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Omitted text is shown **stricken**, new matter that is proposed is in **underlined italics**, and existing text in which no change is being proposed is shown in regular roman. Typesetting and stylistic characteristics, particularly in the headings and indentations, may not conform to how the text, if adopted, would be illustrated in subsequent versions of legislation or public law.

Text of H.R. 7780, the Mental Health Matters Act [Showing the text of H.R. 7780, as reported by the Committee on Education and Labor, with modifications.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Short title.

This Act may be cited as the “Mental Health Matters Act”.

SEC. 2. Table of contents.

The table of contents of this Act is as follows:

Sec. Short title.

Sec. Table of contents.

TITLE I—EARLY CHILDHOOD MENTAL HEALTH ACT

Sec. 101 Short title.

Sec. 102 Identification of effective interventions in Head Start programs.

- Sec. 10~~1~~ Implementing the interventions in Head Start programs.
- Sec. 10~~2~~ Evaluating implementation of interventions in Head Start programs.
- Sec. 10~~3~~ Implementing the evaluation framework for Head Start programs.
- Sec. 10~~4~~ Best Practice Centers.
- Sec. 10~~7~~ Funding.

TITLE II—BUILDING PIPELINE OF SCHOOL-BASED MENTAL HEALTH SERVICE PROVIDERS ACT

- Sec. 20~~1~~ Short title.
- Sec. 20~~2~~ Definitions.
- Sec. 20~~3~~ Grant program to increase the number of school-based mental health services providers serving in high-need local educational agencies.

TITLE III—ELEMENTARY AND SECONDARY SCHOOL COUNSELING ACT

- Sec. 30~~1~~ Short title.
- Sec. 30~~2~~ Definitions.
- Sec. 30~~3~~ Allotments to States and subgrants to local educational agencies.
- Sec. 30~~4~~ Authorization of appropriations.

TITLE IV—SUPPORTING TRAUMA-INFORMED EDUCATION PRACTICES ACT

- Sec. 40~~1~~ Short title.
- Sec. 40~~2~~ Amendment to the SUPPORT for Patients and Communities Act.

TITLE V—RESPOND, INNOVATE, SUCCEED, AND EMPOWER ACT

- Sec. 50~~1~~ Short title.
- Sec. 50~~2~~ Perfecting amendment to the definition of disability.
- Sec. 50~~3~~ Supporting students with disabilities to succeed once enrolled in college.
- Sec. 50~~4~~ Authorization of funds for the National Center for Information and Technical Support for Postsecondary Students With Disabilities.
- Sec. 50~~5~~ Inclusion of information on students with disabilities.
- Sec. 50~~6~~ Rule of construction.

TITLE VI—STRENGTHENING BEHAVIORAL HEALTH BENEFITS ACT

- Sec. 60~~1~~ Short title.
- Sec. 60~~2~~ Enforcement of Mental Health and Substance Use Disorder Requirements.

TITLE VII—EMPLOYEE AND RETIREE ACCESS TO JUSTICE ACT

- Sec. 70~~1~~ Short title.
- Sec. 70~~2~~ Unenforceable arbitration clauses, class action waivers, representation waivers, and discretionary clauses.
- Sec. 70~~3~~ Prohibition on mandatory arbitration clauses, class action waivers, representation waivers, and discretionary clauses.
- Sec. 70~~4~~ Effective date.

Title I—Early Childhood Mental Health

Act

SEC. 101. Short title.

This title may be cited as the “Early Childhood Mental Health Support Act”.

SEC. 102. Identification of effective interventions in Head Start programs.

(a) INTERVENTIONS THAT IMPROVE SOCIAL-EMOTIONAL AND BEHAVIORAL HEALTH OF CHILDREN.—

(1) IN GENERAL.—The Secretary of Health and Human Services acting through the Assistant Secretary for the Administration for Children and Families (in this section referred to as the “Secretary”) shall identify and review interventions, best practices, curricula, and staff trainings—

- (A) that improve the behavioral health of children; and
- (B) that are evidence based.

(2) FOCUS.—In carrying out paragraph (1), the Secretary shall focus on interventions, best practices, curricula, and staff trainings that—

(A) can be delivered by a provider or other staff member in or associated with a Head Start program or Early Head Start center;

(B) are demonstrated to improve or support healthy social, emotional, or cognitive development for children in Head Start or Early Head Start programs, with an empirical or theoretical relationship to later mental health or substance abuse outcomes;

(C) involve changes to center-wide policies or practices, or other services and supports offered in conjunction with Head Start programs or Early Head Start centers, including services provided to adults or families (with or without a child present) for the benefit of the children;

(D) demonstrate effectiveness across racial, ethnic, and geographic populations or demonstrate the capacity to be adapted to be effective across populations;

(E) offer a tiered approach to addressing need, including—

- (i) universal interventions for all children;
- (ii) selected prevention for children demonstrating increased need; and
- (iii) indicated prevention for children demonstrating substantial need;

(F) incorporate trauma-informed care approaches; or

(G) have a proven record of improving early childhood and social emotional development.

(b) INTERVENTIONS THAT SUPPORT STAFF WELLNESS.—In carrying out subsection (a), the Secretary shall identify and review interventions, best practices, curricula, and staff trainings that support staff wellness and self-care.

(c) CREDENTIALS.—In carrying out subsections (a) and (b), the Secretary, in consultation with relevant experts, shall determine the appropriate credentials for individuals who deliver the interventions, best practices, curricula, and staff trainings identified by the

Secretary.

(d) CONSULTATION; PUBLIC INPUT.—In carrying out this section, the Secretary shall—

(1) consult with relevant agencies, experts, academics, think tanks, and nonprofit organizations with expertise in early childhood, mental health, and trauma-informed care, including the National Institute of Mental Health, the Administration for Children and Families, the Substance Abuse and Mental Health Services Administration, the Institute of Education Sciences, and the Centers for Disease Control and Prevention; and

(2) solicit public input on—

(A) the design of the reviews under subsections (a) and (b); and

(B) the findings and conclusions resulting from such reviews.

(e) TIMING.—The Secretary shall—

(1) complete the initial reviews required by subsections (a) and (b) not later than 2 years after the date of enactment of this Act; and

(2) update such reviews and the findings and conclusions therefrom at least every 5 years.

(f) REPORTING.—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall submit a report to the Congress on the results of implementing this section.

SEC. 103. Implementing the interventions in Head Start programs.

(a) IN GENERAL.—The Assistant Secretary for the Administration for Children and Families shall award grants to participating Head Start agencies to implement the interventions, best practices, curricula, and staff trainings that are identified pursuant to section 102.

