

115TH CONGRESS
1ST SESSION

H. R. 4401

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

NOVEMBER 15, 2017

Mr. CARSON of Indiana 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”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) According to the Bureau of Justice Statis-
2 tics, nearly 14 percent of State and Federal pris-
3 oners meet the threshold for serious psychological
4 distress. The same peer-reviewed study finds 26 per-
5 cent of jail inmates report experiences that meet the
6 threshold for serious psychological distress.

7 (2) Whereas the occurrence of cases of serious
8 psychological distress is high among the incarcerated
9 population of the United States of America, the Bu-
10 reau of Justice Statistics simultaneously finds statis-
11 tically significant differences and disparities in the
12 general population, which suffers from serious psy-
13 chological distress at a much lower rate—a non-com-
14 parable 5 percent of the general population suffers
15 from serious psychological distress.

16 (3) Data clearly demonstrates heavier rates of
17 serious psychological distress among the female in-
18 carcerated population. Due to societal conditions, fe-
19 male inmates in American prisons and jails are at
20 higher risks of serious psychological distress. The cy-
21 clical nature and recurring effects are detrimental to
22 society's sustainability.

23 (4) Furthermore and more importantly, 25–26
24 percent of the incarcerated population in the United
25 States of America that meets the threshold for seri-

1 ous psychological distress have not received health
2 treatment in their lifetime.

3 (5) In United States jails, the following statis-
4 tics are consistent with this troubling trend:

5 (A) 32 percent of the incarcerated female
6 population meets the threshold for serious psy-
7 chological distress.

8 (B) 26 percent of the incarcerated male
9 population meets the threshold for serious psy-
10 chological distress.

11 (C) 68 percent of female jail inmates have
12 a history of a mental health problem.

13 (D) 41 percent of male jail inmates have
14 a history of a mental health problem.

15 (E) 44 percent of jail inmates have been
16 told by a mental health professional that they
17 have a mental health disorder.

18 (6) In the United States prisons, the following
19 statistics are consistent with the aforementioned jail
20 statistics:

21 (A) 37 percent of prisoners have been told
22 by a mental health professional that they have
23 a mental health disorder.

24 (B) 20 percent of females in prisons meet
25 the threshold for serious psychological distress.

1 (C) 14 percent of males in prisons meet
2 the threshold for serious psychological distress.

3 (D) 66 percent of female prisoners have
4 been told by a mental health professional that
5 they have a mental health disorder.

6 (E) 35 percent of male prisoners have been
7 told by a mental health professional that they
8 have a mental health disorder.

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

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

14 “(q)(1)(A)(i) Eligibility for benefits under this title
15 shall be reinstated in any case where the Commissioner
16 determines that an individual described in clause (ii) has
17 filed a request for reinstatement meeting the requirements
18 of subparagraph (B)(i) during the period described in
19 clause (iii). Reinstatement of eligibility shall be in accord-
20 ance with the terms of this paragraph. Notwithstanding
21 the preceding provisions of this clause, eligibility for bene-
22 fits under this title of an individual who has become an
23 inmate of a jail, prison, penal institution, or correctional
24 facility shall be reinstated automatically upon discharge
25 or release from the institution, without the need to reapply

1 for the benefits, if the period of sentence to the institution
2 does not exceed 90 days.

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

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

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

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

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

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

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

1 “(II) In the case of an individual who fails to file
2 a reinstatement request within the period described in sub-
3 clause (I), the Commissioner may extend the period if the
4 Commissioner determines that the individual had good
5 cause for the failure to so file.

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

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

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

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

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

1 “(D)(i) Eligibility for benefits reinstated under this
2 paragraph shall commence with the benefit payable for the
3 month in which—

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

5 “(II) if the request is filed before the individual
6 is discharged or released from a jail, prison, deten-
7 tion center, or correctional facility, the individual is
8 so discharged or released.

9 “(ii) The amount of benefit payable for any month
10 pursuant to the reinstatement of eligibility under this
11 paragraph shall be determined in accordance with the pro-
12 visions of this title.

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

24 “(2) For purposes of this subsection, the term ‘bene-
25 fits under this title’ includes State supplementary pay-

1 ments made pursuant to an agreement under section
 2 1616(a) of this Act or section 212(b) of Public Law 93–
 3 66.”.

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 1611(e)(1)(I)(i) of
 9 such Act (42 U.S.C. 1382(e)(1)(I)(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 1611(e)(1)(I)(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 1611(e)(1)(I) of such Act
17 (42 U.S.C. 1382(e)(1)(I)) is amended by adding at the
18 end the following:

19 “(vi) The Commissioner shall provide technical sup-
20 port and resources to each State or local institution com-
21 prising a jail, prison, penal institution, or correctional fa-
22 cility, and any other State or local institution a purpose
23 of which is to confine individuals as described in section
24 202(x)(1)(A)(ii) with respect to, and notify each such in-

stitution of the availability of, the pre-release agreements provided for in this subparagraph.

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

“(viii) The Commissioner shall develop model pre-release procedures which States may use to facilitate the goals of this subparagraph.”.

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

SEC. 4. SOCIAL SECURITY BENEFITS.

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

(1) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended by adding at the end the following:

“(4) The Commissioner shall develop a system under which an individual whose disability insurance benefits under section 223 or other benefits under this section based on disability have been suspended under this subsection by reason of confinement in an institution com-

prising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii), can apply for resumption of such benefits prior to cessation of such confinement.”.

