

112TH CONGRESS
2D SESSION

H. R. 6256

To ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2012

Mr. CARSON of Indiana (for himself, Mr. STARK, Ms. RICHARDSON, Ms. LEE of California, Mr. CUMMINGS, Ms. JACKSON LEE of Texas, Ms. NORTON, Ms. MOORE, Mr. KUCINICH, and Ms. EDWARDS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions.

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 “Recidivism Reduction
5 Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) There are an estimated 350,000 mentally ill
4 individuals in State and Federal prisons.

5 (2) According to the Bureau of Justice Statis-
6 tics, nearly 15 percent of men and 31 percent of
7 women in jails have serious mental illnesses, with fe-
8 male inmates having higher rates of mental health
9 problems than male inmates—State prisons: 73 per-
10 cent of females and 55 percent of males; local jails:
11 75% of females and 63% of males.

12 (3) According to surveys completed by the Bu-
13 reau of Justice Statistics, 16.3 percent of jail in-
14 mates reported they had a “mental health condition”
15 or an overnight stay in a “mental hospital” in their
16 lifetime, and 60.5 percent of local jail inmates re-
17 ported they had symptoms of a mental illness.

18 (4) Access to Federal disability and health care
19 benefits is a critical component of the successful re-
20 entry into the community of indigent individuals
21 with disabilities who are released from jail, prison,
22 juvenile detention, or other correctional facilities.

23 (5) As a matter of public safety, individuals
24 with disabilities released from correctional facilities
25 must be reinstated in the Federal benefit programs

1 that are designed to provide the health services and
2 financial supports on which they rely.

3 (6) Individuals with disabilities who live in ex-
4 treme poverty and who are too disabled to work
5 after release from correctional facilities require Gov-
6 ernment supports such as Social Security Disability
7 Insurance (SSDI), Supplemental Security Income
8 (SSI), or Medicaid to maintain health and to safely
9 transition from correctional facilities into the com-
10 munity.

11 (7) It is the policy of the United States to pro-
12 vide individuals with disabilities assistance in leading
13 healthy and productive lives.

14 (8) On average, mentally ill inmates serve 103.4
15 months in State prison until their release, as com-
16 pared to 88.2 months for other inmates. Yet, their
17 SSI benefits terminate after 12 consecutive months
18 of their incarceration. On average, it takes 93 days
19 to reinstate those benefits.

20 (9) Health care benefits are especially impor-
21 tant to low-income individuals with disabilities who
22 often cannot afford private market insurance and
23 who are at great risk of incurring exorbitant costs
24 for health care. SSI beneficiaries who lose benefits

1 because of incarceration may also lose Medicaid cov-
2 erage.

3 (10) Without prompt access to Federal dis-
4 ability benefits on their release, individuals with psy-
5 chiatric disabilities who come into contact with the
6 criminal justice system often become trapped in
7 many cycles of arrest, release, destitution, deteriora-
8 tion, and re-arrest.

9 (11) Rates for mentally ill offenders are very
10 high. A Bureau of Justice Statistics report found
11 that over $\frac{3}{4}$ of mentally ill inmates had been sen-
12 tenced to time in prison or jail or were on probation
13 at least once before their current sentence.

14 (A) Three-quarters of those returning from
15 prison have a history of substance use dis-
16 orders. Over 70 percent of prisoners with seri-
17 ous mental illnesses also have a substance use
18 disorder.

19 (B) Among repeat offenders, an estimated
20 47 percent of State prisoners who had a mental
21 health problem were violent recidivists, com-
22 pared to 39 percent of State prisoners without
23 a mental problem.

24 (12) Among the mentally ill, 52 percent of
25 State prison inmates, 54 percent of jail inmates, and

1 49 percent of Federal prison inmates reported 3 or
2 more prior sentences of probation or incarceration.

3 (13) Nearly $\frac{1}{4}$ of both State prisoners and jail
4 inmates who had a mental health problem, compared
5 to $\frac{1}{5}$ of those without, had been incarcerated on 3
6 or more prior occasions.

