

**Calendar No. 180**114TH CONGRESS  
1ST SESSION**S. 599****[Report No. 114-101]**

To extend and expand the Medicaid emergency psychiatric demonstration project.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2015

Mr. CARDIN (for himself, Mr. TOOMEY, Ms. COLLINS, Mrs. MCCASKILL, Mr. FRANKEN, Mr. MURPHY, Mrs. CAPITO, Mr. WHITEHOUSE, Mr. BLUNT, Ms. MIKULSKI, Mr. SESSIONS, Mr. MANCHIN, Mr. BROWN, Ms. STABENOW, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Finance

JULY 30, 2015

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To extend and expand the Medicaid emergency psychiatric demonstration project.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Access to  
3 Emergency Psychiatric Care Act”.

4 **SEC. 2. EXTENSION AND EXPANSION OF MEDICAID EMER-  
5 GENCY PSYCHIATRIC DEMONSTRATION  
6 PROJECT.**

7 (a) IN GENERAL.—Subsection (d) of section 2707 of  
8 Public Law 111–148 (42 U.S.C. 1396a note) is amended  
9 to read as follows:

10 “(d) LENGTH OF DEMONSTRATION PROJECT.—

11 “(1) IN GENERAL.—Except as provided in para-  
12 graphs (2) and (3), the demonstration project estab-  
13 lished under this section shall be conducted for a pe-  
14 riod of 3 consecutive years.

15 “(2) TEMPORARY EXTENSION OF PARTICIPA-  
16 TION ELIGIBILITY FOR SELECTED STATES.—

17 “(A) IN GENERAL.—Subject to paragraph  
18 (3), a State selected as an eligible State to par-  
19 ticipate in the demonstration project on or prior  
20 to March 13, 2012, shall, upon the request of  
21 the State, be permitted to continue to partici-  
22 pate in the demonstration project through the  
23 date described in subparagraph (B) if—

24 “(i) the Secretary determines that the  
25 continued participation of the State in the  
26 demonstration project is not expected to

1 increase spending under title XIX of the  
2 Social Security Act; and

3 “(ii) the Chief Actuary of the Centers  
4 for Medicare & Medicaid Services certifies  
5 that such extension for that State is pro-  
6 jected to reduce (or is projected not to re-  
7 sult in any increase in) net program spend-  
8 ing under title XIX of the Social Security  
9 Act.

10 “(B) DATE DESCRIBED.—The date de-  
11 scribed in this subparagraph is the earlier of—

12 “(i) the date on which Secretary sub-  
13 mits the recommendations required under  
14 subsection (f)(3); or

15 “(ii) September 30, 2016.

16 “(3) EXTENSION AND EXPANSION OF DEM-  
17 ONSTRATION PROJECT.—

18 “(A) ADDITIONAL EXTENSION.—Taking  
19 into account the recommendations submitted to  
20 Congress pursuant to subsection (f)(3), the Sec-  
21 retary may, if the Secretary determines that ex-  
22 tension and expansion of the demonstration  
23 project satisfies the criteria for the temporary  
24 extension under subparagraphs (A) and (B) of  
25 paragraph (2)—

1           “(i) extend the demonstration project  
2           through December 31, 2019; and

3           “(ii) permit any eligible State partici-  
4           pating in the demonstration project as of  
5           the date such recommendations are sub-  
6           mitted to continue to participate in the  
7           project.

8           “(B) OPTION FOR EXPANSION TO ADDI-  
9           TIONAL STATES.—Taking into account the rec-  
10          ommendations submitted to Congress pursuant  
11          to subsection (f)(3), the Secretary may expand  
12          (including on a nationwide basis) the number of  
13          eligible States participating in the demonstra-  
14          tion project during the extension period estab-  
15          lished under subparagraph (A) if, with respect  
16          to any new eligible State—

17               “(i) the Secretary determines that the  
18               participation of the State in the dem-  
19               onstration project is not expected to in-  
20               crease spending under title XIX of the So-  
21               cial Security Act; and

22               “(ii) the Chief Actuary of the Centers  
23               for Medicare & Medicaid Services certifies  
24               that the participation of the State in the  
25               demonstration project is projected to re-

1           duce (or is projected not to result in any  
2           increase in) net program spending under  
3           title XIX of the Social Security Act.

