

117TH CONGRESS  
1ST SESSION

# S. 2901

To amend title V of the Public Health Service Act to provide for increased oversight of recovery housing, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2021

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

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## A BILL

To amend title V of the Public Health Service Act to provide for increased oversight of recovery housing, 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 “Excellence in Recovery  
5 Housing Act”.

1 **SEC. 2. CLARIFYING THE ROLE OF SAMHSA IN PROMOTING**  
2 **THE AVAILABILITY OF HIGH-QUALITY RECOV-**  
3 **ERY HOUSING.**

4 Section 501(d) of the Public Health Service Act (42  
5 U.S.C. 290aa) is amended—

6 (1) in paragraph (24)(E), by striking “and” at  
7 the end;

8 (2) in paragraph (25), by striking the period at  
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(26) collaborate with national accrediting enti-  
12 ties and reputable providers and analysts of recovery  
13 housing services and all relevant Federal agencies,  
14 including the Centers for Medicare & Medicaid Serv-  
15 ices, the Health Resources and Services Administra-  
16 tion, other offices and agencies within the Depart-  
17 ment of Health and Human Services, the Office of  
18 National Drug Control Policy, the Department of  
19 Justice, the Department of Housing and Urban De-  
20 velopment, and the Department of Agriculture, to  
21 promote the availability of high-quality recovery  
22 housing for individuals with a substance use dis-  
23 order.”.

1 **SEC. 3. DEVELOPING GUIDELINES FOR STATES TO PRO-**  
2 **MOTE THE AVAILABILITY OF HIGH-QUALITY**  
3 **RECOVERY HOUSING.**

4 Title V of the Public Health Service Act is amended  
5 by inserting after section 550 of such Act (42 U.S.C.  
6 290ee-5) the following:

7 **“SEC. 550A. DEVELOPING GUIDELINES FOR STATES TO**  
8 **PROMOTE THE AVAILABILITY OF HIGH-QUAL-**  
9 **ITY RECOVERY HOUSING.**

10 “(a) IN GENERAL.—Not later than 1 year after the  
11 date of enactment of this section, the Secretary, acting  
12 through the Assistant Secretary, shall develop, and pub-  
13 lish on the website of the Substance Abuse and Mental  
14 Health Services Administration, consensus-based guide-  
15 lines and nationally recognized standards for States to  
16 promote the availability of high-quality recovery housing  
17 for individuals with a substance use disorder. Such guide-  
18 lines shall—

19 “(1) be developed in consultation with national  
20 accrediting entities, reputable providers and analysts  
21 of recovery housing services, and States and be con-  
22 sistent with the best practices developed under sec-  
23 tion 550; and

24 “(2) to the extent practicable, build on existing  
25 best practices and suggested guidelines developed

1 previously by the Substance Abuse and Mental  
2 Health Services Administration.

3 “(b) PUBLIC COMMENT PERIOD.—Before finalizing  
4 guidelines under subsection (a), the Secretary shall pro-  
5 vide for a public comment period.

6 “(c) EXCLUSION OF GUIDELINE ON TREATMENT  
7 SERVICES.—In developing the guidelines under subsection  
8 (a), the Secretary may not include any guideline or stand-  
9 ard with respect to substance use disorder treatment serv-  
10 ices.

11 “(d) SUBSTANCE USE DISORDER TREATMENT SERV-  
12 ICES.—In this section, the term ‘substance use disorder  
13 treatment services’ means items or services furnished for  
14 the treatment of a substance use disorder, including—

15 “(1) medications approved by the Food and  
16 Drug Administration for use in such treatment, ex-  
17 cluding each such medication used to prevent or  
18 treat a drug overdose;

19 “(2) the administering of such medications;

20 “(3) recommendations for such treatment;

21 “(4) clinical assessments and referrals;

22 “(5) counseling with a physician, psychologist,  
23 or mental health professional (including individual  
24 and group therapy); and

25 “(6) toxicology testing.”.

1 **SEC. 4. COORDINATION OF FEDERAL ACTIVITIES TO PRO-**  
2 **MOTE THE AVAILABILITY OF HIGH-QUALITY**  
3 **RECOVERY HOUSING.**

4 Section 550 of the Public Health Service Act (42  
5 U.S.C. 290ee-5) is amended—

6 (1) by redesignating subsections (e), (f), and  
7 (g) as subsections (g), (h), and (i), respectively; and

8 (2) by inserting after subsection (d) the fol-  
9 lowing:

10 “(e) COORDINATION OF FEDERAL ACTIVITIES TO  
11 PROMOTE THE AVAILABILITY OF HIGH-QUALITY RECOV-  
12 ERY HOUSING FOR INDIVIDUALS WITH A SUBSTANCE  
13 USE DISORDER.—