(b) REQUIREMENTS.—The Assistant Secretary shall ensure that grants awarded under this section are awarded to grantees representing a diversity of geographic areas across the United States, including urban, suburban, and rural areas.

SEC. 104. Evaluating implementation of interventions in Head Start programs.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Assistant Secretary for Planning and Evaluation and in coordination with the Assistant Secretary for the Administration for Children and Families, shall—

(1) determine whether the interventions, best practices, curricula, and staff trainings implemented pursuant to section 103—

(A) are effectively implemented pursuant to section 103 and other relevant provisions of law such that the anticipated effect sizes of the interventions, best practices, curricula, and staff trainings are achieved; and

(B) yield long-term savings;

(2) develop a method for making the determination required by paragraph (1);

(3) ensure that such method includes competency and testing approaches, performance or outcome measures, or any other methods deemed appropriate by the Assistant Secretary, taking into consideration existing monitoring components of the

Head Start and Early Head Start programs; and

(4) solicit public input on the design, findings, and conclusions of this process and shall consider whether updates are necessary at least every 5 years.

(b) PROCESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall—

(1) conduct any research and evaluation studies needed; and

(2) solicit public input on—

(A) the design of the method developed pursuant to subsection (a)(2); and

(B) the resulting findings and conclusions.

(c) TIMING.—The Secretary of Health and Human Services shall—

(1) develop the method required by subsection (a)(2) and make the initial determination required by subsection (a)(1) not later than 2 years after the date of enactment of this Act; and

(2) update such method and determination at least every 5 years.

SEC. 105. Implementing the evaluation framework for Head Start programs.

(a) EVALUATION METHOD.—The Assistant Secretary for the Administration for Children and Families shall implement the evaluation method developed pursuant to section 104(a) in the Head Start program as a voluntary mechanism for interested Head Start programs or Early Head Start centers to evaluate the extent to which such programs or centers have effectively implemented the interventions, best practices, curricula, and staff trainings identified pursuant to section 102, with minimal burden or disruption to programs and centers interested in participating.

(b) TECHNICAL ASSISTANCE.—The Assistant Secretary for the Administration for Children and Families shall provide guidance, tools, resources, and technical assistance to grantees for implementing and evaluating interventions, best practices, curricula, and staff trainings identified pursuant to section 102 and optimizing the performance of such grantees on the annual evaluations.

SEC. 106. Best Practice Centers.

The Assistant Secretary for the Administration for Children and Families may fund up to 5 Best Practice Centers in Early Childhood Training in universities and colleges to prepare future Head Start agencies and staff able to deliver the interventions, best practices, curricula, and staff trainings identified pursuant to section 102.

SEC. 107. Funding.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$100,000,000 for the period of fiscal years 2023 through 2032 for carrying out sections 103(b), 104, and 106.

(b) AVAILABILITY OF APPROPRIATIONS.—Amounts authorized to be appropriated by subsection (a) are authorized to remain available until expended.

Title II—Building Pipeline of School-Based

Mental Health Service Providers Act

SEC. 201. Short title.

This title may be cited as the “Building Pipeline of School-Based Mental Health Service Providers Act”.

SEC. 202. Definitions.

In this title:

(1) **BEST PRACTICES.**—The term “best practices” means a technique or methodology that, through experience and research related to professional practice in a school-based mental health field, has proven to reliably lead to a desired result.

(2) **ELIGIBLE INSTITUTION.**—The term “eligible institution” means an institution of higher education that offers a program of study that leads to a master's or other graduate degree—

(A) in school psychology that prepares students in such program for the State licensing or certification examination in school psychology;

(B) in school counseling that prepares students in such program for the State licensing or certification examination in school counseling;

(C) in school social work that prepares students in such program for the State licensing or certification examination in school social work;

(D) in another school-based mental health field that prepares students in such program for the State licensing or certification examination in such field, if applicable; or

(E) in any combination of study described in subparagraphs (A) through (D).

(3) **ELIGIBLE PARTNERSHIP.**—The term “eligible partnership” means—

(A) a partnership between 1 or more high-need local educational agencies and 1 or more eligible institutions; or

(B) in any region in which local educational agencies may not have a sufficient elementary school and secondary school student population to support the placement of all participating graduate students, a partnership between a State educational agency, on behalf of 1 or more high-need local educational agencies, and 1 or more eligible institutions.

(4) **HIGH-NEED LOCAL EDUCATIONAL AGENCY.**—The term “high-need local educational agency” means a local educational agency that—

(A) is described in section 200(10) of the Higher Education Act of 1965 (20 U.S.C. 1021(10)); and

(B) as of the date of application for a grant under this title, has ratios of school counselors, school social workers, and school psychologists to students served by the agency that are not more than 1 school counselor per 250 students, not more than 1 school psychologist per 500 students, and not more than 1 school social worker per 250 students.

(5) **HISTORICALLY BLACK COLLEGE OR UNIVERSITY.**—The term “historically Black college or university” has the meaning given the term “part B institution” in

section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(6) HOMELESS CHILDREN AND YOUTHS.—The term “homeless children and youths” has the meaning given such term in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).

(7) INDIAN TRIBE; TRIBAL ORGANIZATION.—In this section the terms “Indian tribe” and “tribal organization” have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(8) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(9) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(10) MINORITY-SERVING INSTITUTION.—The term “minority-serving institution” means, as defined in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)), a Hispanic-serving institution, an Alaska Native-serving institution or a Native Hawaiian-serving institution, a Predominantly Black Institution, an Asian American and Native American Pacific Islander-serving institution, or a Native American-serving nontribal institution.

(11) OUTLYING AREA.—The term “outlying area” has the meaning given the term in section 8101(36)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(36)(A)).

(12) PARTICIPATING ELIGIBLE INSTITUTION.—The term “participating eligible institution” means an eligible institution that is part of an eligible partnership awarded a grant under section 203.

(13) PARTICIPATING GRADUATE.—The term “participating graduate” means an individual who—

(A) has received a master’s or other graduate degree in a school-based mental health field from a participating eligible institution and has obtained a State license or credential in the school-based mental health field; and

(B) as a graduate student pursuing a career in a school-based mental health field, was placed in a school served by a participating high-need local educational agency to complete required field work, credit hours, internships, or related training as applicable.

(14) PARTICIPATING HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term “participating high-need local educational agency” means a high-need local educational agency that is part of an eligible partnership awarded a grant under section 203.

(15) SCHOOL-BASED MENTAL HEALTH FIELD.—The term “school-based mental health field” means each of the following fields:

(A) School counseling.

(B) School social work.

(C) School psychology.

(D) Any other field of study that leads to employment as a school-based

mental health services provider.

