

116TH CONGRESS  
2D SESSION

# S. 3297

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain information available on a public website relating to intermediate care facilities for individuals with intellectual disabilities certified for participation under the Medicaid program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2020

Ms. MCSALLY (for herself and Ms. SINEMA) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain information available on a public website relating to intermediate care facilities for individuals with intellectual disabilities certified for participation under the Medicaid program, 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 “Preventing Abuse and  
5 Neglect of Vulnerable Americans Act of 2020”.

1 **SEC. 2. REQUIRING THE SECRETARY OF HEALTH AND**  
2 **HUMAN SERVICES TO MAKE CERTAIN INFOR-**  
3 **MATION AVAILABLE ON A PUBLIC WEBSITE**  
4 **RELATING TO INTERMEDIATE CARE FACILI-**  
5 **TIES FOR INDIVIDUALS WITH INTELLECTUAL**  
6 **DISABILITIES CERTIFIED FOR PARTICIPA-**  
7 **TION UNDER THE MEDICAID PROGRAM.**

8 (a) IN GENERAL.—Section 1910 of the Social Secu-  
9 rity Act (42 U.S.C. 1396i) is amended by adding at the  
10 end the following new subsection:

11 “(c) Not later than 2 years after the date of the en-  
12 actment of this subsection, the Secretary shall, in order  
13 to increase transparency, include on the official internet  
14 website of the Federal Government for Medicaid bene-  
15 ficiaries, with respect to each intermediate care facility de-  
16 scribed in subsection (b) eligible to participate in the pro-  
17 gram established under this title, the following informa-  
18 tion in a manner that is posted in a prominent location,  
19 updated on a timely basis, easily accessible, readily under-  
20 standable to consumers of services for individuals with in-  
21 tellectual disabilities, and searchable:

22 “(1) Information regarding the performance of  
23 such facility, including—

24 “(A) results from the 3 most recent sur-  
25 veys conducted with respect to such facility  
26 under the State survey and certification proc-

1           ess, including any standard or condition-level  
2           deficiencies identified during such surveys and  
3           any administrative actions or citations taken as  
4           a result of such surveys;

5           “(B) any finding, with respect to any such  
6           deficiencies identified during such surveys, that  
7           such a deficiency immediately jeopardized the  
8           health or safety of residents of such facility;

9           “(C) the 3 most recent Form 2567 (or a  
10          successor form) State inspection reports and a  
11          description of how an individual may interpret  
12          such reports; and

13          “(D) any plan of correction or other re-  
14          sponse of such facility to such reports.

15          “(2) The standardized complaint form devel-  
16          oped under section 1128I(f), including explanatory  
17          material on what complaint forms are, how they are  
18          used, and how to file a complaint with the State sur-  
19          vey and certification program and the State long-  
20          term care ombudsman program.

21          “(3) Summary information on the number,  
22          type, severity, and outcomes of substantiated com-  
23          plaints.”.

24          (b) ESTABLISHMENT OF STANDARDIZED COMPLAINT  
25          FORM.—Section 1128I of the Social Security Act (42

1 U.S.C. 1320a–7j) is amended by adding at the end the  
 2 following new subsection:

3 “(i) APPLICATION OF CERTAIN PROVISIONS TO IN-  
 4 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH  
 5 INTELLECTUAL DISABILITIES.—In applying subsection  
 6 (f), beginning 1 year after the date of the enactment of  
 7 this subsection, each reference to a ‘facility’ shall be  
 8 deemed to include an intermediate care facility described  
 9 in section 1905(d).”.

10 **SEC. 3. ADVISORY COUNCIL ON INTERMEDIATE CARE FA-**  
 11 **CILITIES FOR INDIVIDUALS WITH INTELLEC-**  
 12 **TUAL DISABILITIES.**

13 (a) ESTABLISHMENT.—Not later than 1 year after  
 14 the date of enactment of this Act, the Secretary of Health  
 15 and Human Services (in this section referred to as the  
 16 “Secretary”) shall establish the Advisory Council on Inter-  
 17 mediate Care Facilities for Individuals with Intellectual  
 18 Disabilities (in this section, referred to as the “Advisory  
 19 Council”).

20 (b) MEMBERSHIP.—

21 (1) IN GENERAL.—The Advisory Council shall  
 22 consist of such members as appointed by the Sec-  
 23 retary. In making such appointments, the Secretary  
 24 shall ensure that the Advisory Council includes rep-  
 25 resentatives of the following:

1 (A) Individuals with disabilities.

2 (B) Family members of individuals with  
3 disabilities.

