

112TH CONGRESS
1ST SESSION

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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 13, 2011

Mr. KERRY (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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. COMMISSION.**

4 This Act may be cited as the “Protect our Kids Act
5 of 2011”.

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 National Child Abuse and
5 Neglect Data System, in fiscal year 2009 approxi-
6 mately 1,770 children in the United States are re-
7 ported to have died from child abuse and neglect,
8 and many experts believe that the actual number
9 may be significantly more;

10 (4) nearly half of the number of children in the
11 United States who die from abuse are under the age
12 of 1, and more than 80 percent are under the age
13 of 4;

14 (5) in 2009, of deaths from child abuse and ne-
15 glect—

16 (A) nearly 36 percent were caused by ne-
17 glect;

18 (B) 23 percent were caused by physical
19 abuse; and

20 (C) more than 36 percent were caused by
21 multiple forms of maltreatment;

22 (6) each year approximately 6,000,000 children
23 in the United States are referred to child protective
24 services because of allegations of child abuse and ne-
25 glect; and

1 (7) increased understanding of deaths from
2 child abuse and neglect can lead to improvement in
3 agency systems and practices to protect children and
4 prevent child abuse and neglect.

5 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

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

9 (b) MEMBERSHIP.—

10 (1) COMPOSITION.—

11 (A) NUMBER.—The Commission shall be
12 composed of not fewer than 12 and not more
13 than 15 members, all of whom shall be ap-
14 pointed by the President.

15 (B) QUALIFICATIONS.—Each member ap-
16 pointed under subparagraph (A) shall have ex-
17 perience in 1 or more areas consisting of—

18 (i) State child welfare agency adminis-
19 tration;

20 (ii) child welfare advocacy;

21 (iii) child development;

22 (iv) trauma and crisis intervention;

23 (v) pediatrics;

24 (vi) child psychology and mental
25 health;

- 1 (vii) emergency medicine;
- 2 (viii) forensic pathology or medical in-
- 3 vestigation of injury and fatality;
- 4 (ix) social work with field experience;
- 5 (x) academia at an institution of high-
- 6 er education, as that term is defined in
- 7 section 101 of the Higher Education Act
- 8 of 1965 (20 U.S.C. 1001), with a focus on
- 9 1 or more of the other areas listed under
- 10 this subparagraph;
- 11 (xi) law enforcement, with experience
- 12 handling child abuse and neglect matters;
- 13 (xii) civil law, with experience han-
- 14 dling child abuse and neglect matters;
- 15 (xiii) criminal law, with experience
- 16 handling child abuse and neglect matters;
- 17 (xiv) substance abuse treatment;
- 18 (xv) education at an elementary school
- 19 or secondary school, as those terms are de-
- 20 fined in section 9101 of the Elementary
- 21 and Secondary Education Act of 1965 (20
- 22 U.S.C. 7801);
- 23 (xvi) epidemiology; and

1 (xvii) computer science or software
2 engineering with a background in inter-
3 operability standards.

4 (C) EXPERIENCE.—The Commission shall
5 have 1 or more members with experience in
6 each of the areas listed in subparagraph (B).

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

10 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
11 bers shall be appointed for the life of the Commission. Any
12 vacancy in the Commission shall not affect its powers, but
13 shall be filled in the same manner as the original appoint-
14 ment.

15 (d) INITIAL MEETING.—Not later than 30 days after
16 the date on which all members of the Commission have
17 been appointed, the Commission shall hold its first meet-
18 ing.

19 (e) MEETINGS.—The Commission shall meet at the
20 call of the Chairperson.

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

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

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

2 (a) STUDY.—

3 (1) IN GENERAL.—The Commission shall con-
4 duct a thorough study on reducing fatalities from
5 child abuse and neglect.

6 (2) MATTERS STUDIED.—The matters studied
7 by the Commission shall include—

8 (A) the incidence of fatalities from child
9 abuse and neglect in the United States and
10 whether that incidence has been increasing over
11 time;

12 (B) the feasibility of establishing a system
13 that accurately records incidents of child abuse
14 and neglect;

15 (C) practices that can prevent fatalities
16 from child abuse and neglect;

17 (D) the role of parental substance abuse,
18 parental mental health issues, and domestic vio-
19 lence in increasing the incidence of child abuse
20 and neglect;

21 (E) the adequacy and effectiveness of pro-
22 grams, including child health services, mental
23 health services, child protective services, child
24 welfare services, education, child care, juvenile
25 justice services, and law enforcement activities,
26 designed to identify and prevent child (includes