14 “(1) IN GENERAL.—The Secretary, acting  
15 through the Assistant Secretary, and the Secretary  
16 of Housing and Urban Development shall convene  
17 an interagency working group, co-chaired by the As-  
18 sistant Secretary and the Secretary of Housing and  
19 Urban Development and comprised of representa-  
20 tives of each of the Federal agencies described in  
21 paragraph (2) (referred to in this section as the  
22 ‘working group’) for the following purposes:

23 “(A) To increase collaboration, coopera-  
24 tion, and consultation among such Federal  
25 agencies, with respect to promoting the avail-  
26 ability of high-quality recovery housing.

1           “(B) To align the efforts of such agencies  
2 and avoid duplication of such efforts by such  
3 agencies.

4           “(C) To develop objectives, priorities, and  
5 a long-term plan for supporting State, Tribal,  
6 and local efforts with respect to the operation  
7 of high-quality recovery housing that is con-  
8 sistent with the best practices developed under  
9 this section.

10           “(D) To coordinate inspection and enforce-  
11 ment among Federal and State agencies.

12           “(E) To coordinate data collection on the  
13 quality of recovery housing.

14           “(2) FEDERAL AGENCIES DESCRIBED.—The  
15 Federal agencies described in this paragraph are the  
16 following:

17           “(A) The Department of Health and  
18 Human Services, including—

19                   “(i) the Centers for Medicare & Med-  
20 icaid Services;

21                   “(ii) the Substance Abuse and Mental  
22 Health Services Administration;

23                   “(iii) the Health Resources and Serv-  
24 ices Administration; and

25                   “(iv) the Indian Health Service.

1           “(B) The Department of Housing and  
2           Urban Development.

3           “(C) The Department of Agriculture.

4           “(D) The Department of Justice.

5           “(E) The Office of National Drug Control  
6           Policy.

7           “(F) The Bureau of Indian Affairs.

8           “(G) The Department of Labor.

9           “(H) Any other Federal agency as the co-  
10          chairs determine appropriate.

11          “(3) MEETINGS.—The working group shall  
12          meet on a quarterly basis.

13          “(4) REPORTS TO CONGRESS.—Beginning not  
14          later than 1 year after the date of enactment of this  
15          section and annually thereafter, the working group  
16          shall submit to the Committee on Energy and Com-  
17          merce, the Committee on Ways and Means, the  
18          Committee on Agriculture, and the Committee on  
19          Financial Services of the House of Representatives  
20          and the Committee on Health, Education, Labor,  
21          and Pensions, the Committee on Agriculture, Nutri-  
22          tion, and Forestry, and the Committee on Finance  
23          of the Senate a report describing the work of the  
24          working group and any recommendations of the

1 working group to improve Federal, State, or local  
2 policy with respect to recovery housing operations.

3 “(5) AUTHORIZATION OF APPROPRIATIONS.—

4 To carry out this subsection, there are authorized to  
5 be appropriated such sums as may be necessary for  
6 fiscal years 2022 through 2027.”.

7 **SEC. 5. NAS STUDY AND REPORT.**

8 (a) IN GENERAL.—Not later than 60 days after the  
9 date of enactment of this Act, the Secretary of Health and  
10 Human Services, acting through the Assistant Secretary  
11 for Mental Health and Substance Use, shall enter into an  
12 arrangement with the National Academies of Sciences,  
13 Engineering, and Medicine to conduct a study, which may  
14 include a literature review and case studies as appropriate,  
15 on—

16 (1) the quality and effectiveness of recovery  
17 housing in the United States, including the avail-  
18 ability in the United States of high-quality recovery  
19 housing and whether that availability meets the de-  
20 mand for such housing in the United States; and

21 (2) State, Tribal, and local regulation and over-  
22 sight of recovery housing.

23 (b) TOPICS.—The study under subsection (a) shall  
24 include a literature review of studies that—



1           (1) examine the quality of, and effectiveness  
2 outcomes for, the types and characteristics of cov-  
3 ered recovery housing programs listed in subsection  
4 (c); and

5           (2) identify the research and data gaps that  
6 must be filled to better report on the quality of, and  
7 effectiveness outcomes related to, covered recovery  
8 housing.

9           (c) TYPE AND CHARACTERISTICS.—The types and  
10 characteristics of covered recovery housing programs re-  
11 ferred to in subsection (b) consist of the following:

12           (1) Nonprofit and for-profit covered recovery  
13 housing.

14           (2) Private and public covered recovery housing.

15           (3) Covered recovery housing programs that  
16 provide services to—

17                   (A) residents on a voluntary basis; and

18                   (B) residents pursuant to a judicial order.

