

116TH CONGRESS
2D SESSION

S. 5034

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

DECEMBER 16, 2020

Ms. CORTEZ MASTO 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
10 for use by health care providers and communities in re-

1 sponding to individuals experiencing a mental or behav-
2 ioral health crisis (referred to in this section as the “crisis
3 response continuum”).

4 (b) REQUIREMENTS.—

5 (1) SCOPE OF STANDARDS.—Such standards
6 shall define—

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

11 (i) not require medical clearance prior
12 to admission;

13 (ii) serve all individuals regardless of
14 ability to pay;

15 (iii) operate 24 hours a day, 7 days a
16 week, and provide care to all individuals;
17 and

18 (iv) provide care until the individual
19 has been stabilized or transfer the indi-
20 vidual to the next level of crisis care; and

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

23 (i) individuals screened over the
24 phone; and

1 (ii) individuals stabilized on the scene
2 by mobile teams.

3 (2) IDENTIFICATION OF ESSENTIAL FUNCTIONS
4 AND OBJECTIVES.—The Secretary shall identify the
5 essential functions and objectives of each service in
6 the crisis response continuum, which shall include at
7 least the following:

8 (A) Identification of resources for referral
9 and enrollment in continuing behavioral health
10 and other human services for the individual in
11 crisis where necessary.

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

14 (C) Development of and adherence to pro-
15 tocols and agreements for the transfer and re-
16 ceipt of individuals to and from other segments
17 of the crisis response continuum segments as
18 needed, and from outside referrals including
19 health care providers, law enforcement, EMS,
20 and fire.

21 (D) Description of the qualifications of cri-
22 sis services staff, including roles for physicians,
23 licensed clinicians, case managers, and peers.

24 (E) Requirements for the convention of
25 collaborative meetings of crisis response service

1 providers, first responders, and community
2 partners operating in a common region for the
3 discussion of case management, best practices,
4 and general performance improvement.

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

7 (A) adequate volume of services to meet
8 population need;

9 (B) timeliness of response; and

10 (C) capacity to meet the needs of different
11 patient populations, including all age groups,
12 cultural and linguistic minorities, and individ-
13 uals with co-occurring mental health and sub-
14 stance use disorder crisis, individuals with cog-
15 nitive disabilities with behavioral health crises,
16 and individuals with chronic medical conditions
17 and physical disabilities who experience behav-
18 ioral health crises.

19 (4) OVERSIGHT AND ACCREDITATION.—The
20 Secretary shall designate entities charged with the
21 oversight and accreditation of entities within the cri-
22 sis response continuum.

23 (5) IMPLEMENTATION TIMEFRAME.—Not later
24 than 1 year after the date of enactment of this Act,

1 the Secretary shall establish the standards under
2 this section.

3 (6) DATA COLLECTION AND EVALUATIONS.—

4 (A) IN GENERAL.—The Secretary, directly
5 or through grants, contracts, or interagency
6 agreements, shall collect data and conduct eval-
7 uations with respect to the provision of services
8 and programs offered on the crisis response
9 continuum for purposes of assessing the extent
10 to which the provision of such services and pro-
11 grams meet certain objectives as determined by
12 the Secretary. Such objectives shall include—

13 (i) a reduction in inappropriate ar-
14 rests of individuals who are in mental
15 health crisis;

16 (ii) a reduction in emergency room re-
17 admissions; and

18 (iii) adequate access to crisis care cen-
19 ters and crisis bed services.

20 (B) AUTHORIZATION OF APPROPRIA-
21 TIONS.—To carry out this subsection, there are
22 authorized to be appropriated \$1,000,000, to
23 remain available until expended.

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

4 (1) CRISIS CALL CENTERS.—Regional clinically
 5 staffed crisis call centers that provide telephonic cri-
 6 sis intervention capabilities. Such centers should
 7 meet National Suicide Prevention Lifeline oper-
 8 ational guidelines regarding suicide risk assessment
 9 and engagement and offer air traffic control-quality
 10 coordination of crisis care in real-time.