1 youth) fatalities that are intentionally caused or
2 that occur due to negligence, neglect, or a fail-
3 ure to exercise proper care;

4 (F) the effectiveness of Federal, State, and
5 local policies and systems aimed at appro-
6 priately identifying and collecting accurate, uni-
7 form data on child fatalities in a coordinated
8 fashion, including the identification of the most
9 and least effective policies and systems in prac-
10 tice;

11 (G) the adequacy of Federal, State, and
12 local efforts to obtain an appropriate distribu-
13 tion of properly trained child health services,
14 mental health services, child protective services,
15 child welfare services, education, child care, ju-
16 venile justice services, and law enforcement per-
17 sonnel to identify and prevent child fatalities;

18 (H) the current (as of the date of the
19 study) resource limitations and barriers to pre-
20 venting fatalities from child abuse and neglect,
21 and how to improve efficiency of use of those
22 current resources to improve child welfare out-
23 comes;

24 (I) identification of best practices in evalu-
25 ating programs for effectiveness in preventing

1 child abuse and neglect and fatalities from child
2 abuse and neglect;

3 (J) methods of prioritizing child abuse and
4 neglect prevention services for families with the
5 highest need, including exploring prioritization
6 based on risk factors beyond poverty;

7 (K) the correlation between animal abuse
8 and child abuse, including whether additional
9 research and policy changes could better ad-
10 dress that correlation and whether there are
11 warning signs that animal abuse may escalate
12 to child abuse;

13 (L) methods of improving data collection
14 and utilization, such as increasing interoper-
15 ability among State and local systems and using
16 other effective and financially feasible ap-
17 proaches;

18 (M) identification of best practices and
19 models for promoting child welfare, specifically
20 addressing child abuse and neglect;

21 (N) identification of requirements and na-
22 tional standards for training and education for
23 child welfare workers;

24 (O) the potential impact of a Federal law
25 mandating the review of fatalities of children;

1 (P) the development of a model protocol
2 for assuring that civil and criminal legal pro-
3 ceedings are closely coordinated between child
4 protection and law enforcement agencies, in-
5 cluding coordination between law enforcement
6 personnel, child protection services personnel,
7 prosecutors, medical providers, victim advo-
8 cates, and mental health professionals;

9 (Q) the potential effectiveness of a tar-
10 geted public education campaign focused on
11 community involvement to reduce child abuse
12 and neglect;

13 (R) possible modifications to confidentiality
14 laws that would increase access to information
15 and better protect child victims;

16 (S) examination of public and private mod-
17 els for improving child welfare outcomes, in-
18 cluding suggestions for expanding the most ef-
19 fective approaches;

20 (T) examination of sources for available
21 data beyond fatalities, such as data on serious
22 injuries and “near misses”;

23 (U) development of guidelines for the type
24 of instances that should be tracked to improve

1 child welfare response and interventions to pre-
2 vent fatalities from child abuse and neglect; and

3 (V) consideration of past recommendations
4 from the Advisory Board on Child Abuse and
5 Neglect, including updates on those rec-
6 ommendations.

7 (3) MATERIALS STUDIED.—The Commission
8 shall review all current (as of the date of the study)
9 research and documentation, including the National
10 Survey of Child and Adolescent Well-Being and re-
11 search and recommendations from the Government
12 Accountability Office, to identify lessons, solutions,
13 and needed improvements related to reducing fatali-
14 ties from child abuse and neglect.

15 (b) COORDINATION.—The Commission shall—

16 (1) provide opportunities for graduate and doc-
17 toral students to coordinate research with the Com-
18 mission; and

19 (2) coordinate with institutions of higher edu-
20 cation, as that term is defined in section 101 of the
21 Higher Education Act of 1965 (20 U.S.C. 1001), in-
22 terested in supporting the work of the Commission.

23 (c) RECOMMENDATIONS.—The Commission shall de-
24 velop recommendations for Federal, State, and local agen-
25 cies, and private sector and nonprofit organizations to im-

1 plement a comprehensive national strategy that reduces
2 fatalities from child abuse and neglect.

3 (d) REPORT.—

4 (1) IN GENERAL.—Not later than 3 years after
5 the date of the enactment of this Act, the Commis-
6 sion shall submit a report to the President and Con-
7 gress, which shall contain a detailed statement of
8 the findings and conclusions of the Commission, to-
9 gether with its recommendations for such legislation
10 and administrative actions as it considers appro-
11 priate.

