

106TH CONGRESS  
2D SESSION

# S. 3238

To amend the Public Health Service Act to provide protections for individuals who need mental health services, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

OCTOBER 25 (legislative day, SEPTEMBER 22), 2000

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To amend the Public Health Service Act to provide protections for individuals who need mental health services, and for other purposes.

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 “Mental Health Access  
5 Act”.

6       **SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**

7                       **ACT.**

8       Subpart 1 of part B of the Public Health Service Act  
9 (42 U.S.C. 300gg–41 et seq.) is amended by adding at  
10 the end the following:

1 **“SEC. 2745. LIMITATION ON PREEXISTING CONDITION EX-**  
2 **CLUSION PERIOD AND PREMIUMS WITH RE-**  
3 **SPECT TO MENTAL HEALTH.**

4 “(a) LIMITATION ON PREEXISTING CONDITION EX-  
5 CLUSION PERIOD.—

6 “(1) IN GENERAL.—Notwithstanding any other  
7 provision of law, a health insurance issuer that of-  
8 fers health insurance coverage in the individual mar-  
9 ket in a State may, with respect to an individual or  
10 dependent of such individual, impose a preexisting  
11 condition exclusion relating to a preexisting mental  
12 health condition only if—

13 “(A) such exclusion relates to a mental  
14 health condition, regardless of the cause of the  
15 condition, for which medical advice, diagnosis,  
16 care, or treatment was recommended or re-  
17 ceived within the 6-month period ending on the  
18 enrollment date;

19 “(B) such exclusion extends for a period of  
20 not more than 12 months after the enrollment  
21 date; and

22 “(C) the period of any such preexisting  
23 condition exclusion is reduced by the aggregate  
24 of the periods of creditable coverage (if any, as  
25 defined in paragraph (3)(A)) applicable to the

1 individual or dependent of such individual as of  
2 the enrollment date.

3 “(2) DEFINITIONS.—In this section:

4 “(A) PREEXISTING MENTAL HEALTH CON-  
5 DITION.—The term ‘preexisting mental health  
6 condition’ means, with respect to coverage, a  
7 mental health condition, including all clinical  
8 disorders and personality disorders diagnosed  
9 on Axis I or Axis II of the most recent edition  
10 of the American Psychiatric Association’s Diag-  
11 nostic and Statistical Manual of Mental Dis-  
12 orders, that was present before the date of en-  
13 rollment of such coverage, whether or not any  
14 medical advice, diagnosis, care, or treatment  
15 was recommended or received before such date.

16 “(B) OTHER TERMS.—The terms ‘pre-  
17 existing condition exclusion’, ‘enrollment date’,  
18 and ‘late enrollee’ shall have the meanings given  
19 such terms in section 2701 as relating to indi-  
20 vidual health insurance coverage.

21 “(3) CREDITING PREVIOUS COVERAGE.—For  
22 purposes of subsection (a), the term ‘creditable cov-  
23 erage’ has the meaning given such term in section  
24 2701(c) and includes coverage of the individual  
25 under any of the following:

1           “(A) A college-sponsored health plan, or a  
2           plan under which health benefits are offered by  
3           or through an institution of higher education  
4           (as defined in section 481(a) of the Higher  
5           Education Act of 1965 (20 U.S.C. 1088(a)) in  
6           relation to students at the institution (not in-  
7           cluding benefits offered to such a student as a  
8           participant or beneficiary in a group health  
9           plan).

10           “(B) Title XXI of the Social Security Act.

11           “(C) A State or local employee health plan.

12           “(b) PROHIBITION ON INCREASED PREMIUMS BASED  
13 ON PREEXISTING MENTAL HEALTH CONDITION.—A  
14 health insurance issuer that offers health insurance cov-  
15 erage in the individual market in a State may not, with  
16 respect to an individual or dependent of such individual,  
17 require any individual (as a condition of enrollment or con-  
18 tinued enrollment) with a preexisting mental health condi-  
19 tion to pay a premium or contribution which is greater  
20 than a premium or contribution for an individual without  
21 a preexisting mental health condition based solely on the  
22 determination that such individual has a preexisting men-  
23 tal health condition, as such term is defined in subsection  
24 (a)(2)(A).

1       “(c) NONAPPLICABILITY OF ACCEPTABLE ALTER-  
2 NATIVE MECHANISMS.—The provisions of section  
3 2741(a)(2) shall not apply to a health insurance issuer  
4 that offers health insurance coverage in the individual  
5 market in a State, but only with respect to an individual,  
6 or dependent of such individual, with a preexisting mental  
7 health condition desiring to enroll in such individual health  
8 insurance coverage.”.

○