

119TH CONGRESS
1ST SESSION

S. _____

To amend titles XVIII and XIX of the Social Security Act to require skilled nursing facilities, nursing facilities, intermediate care facilities for the intellectually disabled, and inpatient rehabilitation facilities to permit essential caregivers access during any period in which regular visitation is restricted.

IN THE SENATE OF THE UNITED STATES

Mr. BLUMENTHAL (for himself and Mr. CORNYN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend titles XVIII and XIX of the Social Security Act to require skilled nursing facilities, nursing facilities, intermediate care facilities for the intellectually disabled, and inpatient rehabilitation facilities to permit essential caregivers access during any period in which regular visitation is restricted.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Essential Caregivers
5 Act of 2025”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) According to the National Center for Health
4 Statistics of the Centers for Disease Control and
5 Prevention, an estimated 1,300,000 individuals re-
6 sided in nursing homes in 2020 at the onset of the
7 COVID–19 pandemic, and nearly half of all nursing
8 home residents were living with a diagnosis of Alz-
9 heimer’s or other related dementia.

10 (2) Regulations issued pursuant to subtitle C of
11 title IV of the Omnibus Budget Reconciliation Act of
12 1987 (commonly known as the “Nursing Home Re-
13 form Act of 1987”) (Public Law 100-203) estab-
14 lished basic rights and services for residents of nurs-
15 ing homes, including “the right to a dignified exist-
16 ence, self-determination, and communication with
17 and access to persons and services inside and outside
18 the facility”.

19 (3) In March of 2020, the Centers for Medicare
20 & Medicaid Services instructed nursing facilities to
21 restrict visitation for all visitors and non-essential
22 healthcare personnel and cancel communal dining
23 and group activities. Long-term care ombudsman
24 program representatives and State surveyors were
25 among those whose access to long-term care facilities
26 was prohibited or extremely restricted despite re-

1 opening guidance released by the Centers for Medi-
2 care & Medicaid Services in May of 2020.

3 (4) Many long-term care residents declined dra-
4 matically or died prematurely from “failure to
5 thrive” in isolation.

6 (5) According to the National Consumer Voice
7 for Quality Long-Term Care, in the first year of the
8 COVID–19 pandemic, 1 in 5 healthcare workers re-
9 signed, retired, or were fired. This exacerbated the
10 longstanding problem of staff shortages that already
11 existed. Lack of staff, combined with the forced ab-
12 sence of families, many of whom provided informal
13 care and support to residents, resulted in a signifi-
14 cant decline in residents’ health and well-being. Dur-
15 ing the pandemic, pressure ulcers in nursing home
16 residents rose by 31 percent, the number of resi-
17 dents experiencing significant weight loss rose by 49
18 percent, the number of residents reporting feeling
19 down, depressed, or hopeless rose by 40 percent, and
20 the number of residents prescribed antipsychotic
21 medications rose by 77.5 percent.

22 (6) According to the Department of Health and
23 Human Services, loneliness and isolation, such as
24 that experienced by long-term care residents during

1 the COVID–19 pandemic, represent profound
2 threats to an individual’s health and well-being.

3 (7) Essential Caregivers provide supplemental
4 care for their loved one, regardless of staff short-
5 ages, staff turnover, or emergencies. Essential Care-
6 givers support residents and advocate on their be-
7 half.

8 **SEC. 3. RIGHT TO ESSENTIAL CAREGIVERS; ACCESS TO ES-**
9 **SENTIAL CAREGIVERS DURING PERIODS**
10 **WHEN VISITATION IS OTHERWISE RE-**
11 **STRICTED.**

12 (a) MEDICARE SKILLED NURSING FACILITIES.—Sec-
13 tion 1819(c)(3) of the Social Security Act (42 U.S.C.
14 1395i–3(c)(3)) is amended—

15 (1) by redesignating subparagraphs (A) through
16 (E) as clauses (i) through (v), respectively;