7 (14) Although discharge-planning practices vary
8 considerably, inmates are typically released with no
9 more than a 2-week supply of even crucial medica-
10 tions such as insulin and with no primary care fol-
11 low-up, so the burden of care falls predominantly on
12 emergency rooms and is financed primarily by the
13 public.

14 **SEC. 3. SUPPLEMENTAL SECURITY INCOME BENEFITS.**

15 (a) REINSTATEMENT OR RESUMPTION OF BENEFITS
16 ON RELEASE OF INMATE FROM INCARCERATION.—Sec-
17 tion 1631 of the Social Security Act (42 U.S.C. 1383) is
18 amended by adding at the end the following:

19 “(q)(1)(A)(i) Eligibility for benefits under this title
20 shall be reinstated in any case where the Commissioner
21 determines that an individual described in clause (ii) has
22 filed a request for reinstatement meeting the requirements
23 of subparagraph (B)(i) during the period described in
24 clause (iii). Reinstatement of eligibility shall be in accord-
25 ance with the terms of this paragraph.

1 “(ii) An individual is described in this clause if—

2 “(I) before the month in which the individual
3 files a request for reinstatement—

4 “(aa) the individual was eligible for bene-
5 fits under this title on the basis of disability;
6 and

7 “(bb) the individual thereafter was ineli-
8 gible for such benefits because the individual
9 was an inmate of a jail, prison, penal institu-
10 tion, or correctional facility for a period of 12
11 or more consecutive months;

12 “(II) the individual is blind or disabled, and the
13 individual’s blindness or disability renders the indi-
14 vidual unable to perform substantial gainful activity;
15 and

16 “(III) the individual meets the nonmedical re-
17 quirements for eligibility for benefits under this title.

18 “(iii)(I) Except as provided in subclause (II), the pe-
19 riod prescribed in this clause with respect to an individual
20 is 36 consecutive months beginning with the month fol-
21 lowing the most recent month for which the individual was
22 ineligible for benefits under this title before the period of
23 ineligibility described in clause (ii)(I)(bb).

24 “(II) In the case of an individual who fails to file
25 a reinstatement request within the period described in sub-

1 clause (I), the Commissioner may extend the period if the
2 Commissioner determines that the individual had good
3 cause for the failure to so file.

4 “(B)(i)(I) A request for reinstatement shall be filed
5 on such form, and contain such information, as the Com-
6 missioner may prescribe.

7 “(II) A request for reinstatement shall include ex-
8 press declarations by the individual stating that the indi-
9 vidual meets the requirements specified in subclauses (II)
10 and (III) of subparagraph (A)(ii).

11 “(III) A request for reinstatement shall include an
12 express declaration by a health care professional that the
13 individual is blind or disabled.

14 “(ii) A request for reinstatement filed in accordance
15 with this paragraph may constitute an application for ben-
16 efits in the case of any individual who the Commissioner
17 determines is not eligible for reinstated benefits under this
18 paragraph.

19 “(C) In determining whether an individual meets the
20 requirement of subparagraph (A)(ii)(II), the provisions of
21 section 1614(a)(4) shall apply.

22 “(D)(i) Eligibility for benefits reinstated under this
23 paragraph shall commence with the benefit payable for the
24 month in which—

25 “(I) a request for reinstatement is filed; or

1 “(II) if the request is filed before the individual
2 is discharged or released from a jail, prison, deten-
3 tion center, or correctional facility, the individual is
4 so discharged or released.

5 “(ii)(I) Subject to subclause (II), the amount of ben-
6 efit payable for any month pursuant to the reinstatement
7 of eligibility under this paragraph shall be determined in
8 accordance with the provisions of this title.

9 “(II) The benefit under this title payable for any
10 month pursuant to a request for reinstatement filed in ac-
11 cordance with subparagraph (B) shall be reduced by the
12 amount of any provisional benefit paid to the individual
13 for the month under subparagraph (G).

14 “(E) Whenever an individual’s eligibility for benefits
15 under this title is reinstated under this paragraph, eligi-
16 bility for the benefits shall be reinstated with respect to
17 the individual’s spouse if the spouse was previously an eli-
18 gible spouse of the individual under this title and the Com-
19 missioner determines that the spouse satisfies all the re-
20 quirements for eligibility for the benefits except require-
21 ments related to the filing of an application. The provi-
22 sions of subparagraph (D) shall apply to the reinstated
23 eligibility of the spouse to the same extent that they apply
24 to the reinstated eligibility of the individual.