4           “(4) AUTHORITY TO ENSURE BUDGET NEU-  
5           TRALITY.—The Secretary annually shall review each  
6           participating State’s demonstration project expendi-  
7           tures to ensure compliance with the requirements of  
8           paragraphs (2)(A), (2)(B), (3)(B)(i), and (3)(B)(ii)  
9           (as applicable). If the Secretary determines with re-  
10          spect to a State’s participation in the demonstration  
11          project that the State’s net program spending under  
12          title XIX of the Social Security Act has increased as  
13          a result of the State’s participation in the project,  
14          the Secretary shall treat the demonstration project  
15          excess expenditures of the State as an overpayment  
16          under title XIX of the Social Security Act.”.

17          (b) FUNDING.—Subsection (e) of section 2707 of  
18          such Act (42 U.S.C. 1396a note) is amended—

19               (1) in the subsection heading, by striking “LIM-  
20               ITATIONS ON FEDERAL”;

21               (2) in paragraph (2)—

22                       (A) in the paragraph heading, by striking  
23                       “5-YEAR”; and

24                       (B) by striking “through December 31,  
25                       2015” and inserting “until expended”;

1           (3) by striking paragraph (3);

2           (4) by redesignating paragraphs (4) and (5) as  
3 paragraphs (3) and (4), respectively;

4           (5) in paragraph (3) (as so redesignated), by  
5 striking “and the availability of funds” and inserting  
6 “(other than States deemed to be eligible States  
7 through the application of subsection (c)(4))”; and

8           (6) in paragraph (4) (as so redesignated)—

9           (A) in the first sentence—

10           (i) by inserting “(other than a State  
11 deemed to be an eligible State through the  
12 application of subsection (c)(4))” after “el-  
13 igible State”; and

14           (ii) by striking “paragraph (4)” and  
15 inserting “paragraph (3)”; and

16           (B) by inserting after the first sentence  
17 the following “In addition to any payments  
18 made to an eligible State under the preceding  
19 sentence, the Secretary shall, during any period  
20 in effect under paragraph (2) or (3) of sub-  
21 section (d), or during any period in which a law  
22 described in subsection (f)(4)(C) is in effect,  
23 pay each eligible State (including any State  
24 deemed to be an eligible State through the ap-  
25 plication of subsection (c)(4)), an amount each

1           quarter equal to the Federal medical assistance  
 2           percentage of expenditures in the quarter dur-  
 3           ing such period for medical assistance described  
 4           in subsection (a). Payments made to States  
 5           under this paragraph shall be considered to  
 6           have been made under, and are subject to, the  
 7           requirements of section 1903 of the Social Se-  
 8           curity Act (42 U.S.C. 1396b).”.

9           (c) RECOMMENDATIONS TO CONGRESS.—Subsection  
 10 (f) of section 2707 of such Act (42 U.S.C. 1396a note)  
 11 is amended by adding at the end the following:

12           “(3) RECOMMENDATION TO CONGRESS REGARD-  
 13           ING EXTENSION AND EXPANSION OF PROJECT.—Not  
 14           later than September 30, 2016, the Secretary shall  
 15           submit to Congress and make available to the public  
 16           recommendations based on an evaluation of the dem-  
 17           onstration project, including the use of appropriate  
 18           quality measures, regarding—

19           “(A) whether the demonstration project  
 20           should be continued after December 31, 2016;  
 21           and

22           “(B) whether the demonstration project  
 23           should be expanded (including on a nationwide  
 24           basis).

