

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6329

To ensure prompt access to supplemental security income, social security disability, and medicaid benefits for persons released from certain public institutions.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2006

Ms. CARSON (for herself, Mr. KENNEDY of Rhode Island, Mr. CONYERS, Mr. RUSH, Mr. NADLER, Mr. CLEAVER, Ms. JACKSON-LEE of Texas, Mr. OWENS, Mr. WYNN, and Mr. JEFFERSON) 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

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## 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 the following:

1           (1) There are an estimated 300,000 mentally ill  
2 individuals in State and Federal prisons.

3           (2) According to surveys completed by the Bu-  
4 reau of Justice Statistics, 16 percent of State prison  
5 inmates, 7 percent of Federal prison inmates, and  
6 16 percent of inmates of local jails reported either  
7 a mental condition or an overnight stay in a mental  
8 hospital.

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

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

19           (5) Individuals with disabilities who live in ex-  
20 treme poverty and who are too disabled to work  
21 after release from correctional facilities require gov-  
22 ernment supports such as Social Security Disability  
23 Insurance (SSDI), Supplemental Security Income  
24 (SSI), or Medicaid to maintain health and to safely

1 transition from correctional facilities into the com-  
2 munity.

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

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

12 (8) Health care benefits are especially impor-  
13 tant to low income individuals with disabilities who  
14 often cannot afford private market insurance and  
15 who are at great risk of incurring exorbitant costs  
16 for health care. SSI beneficiaries who lose benefits  
17 because of incarceration may also lose Medicaid cov-  
18 erage.

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

1           (10) Recidivism rates for mentally ill offenders  
 2           are very high. A Bureau of Justice Statistics report  
 3           found that over  $\frac{3}{4}$  of mentally ill inmates had been  
 4           sentenced to time in prison or jail or were on proba-  
 5           tion at least once before their current sentence.

6           (11) Among the mentally ill, 52 percent of  
 7           State prison inmates, 54 percent of jail inmates, and  
 8           49 percent of Federal prison inmates reported 3 or  
 9           more prior sentences to probation or incarceration.

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

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

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

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

24           “(I) before the month in which the indi-  
 25 vidual files a request for reinstatement—

1           “(aa) the individual was eligible for  
2           benefits under this title on the basis of dis-  
3           ability; and

4           “(bb) the individual thereafter was in-  
5           eligible for such benefits because the indi-  
6           vidual was an inmate of a jail, prison,  
7           penal institution, or correctional facility for  
8           a period of 12 or more consecutive months;

9           “(II) the individual is blind or disabled,  
10          and the individual’s blindness or disability ren-  
11          ders the individual unable to perform substan-  
12          tial gainful activity; and

13          “(III) the individual meets the nonmedical  
14          requirements for eligibility for benefits under  
15          this title.

16          “(iii)(I) Except as provided in subclause (II),  
17          the period prescribed in this clause with respect to  
18          an individual is 36 consecutive months beginning  
19          with the month following the most recent month for  
20          which the individual was ineligible for benefits under  
21          this title before the period of ineligibility described  
22          in clause (ii)(I)(bb).

23          “(II) In the case of an individual who fails to  
24          file a reinstatement request within the period de-  
25          scribed in subclause (I), the Commissioner may ex-

1       tend the period if the Commissioner determines that  
2       the individual had good cause for the failure to so  
3       file.

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

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

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

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

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

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

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

1           “(II) if the request is filed before the individual  
2           is discharged or released from a jail, prison, deten-  
3           tion center, or correctional facility, the individual is  
4           so discharged or released.

5           “(ii)(I) Subject to subclause (II), the amount of ben-  
6           efit payable for any month pursuant to the reinstatement  
7           of eligibility under this paragraph shall be determined in  
8           accordance with the provisions of this title.

9           “(II) The benefit under this title payable for any  
10          month pursuant to a request for reinstatement filed in ac-  
11          cordance with subparagraph (B) shall be reduced by the  
12          amount of any provisional benefit paid to the individual  
13          for the month under subparagraph (G).

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

1       “(F) An individual to whom benefits are payable  
2 under this title pursuant to a reinstatement of eligibility  
3 under this paragraph for 12 months shall, with respect  
4 to benefits so payable after such 12th month, be deemed  
5 for purposes of subparagraph (A)(ii)(II)(aa) to be eligible  
6 for such benefits on the basis of an application filed there-  
7 for.

