and neglect are
9 preventable;

1 (2) deaths from child abuse and neglect are sig-
2 nificantly underreported and there is no national
3 standard for reporting such deaths;

4 (3) according to the Child Maltreatment Report
5 of 2011, in fiscal year 2011, 1,545 children in the
6 United States are reported to have died from child
7 abuse and neglect, and many experts believe that the
8 actual number may be significantly more;

9 (4) over 42 percent of the number of children
10 in the United States who die from abuse are under
11 the age of 1, and almost 82 percent are under the
12 age of 4;

13 (5) of the children who died in fiscal year 2011,
14 70 percent suffered neglect either exclusively or in
15 combination with another maltreatment type and 48
16 percent suffered physical abuse either exclusively or
17 in combination;

18 (6) increased understanding of deaths from
19 child abuse and neglect can lead to improvement in
20 agency systems and practices to protect children and
21 prevent child abuse and neglect; and

22 (7) Congress in recent years has taken a num-
23 ber of steps to reduce child fatalities from abuse and
24 neglect, such as—

1 (A) providing States with flexibility
2 through the Child and Family Services Im-
3 provement and Innovation Act of 2011 to oper-
4 ate child welfare demonstration projects to test
5 services focused on preventing abuse and ne-
6 glect and ensuring that children remain safely
7 in their own homes;

8 (B) providing funding through the Child
9 and Family Services Improvement Act of 2006
10 for services and activities to enhance the safety
11 of children who are at risk of being placed in
12 foster care as a result of a parent's substance
13 abuse;

14 (C) providing funding through the Fos-
15 tering Connections to Success and Increasing
16 Adoptions Act of 2008 for grants to facilitate
17 activities such as family group decisionmaking
18 meetings and residential family treatment pro-
19 grams to support parents in caring for their
20 children; and

21 (D) requiring States through the Child and
22 Family Services Improvement and Innovation
23 Act of 2011 to describe how they will improve
24 the quality of data collected on fatalities from
25 child abuse and neglect.

1 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

2 (a) ESTABLISHMENT.—There is established the Com-
3 mission to Eliminate Child Abuse and Neglect Fatalities
4 (in this Act referred to as the “Commission”).

5 (b) MEMBERSHIP.—

6 (1) COMPOSITION.—

7 (A) MEMBERS.—The Commission shall be
8 composed of 12 members, of whom—

9 (i) 6 shall be appointed by the Presi-
10 dent;

11 (ii) 2 shall be appointed by the Speak-
12 er of the House of Representatives;

13 (iii) 1 shall be appointed by the mi-
14 nority leader of the House of Representa-
15 tives;

16 (iv) 2 shall be appointed by the major-
17 ity leader of the Senate; and

18 (v) 1 shall be appointed by the minor-
19 ity leader of the Senate.

20 (B) QUALIFICATIONS.—Each member ap-
21 pointed under subparagraph (A) shall have ex-
22 perience in one or more of the following areas:

23 (i) child welfare administration;

24 (ii) child welfare research;

25 (iii) child development;

- 1 (iv) legislation, including legislation
- 2 involving child welfare matters;
- 3 (v) trauma and crisis intervention;
- 4 (vi) pediatrics;
- 5 (vii) psychology and mental health;
- 6 (viii) emergency medicine;
- 7 (ix) forensic pathology or medical in-
- 8 vestigation of injury and fatality;
- 9 (x) social work with field experience;
- 10 (xi) academia at an institution of
- 11 higher education, as that term is defined in
- 12 section 101 of the Higher Education Act
- 13 of 1965 (20 U.S.C. 1001), with a focus on
- 14 one or more of the other areas listed under
- 15 this subparagraph;
- 16 (xii) law enforcement, with experience
- 17 handling child abuse and neglect matters;
- 18 (xiii) civil law, with experience han-
- 19 dling child abuse and neglect matters;
- 20 (xiv) criminal law, with experience
- 21 handling child abuse and neglect matters;
- 22 (xv) substance abuse treatment;
- 23 (xvi) education at an elementary
- 24 school or secondary school, as those terms
- 25 are defined in section 9101 of the Elemen-

1 tary and Secondary Education Act of 1965
2 (20 U.S.C. 7801);
3 (xvii) epidemiology; and
4 (xviii) computer science or software
5 engineering with a background in inter-
6 operability standards.

7 (C) DIVERSITY OF QUALIFICATIONS.—In
8 making appointments to the Commission under
9 subparagraph (A), the President and the con-
10 gressional leaders shall make every effort to se-
11 lect individuals whose qualifications are not al-
12 ready represented by other members of the
13 Commission.