19           (4) Number of clients served, disaggregated to  
20 the extent possible by covered recovery housing serv-  
21 ing—

22                   (A) 6 or fewer recovering residents;

23                   (B) 10 to 13 recovering residents; and

24                   (C) 18 or more recovering residents.

1           (5) Bedroom occupancy in a house,  
2           disaggregated to the extent possible by—

3                   (A) single room occupancy;

4                   (B) 2 residents occupying 1 room; and

5                   (C) more than 2 residents occupying 1  
6           room.

7           (6) Duration of services received by clients,  
8           disaggregated to the extent possible according to  
9           whether the services were—

10                   (A) 30 days or fewer;

11                   (B) 31 to 90 days;

12                   (C) more than 90 days and fewer than 6  
13           months; or

14                   (D) 6 months or more.

15           (7) Certification levels of staff.

16           (8) Fraudulent and abusive practices by opera-  
17           tors of covered recovery housing and inpatient and  
18           outpatient treatment facilities, both individually and  
19           in concert, including—

20                   (A) deceptive or misleading marketing  
21           practices, including—

22                           (i) inaccurate outcomes-based mar-  
23                           keting; and

24                           (ii) marketing based on non-evidence-  
25                           based practices;

1 (B) illegal patient brokering;

2 (C) third-party recruiters;

3 (D) deceptive or misleading marketing  
4 practices of treatment facility and recovery  
5 housing online aggregators; and

6 (E) the impact of such practices on health  
7 care costs and recovery rates.

8 (d) REPORT.—The arrangement under subsection (a)  
9 shall require, by not later than 18 months after the date  
10 of entering into the agreement—

11 (1) completing the study under such subsection;

12 and

13 (2) making publicly available (including through  
14 publication on the internet) a report that contains—

15 (A) the results of the study;

16 (B) the National Academy’s recommenda-  
17 tions for Federal, State, and local policies to  
18 promote the availability of high-quality recovery  
19 housing in the United States;

20 (C) research and data gaps;

21 (D) recommendations for recovery housing  
22 quality and effectiveness metrics;

23 (E) recommended mechanisms to collect  
24 data on those metrics, including with respect to  
25 research and data gaps;

1 (F) recommendations to eliminate restric-  
2 tions by recovery housing that exclude individ-  
3 uals who take prescribed medications for opioid  
4 use disorder; and

5 (G) a summary of allegations, assertions,  
6 or formal legal actions on the State and local  
7 levels by governments and nongovernmental or-  
8 ganizations with respect to the opening and op-  
9 eration of recovery housing.

10 (e) DEFINITIONS.—In this subsection:

11 (1) The term “covered recovery housing” means  
12 recovery housing that utilizes compensated or volun-  
13 teer onsite staff who are not health care profes-  
14 sionals to support residents.

15 (2) The term “effectiveness outcomes” may in-  
16 clude decreased substance use, reduced probability of  
17 relapse or reoccurrence, lower rates of incarceration,  
18 higher income, increased employment, and improved  
19 family functioning.

20 (3) The term “health care professional” means  
21 an individual who is licensed or otherwise authorized  
22 by the State to provide health care services.

23 (4) The term “recovery housing” means a  
24 shared living environment that is or purports to  
25 be—

1 (A) free from alcohol and use of nonpre-  
2 scribed drugs; and

3 (B) centered on connection to services that  
4 promote sustained recovery from substance use  
5 disorders.

6 (f) AUTHORIZATION OF APPROPRIATIONS.—To carry  
7 out this section, there is authorized to be appropriated  
8 \$1,500,000 for fiscal year 2022.

9 **SEC. 6. FILLING RESEARCH AND DATA GAPS.**

10 Not later than 60 days after the completion of the  
11 study under section 5, the Secretary of Health and  
12 Human Services shall enter into an agreement with an ap-  
13 propriate entity to conduct such research as may be nec-  
14 essary to fill the research and data gaps identified in re-  
15 porting pursuant to such section.

16 **SEC. 7. GRANTS FOR STATES TO PROMOTE THE AVAIL-**  
17 **ABILITY OF HIGH QUALITY RECOVERY HOUS-**  
18 **ING.**

19 Section 550 of the Public Health Service Act (42  
20 U.S.C. 290ee–5), as amended by section 4, is further  
21 amended by inserting after subsection (e) (as inserted by  
22 section 4) the following:

23 “(f) GRANTS FOR IMPLEMENTING NATIONAL RECOV-  
24 ERY HOUSING BEST PRACTICES.—

1           “(1) IN GENERAL.—The Secretary shall award  
2 grants to States (and political subdivisions of  
3 States), Tribes, and territories—

4           “(A) for the provision of technical assist-  
5 ance by national accrediting entities and rep-  
6 utable providers and analysts of recovery hous-  
7 ing services to implement the guidelines, nation-  
8 ally recognized standards, and recommendations  
9 developed under section 3 of the Excellence in  
10 Recovery Housing Act and this section; and

11           “(B) to promote the availability of high-  
12 quality recovery housing for individuals with a  
13 substance use disorder and practices to main-  
14 tain housing quality long term.