1           “(4) RECOMMENDATION TO CONGRESS REGARD-  
2           ING PERMANENT EXTENSION AND NATIONWIDE EX-  
3           PANSION.—

4           “(A) IN GENERAL.—Not later than April  
5           1, 2019, the Secretary shall submit to Congress  
6           and make available to the public recommenda-  
7           tions based on an evaluation of the demonstra-  
8           tion project, including the use of appropriate  
9           quality measures, regarding—

10           “(i) whether the demonstration  
11           project should be permanently continued  
12           after December 31, 2019, in 1 or more  
13           States; and

14           “(ii) whether the demonstration  
15           project should be expanded (including on a  
16           nationwide basis).

17           “(B) REQUIREMENTS.—Any recommenda-  
18           tion submitted under subparagraph (A) to per-  
19           manently continue the project in a State, or to  
20           expand the project to 1 or more other States  
21           (including on a nationwide basis) shall include  
22           a certification from the Chief Actuary of the  
23           Centers for Medicare & Medicaid Services that  
24           permanently continuing the project in a par-  
25           ticular State, or expanding the project to a par-



1           ticular State (or all States) is projected to re-  
2           duce (or is projected not to result in any in-  
3           crease in) net program spending under title  
4           XIX of the Social Security Act. If the Secretary  
5           determines with respect to a State's participa-  
6           tion in the demonstration project that net pro-  
7           gram spending under title XIX of such Act has  
8           increased as a result of the project, the Sec-  
9           retary shall treat the demonstration project ex-  
10          cess expenditures of the State as an overpay-  
11          ment under title XIX of the Social Security  
12          Act.

13                 “(C) CONGRESSIONAL APPROVAL RE-  
14                 QUIRED.—The Secretary shall not permanently  
15                 continue the demonstration project in any State  
16                 after December 31, 2019, or expand the dem-  
17                 onstration project to any additional State after  
18                 December 31, 2019, unless Congress enacts a  
19                 law approving either or both such actions.

20                 “(5) FUNDING.—Out of any funds in the  
21                 Treasury not otherwise appropriated, there is appro-  
22                 priated to the Centers for Medicare & Medicaid  
23                 Services Program Management Account to carry out  
24                 this subsection, \$100,000 for fiscal year 2015, to re-  
25                 main available until expended.”.

1 (d) CONFORMING AMENDMENTS.—Section 2707 of  
2 such Act (42 U.S.C. 1396a note) is amended—

3 (1) in subsection (c)—

4 (A) in paragraph (1), by striking “An eli-  
5 gible State” and inserting “Except as otherwise  
6 provided in paragraph (4), an eligible State”;

7 (B) in paragraph (3), by striking “A State  
8 shall” and inserting “Except as otherwise pro-  
9 vided in paragraph (4), a State shall”; and

10 (C) by adding at the end the following:

11 “(4) NATIONWIDE AVAILABILITY.—In the event  
12 that the Secretary makes a recommendation pursu-  
13 ant to subsection (f)(4) that the demonstration  
14 project be expanded on a national basis, any State  
15 that has submitted or submits an application pursu-  
16 ant to paragraph (2) shall be deemed to have been  
17 selected to be an eligible State to participate in the  
18 demonstration project.”; and

19 (2) in the heading for subsection (f), by striking  
20 “AND REPORT” and inserting “, REPORT, AND REC-  
21 OMMENDATIONS”.

22 (e) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date of the enactment  
24 of this Act.

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Improving Access to*  
 3 *Emergency Psychiatric Care Act”.*

4 **SEC. 2. EXTENSION AND EXPANSION OF MEDICAID EMER-**  
 5                   **GENCY    PSYCHIATRIC    DEMONSTRATION**  
 6                   **PROJECT.**

7       *(a) IN GENERAL.—Subsection (d) of section 2707 of*  
 8 *Public Law 111–148 (42 U.S.C. 1396a note) is amended*  
 9 *to read as follows:*

10       “(d) **LENGTH OF DEMONSTRATION PROJECT.—**

11               “(1) *IN GENERAL.—Except as provided in para-*  
 12 *graphs (2) and (3), the demonstration project estab-*  
 13 *lished under this section shall be conducted for a pe-*  
 14 *riod of 3 consecutive years.*