(16) SCHOOL-BASED MENTAL HEALTH SERVICES PROVIDER.—The term “school-based mental health services provider” has the meaning given the term in section 4102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7112).

(17) SECRETARY.—The term “Secretary” means the Secretary of Education.

(18) STATE EDUCATIONAL AGENCY.—The term “State educational agency” has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(19) STUDENT SUPPORT PERSONNEL TARGET RATIOS.—The term “student support personnel target ratios” means the ratios of school-based mental health services providers to students recommended to enable such personnel to effectively address the needs of students, including—

(A) at least 1 school counselor for every 250 students (as recommended by the American School Counselor Association and American Counseling Association);

(B) at least 1 school psychologist for every 500 students (as recommended by the National Association of School Psychologists); and

(C) at least 1 school social worker for every 250 students (as recommended by the School Social Work Association of America).

(20) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term “tribally controlled college or university” has the meaning given such term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801).

(21) UNACCOMPANIED YOUTH.—The term “unaccompanied youth” has the meaning given such term in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).

SEC. 203. Grant program to increase the number of school-based mental health services providers serving in high-need local educational agencies.

(a) AUTHORIZATION OF GRANTS.—

(1) GRANT PROGRAM AUTHORIZED.—From amounts made available to carry out this section, the Secretary shall award grants, on a competitive basis, to eligible partnerships, to enable the eligible partnerships to carry out pipeline programs to increase the number of school-based mental health services providers employed by high-need local educational agencies by carrying out any of the activities described in subsection (e).

(2) RESERVATIONS.—From the total amount appropriated under subsection (j) for a fiscal year, the Secretary shall reserve—

(A) one-half of 1 percent for the Secretary of the Interior to carry out programs under this title in schools operated or funded by the Bureau of Indian Education, Indian tribes and tribal organizations, or a consortium of Indian tribes and tribal organizations;

(B) one-half of 1 percent for allotments to outlying areas based on the relative need of each such area with respect to mental health services in schools, as determined by the Secretary in accordance with the purpose of this title;

(C) not more than 3 percent to conduct the evaluations under subsection (h);

and

(D) not more than 2 percent for the administration of the program under this title and to provide technical assistance relating to such program.

(b) GRANT PERIOD.—A grant awarded under this section shall be for a 5-year period and may be renewed for additional 5-year periods upon a showing of adequate progress, as determined by the Secretary.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible partnership shall submit to the Secretary a grant application at such time, in such manner, and containing such information as the Secretary may require. At a minimum, such application shall include—

(1) an assessment of the existing (as of the date of application) ratios of school-based mental health services providers (in the aggregate and disaggregated by profession) to students enrolled in schools in each high-need local educational agency that is part of the eligible partnership; and

(2) a detailed description of—

(A) a plan to carry out a pipeline program to train, place, and retain school-based mental health services providers in high-need local educational agencies; and

(B) the proposed allocation and use of grant funds to carry out activities described in subsection (e).

(d) AWARD BASIS.—In awarding grants under this section, the Secretary shall—

(1) ensure that to the extent practicable, grants are distributed among eligible entities that will serve geographically diverse areas; and

(2) give priority to eligible partnerships that—

(A) propose to use the grant funds to carry out the activities described under paragraphs (1) through (3) of subsection (e) in schools that have higher numbers or percentages of low-income students (determined using any of the measures of poverty described in section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5))), in comparison to other schools that are served by the high-need local educational agency that is part of the eligible partnership;

(B) include 1 or more high-need local educational agencies that have fewer school-based mental health services providers, in the aggregate or for a particular school-based mental health field, per student than other eligible partnerships that have submitted a grant application under subsection (c);

(C) include 1 or more eligible institutions of higher education which are a historically Black college or university, a minority-serving institution, or a tribally controlled college or university;

(D) propose to collaborate with other institutions of higher education with similar programs, including sharing facilities, faculty members, and administrative costs; and

(E) propose to use grant funds to increase the diversity of school-based mental health services providers.

(e) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used—

(1) to pay the administrative costs (including supplies, office and classroom space, supervision, mentoring, and transportation stipends as necessary and appropriate) related to—

(A) having graduate students of programs in school-based mental health fields placed in schools served by participating high-need local educational agencies to complete required field work, credit hours, internships, or related training as applicable for the degree, license, or credential program of each such student; and

(B) offering required graduate coursework for students of a graduate program in a school-based mental health services field on the site of a participating high-need local educational agency;

(2) for not more than the first 3 years after a participating graduate receives a master's or other graduate degree from a program in a school-based mental health field, or obtains a State license or credential in a school-based mental health field, to hire and pay all or part of the salary of the participating graduates working as a school-based mental health services provider in a school served by a participating high-need local educational agency;

(3) to increase the number of school-based mental health services providers per student in schools served by participating high-need local educational agencies, in order to meet the student support personnel target ratios;

(4) to recruit, hire, and retain culturally or linguistically under-represented graduate students of programs in school-based mental health fields for placement in schools served by participating high-need local educational agencies;

(5) to develop coursework that will—

(A) encourage a commitment by graduate students in school-based mental health fields to work for high-need local educational agencies;

(B) give participating graduates the knowledge and skill sets necessary to meet the needs of—

(i) students and families served by high-need local educational agencies;

(ii) students at risk of not meeting State academic standards;

(iii) students who—

(I) are English learners (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

(II) are migratory children (as defined in section 1309 of such Act (20 U.S.C. 6399));

(III) have a parent or caregiver who is a member of the armed forces, including the National Guard, who has been deployed or returned from deployment;

(IV) are LGBTQ+, including students who are lesbian, gay, bisexual, transgender, queer or questioning, nonbinary, or Two-Spirit;

(V) are homeless children and youth, including unaccompanied youth;

(VI) have come into contact with the juvenile justice system or adult

criminal justice system, including students currently or previously held in juvenile detention facilities or adult jails and students currently or previously held in juvenile correctional facilities or adult prisons;

(VII) are a child with a disability (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

(VIII) have been a victim to, or witnessed, domestic violence or violence in their community;

(IX) have been exposed to substance misuse at home or in the community;

(X) are in foster care, are aging out of foster care, or were formerly in foster care; or

(XI) have been a victim to or witnessed trafficking in persons; and

(iv) teachers, administrators, and other staff who work for high-need local educational agencies; and

(C) utilize best practices determined by the American School Counselor Association, National Association of Social Workers, School Social Work Association of America, and National Association of School Psychologists and other relevant organizations;

(6) to provide tuition credits to graduate students participating in the pipeline program supported under the grant;

(7) to fund high-quality “Grow Your Own” teacher preparation programs that provide pathways to State licensure or certification as a school psychologist, school counselor, school social worker, or other school-based mental services provider to recruit and prepare local community members, career changers, paraprofessionals, after-school program staff, and others currently working in schools to become school-based mental health services providers;

(8) to cover the costs of licensure and preparation for required licensure exams; and

(9) for similar activities to fulfill the purpose of this title, as the Secretary determines appropriate.

