

115TH CONGRESS  
2D SESSION

# S. 3445

To amend title XIX of the Social Security Act to require States to suspend, rather than terminate, an individual's eligibility for medical assistance under the State Medicaid plan while such individual is an inmate of a public institution.

---

## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2018

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend title XIX of the Social Security Act to require States to suspend, rather than terminate, an individual's eligibility for medical assistance under the State Medicaid plan while such individual is an inmate of a public institution.

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 “Supporting Positive  
5 Outcomes After Release Act”.

1 **SEC. 2. SUSPENSION OF MEDICAID BENEFITS FOR INMATES**  
 2 **OF PUBLIC INSTITUTIONS.**

3 (a) IN GENERAL.—Section 1902 of the Social Secu-  
 4 rity Act (42 U.S.C. 1396a) is amended—

5 (1) in subsection (a)—

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

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

10 (C) by inserting after paragraph (83) the  
 11 following new paragraph:

12 “(84) provide that the State shall not terminate  
 13 (but may suspend) enrollment under a State plan  
 14 for medical assistance for an individual who is an el-  
 15 igible individual (as defined in subsection (nn)(1))  
 16 because the individual is an inmate of a public insti-  
 17 tution (as defined in subsection (nn)(2)).”; and

18 (2) by adding at the end the following new sub-  
 19 section:

20 “(nn) ELIGIBLE INDIVIDUAL; PUBLIC INSTITU-  
 21 TION.—For purposes of subsection (a)(84) and this sub-  
 22 section:

23 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible  
 24 individual’ means an individual who is an inmate of  
 25 a public institution and was enrolled for medical as-  
 26 sistance under the State plan immediately before be-

1 coming an inmate of such a public institution or who  
 2 becomes eligible to enroll for such medical assistance  
 3 while an inmate of a public institution.

4 “(2) INMATE OF A PUBLIC INSTITUTION.—The  
 5 term ‘inmate of a public institution’ has the meaning  
 6 given such term for purposes of applying the sub-  
 7 division (A) following paragraph (29) of section  
 8 1905(a), taking into account the exception in such  
 9 subdivision for a patient of a medical institution.”.

10 (b) NO CHANGE IN EXCLUSION FROM MEDICAL AS-  
 11 SISTANCE FOR INMATES OF PUBLIC INSTITUTIONS.—  
 12 Nothing in this section shall be construed as changing the  
 13 exclusion from medical assistance under the subdivision  
 14 (A) following paragraph (29) of section 1905(a) of the So-  
 15 cial Security Act (42 U.S.C. 1396d(a)), including any ap-  
 16 plicable restrictions on a State submitting claims for Fed-  
 17 eral financial participation under title XIX of such Act  
 18 for such assistance.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-  
 21 graph (2), the amendments made by subsection (a)  
 22 shall apply to eligibility and enrollment of individ-  
 23 uals who become inmates of public institutions on or  
 24 after the date that is 1 year after the date of the  
 25 enactment of this Act.

1           (2) RULE FOR CHANGES REQUIRING STATE  
2       LEGISLATION.—In the case of a State plan for med-  
3       ical assistance under title XIX of the Social Security  
4       Act which the Secretary of Health and Human Serv-  
5       ices determines requires State legislation (other than  
6       legislation appropriating funds) in order for the plan  
7       to meet the additional requirements imposed by the  
8       amendments made by subsection (a), the State plan  
9       shall not be regarded as failing to comply with the  
10      requirements of such title solely on the basis of its  
11      failure to meet these additional requirements before  
12      the first day of the first calendar quarter beginning  
13      after the close of the first regular session of the  
14      State legislature that begins after the date of the en-  
15      actment of this Act. For purposes of the previous  
16      sentence, in the case of a State that has a 2-year  
17      legislative session, each year of such session shall be  
18      deemed to be a separate regular session of the State  
19      legislature.

○