15               “(2) **TEMPORARY EXTENSION OF PARTICIPATION**  
 16 **ELIGIBILITY FOR SELECTED STATES.—**

17               “(A) *IN GENERAL.—Subject to subpara-*  
 18 *graph (B) and paragraph (4), a State selected as*  
 19 *an eligible State to participate in the demonstra-*  
 20 *tion project on or prior to March 13, 2012, shall,*  
 21 *upon the request of the State, be permitted to*  
 22 *continue to participate in the demonstration*  
 23 *project through September 30, 2016, if—*

24                       “(i) *the Secretary determines that the*  
 25 *continued participation of the State in the*  
 26 *demonstration project is projected not to in-*

1           crease net program spending under title  
2           XIX of the Social Security Act; and

3                   “(ii) the Chief Actuary of the Centers  
4           for Medicare & Medicaid Services certifies  
5           that such extension for that State is pro-  
6           jected not to increase net program spending  
7           under title XIX of the Social Security Act.

8                   “(B) NOTICE OF PROJECTIONS.—The Sec-  
9           retary shall provide each State selected to par-  
10          ticipate in the demonstration project on or prior  
11          to March 13, 2012, with notice of the determina-  
12          tion and certification made under subparagraph  
13          (A) for the State.

14                   “(3) EXTENSION AND EXPANSION OF DEM-  
15          ONSTRATION PROJECT.—

16                   “(A) ADDITIONAL EXTENSION.—Taking into  
17          account the recommendations submitted to Con-  
18          gress under subsection (f)(3), the Secretary may  
19          permit an eligible State participating in the  
20          demonstration project as of the date such rec-  
21          ommendations are submitted to continue to par-  
22          ticipate in the project through December 31,  
23          2019, if, with respect to the State—

24                   “(i) the Secretary determines that the  
25          continued participation of the State in the

1           *demonstration project is projected not to in-*  
2           *crease net program spending under title*  
3           *XIX of the Social Security Act; and*

4           “(i) *the Chief Actuary of the Centers*  
5           *for Medicare & Medicaid Services certifies*  
6           *that the continued participation of the*  
7           *State in the demonstration project is pro-*  
8           *jected not to increase net program spending*  
9           *under title XIX of the Social Security Act.*

10          “(B) *OPTION FOR EXPANSION TO ADDI-*  
11          *TIONAL STATES.—Taking into account the rec-*  
12          *ommendations submitted to Congress pursuant*  
13          *to subsection (f)(3), the Secretary may expand*  
14          *the number of eligible States participating in the*  
15          *demonstration project through December 31,*  
16          *2019, if, with respect to any new eligible State—*

17               “(i) *the Secretary determines that the*  
18               *participation of the State in the demonstra-*  
19               *tion project is projected not to increase net*  
20               *program spending under title XIX of the*  
21               *Social Security Act; and*

22               “(ii) *the Chief Actuary of the Centers*  
23               *for Medicare & Medicaid Services certifies*  
24               *that the participation of the State in the*  
25               *demonstration project is projected not to in-*

1           crease net program spending under title  
2           XIX of the Social Security Act.

3           “(C) NOTICE OF PROJECTIONS.—The Sec-  
4           retary shall provide each State participating in  
5           the demonstration project as of the date the Sec-  
6           retary submits recommendations to Congress  
7           under subsection (f)(3), and any additional  
8           State that applies to be added to the demonstra-  
9           tion project, with notice of the determination  
10          and certification made for the State under sub-  
11          paragraphs (A) and (B), respectively, and the  
12          standards used to make such determination and  
13          certification—

14                 “(i) in the case of a State partici-  
15                 pating in the demonstration project as of  
16                 the date the Secretary submits recommenda-  
17                 tions to Congress under subsection (f)(3),  
18                 not later than August 31, 2016; and

19                 “(ii) in the case of an additional State  
20                 that applies to be added to the demonstra-  
21                 tion project, prior to the State making a  
22                 final election to participate in the project.

