

113TH CONGRESS
1ST SESSION

H. R. 3123

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

SEPTEMBER 18, 2013

Mr. CARSON of Indiana (for himself, Mr. CARTWRIGHT, Ms. EDWARDS, Ms. LEE of California, Mr. LEWIS, Mr. MEEKS, Ms. NORTON, and Mr. RANGEL) 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) There are an estimated 350,000 mentally ill
2 individuals in State and Federal prisons.

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

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

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

21 (5) As a matter of public safety, individuals
22 with disabilities released from correctional facilities
23 must be reinstated in the Federal benefit programs
24 that are designed to provide the health services and
25 financial supports on which they rely.

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

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

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

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

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

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

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

17 (B) Among repeat offenders, an estimated
18 47 percent of State prisoners who had a mental
19 health problem were violent recidivists, com-
20 pared to 39 percent of State prisoners without
21 a mental problem.

22 (12) Among the mentally ill, 52 percent of
23 State prison inmates, 54 percent of jail inmates, and
24 49 percent of Federal prison inmates reported 3 or
25 more prior sentences of probation or incarceration.

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

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

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

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

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

1 inmate of a jail, prison, penal institution, or correctional
2 facility shall be reinstated automatically upon discharge
3 or release from the institution, without the need to reapply
4 for the benefits, if the period of sentence to the institution
5 does not exceed 90 days.

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

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

9 “(aa) the individual was eligible for bene-
10 fits under this title on the basis of disability;
11 and

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

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

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

23 “(iii)(I) Except as provided in subclause (II), the pe-
24 riod prescribed in this clause with respect to an individual
25 is 36 consecutive months beginning with the month fol-

1 lowing the most recent month for which the individual was
2 ineligible for benefits under this title before the period of
3 ineligibility described in clause (ii)(I)(bb).

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

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

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

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

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

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

4 “(D)(i) Eligibility for benefits reinstated under this
5 paragraph shall commence with the benefit payable for the
6 month in which—

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

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

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

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

1 eligibility of the spouse to the same extent that they apply
 2 to the reinstated eligibility of the individual.

3 “(2) For purposes of this subsection, the term ‘bene-
 4 fits under this title’ includes State supplementary pay-
 5 ments made pursuant to an agreement under section
 6 1616(a) of this Act or section 212(b) of Public Law 93-
 7 66.”.

8 (b) COOPERATION OF PENAL INSTITUTIONS IN PRO-
 9 VIDING NOTICE OF PENDING RELEASE OF INMATE AND
 10 IN ASSISTING SOON TO BE RELEASED INMATES IN HAV-
 11 ING BENEFITS RESUMED.—

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

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

16 (B) in subclause (II)—

17 (i) by inserting “(other than sched-
 18 uled release information)” before “to the
 19 Commissioner”;

20 (ii) by inserting “(other than sched-
 21 uled release information)” before “after 30
 22 days”; and

23 (iii) by inserting “except that the
 24 Commissioner shall not make a payment
 25 under this subclause to an institution if

1 the institution does not furnish scheduled
2 release information at least 30 days before
3 the scheduled release or does not have in
4 place personnel and procedures to inform
5 and assist inmates scheduled to be released
6 in applying to have their benefits under
7 this title resumed” before the period.

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

11 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
12 FORMATION ABOUT SCHEDULED RELEASE OF IN-
13 MATES.—The Commissioner of Social Security shall
14 notify each institution with which the Commissioner
15 has entered into an agreement under section
16 1611(e)(1)(I)(i) of the Social Security Act of the
17 payment restriction added by paragraph (1) of this
18 subsection.

19 (c) NOTICE AND TRAINING RELATED TO PRE-RE-
20 LEASE AGREEMENTS.—Section 1611(e)(1)(I) of such Act
21 (42 U.S.C. 1382(e)(1)(I)) is amended by adding at the
22 end the following:

23 “(v) The Commissioner shall provide technical sup-
24 port and resources to each State or local institution com-
25 prising a jail, prison, penal institution, or correctional fa-

1 cility, and any other State or local institution a purpose
2 of which is to confine individuals as described in section
3 202(x)(1)(A)(ii) with respect to, and notify each such in-
4 stitution of the availability of, the pre-release agreements
5 provided for in this subparagraph.

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

10 “(vii) The Commissioner shall develop model pre-re-
11 lease procedures which States may use to facilitate the
12 goals of this subparagraph.”.