17 (2) by striking “A skilled nursing facility
18 must—” and inserting the following:

19 “(A) IN GENERAL.—A skilled nursing fa-
20 cility must—”; and

21 (3) by adding at the end the following new sub-
22 paragraph:

23 “(B) ACCESS TO ESSENTIAL CAREGIVERS
24 DURING EMERGENCY PERIODS WHEN VISITA-
25 TION IS OTHERWISE RESTRICTED.—

1 “(i) DESIGNATION OF ESSENTIAL
2 CAREGIVER.—Each skilled nursing facility
3 must recognize the right of each resident
4 of such facility to—

5 “(I) designate and have access to
6 essential caregivers for such resident
7 at all times, including during any pe-
8 riod of emergency in which regular
9 visitation is restricted by order of a
10 Federal, State, or local authority or
11 by other operation of law; and

12 “(II) amend such designation at
13 any time.

14 “(ii) PRESUMPTION OF DESIGNA-
15 TION.—For purposes of clause (i), in the
16 case of a resident who is unable, by reason
17 of cognitive or mental disability, to make
18 an election described in such clause, the
19 resident representative (as defined in sec-
20 tion 483.5 of title 42, Code of Federal
21 Regulations) of such resident may make
22 such designation for such resident.

23 “(iii) ACCESS TO ESSENTIAL CARE-
24 GIVERS DURING EMERGENCY PERIODS
25 WHEN VISITATION IS OTHERWISE RE-

1 STRICTED.—During a period of emergency
2 in which regular visitation is restricted by
3 order of a Federal, State, or local author-
4 ity or by other operation of law, including
5 any period in which a waiver or modifica-
6 tion of requirements pursuant to section
7 1135 is in effect, a skilled nursing facility
8 must—

9 “(I) not deny in-person access to
10 a resident by an essential caregiver of
11 the resident except as provided in this
12 subparagraph;

13 “(II) allow at least 1 essential
14 caregiver to have access to and pro-
15 vide assistance to such resident at
16 such facility every day and at any
17 time;

18 “(III) enforce the agreement de-
19 scribed in clause (vii)(II) with respect
20 to an essential caregiver; and

21 “(IV) provide reasonable accom-
22 modations to protect the rights of a
23 roommate co-living with a resident
24 who has an essential caregiver.

25 “(iv) RESTRICTIONS ON ACCESS.—

1 “(I) IN GENERAL.—During a pe-
2 riod of emergency in which regular
3 visitation is restricted by order of a
4 Federal, State, or local authority or
5 by other operation of law, including
6 any period in which a waiver or modi-
7 fication of requirements pursuant to
8 section 1135 is in effect, a skilled
9 nursing facility—

10 “(aa) may, subject to item
11 (bb), deny access to a resident by
12 an essential caregiver of the resi-
13 dent for—

14 “(AA) an initial period
15 of not longer than 7 days;
16 and

17 “(BB) one additional
18 period of not longer than 7
19 days (in addition to the ini-
20 tial period described in
21 subitem (AA)) if the depart-
22 ment of health or other ap-
23 plicable agency of the State
24 in which the facility is lo-
25 cated approves the denial of

1 access for such additional
2 period; and

3 “(bb) must allow access to a
4 resident who is in end-of-life care
5 or a resident in decline or dis-
6 tress, as defined by the Sec-
7 retary.

8 “(II) RULE OF APPLICATION.—

9 For purposes of subclause (I), a pe-
10 riod of emergency in which regular
11 visitation is restricted by order of a
12 Federal, State, or local authority or
13 by other operation of law shall begin
14 on the date that such order or other
15 operation of law takes effect and shall
16 end on the date that such order or
17 other operation of law expires or is
18 otherwise terminated. During any
19 such period, the maximum number of
20 days for which a skilled nursing facil-
21 ity may deny access to a resident by
22 an essential caregiver of the resident
23 is 7 total days (or, subject to the ap-
24 proval of the department of health or
25 other applicable agency of the State in

1 which the facility is located, 14 total
2 days).

