114TH CONGRESS
1ST SESSION

H. R. 2806

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

JUNE 17, 2015

Mr. CARSON of Indiana (for himself, Mr. BISHOP of Georgia, Mr. CARTWRIGHT, Mr. CLEAVER, Mr. DANNY K. DAVIS of Illinois, Ms. EDWARDS, Mr. ELLISON, Mr. FATTAH, Mr. GRIJALVA, Mr. HASTINGS, Ms. NORTON, Ms. JACKSON LEE, Mr. JOHNSON of Georgia, Ms. KAPTUR, Ms. KELLY of Illinois, Mrs. LAWRENCE, Mr. LEWIS, Mr. MEEKS, Ms. PLASKETT, Mr. RANGEL, and Ms. MAXINE WATERS of California) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Recidivism Reduction Act”.

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SEC. 2. FINDINGS.

The Congress finds as follows:

(1) There are an estimated 350,000 mentally ill individuals in State and Federal prisons.

(2) According to the Bureau of Justice Statistics, nearly 15 percent of men and 31 percent of women in jails have serious mental illnesses, with female inmates having higher rates of mental health problems than male inmates—State prisons: 73 percent of females and 55 percent of males; local jails: 75 percent of females and 63 percent of males.

(3) According to surveys completed by the Bureau of Justice Statistics, 16.3 percent of jail inmates reported they had a "mental health condition" or an overnight stay in a "mental hospital" in their lifetime, and 60.5 percent of local jail inmates reported they had symptoms of a mental illness.

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

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

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

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

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

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

(10) Without prompt access to Federal disability benefits on their release, individuals with psychiatric disabilities who come into contact with the criminal justice system often become trapped in many cycles of arrest, release, destitution, deterioration, and re-arrest.

(11) Rates for mentally ill offenders are very high. A Bureau of Justice Statistics report found that over 3/4 of mentally ill inmates had been sentenced to time in prison or jail or were on probation at least once before their current sentence.

(A) Three-quarters of those returning from prison have a history of substance use disorders. Over 70 percent of prisoners with serious mental illnesses also have a substance use disorder.

(B) Among repeat offenders, an estimated 47 percent of State prisoners who had a mental health problem were violent recidivists, compared to 39 percent of State prisoners without a mental problem.

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

(13) Nearly ¼ of both State prisoners and jail inmates who had a mental health problem, compared to ½ of those without, had been incarcerated on 3 or more prior occasions.

(14) Although discharge-planning practices vary considerably, inmates are typically released with no more than a 2-week supply of even crucial medications such as insulin and with no primary care follow-up, so the burden of care falls predominantly on emergency rooms and is financed primarily by the public.

SEC. 3. SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) Reinstatement or Resumption of Benefits on Release of Inmate From Incarceration.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following:

“(q)(1)(A)(i) Eligibility for benefits under this title shall be reinstated in any case where the Commissioner determines that an individual described in clause (ii) has filed a request for reinstatement meeting the requirements of subparagraph (B)(i) during the period described in clause (iii). Reinstatement of eligibility shall be in accordance with the terms of this paragraph. Notwithstanding
the preceding provisions of this clause, eligibility for benefits under this title of an individual who has become an inmate of a jail, prison, penal institution, or correctional facility shall be reinstated automatically upon discharge or release from the institution, without the need to reapply for the benefits, if the period of sentence to the institution does not exceed 90 days.

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

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

“(aa) the individual was eligible for benefits under this title on the basis of disability; and

“(bb) the individual thereafter was ineligible for such benefits because the individual was an inmate of a jail, prison, penal institution, or correctional facility for a period of 12 or more consecutive months;

“(II) the individual is blind or disabled, and the individual’s blindness or disability renders the individual unable to perform substantial gainful activity; and

“(III) the individual meets the nonmedical requirements for eligibility for benefits under this title.
“(iii)(I) Except as provided in subclause (II), the period prescribed in this clause with respect to an individual is 36 consecutive months beginning with the month following the most recent month for which the individual was ineligible for benefits under this title before the period of ineligibility described in clause (ii)(I)(bb).

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

“(B)(i)(I) A request for reinstatement shall be filed on such form, and contain such information, as the Commissioner may prescribe.

“(II) A request for reinstatement shall include express declarations by the individual stating that the individual meets the requirements specified in subclauses (II) and (III) of subparagraph (A)(ii).

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

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

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

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

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

“(II) if the request is filed before the individual is discharged or released from a jail, prison, detention center, or correctional facility, the individual is so discharged or released.

“(ii) The amount of benefit payable for any month pursuant to the reinstatement of eligibility under this paragraph shall be determined in accordance with the provisions of this title.

“(E) Whenever an individual’s eligibility for benefits under this title is reinstated under this paragraph, eligibility for the benefits shall be reinstated with respect to the individual’s spouse if the spouse was previously an eligible spouse of the individual under this title and the Commissioner determines that the spouse satisfies all the requirements for eligibility for the benefits except requirements related to the filing of an application. The provi-
sions of subparagraph (D) shall apply to the reinstated
eligibility of the spouse to the same extent that they apply
to the reinstated eligibility of the individual.

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

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

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

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

(B) in subclause (II)—

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

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

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

(2) Effective Date.—The amendments made
by paragraph (1) shall take effect 1 year after the
date of the enactment of this Act.