(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, other Federal, State, or local funds available for the activities described in subsection (e).

(g) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each eligible partnership that receives a grant under this section shall prepare and submit to the Secretary an annual report on the progress of the eligible partnership in carrying out the grant. Such report shall contain such information as the Secretary may require, including, at a minimum, a description of—

(A) actual service delivery provided through the grant funds, including—

(i) descriptive information on the participating eligible institution, the educational model used, and the actual academic program performance;

(ii) characteristics of graduate students participating in the pipeline program supported under the grant, including—

(I) performance on any examinations required by the State for credentialing or licensing;

(II) demographic characteristics; and

(III) graduate student retention rates;

(iii) characteristics of students of the participating high-need local educational agency, including performance on any tests required by the State educational agency, demographic characteristics, and graduation rates, as appropriate;

(iv) an estimate of the annual implementation costs of the pipeline program supported under the grant; and

(v) the number of public elementary and secondary school students, public elementary and secondary schools, graduate students, and institutions of higher education participating in the pipeline program supported under the grant;

(B) outcomes that are consistent with the purpose of the grant program under this title, including—

(i) internship and post-graduation placement of the participating graduate students;

(ii) graduation and professional career readiness indicators; and

(iii) characteristics of the participating high-need local educational agency, including with respect to fully certified and effective teachers and school-based mental health services providers employed by such agency—

(I) changes in the rate of hiring and retention of such teachers and providers (in the aggregate and disaggregated by each such profession); and

(II) the demographics, including the race, ethnicity, and gender, of such teachers and providers.

(C) the instruction, materials, and activities being funded under the grant; and

(D) the effectiveness of any training and ongoing professional development provided—

(i) to students and faculty in the appropriate departments or schools of the participating eligible institution; and

(ii) to the teachers, paraprofessionals, school leaders, school-based mental health services providers, and other specialized instructional support personnel of the participating high-need local educational agency.

(2) PUBLICATION.—The Secretary shall publish the annual reports submitted under paragraph (1) on the website of the Department of Education.

(h) EVALUATION.—

(1) INTERIM EVALUATIONS.—The Secretary may conduct interim evaluations to determine whether each eligible partnership receiving a grant under this section is making adequate progress as the Secretary considers appropriate. The contents of the annual report submitted to the Secretary under subsection (g) may be used by the Secretary to determine whether an eligible partnership receiving a grant is

demonstrating adequate progress.

(2) FINAL EVALUATION.—The Secretary shall conduct a final evaluation to—

(A) determine the effectiveness of the grant program in carrying out the purpose of this title; and

(B) compare the relative effectiveness of each of the various activities described in subsection (e) for which grant funds may be used.

(i) REPORT.—Not earlier than 5 years, nor later than 6 years, after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing—

(1) the findings of the final evaluation conducted under subsection (h)(2); and

(2) such recommendations as the Secretary considers appropriate.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$200,000,000 for fiscal year 2023 and each succeeding fiscal year.

Title III—Elementary and Secondary School Counseling Act

SEC. 301. Short title.

This title may be cited as the “Elementary and Secondary School Counseling Act”.

SEC. 302. Definitions.

In this title:

(1) ESEA DEFINITIONS.—The terms “elementary school”, “local educational agency”, and “secondary school” have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) HIGH-NEED SCHOOL.—The term “high-need school” has the meaning given the term in section 2211(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6631(b)).

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal organization” have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).

(4) OUTLYING AREA.—The term “outlying area” means an outlying area specified in section 8101(36)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(36)(A)).

(5) SCHOOL-BASED MENTAL HEALTH SERVICES PROVIDER.—The term “school-based mental health services provider” has the meaning given the term in section 4102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7112).

(6) SECRETARY.—The term “Secretary” means the Secretary of Education.

(7) STATE.—The term “State” means each of the 50 States, the District of Columbia, and Puerto Rico.

SEC. 303. Allotments to States and subgrants to local educational agencies.

(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a program under which

the Secretary makes allotments to States, in accordance with subsection (c), to enable the States to award subgrants to local educational agencies in order to increase access to school-based mental health services providers at high-need schools served by the local educational agencies.

(b) RESERVATIONS.—From the total amount made available under section 304 for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent for the Secretary of the Interior for programs under this title in schools operated or funded by the Bureau of Indian Education, Indian tribes and tribal organizations, or consortia of Indian tribes and tribal organizations;

(2) one-half of 1 percent for allotments for the outlying areas to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this title; and

(3) not more than 2 percent for the administration of the program under this title and to provide technical assistance relating to such program.

(c) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—

(A) FORMULA.—From the total amount made available under section 304 for a fiscal year and not reserved under subsection (b), the Secretary shall allot to each State that submits a true and complete application under paragraph (3) (as determined by the Secretary) an amount that bears the same relationship to such total amount as the amount received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) by such State for such fiscal year bears to the amount received under such part for such fiscal year by all States that submit such applications.

(B) SMALL STATE MINIMUM.—No State receiving an allotment under this paragraph shall receive less than one-half of 1 percent of the total amount allotted under this paragraph.

(2) MATCHING REQUIREMENTS.—In order to receive an allotment under paragraph (1), a State shall agree to provide matching funds, in an amount equal to 20 percent of the amount of the allotment, toward the costs of the activities carried out with the allotment.

(3) APPLICATION.—A State desiring an allotment under paragraph (1) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Each application shall include, at a minimum—

(A) an assurance that the State will use the allotment only for the purposes specified in subsection (d)(1);

(B) a description of how the State will award subgrants to local educational agencies under such subsection;

(C) a description of how the State will disseminate, in a timely manner, information regarding the subgrants and the application process for such subgrants to local educational agencies; and

(D) the ratios, as of the date of application, of students to school-based mental health services providers in each public elementary school and secondary school in

the State, in the aggregate and disaggregated to include—

(i) the ratios of students to school counselors, school psychologists, and school social workers; and

(ii) as applicable, the ratios of students to other school-based mental health services providers not described in clause (i), in the aggregate and disaggregated by type of provider.

(4) DURATION.—An allotment to a State under paragraph (1) shall be for a 5-year period and may be renewed for additional 5-year periods upon a showing of adequate progress on meeting the goals of the program under this title, as determined by the Secretary.