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

18 **SEC. 4. SOCIAL SECURITY BENEFITS.**

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

21 (1) IN GENERAL.—Section 202(x) of the Social
22 Security Act (42 U.S.C. 402(x)) is amended by add-
23 ing at the end the following:

24 “(4) The Commissioner shall develop a system under
25 which an individual whose disability insurance benefits

1 under section 223 or other benefits under this section
2 based on disability have been suspended under this sub-
3 section by reason of confinement in an institution com-
4 prising a jail, prison, penal institution, or correctional fa-
5 cility, or comprising any other institution a purpose of
6 which is to confine individuals as described in paragraph
7 (1)(A)(ii), can apply for resumption of such benefits prior
8 to cessation of such confinement.”.

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

14 (b) COOPERATION OF PENAL INSTITUTIONS IN PRO-
15 VIDING NOTICE OF PENDING RELEASE OF INMATE AND
16 IN ASSISTING SOON TO BE RELEASED INMATES IN HAV-
17 ING BENEFITS RESUMED.—

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

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

22 (B) in subclause (II)—

23 (i) by inserting “(other than sched-
24 uled release information)” before “to the
25 Commissioner”;

1 (ii) by inserting “(other than sched-
2 uled release information)” before “after 30
3 days”; and

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

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

17 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
18 FORMATION ABOUT SCHEDULED RELEASE OF IN-
19 MATES.—The Commissioner of Social Security shall
20 notify each institution with which the Commissioner
21 has entered into an agreement under section
22 202(x)(3)(B)(i) of the Social Security Act of the
23 payment restriction added by paragraph (1) of this
24 subsection.

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

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

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

17 **SEC. 5. MEDICAID BENEFITS.**

18 (a) REINSTATEMENT OF MEDICAID ENROLLMENT.—

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

21 (A) by striking “and” at the end of para-
22 graph (80);

23 (B) by striking the period at the end of
24 paragraph (81) and inserting “; and”; and

1 (C) by inserting after paragraph (81) the
2 following new paragraph:

3 “(82) provide that in the case of any individual
4 enrolled for medical assistance under the State plan
5 immediately before becoming an inmate of a public
6 institution, if the period of sentence to the institu-
7 tion does not exceed 90 days—

8 “(A) the enrollment of such individual
9 shall be reinstated automatically upon release
10 from the institution without the need to reapply
11 for such assistance; and

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

19 (2) 5 PERCENTAGE POINT INCREASE IN FMAP
20 DURING YEAR AFTER REINSTATEMENT AFTER IM-
21 PLEMENTATION OF REINSTATEMENT SYSTEM.—Sec-
22 tion 1905(b) of the Social Security Act (42 U.S.C.
23 1396d(b)) is amended by adding at the end the fol-
24 lowing: “Notwithstanding the first sentence, for cal-
25 endar quarters beginning after the date a State

1 modifies its computer system described in subsection
2 (a)(3)(A)(i) so that it can easily provide for the rein-
3 statement of medical assistance required under sec-
4 tion 1902(a)(82), with respect to items and services
5 furnished to an individual described in such section
6 who loses medical assistance by becoming an inmate
7 of a public institution, the Federal medical assist-
8 ance percentage otherwise applied shall be increased
9 by 5 percentage points (but in no case shall the Fed-
10 eral medical assistance percentage exceed 100 per-
11 cent) for medical assistance for items and services
12 furnished during the 1-year period beginning on the
13 date the individual's eligibility for medical assistance
14 under this title is reinstated under such section after
15 release from the public institution.”.

16 (3) CLARIFICATION OF TREATMENT OF CER-
17 TAIN ADMINISTRATIVE EXPENSES.—Nothing in sec-
18 tion 1905(a) of the Social Security Act (42 U.S.C.
19 1396d(a)) shall be construed as prohibiting or pre-
20 venting the provision of Federal financial participa-
21 tion under section 1903(a) of such Act (42 U.S.C.
22 1396b(a)) to States for reasonable administrative
23 costs of determining eligibility status of individuals
24 described in section 1902(a)(82) of such Act, as in-
25 serted by paragraph (1).

1 (4) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall take effect on the date of the
3 enactment of this Act and shall apply to individuals
4 who are released from being an inmate of a public
5 institution on or after the first day of the first cal-
6 endar quarter beginning 180 days after the date of
7 the enactment of this Act, except that the Secretary
8 of Health and Human Services shall not undertake
9 any enforcement against a State that fails to meet
10 the requirement of section 1902(a)(82) of the Social
11 Security Act, as inserted by such amendments, until
12 the State has had a reasonable opportunity (of not
13 less than 180 days) to modify its computer system
14 described in section 1903(a)(3)(A)(i) of such Act
15 (42 U.S.C. 1396b(a)(3)(A)(i)) so the system can
16 meet the requirement of such section 1902(a)(82).

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

1 ning for services following release from a public institu-
2 tion”.

○