

Calendar No. 253

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-116

RECOGNIZING THE ROLE OF DIRECT
SUPPORT PROFESSIONALS ACT

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1332

TO REQUIRE THE OFFICE OF MANAGEMENT AND BUDGET
TO REVISE THE STANDARD OCCUPATIONAL CLASSIFICATION
SYSTEM TO ESTABLISH A SEPARATE CODE FOR DIRECT
SUPPORT PROFESSIONALS, AND FOR OTHER PURPOSES



NOVEMBER 30, 2023.—Ordered to be printed

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Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1332]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1332) to require the Office of Management and Budget to revise the Standard Occupational Classification system to establish a separate code for direct support professionals, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 1332, the *Recognizing the Role of Direct Support Professionals Act*, would direct the Office of Management and Budget (OMB) to consider establishing a separate occupational code for direct support professionals (DSPs) during the next revision cycle for the Standard Occupational Classification (SOC) system. DSPs provide a range of services to enhance the independence of individuals with intellectual and developmental disabilities at home and in community settings. The findings of Congress outlined in the bill describe

the work of DSPs and the high turnover rate in the DSP workforce, as well as how establishing a discrete SOC code for DSPs would allow states and federal agencies to better analyze workforce trends and account for DSP workforce challenges. If OMB does not establish a distinct SOC code for DSPs during the next revision cycle, the bill would require the Director of OMB to submit a report to Congress to justify that decision.

II. BACKGROUND AND NEED FOR THE LEGISLATION

DSPs play a key role in ensuring that individuals with intellectual and developmental disabilities receive the support they need to achieve independent daily living through the provision of highly personalized care. Services administered by DSPs include assisting with daily living needs at home, encouraging engagement with the community, acting as employment advocates and caregivers, and providing emotional support, among others.¹ The skills and work of DSPs are critical for many individuals with disabilities, but the availability of DSPs is not keeping pace with demand.²

The DSP workforce faces a high turnover rate that impacts the quality of care provided to individuals with disabilities. In 2021, the average turnover rate of the DSP workforce varied from 28.5% to 87.5% from state to state, with an average turnover rate of 43.3%. Over one quarter of provider agencies reported that the number of DSPs on payroll decreased by over 10% in 2021.³

DSP wages and benefits may factor into the turnover rate. A significant portion of provider agencies, around 40%, do not offer health insurance to DSPs.⁴ The average hourly median wage is \$14.41 for DSPs, with high variability among states, ranging from \$8.91 per hour to \$17.22 per hour.⁵ Many DSPs need to work two or more jobs to support themselves and their families.⁶

The lack of a stable DSP workforce has negative repercussions on the health and wellbeing of individuals with disabilities who benefit from DSP services and their family members, and it can also lead to a strain on other local resources sometimes turned to in the absence of DSPs, such as emergency departments, ambulances, firefighters, and police.⁷

Determining payment rates for DSP services typically requires data from the Bureau of Labor Statistics (BLS), as does assessing the DSP workforce to develop strategies for addressing DSP turnover.⁸ However, BLS does not have a unique occupational classification for DSPs, impacting the data available for the DSP work-

¹ U.S. Department of Labor, Office of Disability Employment Policy, Direct Support Professionals (DSPs) (www.dol.gov/agencies/odep/program-areas/individuals/DSP) (accessed July 24, 2023).

² President's Committee for People with Intellectual Disabilities, *America's Direct Support Workforce Crisis: Effects on People with Intellectual Disabilities, Families, Communities and the U.S. Economy* (Feb. 14, 2018) (acl.gov/sites/default/files/programs/2018-02/2017%20PCPID%20Full%20Report_0.PDF).

³ National Core Indicators, *National Core Indicators Intellectual and Developmental Disabilities 2021 State of the Workforce Survey Report* (2023) (idd.nationalcoreindicators.org/wp-content/uploads/2023/02/2021StateoftheWorkforceReport-20230209.pdf).

⁴ *Id.*

⁵ *Id.* at 44.

⁶ President's Committee for People with Intellectual Disabilities, *supra* note 2, at 19.

⁷ *Id.* at 20–26.

⁸ Health Management Associates, *Review of States' Approach to Establishing Wage Assumptions for Direct Support Professionals When Setting I/DD Provider Rates* (July 6, 2022) (www.ancor.org/wp-content/uploads/2022/08/Review-of-States-Approaches-to-Establishing-Wage-Assumptions-for-Direct-Support-Professionals-When-Setting-IDD-Provider-Rates.pdf).

force.⁹ Public officials, care providers, or any other entity seeking DSP workforce data must instead turn to statistics tied to one or more alternate occupational classifications. For example, many use a combination of various other occupational codes when determining DSP pay rates, including: Home Health and Personal Care Aides (31–1120); Social and Human Service Assistants (21–1093); Recreation Workers (39–9032); Rehabilitation Counselors (21–1015); Psychiatric Aides (31–1133); Psychiatric Technicians (29–2053); Medical Assistants (31–9092); Residential Advisors (39–9041); Passenger Vehicle Drivers (53–3058); Physical Therapist Aides (31–2022); Community and Social Service Specialists, All Other (21–1099); and Healthcare Support Workers, All Other (31–9099).¹⁰ Although each category in this range of occupational codes captures aspects of the role of DSPs, applying such a variety of occupational categories to this profession for analytical purposes puts assessments of the DSP workforce at risk of inaccuracies and inconsistencies.¹¹

The occupational categories used by BLS stem from the SOC system, which is a resource that allows federal agencies to accurately label and categorize workers into distinct groups for the purpose of collecting quality data for analyzing and illustrating workforce trends. Workers across the nation are organized into 867 detailed occupational groups, 459 broad occupations, 89 minor groups, and 23 major groups, based on job duties and other occupational characteristics like relevant training and required education.¹² The SOC system impacts decisions both within and outside of the federal government. Employers, economists, career counselors, and other experts use SOC system data for critical purposes, including setting pay and salary scales, comparing workforce trends of all jobs in the national economy, and helping individuals connect with job opportunities.¹³