12 (2) ONLINE ACCESS.—The Commission shall
13 make the report under paragraph (1) available on
14 the publicly available Internet Web site of the De-
15 partment of Health and Human Services.

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

17 (a) HEARINGS.—

18 (1) IN GENERAL.—The Commission may hold
19 such hearings, sit and act at such times and places,
20 take such testimony, and receive such evidence as
21 the Commission considers advisable to carry out this
22 Act.

23 (2) LOCATION.—The location of hearings under
24 paragraph (1) shall include—

1 (A) areas with high fatality rates from
2 child abuse and neglect; and

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

5 (3) SUBJECT.—The Commission shall hold
6 hearings under paragraph (1)—

7 (A) to examine the Federal, State, and
8 local policies and available resources that affect
9 fatalities from child abuse and neglect; and

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

12 (b) INFORMATION FROM FEDERAL AGENCIES.—The
13 Commission may secure directly from any Federal depart-
14 ment or agency such information as the Commission con-
15 sidered necessary to carry out this Act. Upon request of
16 the Chairperson of the Commission, the head of such de-
17 partment or agency shall furnish such information to the
18 Commission.

19 (c) POSTAL SERVICES.—The Commission may use
20 the United States mails in the same manner and under
21 the same conditions as other departments and agencies of
22 the Federal Government.

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

1 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

2 (a) COMPENSATION OF MEMBERS.—Each member of
3 the Commission who is not an officer or employee of the
4 Federal Government shall be compensated at a rate equal
5 to the daily equivalent of the annual rate of basic pay pre-
6 scribed for level IV of the Executive Schedule under sec-
7 tion 5315 of title 5, United States Code, for each day (in-
8 cluding travel time) during which such member is engaged
9 in the performance of the duties of the Commission. All
10 members of the Commission who are officers or employees
11 of the United States shall serve without compensation in
12 addition to that received for their services as officers or
13 employees of the United States.

14 (b) TRAVEL EXPENSES.—The members of the Com-
15 mission shall be allowed travel expenses, including per
16 diem in lieu of subsistence, at rates authorized for employ-
17 ees of agencies under subchapter I of chapter 57 of title
18 5, United States Code, while away from their homes or
19 regular places of business in the performance of services
20 for the Commission.

21 (c) STAFF.—

22 (1) IN GENERAL.—The Chairperson of the
23 Commission may, without regard to the civil service
24 laws and regulations, appoint and terminate an execu-
25 tive director and such other additional personnel as
26 may be necessary to enable the Commission to per-

1 form its duties. The employment of an executive di-
2 rector shall be subject to confirmation by the Com-
3 mission.

4 (2) COMPENSATION.—The Chairperson of the
5 Commission may fix the compensation of the execu-
6 tive director and other personnel without regard to
7 chapter 51 and subchapter III of chapter 53 of title
8 5, United States Code, relating to classification of
9 positions and General Schedule pay rates, except
10 that the rate of pay for the executive director and
11 other personnel may not exceed the rate payable for
12 level V of the Executive Schedule under section 5316
13 of such title.

14 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
15 Federal Government employee may be detailed to the
16 Commission without reimbursement, and such detail shall
17 be without interruption or loss of civil service status or
18 privilege.

19 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
20 TENT SERVICES.—The Chairperson of the Commission
21 may procure temporary and intermittent services under
22 section 3109(b) of title 5, United States Code, at rates
23 for individuals that do not exceed the daily equivalent of
24 the annual rate of basic pay prescribed for level V of the
25 Executive Schedule under section 5316 of such title.

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

2 (a) IN GENERAL.—The Commission shall terminate
3 on the earlier of—

4 (1) the 90th day after the date on which the
5 Commission submits its report under section 4(d); or

6 (2) the day that is 3 years after the initial
7 meeting under section 3(d).

8 (b) EXCEPTION.—The President may extend the ter-
9 mination date under subsection (a)(2) by an additional 1
10 year.

11 **SEC. 8. FEDERAL AGENCY RESPONSE.**

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

19 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There is authorized to be appro-
21 priated \$2,000,000 for each of fiscal years 2012, 2013,
22 and 2014 to the Commission to carry out this Act.

23 (b) AVAILABILITY.—Any sums appropriated under
24 the authorization contained in this section shall remain
25 available, without fiscal year limitation, until expended.

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