14 (2) DATE.—The appointments of the members
15 of the Commission shall be made not later than 90
16 days after the date of enactment of this Act.

17 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
18 bers shall be appointed for the life of the Commission. Any
19 vacancy in the Commission shall not affect its powers, but
20 shall be filled in the same manner as the original appoint-
21 ment.

22 (d) INITIAL MEETING.—Not later than 60 days after
23 the date on which a majority of the members of the Com-
24 mission have been appointed, the Commission shall hold
25 its first meeting.

1 (e) MEETINGS.—The Commission shall meet at the
2 call of the Chairperson.

3 (f) QUORUM.—A majority of the members of the
4 Commission shall constitute a quorum, but a lesser num-
5 ber of members may hold hearings.

6 (g) CHAIRPERSON.—The President shall select a
7 Chairperson for the Commission from among its members.

8 **SEC. 4. DUTIES OF THE COMMISSION.**

9 (a) STUDY.—

10 (1) IN GENERAL.—The Commission shall con-
11 duct a thorough study on the use of child protective
12 services and child welfare services funded under title
13 IV and subtitle A of title XX of the Social Security
14 Act to reduce fatalities from child abuse and neglect.

15 (2) MATTERS STUDIED.—The matters studied
16 by the Commission shall include—

17 (A) the effectiveness of the services de-
18 scribed in paragraph (1) and best practices in
19 preventing child and youth fatalities that are
20 intentionally caused or that occur due to neg-
21 ligence, neglect, or a failure to exercise proper
22 care;

23 (B) the effectiveness of Federal, State, and
24 local policies and systems within such services
25 aimed at collecting accurate, uniform data on

1 child fatalities in a coordinated fashion, includ-
2 ing the identification of the most and least ef-
3 fective policies and systems in practice;

4 (C) the current (as of the date of the
5 study) barriers to preventing fatalities from
6 child abuse and neglect, and how to improve ef-
7 ficiency to improve child welfare outcomes;

8 (D) trends in demographic and other risk
9 factors that are predictive of or correlated with
10 child maltreatment, such as age of the child,
11 child behavior, family structure, parental stress,
12 and poverty;

13 (E) methods of prioritizing child abuse and
14 neglect prevention within such services for fami-
15 lies with the highest need; and

16 (F) methods of improving data collection
17 and utilization, such as increasing interoper-
18 ability among State and local and other data
19 systems.

20 (3) MATERIALS STUDIED.—The Commission
21 shall review—

22 (A) all current (as of the date of the
23 study) research and documentation, including
24 the National Survey of Child and Adolescent
25 Well-Being and research and recommendations

1 from the Government Accountability Office, to
2 identify lessons, solutions, and needed improve-
3 ments related to reducing fatalities from child
4 abuse and neglect; and

5 (B) recommendations from the Advisory
6 Board on Child Abuse and Neglect.

7 (b) COORDINATION.—The Commission shall provide
8 opportunities for graduate and doctoral students to coordi-
9 nate research with the Commission.

10 (c) RECOMMENDATIONS.—The Commission shall—

11 (1) develop recommendations to reduce fatali-
12 ties from child abuse and neglect for Federal, State,
13 and local agencies, and private sector and nonprofit
14 organizations, including recommendations to imple-
15 ment a comprehensive national strategy for such
16 purpose; and

17 (2) develop guidelines for the type of informa-
18 tion that should be tracked to improve interventions
19 to prevent fatalities from child abuse and neglect.

20 (d) REPORT.—

21 (1) IN GENERAL.—Not later than 2 years after
22 the date on which a majority of the members of the
23 Commission have been appointed, the Commission
24 shall submit a report to the President and Congress,
25 which shall contain a detailed statement of the find-

1 ings and conclusions of the Commission, together
2 with its recommendations for such legislation and
3 administrative actions as it considers appropriate.

4 (2) EXTENSION.—The President may extend
5 the date on which the report described in paragraph
6 (1) shall be submitted by an additional 1 year.

7 (3) ONLINE ACCESS.—The Commission shall
8 make the report under paragraph (1) available on
9 the publicly available Internet Web site of the De-
10 department of Health and Human Services.

11 **SEC. 5. POWERS OF THE COMMISSION.**

12 (a) HEARINGS.—

13 (1) IN GENERAL.—The Commission may hold
14 such hearings, sit and act at such times and places,
15 take such testimony, and receive such evidence as
16 the Commission considers advisable to carry out this
17 Act.

18 (2) LOCATION.—The location of hearings under
19 paragraph (1) shall include—

20 (A) areas with high fatality rates from
21 child abuse and neglect; and

22 (B) areas that have shown a decrease in
23 fatalities from child abuse and neglect.