15           “(2) STATE ENFORCEMENT PLANS.—Beginning  
16 not later than 90 days after the date of enactment  
17 of this paragraph and every 2 years thereafter, as a  
18 condition on the receipt of a grant under paragraph  
19 (1), each State (or political subdivision of a State),  
20 Tribe, or territory receiving such a grant shall sub-  
21 mit to the Secretary, and make publicly available on  
22 a publicly accessible website of the State (or political  
23 subdivision of the State), Tribe, or territory—

24           “(A) the plan of the State (or political sub-  
25 division of a State), Tribe, or territory, with re-

1 spect to the promotion of high-quality recovery  
2 housing for individuals with a substance use  
3 disorder located within the jurisdiction of such  
4 State (or political subdivision of a State), Tribe,  
5 or territory; and

6 “(B) a description of how such plan is con-  
7 sistent with the best practices developed under  
8 this section and guidelines developed under sec-  
9 tion 550A.

10 “(3) REVIEW OF ACCREDITING ENTITIES.—The  
11 Secretary shall periodically review, by developing a  
12 rubric to evaluate accreditation, the accrediting enti-  
13 ties providing technical assistance pursuant to para-  
14 graph (1)(A).

15 “(4) AUTHORIZATION OF APPROPRIATIONS.—  
16 To carry out this subsection, there is authorized to  
17 be appropriated \$10,000,000 for each of fiscal years  
18 2023 through 2027.”.

19 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 550 of the Public Health Service Act (42  
21 U.S.C. 290ee–5), as amended by sections 4 and 7, is fur-  
22 ther amended by amending subsection (i) (as redesignated  
23 by such section 4) to read as follows:

24 “(i) AUTHORIZATION OF APPROPRIATIONS.—

1           “(1) IN GENERAL.—To carry out this section,  
2           there is authorized to be appropriated—

3                   “(A) \$2,000,000 for fiscal year 2022; and

4                   “(B) \$11,000,000 for each of fiscal years  
5           2023 through 2027.

6           “(2) RESERVATIONS OF FUNDS.—For each of  
7           fiscal years 2022 through 2027, of the amounts ap-  
8           propriated under paragraph (1) for such fiscal year,  
9           the Secretary shall reserve—

10                   “(A) not less than \$1,000,000 to carry out  
11           subsection (e); and

12                   “(B) not less than \$10,000,000 to award  
13           grants under paragraphs (1) and (2) of sub-  
14           section (f).”.

15 **SEC. 9. REPUTABLE PROVIDERS AND ANALYSTS OF RECOV-**  
16 **ERY HOUSING SERVICES DEFINITION.**

17           Section 550(h) of the Public Health Service Act (42  
18 U.S.C. 290ee–5(i)), as redesignated by section 4, is  
19 amended by adding at the end the following:

20                   “(4) The term ‘reputable providers and analysts  
21           of recovery housing services’ means recovery housing  
22           service providers and analysts that—

23                   “(A) use evidence-based approaches;

24                   “(B) act in accordance with guidelines  
25           issued by the Assistant Secretary;



1           “(C) have not been found guilty of health  
2           care fraud, patient brokering, or false adver-  
3           tising by the Department of Justice, the De-  
4           partment of Health and Human Services, or a  
5           Medicaid Fraud Control Unit;

6           “(D) have not been found to have violated  
7           Federal, State, or local codes of conduct with  
8           respect to recovery housing for individuals with  
9           a substance use disorder; and

10           “(E) do not employ individuals with a past  
11           conviction of criminal, domestic, or sexual vio-  
12           lence, or significant drug distribution, in the  
13           care or supervision of individuals.”.

14 **SEC. 10. TECHNICAL CORRECTION.**

15           Title V of the Public Health Service Act (42 U.S.C.  
16 290aa et seq.) is amended—

17           (1) by redesignating section 550 (relating to  
18           Sobriety Treatment and Recovery Teams) (42  
19           U.S.C. 290ee–10), as added by section 8214 of Pub-  
20           lic Law 115–271, as section 550B; and

21           (2) moving such section so it appears after sec-  
22           tion 550A (added by section 3 of this Act).

○