

RECOGNIZING THE ROLE OF DIRECT SUPPORT
PROFESSIONALS ACT

SEPTEMBER 19, 2024.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Ms. FOXX, from the Committee on Education and the Workforce,
submitted the following

R E P O R T

[To accompany H.R. 2941]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 2941) to require the Office of Management and Budget to revise the Standard Occupational Classification system to establish a separate code for direct support professionals, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Recognizing the Role of Direct Support Professionals Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Direct support professionals play a critical role in the care provided to individuals with intellectual and developmental disabilities.

(2) Providers of home- and community-based services are experiencing difficulty hiring and retaining direct support professionals, with a national turnover rate of 43 percent, as identified in a 2021 study by the National Core Indicators, and full-time vacancy rates increasing by 94 percent between 2019 and 2021.

(3) High turnover rates can lead to instability for individuals receiving services, and this may result in individuals not receiving enough personalized care to help them reach their goals for independent living.

(4) A discrete occupational category for direct support professionals will help States and the Federal government—

(A) better interpret the shortage in the labor market of direct support professionals; and

- (B) collect data on the high turnover rate of direct support professionals.
- (5) The Standard Occupational Classification system is designed and maintained solely for statistical purposes, and is used by Federal statistical agencies to classify workers and jobs into occupational categories for the purpose of collecting, calculating, analyzing, or disseminating data.
- (6) Occupations in the Standard Occupational Classification system are classified based on work performed and, in some cases, on the skills, education, or training needed to perform the work.
- (7) Establishing a discrete occupational category for direct support professionals will—
 - (A) correct an inaccurate representation in the Standard Occupational Classification system;
 - (B) recognize these professionals for the critical and often overlooked work that they perform for the disabled community, which work is different than the work of a home health aide or a personal care aide; and
 - (C) better align the Standard Occupational Classification system with related classification systems.

SEC. 3. DEFINITION OF DIRECT SUPPORT PROFESSIONAL.

In this Act, the term “direct support professional” means an individual who, in exchange for compensation, provides services to an individual with an intellectual disability or a developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)) that promote such individual’s independence, including—

- (1) services that enhance independence and community inclusion for such individual, including traveling with such individual, attending and assisting such individual while visiting friends and family, shopping, or socializing;
- (2) services such as coaching and supporting such individual in communicating needs, achieving self-expression, pursuing personal goals, living independently, and participating actively in employment or voluntary roles in the community;
- (3) services such as providing assistance with activities of daily living (such as feeding, bathing, toileting, and ambulation) and with tasks such as meal preparation, shopping, light housekeeping, and laundry; or
- (4) services that support such individual at home, work, school, or any other community setting.

SEC. 4. REVISION OF STANDARD OCCUPATIONAL CLASSIFICATION SYSTEM.

(a) IN GENERAL.—The Director of the Office of Management and Budget (in this Act referred to as the “Director”) shall, as part of the first revision process of the Standard Occupational Classification system occurring after the date of enactment of this Act, consider establishing a separate code for direct support professionals as a subset of healthcare support occupations.

(b) REPORT TO CONGRESS.—If the Director decides not to establish the separate code for direct support professionals described in subsection (a), the Director shall, not later than 60 days after the Director announces in the Federal Register the final decision of the revision process described in such subsection, submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Education and the Workforce of the House of Representatives a report explaining why such separate code was not established.

PURPOSE

H.R. 2941, the *Recognizing the Role of Direct Support Professionals Act*, directs the Office of Management and Budget (OMB) to consider establishing a separate code within the “Healthcare Support Occupations” major occupation group of the Standard Occupational Classification (SOC) system for direct support professionals who provide services to promote the independence of individuals with an intellectual or developmental disability.

COMMITTEE ACTION

118TH CONGRESS

Legislative Action

On April 27, 2023, Representative Brian Fitzpatrick (R-PA) introduced H.R. 2941 with Representative Joseph Morelle (D-NY) as an original cosponsor. The bill was solely referred to the Committee on Education and the Workforce (Committee).