3 “(v) COMPLIANCE AND NOTIFICA-
4 TION.—

5 “(I) AUTHORITY.—No essential
6 caregiver who upholds the agreement
7 described in clause (vii)(II) shall be
8 denied access to the skilled nursing
9 facility of the resident involved.

10 “(II) NOTIFICATION.— If an es-
11 sential caregiver fails to comply with
12 an agreement with a skilled nursing
13 facility described in clause (vii)(II),
14 the facility must first provide a warn-
15 ing to the essential caregiver and resi-
16 dent in writing citing specific issues of
17 non-compliance and providing clear
18 guidance for corrective measures.

19 “(III) ENFORCEMENT.—If an es-
20 sential caregiver or resident, after re-
21 ceiving a notification of noncompli-
22 ance described in subclause (II), fails
23 to take corrective action, the essential
24 caregiver may subsequently be denied
25 access to the resident. In such cases,

1 the facility shall provide to such care-
2 giver and such resident (or health
3 care proxy of such resident), not later
4 than 24 hours after such denial of ac-
5 cess occurs, a written explanation as
6 to why such caregiver was denied ac-
7 cess to such resident. Such expla-
8 nation must include the resident's and
9 caregiver's options for appeal under
10 the processes established under clause
11 (vi).

12 “(vi) OPTIONS FOR RESIDENTS AND
13 CAREGIVERS TO APPEAL DENIALS OF AC-
14 CESS.—

15 “(I) IN GENERAL.—Not later
16 than 2 years after the date of enact-
17 ment of this subparagraph, the Sec-
18 retary shall issue a final rule estab-
19 lishing a process for residents and
20 caregivers to appeal denials of access
21 to the State survey agency.

22 “(II) APPEALS PROCESS.—The
23 State survey agency shall—

24 “(aa) receive appeals from
25 residents and essential caregivers

1 challenging a decision by a
2 skilled nursing facility to deny
3 access under clause (v); and

4 “(bb) begin investigating
5 such appeals not later than 2
6 business days after receiving such
7 appeals.

8 “(III) BURDEN OF PROOF.—

9 During an appeal received under the
10 appeals process established under sub-
11 clause (I), if a skilled nursing facility
12 defends a decision to deny access to
13 an essential caregiver under clause (v)
14 on the basis that the essential care-
15 giver violated the agreement described
16 in clause (vii)(II), the skilled nursing
17 facility shall have the burden of proof
18 in demonstrating that the essential
19 caregiver violated such agreement.

20 “(IV) RESOLUTION OF AP-
21 PEALS.—

22 “(aa) DETERMINATION.—

23 With respect to an appeal re-
24 ceived under the appeals process
25 established under subclause (I),

1 the State survey agency shall
2 make a determination as to
3 whether a skilled nursing facility
4 violated a requirement or prohibi-
5 tion of this subparagraph within
6 48 hours of commencing its in-
7 vestigation.

8 “(bb) VIOLATIONS.—If the
9 agency determines that a facility
10 has violated such a requirement
11 or prohibition, the agency shall—

12 “(AA) require the facil-
13 ity to allow immediate ac-
14 cess to the essential care-
15 giver in question;

16 “(BB) require the facil-
17 ity to establish a corrective
18 action plan to prevent the
19 recurrence of such violation
20 within a 7-day period of re-
21 ceiving notice from the agen-
22 cy; and

23 “(CC) impose a civil
24 money penalty in an amount
25 to be determined by the

1 agency (not to exceed
2 \$5,000) if such facility fails
3 to implement the corrective
4 action plan with the 7-day
5 period specified in subitem
6 (BB).

