



NATIONAL CONFERENCE OF STATE LEGISLATURES

## **Bipartisan Safer Communities Act**

Summary Prepared by NCSL Staff

### **Division A—Mental Health and Firearms Provisions**

#### **Title I—Children and Family Mental Health Services**

##### Sec. 11001: Expansion of Community Mental Health Services Demonstration Program

- Amends the Protecting Access to Medicare Act (42 U.S.C. 1396a) to require the secretary of Health and Human Services (HHS) to award planning grants to 10 states to develop time-limited demonstration programs. The bill permits 10 new states to join these demonstration programs every two years beginning July 1, 2024. Participation in a demonstration program does not impact a state’s federal Medicaid funding.

##### Sec. 11002: Medicaid and Telehealth

- Requires the HHS secretary to provide technical assistance and guidance to states on how to improve access to telehealth for Medicaid- and CHIP-covered services. Guidance shall include:
  - How states can adopt flexibilities without state plan or waiver approval.
  - Best practices regarding billing for services.
  - Strategies for integrating telehealth services.
  - Best practices from states that have used Medicaid waivers to expand telehealth.
  - Strategies to promote delivery of accessible and culturally competent telehealth care, including addressing the needs of individuals with disabilities; medically underserved urban and rural communities; racial and ethnic minorities; individuals with limited English proficiency; and individuals of different age groups, including children, young adults and seniors.

- Training strategies for providers.
- Best practices to support the delivery of covered services (specifically mental health and substance use disorder) under Medicaid and Children's Health Insurance Program (CHIP) via telehealth in schools.
- Strategies for evaluating how well telehealth services are working.
- Best practices for conveying information to beneficiaries regarding the availability of telehealth as an option to receive services covered under Medicaid and CHIP.

#### Sec. 11003: Supporting Access to Health Care Services in Schools

- Within 12 months of enactment, the HHS secretary in coordination with the secretary of the Department of Education (ED) shall issue guidance to the appropriate state entities to support the delivery of medical assistance to Medicaid and CHIP beneficiaries in school-based settings. Guidance shall include:
  - Strategies and tools to reduce administrative burdens and simplify billing.
  - A comprehensive list of best practices and examples of approved methods that state Medicaid agencies and local educational agencies have used to pay for, and increase the availability of, assistance under Medicaid.
- Within 12 months of enactment, the HHS and ED secretaries shall establish a technical assistance center to reduce administrative burdens for state agencies, support state educational agencies in receiving payment under Medicaid, and provide information to state agencies on how to use federal funding. The technical center must:
  - Provide resources specific to rural schools.
  - Issue a report on its work and where the most assistance was requested.
- The act includes grants to states for \$50 million in fiscal year (FY) 2022 to implement, enhance or expand the provision of assistance through school-based entities under Medicaid or CHIP. A state shall not use any grant funds to provide medical assistance, child health assistance or other health services.

#### Sec. 11004: Review of State Implementation of Early and Periodic Screening, Diagnostic and Treatment Services

- Not later than 24 months after enactment, and every five years thereafter, the HHS secretary shall review state implementation of and compliance with Medicaid requirements, issue guidance and provide appropriate technical assistance to states, and issue a report to Congress.

#### Sec. 11005: Pediatric Mental Health Care Access Grants

- \$31 million for each of FY 2023 through 2027.

### **Title II—Firearms**

#### Sec. 12001: Juvenile Records

- Clarifies current law that a person is prohibited from purchasing a firearm if their juvenile record meets the existing criteria for a prohibited firearms purchaser under 18 U.S. 922(d). Mental health adjudication records for persons under 16 years old do not disqualify them from purchasing a firearm.
- Adds specific additional firearms registration requirements for people under 21 years old:
  - Unique identification number.
  - Waiting period of three business days when state offices are open during which the seller or transferor has not received notice of a disqualifying factor.
  - Where cause exists for a disqualifying factor, additional waiting period of 10 business days when state offices are open, and no additional notice is received by seller or transferor that there is a disqualifying factor.
  - Amends NICS (34 U.S.C. 40901) to require an immediate criminal history background check, including juvenile records and mental health adjudication records.
  - These requirements sunset on Sept. 30, 2032, except for the provision clarifying that juvenile conduct can prohibit a person from purchasing firearms and that juvenile mental health adjudications that occur before the age of 16 do not prohibit a person from purchasing firearms.
  - No waiting period for someone under 21 to purchase a firearm and receive it immediately if there are no disqualifying factors found in their juvenile record.