On July 10, 2024, the Committee considered H.R. 2941 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 42–0. The Committee considered an Amendment in the Nature of a Substitute (ANS) offered by Representative Lloyd Smucker (R-PA). The ANS struck the provision requiring OMB to establish a separate code for direct support professionals within the health care support occupational group of the SOC and replaced it with language directing OMB to consider establishing a separate code for direct support professionals within the health care support occupational group of the SOC. The ANS also directed OMB to provide an explanation to the Committee and the Senate Committee on Homeland Security and Governmental Affairs in the event OMB does not establish a separate code for direct support professionals in the next revision of the SOC. The ANS was adopted by voice vote. The Committee also considered an amendment to the ANS offered by Ranking Member Robert C. “Bobby” Scott (D-VA) extending the deadline of the reporting requirement in the event OMB does not establish a separate code for direct support professionals by an additional 30 days. The amendment was adopted by voice vote.

COMMITTEE VIEWS

INTRODUCTION

H.R. 2941 directs OMB to consider establishing a distinct SOC for direct support professionals. This will enable the Department of Labor’s Bureau of Labor Statistics (BLS) to capture employment and wage data specific to direct support professionals which may inform policy decisions regarding the current needs of these workers.

STANDARD OCCUPATIONAL CLASSIFICATION SYSTEM

The SOC system is a statistical standard that federal agencies use to classify workers in job-related categories for the purpose of collecting, calculating, or disseminating data. Occupations are classified based on work performed and, in some cases, on the skills and education needed to perform the work.¹ OMB requires the use of the SOC when publishing federal statistics about occupations, makes the final decisions about the SOC, publishes the “SOC Manual,” and charters the “SOC Policy Committee.” The SOC Policy Committee assists OMB by conducting the process of revising the SOC and serves as a standing committee to recommend changes to the SOC. The SOC Policy Committee is comprised of representa-

¹ BLS, 2018 STANDARD OCCUPATIONAL CLASSIFICATION, USER GUIDE 2 (Nov. 2017), <https://www.aila.org/files/o-files/view-file/B0A7E89A-24FB-4E84-AE9E-C4088CF5E21C>.

tives of federal agencies that collect occupational statistics or have expertise in occupational classification, and it is chaired by BLS.²

REVISION PROCESS

OMB’s last revision to the SOC was released in 2018, and OMB intends to consider revisions to the SOC every 10 years. SOC revisions aim to reflect changes in the workforce, to fix known issues, and to retain flexibility for the future. SOC revisions are a multi-year process. On June 12, 2024, OMB published a Federal Register notice soliciting comments for the 2028 revision of the SOC, kicking off the next round of revisions which are expected to be completed by 2028.³ During the revision process, the SOC Policy Committee, which is led and staffed by BLS, will carry out the following activities:

- Review and possibly revise the “SOC Classification Principles and Coding Guidelines.”
- Consider whether major occupation group structure should be changed.
- Conduct outreach to those who may wish to provide recommendations for the revision.
- Solicit and review input from the public and federal agencies.
- Review initial input and develop proposed recommendations to OMB.
- Solicit public comments on the proposed recommendations.
- Review comments and make final recommendations to OMB.⁴

OMB will then consider BLS’ recommendations and approve the final SOC. Following its approval, BLS will revise the SOC Manual and supporting materials, make them available to the public, and continue its role of maintaining the classification leading up to the next revision.⁵

CURRENT CLASSIFICATION

Direct support professionals provide services to promote the independence of individuals with an intellectual or developmental disability. Services administered by direct support professionals include assisting with daily living needs at home, encouraging engagement with the community, acting as employment advocates and caregivers, and providing emotional support, among other services.⁶ Direct support professionals are currently classified under other occupational codes including “31–1011 Home Health Aides” and “39–9021 Personal Care Aides,” depending on the tasks an individual worker performs.⁷ The broader “Healthcare Support Occupations” category encompasses all home health care occupations

²BLS, REVISING THE STANDARD OCCUPATIONAL CLASSIFICATION 2 (Mar. 2014), https://www.bls.gov/soc/revising_the_standard_occupational_classification_2018.pdf.

³BLS, FEDERAL REGISTER NOTICE FOR THE 2028 SOC (June 2024), https://www.bls.gov/soc/notices/2024/next_revision.htm.

⁴BLS, REVISING THE STANDARD OCCUPATIONAL CLASSIFICATION 9 (Mar. 2014), https://www.bls.gov/soc/revising_the_standard_occupational_classification_2018.pdf.

⁵*Id.* at 9.

⁶U.S. DEPT OF LAB., OFF. OF DISABILITY EMP. POL’Y, DIRECT SUPPORT PROFESSIONALS (DSPs), www.dol.gov/agencies/odep/program-areas/individuals/DSP.