23           “(4) AUTHORITY TO ENSURE BUDGET NEU-  
24           TRALITY.—The Secretary annually shall review each  
25           participating State’s demonstration project expendi-

1        *tures to ensure compliance with the requirements of*  
 2        *paragraphs (2)(A)(i), (2)(A)(ii), (3)(A)(i), (3)(A)(ii),*  
 3        *(3)(B)(i), and (3)(B)(ii) (as applicable). If the Sec-*  
 4        *retary determines with respect to a State’s participa-*  
 5        *tion in the demonstration project that the State’s net*  
 6        *program spending under title XIX of the Social Secu-*  
 7        *rity Act has increased as a result of the State’s par-*  
 8        *ticipation in the project, the Secretary shall treat the*  
 9        *demonstration project excess expenditures of the State*  
 10       *as an overpayment under title XIX of the Social Se-*  
 11       *curity Act.”.*

12       *(b) FUNDING.—Subsection (e) of section 2707 of such*  
 13 *Act (42 U.S.C. 1396a note) is amended—*

14            *(1) in the subsection heading, by striking “LIMI-*  
 15            *TATIONS ON FEDERAL”;*

16            *(2) in paragraph (2)—*

17                    *(A) in the paragraph heading, by striking*  
 18                    *“5-YEAR”;* *and*

19                    *(B) by striking “through December 31,*  
 20                    *2015” and inserting “until expended”;*

21            *(3) by striking paragraph (3);*

22            *(4) by redesignating paragraphs (4) and (5) as*  
 23            *paragraphs (3) and (4), respectively;*

24            *(5) in paragraph (3) (as so redesignated), by*  
 25            *striking “and the availability of funds” and inserting*

1       “(other than States deemed to be eligible States  
2       through the application of subsection (c)(4))”; and

3               (6) in paragraph (4) (as so redesignated)—

4                       (A) in the first sentence—

5                               (i) by inserting “(other than a State  
6                               deemed to be an eligible State through the  
7                               application of subsection (c)(4))” after “eli-  
8                               gible State”; and

9                               (ii) by striking “paragraph (4)” and  
10                              inserting “paragraph (3)”; and

11                      (B) by inserting after the first sentence the  
12                      following: “In addition to any payments made  
13                      to an eligible State under the preceding sentence,  
14                      the Secretary shall, during any period in effect  
15                      under paragraph (2) or (3) of subsection (d), or  
16                      during any period in which a law described in  
17                      subsection (f)(4)(C) is in effect, pay each eligible  
18                      State (including any State deemed to be an eli-  
19                      gible State through the application of subsection  
20                      (c)(4)), an amount each quarter equal to the  
21                      Federal medical assistance percentage of expend-  
22                      itures in the quarter during such period for med-  
23                      ical assistance described in subsection (a). Pay-  
24                      ments made to a State for emergency psychiatric  
25                      demonstration services under this section during



1           *the extension period shall be treated as medical*  
 2           *assistance under the State plan for purposes of*  
 3           *section 1903(a)(1) of the Social Security Act (42*  
 4           *U.S.C. 1396b(a)(1)).”.*

5           *(c) RECOMMENDATIONS TO CONGRESS.—Subsection (f)*  
 6 *of section 2707 of such Act (42 U.S.C. 1396a note) is*  
 7 *amended by adding at the end the following:*

8           “(3) *RECOMMENDATION TO CONGRESS REGARD-*  
 9           *ING EXTENSION AND EXPANSION OF PROJECT.—Not*  
 10           *later than September 30, 2016, the Secretary shall*  
 11           *submit to Congress and make available to the public*  
 12           *recommendations based on an evaluation of the dem-*  
 13           *onstration project, including the use of appropriate*  
 14           *quality measures, regarding—*

15           “(A) *whether the demonstration project*  
 16           *should be continued after September 30, 2016;*  
 17           *and*

18           “(B) *whether the demonstration project*  
 19           *should be expanded to additional States.*

20           “(4) *RECOMMENDATION TO CONGRESS REGARD-*  
 21           *ING PERMANENT EXTENSION AND NATIONWIDE EXPAN-*  
 22           *SION.—*

23           “(A) *IN GENERAL.—Not later than April 1,*  
 24           *2019, the Secretary shall submit to Congress and*  
 25           *make available to the public recommendations*

1 based on an evaluation of the demonstration  
2 project, including the use of appropriate quality  
3 measures, regarding—

4 “(i) whether the demonstration project  
5 should be permanently continued after De-  
6 cember 31, 2019, in 1 or more States; and

7 “(ii) whether the demonstration project  
8 should be expanded (including on a nation-  
9 wide basis).