(3) Notice of Requirement to Furnish In-
formation About Scheduled Release of In-
mates.—The Commissioner of Social Security shall
notify each institution with which the Commissioner
has entered into an agreement under section
1611(e)(1)(I)(i) of the Social Security Act of the
payment restriction added by paragraph (1) of this
subsection.

(e) Notice and Training Related to Pre-Re-
lease Agreements.—Section 1611(e)(1)(I) of such Act
(42 U.S.C. 1382(e)(1)(I)) is amended by adding at the
end the following:

“(vi) The Commissioner shall provide technical sup-
port and resources to each State or local institution com-
prising a jail, prison, penal institution, or correctional fa-
ility, and any other State or local institution a purpose
of which is to confine individuals as described in section
202(x)(1)(A)(ii) with respect to, and notify each such in-
stitution of the availability of, the pre-release agreements
provided for in this subparagraph.
“(vii) Within 6 months after the end of each fiscal
year, the Commissioner shall submit to the Congress a
written report on the activities conducted pursuant to this
subparagraph during the fiscal year.
“(viii) The Commissioner shall develop model pre-re-
lease procedures which States may use to facilitate the
goals of this subparagraph.”.
(d) EFFECTIVE DATE.—Except as provided in sub-
section (b)(2), the amendments made by this section shall
take effect on the date of the enactment of this Act, and
shall apply to benefits payable for months beginning after
such date.

SEC. 4. SOCIAL SECURITY BENEFITS.
(a) PRE-RELEASE PROCEDURES FOR DISABLED
PRISONERS AND OTHER INDIVIDUALS.—
(1) IN GENERAL.—Section 202(x) of the Social
Security Act (42 U.S.C. 402(x)) is amended by add-
ing at the end the following:
“(4) The Commissioner shall develop a system under which an individual whose disability insurance benefits under section 223 or other benefits under this section based on disability have been suspended under this subsection by reason of confinement in an institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii), can apply for resumption of such benefits prior to cessation of such confinement.”.

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

(b) COOPERATION OF PENAL INSTITUTIONS IN PROVIDING NOTICE OF PENDING RELEASE OF INMATE AND IN ASSISTING SOON TO BE RELEASED INMATES IN HAVING BENEFITS RESUMED.—

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

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

(B) in subclause (II)—
(i) by inserting “(other than scheduled release information)” before “to the Commissioner”; 

(ii) by inserting “(other than scheduled release information)” before “after 30 days”; and

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

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

(3) NOTICE OF REQUIREMENT TO FURNISH INFORMATION ABOUT SCHEDULED RELEASE OF INMATES.—The Commissioner of Social Security shall notify each institution with which the Commissioner has entered into an agreement under section 202(x)(3)(B)(i) of the Social Security Act of the
payment restriction added by paragraph (1) of this subsection.

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

“(v) The Commissioner shall provide technical support and resources to each State or local institution comprising a jail, prison, penal institution, or correctional facility, and any other State or local institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii) with respect to, and notify each such institution of the availability of, the pre-release agreements provided for in this subparagraph.

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

SEC. 5. MEDICAID BENEFITS.

(a) REINSTATEMENT OF MEDICAID ENROLLMENT.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(A) by striking “and” at the end of paragraph (80);
(B) by striking the period at the end of paragraph (81) and inserting ‘‘; and’’; and

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

‘‘(82) provide that in the case of any individual enrolled for medical assistance under the State plan immediately before becoming an inmate of a public institution, if the period of sentence to the institution does not exceed 90 days—

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

‘‘(B) any period of continuous eligibility in effect on the date the individual became such an inmate shall be reinstated as of the date of the release and the duration of such period shall be determined without regard to the period in which the individual was such an inmate.’’.

(2) 5 PERCENTAGE POINT INCREASE IN FMAP DURING YEAR AFTER REINSTATEMENT AFTER IMPLEMENTATION OF REINSTATEMENT SYSTEM.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by adding at the end the fol-
following: “Notwithstanding the first sentence, for calendar quarters beginning after the date a State modifies its computer system described in subsection (a)(3)(A)(i) so that it can easily provide for the reinstatement of medical assistance required under section 1902(a)(82), with respect to items and services furnished to an individual described in such section who loses medical assistance by becoming an inmate of a public institution, the Federal medical assistance percentage otherwise applied shall be increased by 5 percentage points (but in no case shall the Federal medical assistance percentage exceed 100 percent) for medical assistance for items and services furnished during the 1-year period beginning on the date the individual’s eligibility for medical assistance under this title is reinstated under such section after release from the public institution.”.

(3) Clarification of treatment of certain administrative expenses.—Nothing in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) shall be construed as prohibiting or preventing the provision of Federal financial participation under section 1903(a) of such Act (42 U.S.C. 1396b(a)) to States for reasonable administrative costs of determining eligibility status of individuals.
described in paragraph (82) of section 1902(a) of such Act (42 U.S.C. 1396b(a)), as inserted by paragraph (1).

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

(b) AUTHORIZATION OF CASE MANAGEMENT SERVICES.—The first sentence of section 1915(g)(1) of the Social Security Act (42 U.S.C. 1396n(g)(1)) is amended by inserting before the period at the end the following: “and for the purpose of providing no more than three case management services, without regard to the subdivision (A)
following section 1905(a)(29), in order to engage in planning for services following release from a public institution.”