⁷U.S. DEPT OF LAB., SOC RESPONSES, https://www.bls.gov/soc/2018/soc_responses_July_2016.htm.

from home hospice aides to blind escorts.⁸ As a result, tracking and reporting of workforce trends for direct support professionals alone is impossible.⁹

HIGH TURNOVER RATES AND WORKFORCE SHORTAGES

The direct support professional workforce faces a high turnover rate that impacts the quality of care provided to individuals with disabilities. In 2021, the average turnover rate of this workforce varied from 28.5 percent to 87.5 percent from state to state, with an average turnover rate of 43.3 percent.¹⁰ A 2023 ANCOR survey found that 95 percent of community-based providers responding to the survey indicated they had experienced moderate or severe staffing shortages in the past year. Additionally, 54 percent of respondents indicated they deliver services in an area where few or no other providers deliver similar services, and 77 percent of respondents reported turning away new referrals in the past year due to ongoing staffing shortages.¹¹

Low wages and the lack of benefits may factor into the turnover rate. Roughly 40 percent of provider agencies do not offer health insurance to direct support professionals. The average hourly median wage is \$14.41 for direct support professionals, with high variability among states, ranging from \$8.91 per hour to \$17.22 per hour.¹² Many direct support professionals need to work two or more jobs to support themselves and their families.¹³

The lack of a stable direct support professional workforce has negative repercussions on the health and well-being of individuals with disabilities who benefit from these services and their family members. It also places an increased strain on other local resources, which are sometimes engaged in the absence of direct support professionals, such as emergency departments, ambulances, firefighters, and police.

CONCLUSION

Determining payment rates for direct support professionals and developing strategies to address persistent workforce challenges requires more detailed data from BLS. This is why it is critical that OMB consider establishing a separate code within the “Healthcare Support Occupations” for direct support professionals in the next revision of the SOC. Improved data would help government officials, care providers, and others to develop effective strategies to strengthen the direct support professional workforce.

⁸BLS, 2018 STANDARD OCCUPATIONAL CLASSIFICATION SYSTEM, https://www.bls.gov/soc/2018/major_groups.htm#31-0000.

⁹SEN. MAGGIE HASSAN, ONE-PAGER ON RECOGNIZING THE ROLE OF DIRECT SUPPORT PROFESSIONALS ACT, <https://www.hassan.senate.gov/imo/media/doc/RecognizingtheRoleofDirectSupportProfessionalsAct-Onepager.210427.pdf>.

¹⁰NATIONAL CORE INDICATORS, NATIONAL CORE INDICATORS INTELLECTUAL AND DEVELOPMENTAL DISABILITIES 2021 STATE OF THE WORKFORCE SURVEY REPORT 4 (2023), <https://idd.nationalcoreindicators.org/wp-content/uploads/2023/02/2021StateoftheWorkforceReport-20230209.pdf>.

¹¹ANCOR, THE STATE OF AMERICA’S DIRECT SUPPORT WORKFORCE CRISIS 2 (2023), https://www.ancor.org/wp-content/uploads/2023/12/2023-State-of-Americas-Direct-Support-Workforce-Crisis_Final.pdf.

¹²NATIONAL CORE INDICATORS, *supra* note 8, at 44.

¹³S. REP. NO. 118–116, at 2 (2023).

SUMMARY

H.R. 2941 SECTION-BY-SECTION SUMMARY

Section 1. Short title

Section 1 provides that the short title is “Recognizing the Role of Direct Support Professionals Act.”

Section 2. Findings

Section 2 provides justification for OMB to consider establishing a separate code for direct support professionals in the SOC.

Section 3. Definition of direct support professional

Section 3 defines “direct support professional” as an individual who, in exchange for compensation, provides services to an individual with an intellectual disability or developmental disability that promote such individual’s independence.

Section 4. Revision of standard occupational classification system

Section 4 directs OMB to consider establishing a separate code within the “Healthcare Support Occupations” major occupational group of the SOC for direct support professionals. Section 4 also directs OMB to provide an explanation to the Committee and the Senate Homeland Security and Governmental Affairs Committee in the event OMB does not establish a separate code for direct support professionals in the next revision of the SOC. OMB must provide this explanation within 60 days of the publication of the next revision of the SOC.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 2941 directs OMB to consider establishing a separate code within the “Healthcare Support Occupations” major occupational group of the SOC for direct support professionals who provide services to promote the independence of individuals with an intellectual or developmental disability. H.R. 2941 applies solely to OMB and therefore does not apply to the Legislative Branch.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, Pub. L. 93–344 (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4), the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the Congressional Budget and Impoundment Control Act of 1974.