24 (3) SUBJECT.—The Commission shall hold
25 hearings under paragraph (1)—

1 (A) to examine the Federal, State, and
2 local policies and available resources that affect
3 fatalities from child abuse and neglect; and

4 (B) to explore the matters studied under
5 section 4(a)(2).

6 (b) INFORMATION FROM FEDERAL AGENCIES.—The
7 Commission may secure directly from any Federal depart-
8 ment or agency such information as the Commission con-
9 sidered necessary to carry out this Act. Upon request of
10 the Chairperson of the Commission, the head of such de-
11 partment or agency shall furnish such information to the
12 Commission.

13 (c) POSTAL SERVICES.—The Commission may use
14 the United States mails in the same manner and under
15 the same conditions as other departments and agencies of
16 the Federal Government.

17 (d) GIFTS.—The Commission may accept, use, and
18 dispose of gifts or donations of services or property.

19 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

20 (a) TRAVEL EXPENSES.—The members of the Com-
21 mission shall be allowed travel expenses, including per
22 diem in lieu of subsistence, at rates authorized for employ-
23 ees of agencies under subchapter I of chapter 57 of title
24 5, United States Code, while away from their homes or

1 regular places of business in the performance of services
2 for the Commission.

3 (b) STAFF.—

4 (1) IN GENERAL.—The Chairperson of the
5 Commission may, without regard to the civil service
6 laws and regulations, appoint and terminate an execu-
7 tive director and such other additional personnel as
8 may be necessary to enable the Commission to per-
9 form its duties. The employment of an executive di-
10 rector shall be subject to confirmation by the Com-
11 mission.

12 (2) COMPENSATION.—The Chairperson of the
13 Commission may fix the compensation of the execu-
14 tive director and other personnel without regard to
15 chapter 51 and subchapter III of chapter 53 of title
16 5, United States Code, relating to classification of
17 positions and General Schedule pay rates, except
18 that the rate of pay for the executive director and
19 other personnel may not exceed the rate payable for
20 level V of the Executive Schedule under section 5316
21 of such title.

22 (c) DETAIL OF GOVERNMENT EMPLOYEES.—At the
23 discretion of the relevant agency, any Federal Government
24 employee may be detailed to the Commission without reim-

1 bursement, and such detail shall be without interruption
2 or loss of civil service status or privilege.

3 (d) PROCUREMENT OF TEMPORARY AND INTERMIT-
4 TENT SERVICES.—The Chairperson of the Commission
5 may procure temporary and intermittent services under
6 section 3109(b) of title 5, United States Code, at rates
7 for individuals that do not exceed the daily equivalent of
8 the annual rate of basic pay prescribed for level V of the
9 Executive Schedule under section 5316 of such title.

10 **SEC. 7. TERMINATION OF THE COMMISSION.**

11 The Commission shall terminate on the earlier of—

- 12 (1) the 30th day after the date on which the
13 Commission submits its report under section 4(d); or
14 (2) the date that is 3 years after the initial
15 meeting under section 3(d).

16 **SEC. 8. FEDERAL AGENCY RESPONSE.**

17 Not later than 6 months after the submission of the
18 report required under section 4(d), any Federal agency
19 that is affected by a recommendation described in the re-
20 port shall submit to Congress a report containing the re-
21 sponse of the Federal agency to the recommendation and
22 the plans of the Federal agency to address the rec-
23 ommendation.

1 **SEC. 9. ADJUSTMENT TO THE TANF CONTINGENCY FUND**
2 **FOR STATE WELFARE PROGRAMS.**

3 (a) IN GENERAL.—Section 403(b)(2) of the Social
4 Security Act (42 U.S.C. 603(b)(2)) is amended by striking
5 “for fiscal years 2011 and 2012” and all that follows
6 through the end of the paragraph and inserting “for fiscal
7 years 2013 and 2014 such sums as are necessary for pay-
8 ment to the Fund in a total amount not to exceed
9 \$612,000,000 for each fiscal year, of which \$2,000,000
10 shall be reserved for carrying out the activities of the com-
11 mission established by the Protect our Kids Act of 2012
12 to reduce fatalities resulting from child abuse and ne-
13 glect.”

14 (b) PREVENTION OF DUPLICATE APPROPRIATIONS
15 FOR FISCAL YEAR 2013.—Expenditures made pursuant
16 to section 148 of the Continuing Appropriations Resolu-
17 tion, 2013, for fiscal year 2013, shall be charged to the
18 applicable appropriation provided by the amendments
19 made by this section for such fiscal year.

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