8       “(G)(i) An individual described in subparagraph  
9 (A)(ii) who files a request for reinstatement in accordance  
10 with the provisions of subparagraph (B)(i) shall be eligible  
11 for provisional benefits payable in accordance with this  
12 subparagraph, unless the Commissioner determines that  
13 the individual does not meet the requirements of subpara-  
14 graph (A)(ii)(I) or that the individual’s declaration under  
15 subparagraph (B)(i)(II) is false. Any such determination  
16 by the Commissioner shall be final and not subject to re-  
17 view under paragraph (1) or (3) of subsection (c).

18       “(ii) The amount of the provisional benefit shall equal  
19 the amount of the benefit that was payable to the indi-  
20 vidual under this title for the month before the most re-  
21 cent period of ineligibility described in subparagraph  
22 (A)(ii)(I)(aa).

23       “(iii) Provisional benefits shall end when the Com-  
24 missioner makes a determination regarding the individ-  
25 ual’s eligibility for reinstated benefits.

1       “(iv) In any case in which the Commissioner deter-  
2 mines that an individual is not eligible for reinstated bene-  
3 fits, any provisional benefits paid to the individual under  
4 this subparagraph shall not be considered a liability or  
5 subject to recovery as an overpayment, unless the Com-  
6 missioner determines that the individual knew that the in-  
7 dividual did not meet the requirements of subparagraph  
8 (A)(ii).

9       “(2) In the case of an individual whose benefits under  
10 this title are suspended because the individual is an in-  
11 mate of a jail, prison, penal institution, or correctional fa-  
12 cility, payment of such benefits shall resume on the date  
13 the individual is released from the jail, prison, penal insti-  
14 tution, or correctional facility.

15       “(3) For purposes of this subsection, the term ‘bene-  
16 fits under this title’ includes State supplementary pay-  
17 ments made pursuant to an agreement under section  
18 1616(a) of this Act or section 212(b) of Public Law 93-  
19 66.”.

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

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

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

3 (B) in subclause (II)—

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

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

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

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

23 (3) NOTICE OF REQUIREMENT TO FURNISH IN-  
24 FORMATION ABOUT SCHEDULED RELEASE OF IN-  
25 MATES.—The Commissioner of Social Security shall

1       notify each institution with which the Commissioner  
2       has entered into an agreement under section  
3       1611(e)(1)(I)(i) of the Social Security Act of the  
4       payment restriction added by paragraph (1) of this  
5       subsection.

6       (c) NOTICE AND TRAINING RELATED TO PRE-RE-  
7 LEASE AGREEMENTS.—Section 1611(e)(1)(I) of such Act  
8 (42 U.S.C. 1382(e)(1)(I)) is amended by adding at the  
9 end the following:

10       “(v) The Commissioner shall biennially notify each  
11 State or local institution comprising a jail, prison, penal  
12 institution, or correctional facility, and any other State or  
13 local institution a purpose of which is to confine individ-  
14 uals as described in section 202(x)(1)(A)(ii) of the avail-  
15 ability of the agreements provided for in this subpara-  
16 graph.

17       “(vi) The Commissioner shall, from time to time,  
18 offer institutions described in clause (v) training in enter-  
19 ing into the agreements provided for in this subparagraph.

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

24       (d) EFFECTIVE DATE.—Except as provided in sub-  
25 section (b)(2), the amendments made by this section shall

1 take effect on the date of the enactment of this Act, and  
2 shall apply to benefits payable for months beginning after  
3 such date.

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

5 (a) PRE-RELEASE PROCEDURES FOR DISABLED  
6 PRISONERS AND OTHER INDIVIDUALS.—

7 (1) IN GENERAL.—Section 202(x) of the Social  
8 Security Act (42 U.S.C. 402(x)) is amended by add-  
9 ing at the end the following new paragraph:

10 “(4) The Commissioner shall develop a system under  
11 which an individual whose disability insurance benefits  
12 under section 223 or other benefits under this section  
13 based on disability have been suspended under this sub-  
14 section by reason of confinement in an institution com-  
15 prising a jail, prison, penal institution, or correctional fa-  
16 cility, or comprising any other institution a purpose of  
17 which is to confine individuals as described in paragraph  
18 (1)(A)(ii), can apply for resumption of such benefits prior  
19 to cessation of such confinement.”.