EARMARK STATEMENT

H.R. 2941 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 7/10/2024

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 4

Bill: H.R. 2941

Amendment Number: n/a

Disposition: Motion to Report H.R. 2941, as amended, passed by a Full Committee Roll

Call Vote (42 y – 0 n)

Sponsor/Amendment: Rep. Smucker / HR2941__ANS

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)	X			Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)	X			Mr. GRIJALVA (AZ)			X
Mr. THOMPSON (PA)	X			Mr. COURTEY (CT)	X		
Mr. WALBERG (MI)	X			Mr. SABLON (MP)	X		
Mr. GROTHMAN (WI)	X			Ms. WILSON (FL)	X		
Ms. STEFANIK (NY)	X			Ms. BONAMICI (OR)	X		
Mr. ALLEN (GA)	X			Mr. TAKANO (CA)	X		
Mr. BANKS (IN)	X			Ms. ADAMS (NC)	X		
Mr. COMER (KY)	X			Mr. DESAULNIER (CA)	X		
Mr. SMUCKER (PA)	X			Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)	X			Ms. JAYAPAL (WA)			X
Mr. GOOD (VA)	X			Ms. WILD (PA)	X		
Mrs. MCCLAIN (MI)	X			Ms. MCBATH (GA)	X		
Mrs. MILLER (IL)	X			Mrs. HAYES (CT)	X		
Mrs. STEEL (CA)	X			Ms. OMAR (MN)	X		
Mr. ESTES (KS)	X			Ms. STEVENS (MI)	X		
Ms. LETLOW (LA)	X			Ms. LEGER FERNÁNDEZ (NM)	X		
Mr. KILEY (CA)	X			Ms. MANNING (NC)	X		
Mr. BEAN (FL)	X			Mr. MRVAN (IN)	X		
Mr. BURLISON (MO)	X			Mr. BOWMAN (NY)			X
Mr. MORAN (TX)	X						
Ms. CHAVEZ-DEREMER (OR)	X						
Mr. WILLIAMS (NY)	X						
Ms. HOUGHIN (IN)	X						
Mr. RULLI (OH)	X						

TOTALS: Ayes: 42

Nos: 0

Not Voting: 3

Total: 45 / Quorum: / Report:

(25 R - 20 D)

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House rule XIII, the goal of H.R. 2941, the *Recognizing the Role of Direct Support Professionals Act*, is to address the shortage of direct support professionals by directing OMB to consider establishing a separate code within the “Healthcare Support Occupations” major occupational group of the SOC for direct support professionals.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2941 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS
OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee’s oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the cost estimate for the bill prepared by the Director of the Congressional Budget Office.

H.R. 2941, Recognizing the Role of Direct Support Professionals Act				
As ordered reported by the House Committee on Education and the Workforce on July 10, 2024				
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034	
Direct Spending (Outlays)	0	0	0	
Revenues	0	0	0	
Increase or Decrease (-) in the Deficit	0	0	0	
Spending Subject to Appropriation (Outlays)	0	*	not estimated	
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?		No
		Mandate Effects		
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?		No
		Contains private-sector mandate?		No
* = between zero and \$500,000.				

H.R. 2941 would require the Office of Management and Budget to consider creating a separate occupational code for direct support professionals, listing them within the healthcare support occupation, when it next revises the Standard Occupational Classification

(SOC) system. Those workers provide direct care and support to people with disabilities. The SOC system is a federal statistical standard used to classify workers into occupational categories for the purpose of collecting, calculating, and disseminating data.

Since 1977, the SOC system has been revised four times—in 1980, 2000, 2010, and 2018—to reflect changes in the economy and the nature of work. Because of that ongoing but irregular activity, CBO estimates that implementing H.R. 2941 would not significantly affect federal spending over the 2025–2029 period.

On August 16, 2023, CBO transmitted a cost estimate for S. 1332, Recognizing the Role of Direct Support Professionals Act, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 26, 2023. The two pieces of legislation are similar, and CBO’s estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2941. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when, as with the present report, the Committee adopts as its own the cost estimate for the bill prepared by the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported by the Committee, H.R. 2941 makes no changes to existing law.