The *Recognizing the Role of Direct Support Professionals Act* directs OMB to consider creating a distinct occupational code for DSPs as part of the next revision of the SOC system, recognizing the current processes in place for SOC system revision. The last revision of the SOC system occurred in 2018. The next revision is expected in 2028, and OMB is likely to publish an initial Federal Register notice soliciting public comment in 2024.¹⁴ Revising the SOC system is a careful and thorough process that looks to improve the collection of data while maintaining data integrity. Creating a new occupational code involves seeking multiple rounds of public input, reviewing possible changes in accordance with classification principles and coding guidelines, and inquiring about the

⁹U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics (www.bls.gov/oes/current/oes_stru.htm) (accessed August 31, 2023).

¹⁰Health Management Associates, *supra* note 8, at 6.

¹¹See e.g. Health Management Associates, *supra* note 8, at 5 and 11 and President’s Committee for People with Intellectual Disabilities, *supra* note 2, at 14.

¹²U.S. Bureau of Labor Statistics, Standard Occupational Classification (www.bls.gov/soc/) (accessed July 24, 2023).

¹³U.S. Bureau of Labor Statistics, *2018 Standard Occupational Classification User Guide* (Nov. 2017) (www.bls.gov/soc/2018/soc_2018_user_guide.pdf).

¹⁴U.S. Bureau of Labor Statistics, Standard Occupational Classification, How often do Standard Occupational Classification (SOC) codes change? (www.bls.gov/soc/notices/2023/code_changes.htm) (accessed July 28, 2023).

nature of work and surrounding aspects like training and education.¹⁵

Accounting for the work of DSPs across the United States is an important step to ensure that individuals with disabilities receive the support necessary to maximize their independence and wellbeing. Directing OMB to consider creating an occupational code for DSPs during the next revision cycle for the SOC system may result in improved BLS data for the DSP workforce going forward. Improved data would help government officials, care providers, and others to develop effective strategies to strengthen the DSP workforce.

III. LEGISLATIVE HISTORY

Senator Margaret Wood Hassan (D–NH) introduced S. 1332, the *Recognizing the Role of Direct Support Professionals Act*, on April 27, 2023, with original cosponsor Senator Susan Collins (R–ME). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1332 at a business meeting on July 26, 2023. At the business meeting, Senator Hassan offered a substitute amendment to the bill and a modification to the substitute amendment. The substitute amendment made significant changes to the underlying bill text, including: (1) moving the description of the DSP role to the “Findings” section; (2) requiring OMB to consider a separate code for DSPs as part of their revision process; and (3) adding the requirement for OMB to provide Congress with an explanatory report if it does not establish a separate DSP code in the next SOC system revision cycle. The modification incorporated language to specify that no additional funds may be appropriated to carry out this bill. The modification to the substitute amendment and the substitute amendment, as modified, were adopted by unanimous consent with Senators Peters, Hassan, Rosen, Padilla, Blumenthal, Paul, Lankford, and Scott present. Senator Hassan offered an additional amendment that made a technical edit to the long title of the bill. The Committee adopted the Hassan amendment by voice vote, with Senators Peters, Hassan, Sinema, Rosen, Blumenthal, Paul, Lankford, and Scott present. The bill, as amended, was ordered reported favorably by roll call vote of 8 yeas to 0 nays, with Senators Peters, Hassan, Sinema, Rosen, Blumenthal, Paul, Lankford, and Scott voting in the affirmative. Senators Carper, Padilla, Ossoff, Johnson, Romney, Hawley, and Marshall voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Recognizing the Role of Direct Support Professionals Act.”

Section 2. Findings

This section contains findings of Congress, including that: DSPs play a critical role in the care provided to individuals with intellectual and developmental disabilities; providers of home- and commu-

¹⁵U.S. Bureau of Labor Statistics, *Revising the Standard Occupational Classification* (Mar. 2014) (www.bls.gov/soc/revising_the_standard_occupational_classification_2018.pdf).

nity-based services are experiencing difficulty hiring and retaining DSPs; high turnover rates can lead to instability for individuals receiving services; and a discrete occupational category for DSPs would help collect data on the turnover rate, better interpret the DSP labor market shortage, and recognize these professionals.

Section 3. Revision of standard occupational classification system

This section requires that, during the next revision cycle of the SOC system following the enactment of this bill, the OMB Director consider establishing a separate occupational code for DSPs as a healthcare support occupation.

Section 4. Report to congress

If the OMB Director does not establish a separate code for DSPs in the next revision cycle of the SOC system, this section requires the Director to submit an explanatory report to Congress within 30 days after the revision cycle is complete. The Director would submit the report to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Education and the Workforce.

Section 5. No new funds

This section requires that no additional funds be appropriated to execute this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1332, Recognizing the Role of Direct Support Professionals Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 26, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	
* = between zero and \$500,000.			

S. 1332 would require the Office of Management and Budget to consider creating a separate occupational code for direct support professionals, listing them within the healthcare support occupation, when it next revises the Standard Occupational Classification (SOC) system. Those workers provide direct care and support to people with disabilities. The SOC system is a federal statistical standard used to classify workers into occupational categories for the purpose of collecting, calculating, and disseminating data.

Since 1977, the SOC system has been revised four times—in 1980, 2000, 2010, and 2018—to reflect changes in the economy and the nature of work. Because of that ongoing but irregular activity, CBO estimates that implementing S. 1332 would not significantly affect federal spending over the 2024–2028 period.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by Chad Chirico, Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.