7 “(vii) DEFINITION OF ESSENTIAL
8 CAREGIVER.—For purposes of this sub-
9 paragraph, the term ‘essential caregiver’
10 means, with respect to a resident of a
11 skilled nursing facility, an individual
12 who—

13 “(I) is designated by or on behalf
14 of the resident pursuant to clause (i)
15 or clause (ii); and

16 “(II) agrees to follow all safety
17 protocols established by such facility,
18 which shall be clearly specified in
19 writing and may be no more restric-
20 tive than the safety protocols (includ-
21 ing safety standards and entry re-
22 quirements) applicable to staff of such
23 facility.”.

1 (b) MEDICAID NURSING FACILITIES.—Section
2 1919(c)(3) of the Social Security Act (42 U.S.C.
3 1396r(c)(3)) is amended—

4 (1) by redesignating subparagraphs (A) through
5 (E) as clauses (i) through (v), respectively;

6 (2) by striking “A nursing facility must—” and
7 inserting the following:

8 “(A) IN GENERAL.—A nursing facility
9 must—”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(B) ACCESS TO ESSENTIAL CAREGIVERS
13 DURING EMERGENCY PERIODS WHEN VISITA-
14 TION IS OTHERWISE RESTRICTED.—

15 “(i) DESIGNATION OF ESSENTIAL
16 CAREGIVER.—Each nursing facility must
17 recognize the right of each resident of such
18 facility to—

19 “(I) designate and have access to
20 essential caregivers for such resident
21 at all times, including during any pe-
22 riod of emergency in which regular
23 visitation is restricted by order of a
24 Federal, State, or local authority or
25 by other operation of law; and

1 “(II) amend such designation at
2 any time.

3 “(ii) PRESUMPTION OF DESIGNA-
4 TION.—For purposes of clause (i), in the
5 case of a resident who is unable, by reason
6 of cognitive or mental disability, to make
7 an election described in such clause, the
8 resident representative (as defined in sec-
9 tion 483.5 of title 42, Code of Federal
10 Regulations) of such resident may be per-
11 mitted to make such designation for such
12 resident.

13 “(iii) ACCESS TO ESSENTIAL CARE-
14 GIVERS DURING EMERGENCY PERIODS
15 WHEN VISITATION IS OTHERWISE RE-
16 STRICTED.—During a period of emergency
17 in which regular visitation is restricted by
18 order of a Federal, State, or local author-
19 ity or by other operation of law, including
20 any period in which a waiver or modifica-
21 tion of requirements pursuant to section
22 1135 is in effect, a nursing facility must—

23 “(I) not deny in-person access to
24 a resident by an essential caregiver of

1 the resident except as provided in this
2 subparagraph;

3 “(II) allow at least 1 essential
4 caregiver to have access to and pro-
5 vide assistance to such resident at
6 such facility every day and at any
7 time;

8 “(III) enforce the agreement de-
9 scribed in clause (vii)(II) with respect
10 to an essential caregiver; and

11 “(IV) provide reasonable accom-
12 modations to protect the rights of a
13 roommate co-living with a resident
14 who has an essential caregiver.

15 “(iv) RESTRICTIONS ON ACCESS.—

16 “(I) IN GENERAL.—During a pe-
17 riod of emergency in which regular
18 visitation is restricted by order of a
19 Federal, State, or local authority or
20 by other operation of law, including
21 any period in which a waiver or modi-
22 fication of requirements pursuant to
23 section 1135 is in effect, a nursing fa-
24 cility—

1 “(aa) may, subject to item
2 (bb), deny access to a resident by
3 an essential caregiver of the resi-
4 dent for—

5 “(AA) an initial period
6 of not longer than 7 days;
7 and

8 “(BB) one additional
9 period of not longer than 7
10 days (in addition to the ini-
11 tial period described in
12 subitem (AA)) if the depart-
13 ment of health or other ap-
14 plicable agency of the State
15 in which the facility is lo-
16 cated approves the denial of
17 access for such additional
18 period; and

19 “(bb) must allow access to a
20 resident who is in end-of-life care
21 or a resident in decline or dis-
22 tress, as defined by the Sec-
23 retary.

