

116TH CONGRESS  
1ST SESSION

# S. 3137

To amend titles XIX and XXI of the Social Security Act to require hospitals and certain other participating providers under Medicaid or the Children’s Health Insurance Program to disclose the provider’s policy on parental access to the medical records of minors, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2019

Mr. LEE (for himself, Mr. LANKFORD, Mr. CRAMER, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XIX and XXI of the Social Security Act to require hospitals and certain other participating providers under Medicaid or the Children’s Health Insurance Program to disclose the provider’s policy on parental access to the medical records of minors, 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 “Parental Right to  
5 Know Act”.

1 **SEC. 2. PARENTAL ACCESS TO MEDICAL RECORDS DISCLO-**  
2 **SURE REQUIREMENTS UNDER MEDICAID AND**  
3 **CHIP.**

4 (a) **MEDICAID.**—Section 1902(w) of the Social Secu-  
5 rity Act (42 U.S.C. 1396a(w)) is amended—

6 (1) in paragraph (1)—

7 (A) in the matter preceding subparagraph  
8 (A), by striking “For purposes of” and all that  
9 follows through “adult individuals” and insert-  
10 ing “For purposes of subsection (a)(57) and  
11 sections 1903(m)(1)(A) and 1919(c)(2)(E), the  
12 requirements of this subsection are that a pro-  
13 vider or organization (as the case may be)  
14 maintain written policies and procedures with  
15 respect to all individuals, and in the case of any  
16 minor individuals (as defined in paragraph  
17 (4)(B)) with respect to the parents and legal  
18 guardians of such individuals,”; and

19 (B) in subparagraph (A)—

20 (i) in clause (i), by striking “, and”  
21 and inserting a semicolon;

22 (ii) in clause (ii), by adding “and”  
23 after the semicolon; and

24 (iii) by inserting after clause (ii), the  
25 following:

1                   “(iii) the provider’s or organization’s  
2                   written policies respecting parental access  
3                   to the medical records of a minor indi-  
4                   vidual;”;

5                   (2) in paragraph (2), by striking “adult indi-  
6                   vidual” and inserting “individual, and in the case of  
7                   a minor individual, to at least 1 parent or legal  
8                   guardian of the minor individual”;

9                   (3) in paragraph (3), by striking “section” and  
10                  inserting “subsection”; and

11                  (4) in paragraph (4)—

12                   (A) by striking “subsection, the term” and  
13                   inserting “subsection—

14                   “(A) the term”; and

15                   (B) by adding at the end the following:

16                   “(B) the term ‘minor individual’ means an indi-  
17                   vidual who is an unemancipated individual who has  
18                   not attained 18 years of age.”.

19                  (b) APPLICATION TO CHIP.—Section 2107(e)(1) of  
20 the Social Security Act (42 U.S.C. 1397gg(e)(1)) is  
21 amended—

22                   (1) by redesignating subparagraphs (D)  
23                   through (S) as subparagraphs (E) through (T), re-  
24                   spectively; and

1           (2) by inserting after subparagraph (C) the fol-  
2           lowing:

3                   “(D) Subsections (a)(57) and (w) of sec-  
4                   tion 1902 (relating to maintenance of written  
5                   policies and procedures respecting advance di-  
6                   rectives and parental access to the medical  
7                   records of minor individuals).”.

8           (c) EFFECTIVE DATE.—

9                   (1) IN GENERAL.—Subject to paragraph (2),  
10                   the amendments made by this section shall apply to  
11                   provider agreements entered into or renewed on or  
12                   after January 1, 2020.

13                   (2) EXCEPTION FOR STATE LEGISLATION.—In  
14                   the case of a State plan under title XIX or XXI of  
15                   the Social Security Act which the Secretary of  
16                   Health and Human Services determines requires  
17                   State legislation (other than legislation appro-  
18                   priating funds) in order for the plan to meet the ad-  
19                   ditional requirements imposed by the amendments  
20                   made by this section, the State plan shall not be re-  
21                   garded as failing to comply with the requirements of  
22                   such title solely on the basis of its failure to meet  
23                   these additional requirements before the first day of  
24                   the first calendar quarter beginning after the close  
25                   of the first regular session of the State legislature

1 that begins after the date of the enactment of this  
2 Act.

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