- States shall report annually to Congress through 2032 a list of records that once disqualified, but no longer disqualify, an individual from acquiring or possessing a firearm. Each record of disqualification must include the reason.

#### Sec. 12002. Defining “Engaged in the Business”

- Now defined as “predominantly earn a profit” instead of “with the principal objective of livelihood and profit.” To “predominantly earn a profit” means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection. Proof of profit is not required.

#### Sec. 12003: Use of Byrne Grants for Implementation of State Crisis Intervention Programs

- States can now use Byrne funding for state crisis intervention programs such as mental health courts, drug courts, veterans courts, and extreme risk protection order (ERPO) programs, which must include due process rights under the Constitution.
  - ERPO programs must include pre- and post-deprivation due process, right to be represented by counsel, pre- and post-deprivation heightened evidentiary standards and proof, and penalties for abuse of the program.
  - The attorney general shall publish an annual report with respect to grants awarded for crisis intervention programs.

#### Sec. 12004: Stop Illegal Trafficking in Firearms Act

- Establishes new, specific criminal offenses with significant penalties for straw purchasers and firearms traffickers (up to 15 years imprisonment), and enhanced penalties when straw-purchased firearms are used in connection with serious criminal activity like terrorism and drug trafficking (up to 25 years imprisonment).
- If convicted, traffickers of firearms and straw purchasers shall forfeit any property or proceeds as a result of the crime.
- Provides criminal investigators with additional wire-tap, forfeiture, racketeering charging, criminal fine, and money laundering authorities.

- Directs the U.S. Sentencing Commission to impose increased penalties for convicted straw purchasers and firearms traffickers, especially if they are affiliated with a gang or cartel.
- Prohibits firearms or ammunition transfers to drug cartels.
- Expands current law by criminalizing the smuggling of firearms out of the U.S. Current law only prohibits smuggling firearms into the U.S.
- Provides federal firearm licensees (FFLs) with access to the National Instant Criminal Background Check System (NICS) to run background checks on prospective employees to ensure that they are not prohibited from possessing firearms under current law.
- Provides for reimbursement to local law enforcement for assistance provided to the Department of Homeland Security to prevent illegal trafficking of firearms.

#### Sec. 12005: Misdemeanor Crime of Domestic Violence

- Updates the definition of “misdemeanor crime of domestic violence” to include individuals who have (or have had) a current or recent continuing serious relationship of a romantic or an intimate nature with their victim. Current law applies only to spouses, persons with a child in common, persons cohabitating as spouses, and persons similarly situated to spouses.
  - Not retroactive. Applies only to current or recently ended relationships.
- No misdemeanor crime of domestic violence shall be deemed to have occurred if the person’s record has been expunged or set aside, or the person has been pardoned and has firearm rights restored unless such expungement or pardon expressly provides that the person may not ship, transport, possess or receive firearms.
- Persons convicted of a misdemeanor crime of violence against a person with whom they have (or have had) a current or recent continuing serious relationship of a romantic or an intimate nature would have their right to purchase and possess firearms automatically restored after five years elapsed from the end of their criminal sentence if they had committed no further crimes of violence.

### **Title III—Other Matters**

#### **Subtitle A—Extension of Moratorium**

- Moratorium on implementation of rule relating to eliminating the anti-kickback statute safe harbor protection for prescription drug rebates.
- This provision provides a one-year delay of the Medicare Rebate Rule.

#### **Subtitle B—Medicare Improvement Fund**

- This provision makes deposits into the Medicare Improvement Fund to preserve unused offset funds from the one-year delay of the Medicare Rebate Rule.