24 “(II) RULE OF APPLICATION.—

25 For purposes of subclause (I), a pe-

1 riod of emergency in which regular
2 visitation is restricted by order of a
3 Federal, State, or local authority or
4 by other operation of law shall begin
5 on the date that such order or other
6 operation of law takes effect and shall
7 end on the date that such order or
8 other operation of law expires or is
9 otherwise terminated. During any
10 such period, the maximum number of
11 days for which a nursing facility may
12 deny access to a resident by an essen-
13 tial caregiver of the resident is 7 total
14 days (or, subject to the approval of
15 the department of health or other ap-
16 plicable agency of the State in which
17 the facility is located, 14 total days).

18 “(v) COMPLIANCE AND NOTIFICA-
19 TION.—

20 “(I) AUTHORITY.—No essential
21 caregiver who upholds the agreement
22 described in clause (vii)(II) shall be
23 denied access to the nursing facility of
24 the resident involved.

1 “(II) NOTIFICATION.— If an es-
2 sential caregiver fails to comply with
3 an agreement with a nursing facility
4 described in clause (vii)(II), the facil-
5 ity must first provide a warning to the
6 essential caregiver and resident in
7 writing citing specific issues of non-
8 compliance and providing clear guid-
9 ance for corrective measures.

10 “(III) ENFORCEMENT.—If an es-
11 sential caregiver or resident, after re-
12 ceiving a notification of noncompli-
13 ance described in subclause (II), fails
14 to take corrective action, the essential
15 caregiver may subsequently be denied
16 access to the resident. In such cases,
17 the facility shall provide to such care-
18 giver and such resident (or health
19 care proxy of such resident), not later
20 than 24 hours after such denial of ac-
21 cess occurs, a written explanation as
22 to why such caregiver was denied ac-
23 cess to such resident. Such expla-
24 nation must include the resident’s and
25 caregiver’s options for appeal under

1 the processes established under clause
2 (vi).

3 “(vi) OPTIONS FOR RESIDENTS AND
4 CAREGIVERS TO APPEAL DENIALS OF AC-
5 CESS.—

6 “(I) IN GENERAL.—Not later
7 than 2 years after the date of enact-
8 ment of this subparagraph, the Sec-
9 retary shall issue a final rule estab-
10 lishing a process for residents and
11 caregivers to appeal denials of access
12 to the State survey agency.

13 “(II) APPEALS PROCESS.—The
14 State survey agency shall—

15 “(aa) receive appeals from
16 residents and essential caregivers
17 challenging a decision by a nurs-
18 ing facility to deny access under
19 clause (v); and

20 “(bb) begin investigating
21 such appeals not later than 2
22 business days after receiving such
23 appeals.

24 “(III) BURDEN OF PROOF.—
25 During an appeal received under the

1 appeals process established under sub-
2 clause (I), if a nursing facility defends
3 a decision to deny access to an essen-
4 tial caregiver under clause (v) on the
5 basis that the essential caregiver vio-
6 lated the agreement described in
7 clause (vii)(II), the nursing facility
8 shall have the burden of proof in dem-
9 onstrating that the essential caregiver
10 violated such agreement.

11 “(IV) RESOLUTION OF AP-
12 PEALS.—

13 “(aa) DETERMINATION.—

14 With respect to an appeal re-
15 ceived under the appeals process
16 established under subclause (I),
17 the State survey agency shall
18 make a determination as to
19 whether a nursing facility vio-
20 lated a requirement or prohibi-
21 tion of this subparagraph within
22 48 hours of commencing its in-
23 vestigation.

24 “(bb) VIOLATIONS.—If the
25 agency determines that a facility

1 has violated such a requirement
2 or prohibition, the agency shall—

3 “(AA) require the facil-
4 ity to allow immediate ac-
5 cess to the essential care-
6 giver in question;

7 “(BB) require the facil-
8 ity to establish a corrective
9 action plan to prevent the
10 recurrence of such violation
11 within a 7-day period of re-
12 ceiving notice from the agen-
13 cy; and

14 “(CC) impose a civil
15 money penalty in an amount
16 to be determined by the
17 agency (not to exceed
18 \$5,000) if such facility fails
19 to implement the corrective
20 action plan with the 7-day
21 period specified in subitem
22 (BB).