1 “(F) An individual to whom benefits are payable
2 under this title pursuant to a reinstatement of eligibility
3 under this paragraph for 12 months shall, with respect
4 to benefits so payable after such 12th month, be deemed
5 for purposes of subparagraph (A)(ii)(II)(aa) to be eligible
6 for such benefits on the basis of an application filed there-
7 for.

8 “(G)(i) An individual described in subparagraph
9 (A)(ii) who files a request for reinstatement in accordance
10 with the provisions of subparagraph (B)(i) shall be eligible
11 for provisional benefits payable in accordance with this
12 subparagraph, unless the Commissioner determines that
13 the individual does not meet the requirements of subpara-
14 graph (A)(ii)(I) or that the individual’s declaration under
15 subparagraph (B)(i)(II) is false. Any such determination
16 by the Commissioner shall be final and not subject to re-
17 view under paragraph (1) or (3) of subsection (c).

18 “(ii) The amount of the provisional benefit shall equal
19 the amount of the benefit that was payable to the indi-
20 vidual under this title for the month before the most re-
21 cent period of ineligibility described in subparagraph
22 (A)(ii)(I)(aa).

23 “(iii) Provisional benefits shall end when the Com-
24 missioner makes a determination regarding the individ-
25 ual’s eligibility for reinstated benefits.

1 “(iv) In any case in which the Commissioner deter-
 2 mines that an individual is not eligible for reinstated bene-
 3 fits, any provisional benefits paid to the individual under
 4 this subparagraph shall not be considered a liability or
 5 subject to recovery as an overpayment, unless the Com-
 6 missioner determines that the individual knew that the in-
 7 dividual did not meet the requirements of subparagraph
 8 (A)(ii).

9 “(2) In the case of an individual whose benefits under
 10 this title are suspended because the individual is an in-
 11 mate of a jail, prison, penal institution, or correctional fa-
 12 cility, payment of such benefits shall resume on the date
 13 the individual is released from the jail, prison, penal insti-
 14 tution, or correctional facility.

15 “(3) For purposes of this subsection, the term ‘bene-
 16 fits under this title’ includes State supplementary pay-
 17 ments made pursuant to an agreement under section
 18 1616(a) of this Act or section 212(b) of Public Law 93–
 19 66.”.

20 (b) COOPERATION OF PENAL INSTITUTIONS IN PRO-
 21 VIDING NOTICE OF PENDING RELEASE OF INMATE AND
 22 IN ASSISTING SOON TO BE RELEASED INMATES IN HAV-
 23 ING BENEFITS RESUMED.—

24 (1) IN GENERAL.—Section 1611(e)(1)(I)(i) of
 25 such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended—

1 (A) in subclause (I), by inserting “and
2 scheduled release” after “commencement”; and

3 (B) in subclause (II)—

4 (i) by inserting “(other than sched-
5 uled release information)” before “to the
6 Commissioner”;

7 (ii) by inserting “(other than sched-
8 uled release information)” before “after 30
9 days”; and

10 (iii) by inserting “except that the
11 Commissioner shall not make a payment
12 under this subclause to an institution if
13 the institution does not furnish scheduled
14 release information at least 30 days before
15 the scheduled release or does not have in
16 place personnel and procedures to inform
17 and assist inmates scheduled to be released
18 in applying to have their benefits under
19 this title resumed” before the period.

20 (2) EFFECTIVE DATE.—The amendments made
21 by paragraph (1) shall take effect 1 year after the
22 date of the enactment of this Act.

23 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
24 FORMATION ABOUT SCHEDULED RELEASE OF IN-
25 MATES.—The Commissioner of Social Security shall

1 notify each institution with which the Commissioner
2 has entered into an agreement under section
3 1611(e)(1)(I)(i) of the Social Security Act of the
4 payment restriction added by paragraph (1) of this
5 subsection.