(d) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—A State receiving an allotment under subsection (c) shall use the allotment to award subgrants, on a competitive basis, to local educational agencies in the State, to enable the local educational agencies to—

(A) recruit and retain school-based mental health services providers to work at high-need schools served by the local educational agency; and

(B) work toward effectively staffing the high-need schools of the local educational agency with school-based mental health services providers, including by meeting the recommended maximum ratios of—

(i) 250 students per school counselor;

(ii) 500 students per school psychologist; and

(iii) 250 students per school social worker.

(2) PRIORITY.—In awarding subgrants under this subsection, the State shall give priority to local educational agencies that serve a significant number of high-need schools.

(3) APPLICATION.—A local educational agency desiring a subgrant under this subsection shall submit an application to the State at such time, in such manner, and containing such information as the State may require, including information on how the local educational agency will prioritize assisting high-need schools with the largest numbers or percentages of students from low-income families (as counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c))).

(e) ALLOTMENT AND SUBGRANT REQUIREMENTS.—

(1) SUPPLEMENT, NOT SUPPLANT.—Amounts received from an allotment under subsection (c) or a subgrant under subsection (d) shall supplement, and not supplant, any other funds available to a State or local educational agency for school-based mental health services.

(2) COMBINING FUNDS ALLOWED.—A local educational agency receiving a subgrant under subsection (d) may combine such subgrant with State or local funds to carry out the activities described in subsection (d)(1).

(f) REPORTS.—

(1) LOCAL EDUCATIONAL AGENCIES.—A local educational agency that receives a subgrant under subsection (d) shall submit an annual report to the State on the activities carried out with the subgrant funds. Each such report shall—

(A) describe the activities carried out using subgrant funds;

(B) enumerate the number of school-based mental health services providers (in the aggregate and disaggregated by profession) who—

(i) were employed by or otherwise served in high-need public elementary and secondary schools under the jurisdiction of the local educational agency over the year covered by the report; and

(ii) were supported with funds from the subgrant or matching funds during such year; and

(C) include the most recent student to provider ratios, in the aggregate and disaggregated as provided in subsection (c)(3)(D), for high-need schools under the jurisdiction of the local educational agency that were supported with the subgrant or matching funds.

(2) STATE.—A State receiving an allotment under subsection (c) shall annually prepare and submit a report to the Secretary that—

(A) evaluates the progress made in achieving the purposes of the program under this title;

(B) includes the most recent student to provider ratios, in the aggregate and disaggregated as provided in subsection (c)(3)(D), for high-need schools in the State that were assisted with subgrants under subsection (d); and

(C) describes any other resources needed to meet the required recommended maximum student to school-based mental health services provider ratios.

(3) PUBLIC AVAILABILITY.—The Secretary shall make all reports submitted under this subsection available to the public, including through the website of the Department.

SEC. 304. Authorization of appropriations.

There are authorized to be appropriated to carry out this title—

(1) \$5,000,000,000 for fiscal year 2023; and

(2) such sums as may be necessary for each succeeding fiscal year.

Title IV—Supporting Trauma-Informed Education Practices Act

SECTION 401. Short title.

This title may be cited as the “Supporting Trauma-Informed Education Practices Act”.

SEC. 402. Amendment to the SUPPORT for Patients and Communities Act.

Section 7134 of the SUPPORT for Patients and Communities Act (42 U.S.C. 280h-7) is amended to read as follows:

“SEC. 7134. Grants to improve trauma support services and mental health care for children and youth in educational settings. —

“(a) AUTHORIZATION OF GRANTS.—

“(1) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS AUTHORIZED.—The

Secretary, in coordination with the Secretary of Health and Human Services, is authorized to award grants to, or enter into contracts or cooperative agreements with, an eligible entity for the purpose of increasing student, teacher, school leader, and other school personnel access to evidence-based trauma support services and mental health services by developing innovative initiatives, activities, or programs to connect schools and local educational agencies, or tribal educational agencies, as applicable, with community trauma-informed support and mental health systems, including such systems under the Indian Health Service.

“(2) RESERVATIONS.—From the total amount appropriated under subsection (l) for a fiscal year, the Secretary shall reserve—

“(A) not more than 3 percent to conduct the evaluation under subsection (f); and

“(B) not more than 2 percent for technical assistance and administration.

“(b) DURATION.—With respect to a grant, contract, or cooperative agreement awarded or entered into under this section, the period during which payments under such grant, contract or agreement are made to the recipient may not exceed 5 years.

“(c) USE OF FUNDS.—An eligible entity that receives or enters into a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract, or cooperative agreement for evidence-based initiatives, activities, or programs, which shall include at least 1 of the following:

“(1) Enhancing, improving, or developing collaborative efforts between schools, local educational agencies or tribal educational agencies, as applicable, and community mental health and trauma-informed service delivery systems to provide, develop, or improve prevention, referral, treatment, and support services to students.

“(2) Implementing trauma-informed models of support, including trauma-informed, positive behavioral interventions and supports in schools served by the eligible entity.

“(3) Providing professional development to teachers, paraprofessionals, school leaders, school-based mental health services providers, and other specialized instructional support personnel employed by local educational agencies or tribal educational agencies, as applicable or schools served by the eligible entity that—

“(A) fosters safe and stable learning environments that prevent and mitigate the effects of trauma, including through social and emotional learning;

“(B) improves school capacity to identify, refer, and provide services to students in need of trauma-informed support or mental health services, including by helping educators to identify the unique personal and contextual variables that influence the manifestation of trauma; and

“(C) reflects the best practices for trauma-informed identification, referral, and support developed by the Interagency Task Force on Trauma-Informed Care (as established by section 7132).

“(4) Providing trauma-informed support services and mental health services to students at full-service community schools served by the eligible entity.

“(5) Engaging families and communities to increase awareness of child trauma, which may include sharing best practices with law enforcement regarding trauma-

informed services and working with mental health professionals to provide interventions and longer term coordinated care within the community for children and youth who have experienced trauma and the families of such children and youth.

“(6) Evaluating the effectiveness of the initiatives, activities, or programs carried out under this section in increasing student access to evidence-based trauma support services and mental health services.

“(7) Establishing partnerships with or providing subgrants to early childhood education programs or other eligible entities, to include such entities in the evidence-based trauma-informed or mental health initiatives, activities, and support services established under this section in order to provide, develop, or improve prevention, referral, treatment, and support services to children and their families.

“(8) Establishing new, or enhancing existing, evidence-based educational, awareness, and prevention programs to improve mental health and resiliency among teachers, paraprofessionals, school leaders, school-based mental health services providers, and other specialized instructional support personnel employed by local educational agencies or tribal educational agencies, as applicable, or schools served by the eligible entity.