23 “(vii) DEFINITION OF ESSENTIAL
24 CAREGIVER.—For purposes of this sub-
25 paragraph, the term ‘essential caregiver’

1 means, with respect to a resident of a
2 nursing facility, an individual who—

3 “(I) is designated by or on behalf
4 of the resident pursuant to clause (i)
5 or clause (ii); and

6 “(II) agrees to follow all safety
7 protocols established by such facility,
8 which shall be clearly specified in
9 writing and may be no more restric-
10 tive than the safety protocols (includ-
11 ing safety standards and entry re-
12 quirements) applicable to staff of such
13 facility.”.

14 (c) INTERMEDIATE CARE FACILITIES FOR THE IN-
15 TELLECTUALLY DISABLED.—Section 1905(d) of the So-
16 cial Security Act (42 U.S.C. 1396d(d)) is amended—

17 (1) in paragraph (2), by striking “and” at the
18 end;

19 (2) in paragraph (3), by striking the period and
20 inserting “; and”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(4) the institution complies with the require-
24 ments relating to the designation of, and access to
25 residents by, essential caregivers described in section

1 1919(c)(3)(B) in the same manner as if such insti-
2 tution were a nursing facility.”.

3 (d) INPATIENT REHABILITATION FACILITIES.—Sec-
4 tion 1866(a)(1) of the Social Security Act (42 U.S.C.
5 1395cc(a)(1)) is amended—

6 (1) in subparagraph (X), by striking “and” at
7 the end;

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

10 (3) by inserting after subparagraph (Y) the fol-
11 lowing new subparagraph:

12 “(Z) in the case of an inpatient rehabilitation
13 facility that is located on the same campus (as de-
14 fined by the Secretary) as a skilled nursing facility,
15 nursing facility (as defined in section 1919(a)), or
16 intermediate care facility for the intellectually dis-
17 abled (as described in section 1905(d)), to comply
18 with the requirements relating to the designation of,
19 and access to residents by, essential caregivers de-
20 scribed in section 1819(c)(3)(B) in the same manner
21 as if such institution were a skilled nursing facil-
22 ity.”.

23 (e) REGULATIONS.—The Secretary of Health and
24 Human Services shall, after consultation with stakeholders
25 (including residents, family members, long-term care om-

1 budsmen, other advocates of nursing home residents, and
2 nursing home providers), promulgate regulations to carry
3 out this Act and the amendments made by this Act.

4 (f) RULES OF CONSTRUCTION.—

5 (1) NO NEW AUTHORITY FOR STATE AND
6 LOCAL OFFICIALS TO RESTRICT VISITATION AT
7 NURSING FACILITIES.—Nothing in this section or
8 the amendments made by this section shall be con-
9 strued as creating any new authority for State or
10 local officials to restrict visitation at nursing facili-
11 ties.

12 (2) NO NEW AUTHORITY FOR NURSING FACILI-
13 TIES TO UNILATERALLY RESTRICT VISITATION.—
14 Nothing in this section or the amendments made by
15 this section shall be construed as creating any new
16 authority for a skilled nursing facility or nursing fa-
17 cility (as such terms are defined in sections 1819
18 and 1919 of the Social Security Act, respectively (42
19 U.S.C. 1395i–3, 1396r)) to restrict visitation.

20 (g) EFFECTIVE DATE.—The amendments made by
21 this Act shall take effect on the date that is 2 years after
22 the date of enactment of this Act, and shall apply with
23 respect to periods beginning on or after such date in which
24 regular visitation at nursing facilities is restricted by order

1 of a Federal, State, or local authority or by other oper-
2 ation of law.