11 (2) MOBILE CRISIS RESPONSE TEAM.—Teams
 12 of providers that are available to reach any indi-
 13 vidual in the service area in their home, workplace,
 14 or any other community-based location of the indi-
 15 vidual in crisis in a timely manner.

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

21 (A) 23-HOUR CRISIS STABILIZATION SERV-
 22 ICES.—A direct care service that provides indi-
 23 viduals in severe distress with up to 23 consecu-
 24 tive hours of supervised care to assist with de-

1 escalating the severity of their crisis or need for
 2 urgent care in a sub-acute inpatient setting.

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

9 (4) BEHAVIORAL HEALTH URGENT CARE FA-
 10 CILITIES.—Ambulatory services available 12–24
 11 hours per day, 7 days a week, where individuals ex-
 12 perience crisis can walk in without an appointment
 13 to receive crisis assessment, crisis intervention,
 14 medication, and connection to continuity of care.

15 (5) ADDITIONAL FACILITIES AND PROVIDERS.—
 16 The Secretary shall specify additional facilities and
 17 health care providers as part of the crisis response
 18 continuum, as the Secretary determines appropriate.

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 (kkk);”.

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 thereof the
 10 following new subsection:

11 “Crisis Response Services Defined

12 “(kkk)(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 of services
 17 or supplier, as determined by the Secretary, to an indi-
 18 vidual experiencing a mental or behavioral health crisis.
 19 Such term includes services identified by the Secretary as
 20 part of the crisis response continuum of care under section
 21 2 of the Behavioral 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) AMOUNT OF PAYMENT.—Section 1834 of
 4 the Social Security Act (42 U.S.C. 1395m) is
 5 amended by adding at the end the following new
 6 subsection:

7 (A) TECHNICAL CORRECTION TO ENSURE
 8 PROPER PLACEMENT.—Section 6002(a)(1)(B)
 9 of division F of the Families First Coronavirus
 10 Response Act (Public Law 116–127) is amend-
 11 ed, in the amendatory language, by striking
 12 “the period” and inserting “the semicolon”.

13 (B) PAYMENT.—Section 1833(a)(1) of the
 14 Social Security Act (42 U.S.C. 1395l(a)(1)) is
 15 amended—

16 (i) by striking “and (DD)” and in-
 17 serting “(DD)”; and

18 (ii) by inserting before the semicolon
 19 at the end the following: “and (EE) with
 20 respect to crisis response services described
 21 in section 1861(s)(2)(II), the amounts paid
 22 shall be 80 percent of the lesser of the ac-
 23 tual charge for the service or the amount
 24 determined under a fee schedule estab-
 25 lished by the Secretary”.

1 (4) AMBULANCE TRANSPORT OF INDIVIDUALS
2 IN CRISIS.—

3 (A) IN GENERAL.—Section 1834(l) of the
4 Social Security Act (42 U.S.C. 1395m(l)) is
5 amended by adding at the end the following
6 new paragraph:

7 “(18) TRANSPORTATION OF INDIVIDUALS IN
8 CRISIS.—With respect to ambulance services fur-
9 nished on or after the date that is 1 year after the
10 date of the enactment of the Behavioral Health Cri-
11 sis Services Expansion Act, the regulations described
12 in section 1861(s)(7) shall provide coverage under
13 such section for ambulance services to transport an
14 individual experiencing a mental or behavioral health
15 crisis to an appropriate facility, such as a commu-
16 nity mental health center (as defined in section
17 1861(ff)(3)(B)) or other facility or provider identi-
18 fied by the Secretary as part of the crisis response
19 continuum of care under section 2 of the Behavioral
20 Health Crisis Services Expansion Act, as appro-
21 priate, for crisis response services described in sec-
22 tion 1861(s)(2)(II).”.