“(d) APPLICATIONS.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, which shall include the following:

“(1) A description of the innovative initiatives, activities, or programs to be funded under the grant, contract, or cooperative agreement, including how such initiatives, activities, or programs will increase access to evidence-based trauma-informed support services and mental health services for students, and, as applicable, the families of such students.

“(2) A description of how the initiatives, activities, or programs will provide linguistically appropriate and culturally competent services.

“(3) A description of how the initiatives, activities, or programs will support schools served by the eligible entity in improving school climate in order to support an environment conducive to learning.

“(4) An assurance that—

“(A) persons providing services under the initiative, activity, or program funded by the grant, contract, or cooperative agreement are fully licensed or certified to provide such services;

“(B) teachers, school leaders, administrators, school-based mental health services providers and other specialized instructional support personnel, representatives of local Indian Tribes or tribal organizations as appropriate, other school personnel, individuals who have experience receiving mental health services as children, and parents of students participating in services under this section will be engaged and involved in the design and implementation of the services; and

“(C) the eligible entity will comply with the evaluation required under subsection (f).

“(5) A description of how the eligible entity will support and integrate existing school-based services at schools served by the eligible entity with the initiatives, activities, or programs funded under this section in order to provide trauma-informed support services or mental health services for students, as appropriate.

“(6) A description of how the eligible entity will incorporate peer support services into the initiatives, activities, or programs to be funded under this section.

“(7) A description of how the eligible entity will ensure that initiatives, activities, or programs funded under this section are accessible to and include students with disabilities.

“(8) An assurance that the eligible entity will establish a local interagency agreement under subsection (e) and comply with such agreement.

“(e) INTERAGENCY AGREEMENTS.—

“(1) LOCAL INTERAGENCY AGREEMENTS.—In carrying out an evidence-based initiative, activity, or program described in subsection (c), an eligible entity that receives a grant, contract, or cooperative agreement under this section, or a designee of such entity, shall establish an interagency agreement between local educational agencies, agencies responsible for early childhood education programs, Head Start agencies (including Early Head Start agencies), juvenile justice authorities, mental health agencies, child welfare agencies, and other relevant agencies, authorities, or entities in the community that will be involved in the provision of services under such initiative, activity, or program.

“(2) CONTENTS.—The local interagency agreement required under paragraph (1) shall specify, with respect to each agency, authority, or entity that is a party to such agreement—

“(A) the financial responsibility for any services provided by such entity;

“(B) the conditions and terms of responsibility for such any services, including quality, accountability, and coordination of the services; and

“(C) the conditions and terms of reimbursement of such agencies, authorities, or entities, including procedures for dispute resolution.

“(f) EVALUATION.—The Secretary shall conduct a rigorous and independent evaluation of the initiatives, activities, and programs carried out by an eligible entity under this section and disseminate evidence-based practices regarding trauma-informed support services and mental health services.

“(g) DISTRIBUTION OF AWARDS.—The Secretary shall ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the geographical regions of the United States and among tribal, urban, suburban, and rural populations.

“(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to prohibit an entity involved with an initiative, activity, or program carried out under this section from reporting a crime that is committed by a student to appropriate authorities; or

“(2) to prevent Federal, State, local, and tribal law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal, State, local, and tribal law to crimes committed by a student.

“(i) SUPPLEMENT, NOT SUPPLANT.—Federal funds provided under this section shall be used to supplement, and not supplant, other Federal, State, or local funds available to carry out the initiatives, activities, and programs described in this section.

“(j) CONSULTATION REQUIRED.—In awarding or entering into grants, contracts, and cooperative agreements under this section, the Secretary shall, in a timely manner, meaningfully consult with Indian Tribes, Regional Corporations, Native Hawaiian Educational Organizations, and their representatives to ensure notice of eligibility.

“(k) DEFINITIONS.—In this section:

“(1) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ‘early childhood education program’ has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) a State educational agency;

“(B) a local educational agency;

“(C) an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) or their tribal educational agency;

“(D) the Bureau of Indian Education;

“(E) a Regional Corporation;

“(F) a Native Hawaiian educational organization; and

“(G) State, Territory, and Tribal Lead Agencies administering the Child Care and Development Fund as described in section 658D(a) of the Child Care and Development Block Grant Act (42 U.S.C. 9858b(a)).

“(3) ESEA TERMS.—

“(A) The terms ‘elementary school’, ‘evidence-based’, ‘local educational agency’, ‘paraprofessional’, ‘parent’, ‘professional development’, ‘school leader’, ‘secondary school’, ‘Secretary’, ‘specialized instructional support personnel’, and ‘State educational agency’ have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(B) The term ‘full-service community school’ has the meaning given such term in section 4622 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7272).

“(C) The term ‘Native Hawaiian educational organization’ has the meaning given such term in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517).

“(D) The term ‘school-based mental health services provider’ has the meaning given the term in section 4102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7112).

“(4) REGIONAL CORPORATION.—The term ‘Regional Corporation’ has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

“(5) SCHOOL.—The term ‘school’ means a public elementary school or public secondary school.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section, \$50,000,000 for each of fiscal years 2023 through 2027.”

Title V—Respond, Innovate, Succeed, and Empower Act

SEC. 501. Short title.

This title may be cited as the “Respond, Innovate, Succeed, and Empower Act” or the “RISE Act”.

SEC. 502. Perfecting amendment to the definition of disability.

Section 103(6) of the Higher Education Act of 1965 (20 U.S.C. 1003(6)) is amended by striking “section 3(2)” and inserting “section 3”.

SEC. 503. Supporting students with disabilities to succeed once enrolled in college.

Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following:

“(30)

(A) The institution will carry out the following:

“(i) Adopt policies that make any of the following documentation submitted by an individual sufficient to establish that such individual is an individual with a disability:

“(I) Documentation that the individual has had an individualized education program (IEP) in accordance with section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)), including an IEP that may not be current on the date of the determination that the individual has a disability. The institution may ask for additional documentation from an individual who had an IEP but who was subsequently evaluated and determined to be ineligible for services under the Individuals with Disabilities Education Act, including an individual determined to be ineligible during elementary school.

“(II) Documentation describing services or accommodations provided to the individual pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (commonly referred to as a ‘Section 504 plan’).

“(III) A plan or record of service for the individual from a private school, a local educational agency, a State educational agency, or an institution of higher education provided in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(IV) A record or evaluation from a relevant licensed professional finding that the individual has a disability.

“(V) A plan or record of disability from another institution of higher education.

“(VI) Documentation of a disability due to service in the uniformed services, as defined in section 484C(a).

