

118TH CONGRESS
2D SESSION

S. 5394

To require Federal law enforcement and prison officials to obtain or provide immediate medical attention to individuals in custody who display medical distress.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2024

Ms. WARREN (for herself, Mr. MARKEY, Mr. SANDERS, Mr. BLUMENTHAL, Mr. MERKLEY, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require Federal law enforcement and prison officials to obtain or provide immediate medical attention to individuals in custody who display medical distress.

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 “Andrew Kearsce Ac-
5 countability for Denial of Medical Care Act of 2024”.

1 **SEC. 2. MEDICAL ATTENTION FOR INDIVIDUALS IN FED-**
 2 **ERAL CUSTODY DISPLAYING MEDICAL DIS-**
 3 **TRESS.**

4 (a) IN GENERAL.—Chapter 13 of title 18, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 **“§ 251. Medical attention for individuals in Federal**
 8 **custody displaying medical distress**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘appropriate Inspector General’,
 11 with respect to a covered official, means—

12 “(A) the Inspector General of the Federal
 13 agency that employs the covered official; or

14 “(B) in the case of a covered official em-
 15 ployed by a Federal agency that does not have
 16 an Inspector General, the Inspector General of
 17 the Department of Justice;

18 “(2) the term ‘covered official’ means—

19 “(A) a Federal law enforcement officer (as
 20 defined in section 115);

21 “(B) an officer or employee of the Bureau
 22 of Prisons; or

23 “(C) an officer or employee of the United
 24 States Marshals Service; and

25 “(3) the term ‘medical distress’ includes breath-
 26 ing difficulties.

1 “(b) REQUIREMENT.—

2 “(1) OFFENSE.—It shall be unlawful for a cov-
3 ered official to negligently fail to obtain or provide
4 immediate medical attention to an individual in Fed-
5 eral custody who displays medical distress in the
6 presence of the covered official, if the individual suf-
7 fers unnecessary pain, injury, or death as a result of
8 that failure.

9 “(2) PENALTY.—A covered official who violates
10 paragraph (1) shall be fined under this title, impris-
11 oned for not more than 1 year, or both.

12 “(3) STATE CIVIL ENFORCEMENT.—Whenever
13 an attorney general of a State has reasonable cause
14 to believe that a resident of the State has been ag-
15 grievied by a violation of paragraph (1) by a covered
16 official, the attorney general, or another official,
17 agency, or entity designated by the State, may bring
18 a civil action in any appropriate district court of the
19 United States to obtain appropriate equitable and
20 declaratory relief.

21 “(c) INSPECTOR GENERAL INVESTIGATION.—

22 “(1) IN GENERAL.—The appropriate Inspector
23 General shall investigate any instance in which—

24 “(A) a covered official fails to obtain or
25 provide immediate medical attention to an indi-

1 vidual in Federal custody who displays medical
2 distress in the presence of the covered official;
3 and

4 “(B) the individual suffers unnecessary
5 pain, injury, or death as a result of the failure
6 to obtain or provide immediate medical atten-
7 tion.

8 “(2) REFERRAL FOR PROSECUTION.—If an ap-
9 propriate Inspector General, in conducting an inves-
10 tigation under paragraph (1), concludes that the
11 covered official acted negligently in failing to obtain
12 or provide immediate medical attention to the indi-
13 vidual in Federal custody, the appropriate Inspector
14 General shall refer the case to the Attorney General
15 for prosecution under this section.

16 “(3) CONFIDENTIAL COMPLAINT PROCESS.—
17 The Inspector General of a Federal agency that em-
18 ploys covered officials shall establish a process under
19 which an individual may confidentially submit a
20 complaint to the Inspector General regarding an in-
21 cident described in paragraph (1) involving a covered
22 official employed by the Federal agency (or, in the
23 case of the Inspector General of the Department of
24 Justice, involving a covered official employed by a

1 Federal agency that does not have an Inspector Gen-
2 eral).

3 “(d) TRAINING.—The head of an agency that em-
4 ploys covered officials shall provide training to each such
5 covered official on obtaining or providing medical assist-
6 ance to individuals in medical distress.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
8 The table of sections for chapter 13 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

“251. Medical attention for individuals in Federal custody displaying medical
distress.”.

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