(2) EFFECTIVE DATE.—The Commissioner of Social Security shall implement the system described in section 202(x)(4) of the Social Security Act (as added by this subsection) not later than 180 days after the date of the enactment of this Act.

(b) COOPERATION OF PENAL INSTITUTIONS IN PROVIDING NOTICE OF PENDING RELEASE OF INMATE AND IN ASSISTING SOON TO BE RELEASED INMATES IN HAVING BENEFITS RESUMED.—

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

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

(B) in subclause (II)—

(i) by inserting “(other than scheduled release information)” before “to the Commissioner”;

(ii) by inserting “(other than scheduled release information)” before “after 30 days”; and

1 (iii) by inserting “, except that the
2 Commissioner shall not make a payment
3 under this subclause to an institution if
4 the institution does not furnish scheduled
5 release information at least 30 days before
6 the scheduled release or does not have in
7 place personnel and procedures to inform
8 and assist inmates scheduled to be released
9 in applying to have their benefits under
10 this title resumed” before the period.

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

14 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
15 FORMATION ABOUT SCHEDULED RELEASE OF IN-
16 MATES.—The Commissioner of Social Security shall
17 notify each institution with which the Commissioner
18 has entered into an agreement under section
19 202(x)(3)(B)(i) of the Social Security Act of the
20 payment restriction added by paragraph (1) of this
21 subsection.

22 (c) NOTICE AND TRAINING RELATED TO PRE-RE-
23 LEASE AGREEMENTS.—Section 202(x)(3)(B) of such Act
24 (42 U.S.C. 402(x)(3)(B)) is amended by adding at the end
25 the following:

1 “(v) The Commissioner shall provide technical sup-
 2 port and resources to each State or local institution com-
 3 prising a jail, prison, penal institution, or correctional fa-
 4 cility, and any other State or local institution a purpose
 5 of which is to confine individuals as described in para-
 6 graph (1)(A)(ii) with respect to, and notify each such in-
 7 stitution of the availability of, the pre-release agreements
 8 provided for in this subparagraph.

9 “(vi) Within 6 months after the end of each fiscal
 10 year, the Commissioner shall submit to the Congress a
 11 written report on the activities conducted pursuant to this
 12 subparagraph during the fiscal year.”.

13 **SEC. 5. MEDICAID BENEFITS.**

14 (a) REINSTATEMENT OF MEDICAID ENROLLMENT.—

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

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

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

21 (C) by inserting after paragraph (83) the
 22 following new paragraph:

23 “(84) provide that in the case of any individual
 24 enrolled for medical assistance under the State plan
 25 immediately before becoming an inmate of a public

1 institution, if the period of sentence to the institu-
2 tion does not exceed 90 days—

3 “(A) the enrollment of such individual
4 shall be reinstated automatically upon release
5 from the institution without the need to reapply
6 for such assistance; and

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

14 (2) 5 PERCENTAGE POINT INCREASE IN FMAP
15 DURING YEAR AFTER REINSTATEMENT AFTER IM-
16 PLEMENTATION OF REINSTATEMENT SYSTEM.—Sec-
17 tion 1905(b) of the Social Security Act (42 U.S.C.
18 1396d(b)) is amended by adding at the end the fol-
19 lowing: “Notwithstanding the first sentence, for cal-
20 endar quarters beginning after the date a State
21 modifies its computer system described in subsection
22 (a)(3)(A)(i) so that it can easily provide for the rein-
23 statement of medical assistance required under sec-
24 tion 1902(a)(84), with respect to items and services
25 furnished to an individual described in such section

1 who loses medical assistance by becoming an inmate
2 of a public institution, the Federal medical assist-
3 ance percentage otherwise applied shall be increased
4 by 5 percentage points (but in no case shall the Fed-
5 eral medical assistance percentage exceed 100 per-
6 cent) for medical assistance for items and services
7 furnished during the 1-year period beginning on the
8 date the individual's eligibility for medical assistance
9 under this title is reinstated under such section after
10 release from the public institution.”.

11 (3) CLARIFICATION OF TREATMENT OF CER-
12 TAIN ADMINISTRATIVE EXPENSES.—Nothing in sec-
13 tion 1905(a) of the Social Security Act (42 U.S.C.
14 1396d(a)) shall be construed as prohibiting or pre-
15 venting the provision of Federal financial participa-
16 tion under section 1903(a) of such Act (42 U.S.C.
17 1396b(a)) to States for reasonable administrative
18 costs of determining eligibility status of individuals
19 described in paragraph (84) of section 1902(a) of
20 such Act (42 U.S.C. 1396b(a)), as inserted by para-
21 graph (1).

22 (4) EFFECTIVE DATE.—The amendments made
23 by paragraph (1) shall take effect on the date of the
24 enactment of this Act and shall apply to individuals
25 who are released from being an inmate of a public

1 institution on or after the first day of the first cal-
2 endar quarter beginning 180 days after the date of
3 the enactment of this Act, except that the Secretary
4 of Health and Human Services shall not undertake
5 any enforcement against a State that fails to meet
6 the requirement of section 1902(a)(84) of the Social
7 Security Act, as inserted by such amendments, until
8 the State has had a reasonable opportunity (of not
9 less than 180 days) to modify its computer system
10 described in section 1903(a)(3)(A)(i) of such Act
11 (42 U.S.C. 1396b(a)(3)(A)(i)) so the system can
12 meet the requirement of such section 1902(a)(84).

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

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