“(ii) Adopt policies that are transparent and explicit regarding information about the process by which the institution determines eligibility for accommodations.

“(iii) Disseminate such information to students, parents, and faculty in an accessible format, including during any student orientation and making such information readily available on a public website of the institution.

“(B) Nothing in this paragraph shall be construed to preclude an institution from establishing less burdensome criteria than that described in subparagraph (A) to establish an individual as an individual with a disability and therefore eligible for accommodations.”

SEC. 504. Authorization of funds for the National Center for Information and Technical Support for Postsecondary Students With Disabilities.

Section 777(a) of the Higher Education Act of 1965 (20 U.S.C. 1140q(a)) is amended—

(1) in paragraph (1), by striking “From amounts appropriated under section 778,” and inserting “From amounts appropriated under paragraph (5),”; and

(2) by adding at the end the following:

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000 for each of fiscal years 2023 through 2027.”

SEC. 505. Inclusion of information on students with disabilities.

Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)), as amended by section 503, is further amended by adding at the end the following:

“(31) The institution will submit, for inclusion in the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, key data related to undergraduate students enrolled at the institution who are formally registered as students with disabilities with the institution’s office of disability services (or the equivalent office), including the total number of students with disabilities enrolled, the number of students accessing or receiving accommodations, the percentage of students with disabilities of all undergraduate students, and the total number of undergraduate certificates or degrees awarded to students with disabilities. An institution shall not be required to submit the information described in the preceding sentence if the number of such students would reveal personally identifiable information about an individual student.”

SEC. 506. Rule of construction.

None of the amendments made by this title shall be construed to affect the meaning of the terms “reasonable accommodation” or “record of impairment” under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the rights or remedies provided under

such Act.

Title VI—Strengthening Behavioral Health Benefits Act

SECTION 601. Short title.

This title may be cited as the “Strengthening Behavioral Health Benefits Act”.

SEC. 602. Enforcement of Mental Health and Substance Use Disorder Requirements.

(a) ~~IN GENERAL~~ *CIVIL MONETARY PENALTIES RELATING TO PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDERS.*—Section 502(a)(10) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(10)(A)) is amended—

(1) in paragraph (10), by striking “or” at the end;

(2) in paragraph (11), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(12) in any case relating to the provision of

the heading, by striking “use of genetic information” and inserting “use of genetic information and parity in mental health benefits— and substance use disorder benefits under a group health plan or under group health”; and

(2) in surance coverage offered by a health insurance issuer in connection with a group health plan (as such terms are defined in section 733), by the Secretary, or by a participant, beneficiary, or fiduciary, to enforce any provision of this title or the terms of the plan or coverage relating to such benefits against a group health plan, a health insurance issuer, a fiduciary of a plan, or any other person that contracts with a group health plan to provide group health insurance coverage or assistance in the subparagraph (A)—

(A) by striking “any plan sponsor of a group health plan” and inserting “any plan sponsor or plan administration administrator” of a group health plan (including a third party administrator, managed behavioral health organization, and a pharmacy benefit manager), if such person participates in or conceals a violation of any requirement of part 7 relating to such benefits or a wrongful denial of a claim for mental health benefits or substance use disorder benefits under the terms of the plan or coverage, to obtain appropriate relief, in addition to any other relief otherwise available under this section, including”; and

(B) by striking “for any failure” and all that follows through “in connection with the plan.” and inserting “for any failure by such sponsor, administrator, or issuer, in connection with the plan—

“(A) to recover all losses to participants and beneficiaries;

“(B) to reform impermissible plan or coverage terms and policies (as written or in operation) in accordance with the requirements of this title and its implementing regulations

meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 702

or section 701 or 702(b)(1) with respect to genetic information; or

~~“(Cii) to ensure~~meet the readjudication of claims and payment of benefits in accordance with the plan or coverage terms without any impermissible limitation, plan or coverage term, or policyrequirements of subsection (a) of section 712 with respect to parity in mental health and substance use disorder benefits.”

(b) CLARIFICATION OF GENERAL ENFORCEMENT AUTHORITIES.—

(1) ACTIONS BROUGHT BY A PARTICIPANT, BENEFICIARY, OR FIDUCIARY.—Section 502(a)(3) of such Act (29 U.S.C. 1132(a)(3)) is amended—

(A) by striking “or (B)” and inserting “(B)”; and

(B) by inserting before the semicolon at the end the following: “, or (C) to require re-adjudication and payment of benefits to remedy violations of this title notwithstanding the availability of relief under other provisions of this title”.

(2) ACTIONS BROUGHT BY THE SECRETARY.—Section 502(a)(5) of such Act (29 U.S.C. 1132(a)(5)) is amended—

(A) by striking “or (B)” and inserting “(B)”; and

(B) by inserting before the semicolon at the end the following: “, or (C) to require re-adjudication and payment of benefits to remedy violations of this title notwithstanding the availability of relief under other provisions of this title”.

(c) EXCEPTION TO THE GENERAL PROHIBITION ON ENFORCEMENT.—Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended—

(1) by inserting “, and except with respect to enforcement by the Secretary of section 712 or any other provision of part 7 in any case relating to mental health benefits and substance use disorder benefits (as such terms are defined in section 712(e))” after “under subsection (c)(9)”; and

(2) by striking “706(a)(1)” and inserting “733(a)(1)”.

~~(d) DEFINITIONS.—PART 7 OF TITLE I OF SUCH ACT (29 U.S.C. 1181 ET SEQ.) IS AMENDED—~~

~~(1) IN SECTION 712(E), IN THE MATTER PRECEDING PARAGRAPH (1), BY INSERTING “AND SECTION 502(A)(12)” AFTER “THIS SECTION”; AND~~

~~(2) IN SECTION 733—~~

~~(A) IN SUBSECTION (A), IN THE MATTER PRECEDING PARAGRAPH (1), BY INSERTING~~

AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor for audits and investigations, enforcement actions, litigation expenses, issuance of regulations or guidance, and any other Departmental activities relating

~~“and~~

to section

~~502(a)(12)” after “this part”; and~~

~~(B) in subsection (b), in the matter preceding paragraph (1), by inserting “and section 502(a)(12)” after “this part”.~~

~~(e) FUNDING.—~~

~~(1) IN GENERAL.—In addition to amounts otherwise available, there are appropriated (out of any money in the Treasury not otherwise appropriated) to the Department of Labor for~~

~~712 of the Employee Retirement Income Security Act of 1974 and any other provision of title I of such Act relating to mental health and substance use disorder benefits, \$275,000,000, for the period of fiscal yearyears 2023; to remain available until September 30, 2032, \$275,000,000,through 2032, of which—~~

~~(A1) \$240,000,000 shall be foris authorized to be appropriated to~~ the Employee Benefits Security Administration; and

~~(B2) \$35,000,000 shall be foris authorized to be appropriated to the Office of the Solicitor of Labor.~~

~~(2e) USE OF APPROPRIATED FUNDS.—AMOUNTS MADE AVAILABLE UNDER PARAGRAPH~~*EFFECTIVE DATE.—The amendments made by subsection (1a) may be used for audits and investigations, enforcement actions, litigation expenses, issuance of regulations or guidance, and any other Departmental activities relating to section 712 of the Employee Retirement Income Security Act of 1974 and any other provision of title I of such Act relating to mental health and substance use disorder benefits,shall apply with respect to group health plans, or any health insurance issuer offering health insurance coverage in connection with such plan, for plan years beginning after the date that is 1 year after the date of enactment of this Act.*

Title VII—Employee and Retiree Access to Justice Act

SECTION 701. Short title.