6 (c) NOTICE AND TRAINING RELATED TO PRE-RE-
7 LEASE AGREEMENTS.—Section 1611(e)(1)(I) of such Act
8 (42 U.S.C. 1382(e)(1)(I)) is amended by adding at the
9 end the following:

10 “(v) The Commissioner shall biennially notify each
11 State or local institution comprising a jail, prison, penal
12 institution, or correctional facility, and any other State or
13 local institution a purpose of which is to confine individ-
14 uals as described in section 202(x)(1)(A)(ii) of the avail-
15 ability of the agreements provided for in this subpara-
16 graph.

17 “(vi) The Commissioner shall, from time to time,
18 offer institutions described in clause (v) training in enter-
19 ing into the agreements provided for in this subparagraph.

20 “(vii) Within 6 months after the end of each fiscal
21 year, the Commissioner shall submit to the Congress a
22 written report on the activities conducted pursuant to this
23 subparagraph during the fiscal year.

24 “(viii) The Commissioner shall develop a model pre-
25 release agreement and model pre-release procedures,

1 which States may use to facilitate the goals of this sub-
 2 paragraph.”.

3 (d) EFFECTIVE DATE.—Except as provided in sub-
 4 section (b)(2), the amendments made by this section shall
 5 take effect on the date of the enactment of this Act, and
 6 shall apply to benefits payable for months beginning after
 7 such date.

8 **SEC. 4. SOCIAL SECURITY BENEFITS.**

9 (a) PRE-RELEASE PROCEDURES FOR DISABLED
 10 PRISONERS AND OTHER INDIVIDUALS.—

11 (1) IN GENERAL.—Section 202(x) of the Social
 12 Security Act (42 U.S.C. 402(x)) is amended by add-
 13 ing at the end the following new paragraph:

14 “(4) The Commissioner shall develop a system under
 15 which an individual whose disability insurance benefits
 16 under section 223 or other benefits under this section
 17 based on disability have been suspended under this sub-
 18 section by reason of confinement in an institution com-
 19 prising a jail, prison, penal institution, or correctional fa-
 20 cility, or comprising any other institution a purpose of
 21 which is to confine individuals as described in paragraph
 22 (1)(A)(ii), can apply for resumption of such benefits prior
 23 to cessation of such confinement.”.

24 (2) EFFECTIVE DATE.—The Commissioner of
 25 Social Security shall implement the system described

1 in section 202(x)(4) of the Social Security Act (as
2 added by this subsection) not later than 180 days
3 after the date of the enactment of this Act.

4 (b) COOPERATION OF PENAL INSTITUTIONS IN PRO-
5 VIDING NOTICE OF PENDING RELEASE OF INMATE AND
6 IN ASSISTING SOON TO BE RELEASED INMATES IN HAV-
7 ING BENEFITS RESUMED.—

8 (1) IN GENERAL.—Section 202(x)(3)(B)(i) of
9 such Act (42 U.S.C. 402(x)(3)(B)(i)) is amended—

10 (A) in subclause (I), by inserting “and
11 scheduled release” after “commencement”; and

12 (B) in subclause (II)—

13 (i) by inserting “(other than sched-
14 uled release information)” before “to the
15 Commissioner”;

16 (ii) by inserting “(other than sched-
17 uled release information)” before “after 30
18 days”; and

19 (iii) by inserting “, except that the
20 Commissioner shall not make a payment
21 under this subclause to an institution if
22 the institution does not furnish scheduled
23 release information at least 30 days before
24 the scheduled release or does not have in
25 place personnel and procedures to inform

1 and assist inmates scheduled to be released
2 in applying to have their benefits under
3 this title resumed” before the period.

4 (2) EFFECTIVE DATE.—The amendments made
5 by paragraph (1) shall take effect 1 year after the
6 date of the enactment of this Act.

7 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
8 FORMATION ABOUT SCHEDULED RELEASE OF IN-
9 MATES.—The Commissioner of Social Security shall
10 notify each institution with which the Commissioner
11 has entered into an agreement under section
12 202(x)(3)(B)(i) of the Social Security Act of the
13 payment restriction added by paragraph (1) of this
14 subsection.