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

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

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

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

9 (B) in subclause (II)—

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

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

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

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

4           (3) NOTICE OF REQUIREMENT TO FURNISH IN-  
5           FORMATION ABOUT SCHEDULED RELEASE OF IN-  
6           MATES.—The Commissioner of Social Security shall  
7           notify each institution with which the Commissioner  
8           has entered into an agreement under section  
9           202(x)(3)(B)(i) of the Social Security Act of the  
10          payment restriction added by paragraph (1) of this  
11          subsection.

12          (c) NOTICE AND TRAINING RELATED TO PRE-RE-  
13          LEASE AGREEMENTS.—Section 202(x)(3)(B) of such Act  
14          (42 U.S.C. 402(x)(3)(B)) is amended by adding at the end  
15          the following:

16           “(v) The Commissioner shall biennially notify each  
17          State or local institution comprising a jail, prison, penal  
18          institution, or correctional facility, and any other State or  
19          local institution a purpose of which is to confine individ-  
20          uals as described in paragraph (1)(A)(ii) of the availability  
21          of the agreements provided for in this subparagraph.

22           “(vi) The Commissioner shall, from time to time,  
23          offer institutions described in clause (v) training in enter-  
24          ing into the agreements provided for in this subparagraph.

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

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

6       (a) TRAINING AND TECHNICAL ASSISTANCE ON SUS-  
7 PENSION OF BENEFITS.—

8           (1) IN GENERAL.—The Secretary of Health and  
9 Human Services shall provide training and technical  
10 assistance to States (as defined for purposes of title  
11 XIX of the Social Security Act) regarding proce-  
12 dures States can use to suspend, rather than termi-  
13 nate, medical assistance under such title for individ-  
14 uals during the period they are inmates of public in-  
15 stitutions.

16           (2) REPORT.—The Secretary shall submit to  
17 Congress a report regarding State actions to sus-  
18 pend Medicaid benefits in the manner described in  
19 paragraph (1). Such report shall include a descrip-  
20 tion of State procedures and best practices regard-  
21 ing such suspensions.

22       (b) RESTORATION OF BENEFITS UPON RELEASE.—  
23 Section 1903 of the Social Security Act (42 U.S.C. 1396b)  
24 is amended by adding at the end the following new sub-  
25 section:

1       “(aa) SUSPENSION OF MEDICAL ASSISTANCE FOR  
2 INMATES OF PUBLIC INSTITUTIONS.—

3               “(1) INITIAL INCREASE IN FEDERAL MATCHING  
4 RATE FOR STATE IMPLEMENTING SUSPENSION SYS-  
5 TEM.—For the first 4 calendar quarters beginning  
6 after the date a State modifies its computer system  
7 described in subsection (a)(3)(A)(i) so that it can  
8 easily suspend, rather than terminate, medical as-  
9 sistance under this title for any individual during  
10 the period that the individual is an inmate of a pub-  
11 lic institution, such subsection shall be applied as if  
12 the reference to ‘90 percent’ were a reference to ‘95  
13 percent’.

14               “(2) TREATMENT OF INDIVIDUALS RELEASED  
15 FROM PUBLIC INSTITUTIONS.—If, as of the first day  
16 of a calendar quarter beginning more than 5 years  
17 after the date of the enactment of this subsection a  
18 State has not made the modification described in  
19 paragraph (1), any resident of the State who—

20                       “(A) was eligible for medical assistance im-  
21 mediately before becoming an inmate of a pub-  
22 lic institution; and

23                       “(B) is released during such calendar  
24 quarter from such institution,

1 shall be presumed eligible for such assistance upon  
2 such release unless and until there is a determina-  
3 tion that the individual is no longer so eligible.

4 “(3) SUSPEND DEFINED.—For purposes of this  
5 subsection, the term ‘suspend’ means, with respect  
6 to medical assistance under this title for an indi-  
7 vidual, to place such medical assistance for the indi-  
8 vidual in an inactive status instead of a terminated  
9 status.”.

10 (c) CLARIFICATION OF TREATMENT OF CERTAIN AD-  
11 MINISTRATIVE EXPENSES.—Nothing in section 1905(a) of  
12 the Social Security Act (42 U.S.C. 1396d(a)) shall be con-  
13 strued as prohibiting or preventing the provision of Fed-  
14 eral financial participation under section 1903(a) of such  
15 Act (42 U.S.C. 1396b(a)) to States for reasonable admin-  
16 istrative costs of determining eligibility status of individ-  
17 uals described in section 1903(aa) of such Act, as added  
18 by subsection (b).

○