10 “(B) *REQUIREMENTS.*—Any recommenda-  
11 tion submitted under subparagraph (A) to per-  
12 manently continue the project in a State, or to  
13 expand the project to 1 or more other States (in-  
14 cluding on a nationwide basis) shall include a  
15 certification from the Chief Actuary of the Cen-  
16 ters for Medicare & Medicaid Services that per-  
17 manently continuing the project in a particular  
18 State, or expanding the project to a particular  
19 State (or all States) is projected not to increase  
20 net program spending under title XIX of the So-  
21 cial Security Act.

22 “(C) *CONGRESSIONAL APPROVAL RE-*  
23 *QUIRED.*—The Secretary shall not permanently  
24 continue the demonstration project in any State  
25 after December 31, 2019, or expand the dem-

1           *onstration project to any additional State after*  
 2           *December 31, 2019, unless Congress enacts a law*  
 3           *approving either or both such actions and the*  
 4           *law includes provisions that—*

5                     *“(i) ensure that each State’s participa-*  
 6                     *tion in the project complies with budget*  
 7                     *neutrality requirements; and*

8                     *“(ii) require the Secretary to treat any*  
 9                     *expenditures of a State participating in the*  
 10                    *demonstration project that are excess of the*  
 11                    *expenditures projected under the budget*  
 12                    *neutrality standard for the State as an*  
 13                    *overpayment under title XIX of the Social*  
 14                    *Security Act.*

15            *“(5) FUNDING.—Out of any funds in the Treas-*  
 16            *ury not otherwise appropriated, there is appropriated*  
 17            *to the Centers for Medicare & Medicaid Services Pro-*  
 18            *gram Management Account to carry out this sub-*  
 19            *section, \$100,000 for fiscal year 2015, to remain*  
 20            *available until expended.”.*

21            *(d) CONFORMING AMENDMENTS.—Section 2707 of such*  
 22            *Act (42 U.S.C. 1396a note) is amended—*

23                     *(1) in subsection (a), in the matter before para-*  
 24                     *graph (1), by inserting “publicly or” after “institu-*  
 25                     *tion for mental diseases that is”;*

1           (2) *in subsection (c)—*

2                   (A) *in paragraph (1), by striking “An eligi-*  
3 *ble State” and inserting “Except as otherwise*  
4 *provided in paragraph (4), an eligible State”;*

5                   (B) *in paragraph (3), by striking “A State*  
6 *shall” and inserting “Except as otherwise pro-*  
7 *vided in paragraph (4), a State shall”; and*

8                   (C) *by adding at the end the following:*

9                   “(4) *NATIONWIDE AVAILABILITY.—In the event*  
10 *that the Secretary makes a recommendation pursuant*  
11 *to subsection (f)(4) that the demonstration project be*  
12 *expanded on a national basis, any State that has sub-*  
13 *mitted or submits an application pursuant to para-*  
14 *graph (2) shall be deemed to have been selected to be*  
15 *an eligible State to participate in the demonstration*  
16 *project.”; and*

17                   (3) *in the heading for subsection (f), by striking*  
18 *“AND REPORT” and inserting “, REPORT, AND REC-*  
19 *COMMENDATIONS”.*

20                   (e) *EFFECTIVE DATE.—The amendments made by this*  
21 *section shall take effect on the date of the enactment of this*  
22 *Act.*



Calendar No. 180

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 599**

[Report No. 114-101]

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**A BILL**

To extend and expand the Medicaid emergency  
psychiatric demonstration project.

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JULY 30, 2015

Reported with an amendment