This title may be cited as the “Employee and Retiree Access to Justice Act”.

SEC. 702. Unenforceable arbitration clauses, class action waivers, representation waivers, and discretionary clauses.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

“(n)

(1) In any civil action brought by, or on behalf of, a participant or beneficiary pursuant to this section or with respect to a common law claim involving a plan or plan benefit, notwithstanding any other provision of law—

“(A) no predispute arbitration provision shall be valid or enforceable if it requires arbitration of a matter related to a claim brought under this section;

“(B) no postdispute arbitration provision shall be valid or enforceable unless—

“(i) the provision was not required by any person, obtained by coercion or threat of adverse action, or made a condition of participating in a plan, receiving benefits under a plan, or receiving any other employment, work, or

any employment-related or work-related privilege or benefit;

“(ii) each participant or beneficiary agreeing to the provision was informed, through a paper notice, in a manner reasonably calculated to be understood by the average plan participant, of the right of the participant or beneficiary under subparagraph (C) to refuse to agree to the provision without retaliation or threat of retaliation;

“(iii) each participant or beneficiary agreeing to the provision so agreed after a waiting period of not fewer than 45 days, beginning on the date on which the participant or beneficiary was provided both the final text of the provision and the disclosures required under clause (ii); and

“(iv) each participant or beneficiary agreeing to the provision affirmatively consented to the provision in writing;

“(C) no covered provision shall be valid or enforceable, if prior to a dispute to which the covered provision applies, a participant or beneficiary undertakes or promises not to pursue, bring, join, litigate, or support any kind of individual, joint, class, representative, or collective claim available under this section in any forum that, but for such covered provision, is of competent jurisdiction;

“(D) no covered provision shall be valid or enforceable, if after a dispute to which the covered provision applies arises, a participant or beneficiary undertakes or promises not to pursue, bring, join, litigate, or support any kind of individual, joint, class, representative, or collective claim under this section in any forum that, but for such covered provision, is of competent jurisdiction, unless the covered provision meets the requirements of subparagraph (B); and

“(E) no covered provision related to a plan other than a multiemployer plan shall be valid or enforceable that purports to confer discretionary authority to any person with respect to benefit determinations or interpretation of plan language, or to provide a standard of review of such determinations or interpretation by a reviewing court in an action brought under this section that would require anything other than de novo review of such determinations or interpretation.

“(2) In this subsection—

“(A) the term ‘covered provision’ means any document, instrument, or agreement related to a plan or plan benefit, regardless of whether such provision appears in a plan document or in a separate agreement;

“(B) the term ‘predispute arbitration provision’ means a covered provision, other than a covered provision that the Secretary finds to be the product of bona fide collective bargaining, that requires a participant or beneficiary to arbitrate a dispute related to the plan or an amendment to the plan that had not yet arisen at the time such provision took effect;

“(C) the term ‘postdispute arbitration provision’ means a covered provision, other than a covered provision that the Secretary finds to be the product of bona fide collective bargaining, that requires a participant or beneficiary to arbitrate a dispute related to the plan or an amendment to the plan that arose before the time such provision took effect; and

“(D) the term ‘retaliation’ means any action in violation of section 510.

“(3)

(A) Any dispute as to whether a covered provision that requires a participant or beneficiary to arbitrate a dispute related to a plan is valid and enforceable shall be determined by a court, rather than an arbitrator, regardless of whether any contractual provision purports to delegate such determinations to the arbitrator and irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement.

“(B) For purposes of this subsection, a dispute shall be considered to arise only when a plaintiff has actual knowledge (within the meaning of such term in section 413) of a breach or violation giving rise to a claim under this section.”

(b) REGULATIONS.—The Secretary of Labor may promulgate such regulations as may be necessary to carry out the amendment made by subsection (a), including providing for the form and content of notices required pursuant to such amendment.

SEC. 703. Prohibition on mandatory arbitration clauses, class action waivers, representation waivers, and discretionary clauses.

Section 402 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102) is amended by adding at the end the following:

“(d)

(1) No covered person may—

“(A) require participants or beneficiaries to agree to a predispute arbitration provision as a condition for participation in, or receipt of benefits under, a plan;

“(B) agree to a postdispute arbitration provision with a participant or beneficiary with respect to a plan or plan benefit unless the conditions of clauses (i) through (iv) of section 502(n)(1)(B) are satisfied with respect to such provision; or

“(C) agree to any other covered provision with respect to a plan or plan benefit under any circumstances under which such provision would not be valid and enforceable under subparagraphs (C) through (E) section 502(n)(1).

“(2) In this subsection—

“(A) the term ‘covered person’ means—

“(i) a plan;

“(ii) a plan sponsor;

“(iii) an employer; or

“(iv) a person engaged by a plan for purposes of administering or operating the plan; and

“(B) the terms ‘covered provision’, ‘predispute arbitration provision’ and ‘postdispute arbitration provision’ have the meanings given such terms in section 502(n)(2).”

SEC. 704. Effective date.

(a) **IN GENERAL.**—The amendments made by sections 702 and 703 shall take effect on the date of enactment of this Act and shall apply with respect to any dispute or claim that arises or accrues on or after such date, including any dispute or claim to which a provision predating such date applies, regardless of whether plan documents have been updated in accordance with such amendments.

(b) **ENFORCEMENT WITH RESPECT TO PLAN DOCUMENT UPDATES.**—Notwithstanding subsection (a), no person shall be deemed to be in violation of such amendments on account of plan documents that have not been updated in accordance with such amendments until after the beginning of the first plan year that begins on or after the date that is 1 year after the date of enactment of this Act, provided that such person acts in accordance with such amendments during the period in which the plan documents have not been updated.

About this report

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