#### **Subtitle C—Luke and Alex School Safety Act of 2022**

##### Sec. 13302: Federal Clearinghouse on School Safety Evidence-Based Practices

- The clearinghouse shall serve as a federal resource to identify and publish online through SchoolSafety.gov, or any successor website, evidence-based practices and recommendations to improve school safety for use by state and local educational agencies, institutions of higher education, state and local law enforcement agencies, health professionals, and the public. It must notify state agencies when best practices are published.
  - The clearinghouse shall establish an external advisory board whose members shall include appropriate state, local, tribal, private sector, and nongovernmental organizations, including organizations representing parents of elementary and secondary school students, representative from civil rights organizations, representatives of disability rights organizations, representatives of 20 educators, representatives of law enforcement, and nonprofit school safety and security organizations.

##### Sec. 13304: Grant Program Review

- Not later than one year after enactment, the clearinghouse or advisory board shall review all grant programs and identify any program that may be used to implement evidence-based practices and recommendations of the clearinghouse, and identify any evidence-based practices for which there is not a federal grant program.
- The clearinghouse shall also identify for each state, to the extent practicable, each agency responsible for school safety, any grant program that may be used for the purposes of

implementing evidence-based practices, and any resources other than grant programs that may be used to assist in the implementation of evidence-based practices.

#### **Subtitle D—Amendment on ESEA Funding**

- Prohibits use of ESEA funds for the provision of dangerous weapons or training in the use of a dangerous weapon.

#### **DIVISION B—Appropriations**

##### **Title I—Department of Justice**

- \$750 million (over five years) for crisis intervention programs under Byrne JAG.
- \$300 million (over five years) for STOP School Violence school safety programs, including school resource officers and school hardening.
- \$200 million (over five years) for NICS improvement and juvenile records.
- \$250 million (over five years) for community violence intervention programs.
- \$100 million for FBI salaries and expenses.

##### **Title II—Health and Human Services**

- \$250 million over four years for the Substance Abuse and Mental Health Services Administration's (SAMHSA) Community Mental Health Block Grant program that provides states, the District of Columbia, and the territories with flexible funding to provide comprehensive community mental health services.
- \$60 million over five years for training in mental health for primary care clinicians who treat children and youth through the Health Resources and Services Administration's (HRSA) Primary Care Training and Enhancement Program.
- \$80 million over four years for HRSA to support pediatric primary care providers to rapidly access mental health specialists' expertise in guiding the treatment of their patients.

- \$120 million over four years for SAMHSA to prepare and train community members and first responders on how to respond to individuals with mental disorders appropriately and safely.
- \$40 million for National Child Traumatic Stress Network.
- \$150 million in one-time funding to support implementation of the 988 Suicide and Crisis Lifeline.

## **Department of Education**

- \$1 billion to increase funding for Safe Schools/Healthy Students programs.
  - Provides states with \$1 billion in one-time funding under Title IV-A, Sec 4108 of the Elementary and Secondary Education Act to keep students safe and healthy. State and locally determined services include, but are not limited to, mental health resources, drug and violence prevention, mentoring, crisis intervention, and high-quality training for school personnel on suicide prevention and human trafficking. Funds available until March 1, 2023.
- \$50 million to improve and expand academic enrichment and youth development.
  - Provides states with \$50 million in one-time funding under Title IV-B to improve and expand the 21st Century Community Learning Centers Program, which serves youth during non-school hours by providing academic enrichment and development opportunities. Recipients of these funds help students from lower-income households participate in after-school programming connecting them to community organizations such as the YMCA and Boys and Girls Clubs. Funds available until March 1, 2023.
- \$500 million to expand the School-Based Mental Health Services Grant Program.
  - The program provides competitive grants to states to increase the number of and retention of qualified mental health service providers serving students in school districts with demonstrated need. Funds available until March 1, 2023.
- \$500 million to develop a pipeline of school-based mental health professionals.
  - Funding to expand the Mental Health Service Professional Demonstration Grant Program, which provides competitive grants to support innovative partnerships between institutions of higher education and school districts to prepare school-



based mental health service providers for employment in high-need schools.  
Funds available until March 1, 2023.

**Resource**

Passed Senate June 23, 2022, by a vote of 65-33

Passed House June 24, 2022, by a vote of 234-193

Signed by President June 25, 2022. [Bill text](#)