23 (B) CONFORMING AMENDMENT.—Section
24 1861(s)(7) of such Act (42 U.S.C. 1395x(s)(7))
25 is amended by striking “section 1834(l)(14)”

1 and inserting “paragraphs (14) and (18) of sec-
 2 tion 1834(l)”.

3 (5) EFFECTIVE DATE.—The amendments made
 4 by this subsection shall apply to services furnished
 5 on or after the date that is 1 year after the date of
 6 the enactment of this Act.

7 (b) MANDATORY COVERAGE OF CRISIS RESPONSE
 8 SERVICES UNDER THE MEDICAID PROGRAM.—

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

11 (A) in section 1902(a)(10)(A), in the mat-
 12 ter preceding clause (i), by striking “and (29)”
 13 and inserting “(29), and (30)”; and

14 (B) in section 1905(a)—

15 (i) in paragraph (29), by striking “;
 16 and” and inserting a semicolon;

17 (ii) by redesignating paragraph (30)
 18 as paragraph (31); and

19 (iii) by inserting the following para-
 20 graph after paragraph (29):

21 “(30) crisis response services (as defined in sec-
 22 tion 1861(kkk)); and”.

23 (2) PRESUMPTIVE ELIGIBILITY DETERMINA-
 24 TION BY CRISIS RESPONSE SERVICE PROVIDERS.—

25 Section 1902(a)(47)(B) of the Social Security Act

1 (42 U.S.C. 1396a(a)(47)(B)) is amended by insert-
2 ing “or provider of crisis response services (as de-
3 fined in section 1861(kkk))” after “any hospital”.

4 (3) EFFECTIVE DATE.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), the amendments made by
7 this section shall take effect on the date that is
8 1 year after the date of the enactment of this
9 Act.

10 (B) DELAY PERMITTED IF STATE LEGISLA-
11 TION REQUIRED.—In the case of a State plan
12 under title XIX of the Social Security Act (42
13 U.S.C. 1396 et seq.) which the Secretary of
14 Health and Human Services determines re-
15 quires State legislation (other than legislation
16 appropriating funds) in order for the plan to
17 meet the additional requirements imposed by
18 the amendments made by this section, the State
19 plan shall not be regarded as failing to comply
20 with the requirements of such title solely on the
21 basis of the failure of the plan to meet such ad-
22 ditional requirements before the 1st day of the
23 1st calendar quarter beginning after the close
24 of the 1st regular session of the State legisla-
25 ture that begins after the date of enactment of

1 this Act. For purposes of the previous sentence,
 2 in the case of a State that has a 2-year legisla-
 3 tive session, each year of such session shall be
 4 deemed to be a separate regular session of the
 5 State legislature.

6 (c) ESSENTIAL HEALTH BENEFITS.—Section
 7 1302(b)(1)(E) of the Patient Protection and Affordable
 8 Care Act (42 U.S.C. 18022(b)(1)(E)) is amended by in-
 9 serting “and crisis response services (as defined in section
 10 1861(kkk) of the Social Security Act)” before the period.

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

14 “(e) CRISIS RESPONSE SERVICES.—A group health
 15 plan or a health insurance issuer that offers health insur-
 16 ance coverage in the large group market shall ensure that
 17 such coverage includes crisis response services (as defined
 18 in section 1861(kkk) of the Social Security Act).”.

19 (e) TRICARE COVERAGE.—

20 (1) IN GENERAL.—The Secretary of Defense
 21 shall provide coverage under the TRICARE program
 22 for crisis response services, as defined in section
 23 1861(kkk) of the Social Security Act (42 U.S.C.
 24 1395x) (as amended by section 3).

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

5 (f) REIMBURSEMENT FOR CRISIS RESPONSE SERV-
6 ICES FOR VETERANS.—Section 1725(f)(1) of title 38,
7 United States Code, is amended, in the matter preceding
8 subparagraph (A), by inserting “, including crisis response
9 services (as defined in subsection (kkk) of section 1861
10 of the Social Security Act (42 U.S.C. 1395x)),” after
11 “services”.