15 (c) NOTICE AND TRAINING RELATED TO PRE-RE-
16 LEASE AGREEMENTS.—Section 202(x)(3)(B) of such Act
17 (42 U.S.C. 402(x)(3)(B)) is amended by adding at the end
18 the following:

19 “(v) The Commissioner shall biennially notify each
20 State or local institution comprising a jail, prison, penal
21 institution, or correctional facility, and any other State or
22 local institution a purpose of which is to confine individ-
23 uals as described in paragraph (1)(A)(ii) of the availability
24 of the agreements provided for in this subparagraph.

1 “(vi) The Commissioner shall, from time to time,
2 offer institutions described in clause (v) training in enter-
3 ing into the agreements provided for in this subparagraph.

4 “(vii) Within 6 months after the end of each fiscal
5 year, the Commissioner shall submit to the Congress a
6 written report on the activities conducted pursuant to this
7 subparagraph during the fiscal year.”.

8 **SEC. 5. MEDICAID BENEFITS.**

9 (a) REINSTATEMENT OF MEDICAID ENROLLMENT.—

10 (1) IN GENERAL.—Section 1902(a) of the So-
11 cial Security Act (42 U.S.C. 1396b(a)) is amended—

12 (A) by striking “and” at the end of para-
13 graph (82);

14 (B) by striking the period at the end of
15 paragraph (83) and inserting “; and”; and

16 (C) by inserting after paragraph (83) the
17 following new paragraph:

18 “(84) provide that in the case of any individual
19 enrolled for medical assistance under the State plan
20 immediately before becoming an inmate of a public
21 institution—

22 “(A) the enrollment of such individual
23 shall be reinstated upon release from such insti-
24 tution unless and until there is a determination

1 that the individual is no longer eligible to be so
2 enrolled; and

3 “(B) any period of continuous eligibility in
4 effect on the date the individual became such
5 an inmate shall be reinstated as of the date of
6 the release and the duration of such period
7 shall be determined without regard to the pe-
8 riod in which the individual was such an in-
9 mate.”.

10 (2) INCREASED FUNDING FOR STATE IMPLE-
11 MENTATION OF REINSTATEMENT SYSTEM.—Section
12 1903 of the Social Security Act (42 U.S.C. 1396b)
13 is amended by adding at the end the following new
14 subsection:

15 “(aa) INITIAL INCREASE IN FEDERAL MATCHING
16 RATE FOR STATE IMPLEMENTING REINSTATEMENT SYS-
17 TEM.—For the first 4 calendar quarters beginning after
18 the date a State modifies its computer system described
19 in subsection (a)(3)(A)(i) so that it can easily provide for
20 the reinstatement of medical assistance required under
21 section 1902(a)(84), such subsection shall be applied as
22 if the reference to ‘90 percent’ were a reference to ‘95
23 percent’.”.

24 (3) CLARIFICATION OF TREATMENT OF CER-
25 TAIN ADMINISTRATIVE EXPENSES.—Nothing in sec-

1 tion 1905(a) of the Social Security Act (42 U.S.C.
2 1396d(a)) shall be construed as prohibiting or pre-
3 venting the provision of Federal financial participa-
4 tion under section 1903(a) of such Act (42 U.S.C.
5 1396b(a)) to States for reasonable administrative
6 costs of determining eligibility status of individuals
7 described in section 1902(a)(84) of such Act, as in-
8 serted by paragraph (1).

9 (4) EFFECTIVE DATE.—The amendments made
10 by paragraph (1) shall apply to individuals who are
11 released from being an inmate of a public institution
12 on or after the first day of the first calendar quarter
13 beginning more than 90 days after the date of the
14 enactment of this Act.

15 (b) AUTHORIZATION OF CASE MANAGEMENT SERV-
16 ICES.—The first sentence of section 1915(g)(1) of the So-
17 cial Security Act (42 U.S.C. 1396n(g)(1)) is amended by
18 inserting before the period at the end the following: “and
19 for the purpose of providing no more than three case man-
20 agement services, without regard to the subdivision (A)
21 following section 1905(a)(29), in order to engage in plan-
22 ning for services following release from a public institu-
23 tion”.

○