4 (C) The National Association of State Di-  
5 rectors of Developmental Disabilities Services.

6 (D) The American Health Care Associa-  
7 tion.

8 (E) The American Network of Community  
9 Options and Resources.

10 (F) States, including State survey agen-  
11 cies.

12 (G) The National Quality Forum (or such  
13 other standard-setting organization specified by  
14 the Secretary).

15 (2) CHAIR.—The Chair of the Advisory Council  
16 shall be appointed by the Secretary from among the  
17 members selected under paragraph (1) and described  
18 in any of subparagraphs (A) through (G) of such  
19 paragraph.

20 (c) DUTIES.—

21 (1) IN GENERAL.—The Advisory Council shall  
22 develop recommendations on steps that intermediate  
23 care facilities for individuals with intellectual disabili-  
24 ties may take to prevent abuse, neglect, and exploi-

1 tation, which may include recommendations relating  
2 to the following:

3 (A) Staff training requirements.

4 (B) Creation of pamphlets or other mate-  
5 rials to share with families to help them iden-  
6 tify potential warning signs of abuse, neglect,  
7 and exploitation.

8 (C) Creation of materials to share with  
9 families on the process of how to file a com-  
10 plaint when abuse, neglect, or exploitation is  
11 suspected.

12 (D) Ways to address caregiver burnout  
13 and stress.

14 (2) CONSIDERATIONS.—In the development of  
15 recommendations under paragraph (1), the Advisory  
16 Council shall take into account data and practices  
17 related to intermediate care facilities for individuals  
18 with intellectual disabilities, which may include the  
19 following:

20 (A) Survey data related to abuse, neglect,  
21 and exploitation citations.

22 (B) Current programs being utilized by in-  
23 termediate care facilities for individuals with in-  
24 tellectual disabilities related to abuse, neglect,  
25 and exploitation prevention.

1 (C) Current practices for providing trans-  
 2 parency to consumers of intermediate care facil-  
 3 ity for individuals with intellectual disabilities  
 4 services and their families when incidents occur.

5 (D) State requirements for providers of in-  
 6 termediate care facility for individuals with in-  
 7 tellectual disabilities services related to abuse,  
 8 neglect, and exploitation, including—

9 (i) reporting requirements;

10 (ii) data tracking; and

11 (iii) resolution of reports of abuse, ne-  
 12 glect, or exploitation, including those re-  
 13 ports that were not substantiated.

14 (3) AUTHORITY TO COLLECT INFORMATION  
 15 AND REQUEST TECHNICAL ASSISTANCE.—The Advi-  
 16 sory Council may secure directly from the Secretary  
 17 upon request such information or technical assist-  
 18 ance as the Advisory Council considers necessary to  
 19 carry out this section.

20 (d) REPORT.—

21 (1) IN GENERAL.—Not later than 2 years after  
 22 the date of enactment of this Act, the Advisory  
 23 Council shall submit to the Secretary, the Com-  
 24 mittee on Finance and the Special Committee on  
 25 Aging of the Senate, and the Committee on Ways

1 and Means and the Committee on Energy and Com-  
2 merce of the House of Representatives, a report con-  
3 taining any recommendations developed under sub-  
4 section (c)(1), together with recommendations for  
5 such legislation and administrative action as the Ad-  
6 visory Council determines appropriate.

7 (2) PUBLIC AVAILABILITY.—Upon receiving the  
8 report described in paragraph (1), the Secretary  
9 shall make such report public.

10 (e) TERMINATION.—The Advisory Council shall ter-  
11 minate upon the submission of the report to the Secretary  
12 under subsection (d)(1).

13 **SEC. 4. PERMITTING MEDICARE AND MEDICAID PRO-**  
14 **VIDERS TO ACCESS THE NATIONAL PRACTI-**  
15 **TIONER DATA BANK TO CONDUCT EMPLOYEE**  
16 **BACKGROUND CHECKS.**

17 Section 1921(b)(6) of the Social Security Act (42  
18 U.S.C. 1396r-2(b)(6)) is amended—

19 (1) by striking “and other health care entities  
20 (as defined in section 431 of the Health Care Qual-  
21 ity Improvement Act of 1986)” and inserting “,  
22 other health care entities (as defined in section 431  
23 of the Health Care Quality Improvement Act of  
24 1986), providers of services (as defined in section  
25 1861(u)), suppliers (as defined in section 1861(d)),



1 and providers of items or services under a State plan  
2 under this title (or a waiver of such a plan)”; and

3 (2) by striking “such hospitals or other health  
4 care entities” and inserting “such hospitals, health  
5 care entities, providers, or suppliers”.

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