12 (g) COVERAGE UNDER FEHB.—

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

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

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply beginning with respect
22 to the first contract year for chapter 89 of title 5,
23 United States Code, that begins on or after the date
24 that is 1 year after the date of enactment of this
25 Act.

1 **SEC. 4. BUILDING THE CRISIS CONTINUUM INFRASTRUC-**
2 **TURE.**

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

7 “(d) SUPPORT FOR CRISIS RESPONSE SERVICES IN-
8 FRASTRUCTURE.—

9 “(1) IN GENERAL.—In addition to amounts
10 made available under subsection (a), there are au-
11 thorized to be appropriated \$35,000,000 for each of
12 fiscal years 2021 and 2022, for purposes of sup-
13 porting the infrastructure needed to provide crisis
14 response services (as defined in section 1861(kkk) of
15 the Social Security Act) in the States.

16 “(2) ALLOTMENTS.—Each fiscal year for which
17 amounts are appropriated under paragraph (1), the
18 Secretary shall allot to each State that receives a
19 grant under section 1911 for the fiscal year an
20 amount that bears the same relationship to the total
21 amount appropriated under paragraph (1) for the
22 fiscal year that the amount received by the State
23 under section 1911(a) for the fiscal year bears to
24 the total amount appropriated under subsection (a)
25 for the fiscal year.”.

1 (b) TECHNICAL ASSISTANCE.—The Secretary of
 2 Health and Human Services (referred to in this section
 3 as the “Secretary”) shall provide to States technical as-
 4 sistance regarding the provision of crisis response services,
 5 as defined in section 1861(kkk) of the Social Security Act
 6 (42 U.S.C. 1395x) (as amended by section 3).

7 (c) CLEARINGHOUSE OF BEST PRACTICES.—The
 8 Secretary shall develop and maintain a publicly available
 9 clearinghouse of best practices for the successful operation
 10 of each segment of the system for providing crisis response
 11 services (as defined in section 1861(kkk) of the Social Se-
 12 curity Act (42 U.S.C. 1395x) (as amended by section 3))
 13 and the integration of such best practices into the provi-
 14 sion of such services. The clearinghouse shall be updated
 15 annually.

16 **SEC. 5. INCIDENT REPORTING.**

17 (a) ESTABLISHMENT OF PROTOCOL PANEL.—The
 18 Secretary of Health and Human Services (referred to in
 19 this section as the “Secretary”), in consultation with the
 20 Attorney General, shall convene a panel for the purposes
 21 of making recommendations for training and protocol for
 22 911 dispatchers to respond appropriately to individuals ex-
 23 perienicing a psychiatric crisis based on the characteristics
 24 of the incident and the needs of the caller.

1 (b) PANELISTS.—The Secretary shall appoint individ-
2 uals to serve staggered 10-year terms on the panel estab-
3 lished under subsection (a). Such individuals shall in-
4 clude—

5 (1) firefighters;

6 (2) emergency medical services personnel;

7 (3) law enforcement officers;

8 (4) 911 dispatchers;

9 (5) representatives from each segment of the
10 crisis response continuum, as described in section 2;
11 and

12 (6) other individuals, as the Secretary deter-
13 mines appropriate.

14 (c) RECOMMENDATIONS.—

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

17 (A) connecting 911 callers to crisis care
18 services instead of responding with law enforce-
19 ment officers;

20 (B) integrating the 988 system into the
21 911 system, or transferring calls from the 911
22 system to the 988 system as appropriate; and

23 (C) a process for identifying 911 callers
24 who are in mental health distress and evalu-
25 ating the level of need of such callers, as de-

1 fined by standardized assessment tools such as
2 the Level of Care Utilization System (LOCUS)
3 and the Child and Adolescent Level of Care
4 Utilization System (CALOCUS).

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

○