

The opioid crisis has gotten much, much worse despite Congress' efforts to stop it

Lawmakers missed the deadline to renew a law supporting treatment and recovery.

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POLITICO

America's drug overdose crisis is out of control. Washington, despite a bipartisan desire to combat it, is finding its addiction-fighting programs are failing.

In 2018, Republicans, Democrats and then-President Donald Trump united around legislation that threw \$20 billion into treatment, prevention and recovery. But five years later, the SUPPORT Act has lapsed and the number of Americans dying from overdoses has grown more than 60 percent, driven by illicit fentanyl. The battle has turned into a slog.

Even though [105,000 Americans died](#) last year, Congress is showing little urgency about reupping the law since it expired on Sept. 30. That's not because of partisan division, but a realization that there are no quick fixes a new law could bring to bear.

"We are in the middle of a crisis of proportions we couldn't have imagined even five years ago when the original SUPPORT Act was passed," said Libby Jones, program director of the Overdose Prevention Initiative at the Global Health Advocacy Incubator. "If they can't pass this, it's really sad."

Congress is not coming to the rescue. The House is without a speaker after Republicans fired Rep. Kevin McCarthy (R-Calif.) earlier this month and the GOP has made no progress in replacing him. That's brought legislation to a standstill.

Asked why the Senate committee with responsibility for the law hasn't even begun to consider it, Chair Bernie Sanders (I-Vt.) said other priorities had precedence. "We're working on a myriad of problems," he said after listing his efforts to shore up the primary care system and lower drug prices.

Sanders' attitude reflects the course of the fight against fentanyl, the synthetic opioid that accounts for most of the deaths. Fentanyl's addictiveness, its affordability, and broader trends driving people to use drugs are overwhelming efforts to convince them not to — and to treat them when they do.

Congress can continue to fund opioid-fighting efforts without passing a new version of the SUPPORT Act. But failing to pass another law forfeits the opportunity to try new approaches. That has advocates discouraged.

Despite its dysfunction, the House is further along legislatively than the Democratic-controlled Senate. The House Energy and Commerce Committee unanimously approved a new SUPPORT Act in July. But that measure's limited ambition suggests a reason for the lack of urgency to pass it.

In the Senate, the ranking Republican on the Health, Education, Labor and Pensions Committee, Bill Cassidy of Louisiana, [has proposed a bill](#), but no Democrat has.

Missing the deadline to reup the SUPPORT Act "puts vital resources in jeopardy," Sen. Cassidy said in a statement.

President Joe Biden is frustrated as well, even as he has not openly pressured lawmakers to pass the bill.

"The White House has called on Congress to help us continue taking aggressive action to stop drug trafficking and save lives, and the Administration will continue working tirelessly to ensure all Americans have the resources and support they need," a spokesperson for the Office of National Drug Control Policy said in a statement.

'We've been lobbying this since January'

It's not that lawmakers have stopped caring about the opioid crisis.

Aiming to expand access to treatment, Congress in December eliminated the waiver and training requirements physicians needed to prescribe buprenorphine, which helps patients wean themselves from addiction. The Drug Enforcement Administration recently extended eased pandemic rules for prescribing it via telemedicine through the end of 2024.

A bipartisan group of representatives focused on mental health and substance use has [proposed more than 70 bills](#) this Congress to fight the overdose crisis, but none of them has inspired the kind of urgency lawmakers showed five years ago when they packaged bills into one landmark package: the SUPPORT Act.

The law's expiration on Oct. 1 means states are no longer required to cover all of the FDA-approved treatments for opioid use disorder through Medicaid but public health advocates don't expect any state to drop that coverage.

Grants to improve access to treatment and recovery have expired but the funding will continue if Congress already appropriated the money.

The SUPPORT Act also gave states the option to use federal Medicaid funds to cover up to 30 days of services for people with opioid use disorder in mental health institutions, an exemption to a 1965 law prohibiting addiction treatment in large mental health institutions.

When that option ended on Sept. 30, the two states which used it — South Dakota and Tennessee — steered their Medicaid recipients with substance use disorder toward treatment facilities not subject to the “IMD exclusion,” state officials told POLITICO.

The House Energy and Commerce Committee proposes to repeal the 1965 rule in the SUPPORT Act reauthorization bill it approved in July. The bill from the panel’s Health Subcommittee chair, Brett Guthrie (R-Ky.), also would prohibit states from disenrolling people from Medicaid when they are incarcerated, so their coverage would automatically resume upon release, in an attempt to provide them with health care access at a time when they’re most vulnerable to dying from an overdose.

The bill would also permit pregnant people in pretrial detention to retain their Medicaid coverage.

“We were hoping to get this moving forward faster,” Guthrie said. “But we’re now currently where we are,” adding that he wanted to see new legislation “as soon as possible.”

The House Judiciary Committee, which has partial jurisdiction over the bill, advanced the legislation at the end of September on a 29-3 vote. The panel included a measure that would make the horse sedative xylazine — which drug traffickers are adding to illicit fentanyl to deadly effect — a Schedule III controlled substance, for three years, subject to additional DEA regulation.

The Judiciary amendment softens language in the Energy and Commerce bill, which would permanently schedule the veterinary drug, also known as tranq.

In the Senate, the HELP Committee hasn’t made any moves. Sanders’ staffers said he was working on it.

That’s frustrated public health advocates. “We’ve been lobbying this since January,” said an exasperated mental health and substance use lobbyist who was granted anonymity to speak frankly.

That stands in stark contrast with the bipartisan effort in Congress to pass the sweeping SUPPORT Act in 2018. President Trump [promised the law would end the scourge of drug addiction](#) in America or at least make a big dent in it, as he signed the bill in October of the year.

“It really was a monumental accomplishment,” said Jones.

‘Not a success’

But it hasn’t ended the scourge.

“Over 100,000 deaths is not a success in this country. It’s not a policy success,” said Regina LaBelle, a former White House Office of National Drug Control Policy acting director in the Biden administration who now leads the Addiction and Public Policy Initiative at Georgetown University’s O’Neill Institute for National and Global Health Law.

Part of the problem was likely out of lawmakers’ control.

Addiction is often described as a disease of isolation, and the pandemic provided a lot of it. It changed circumstances in people’s lives that affect health, such as social and community support, and it [worsened an existing mental health crisis](#), according to researchers and doctors working on substance use issues.

At the same time, fentanyl has proved a relentless foe.

It is deadly in small amounts. Combining it with other drugs like tranq makes it harder to reverse an overdose. The drug is cheap and easy for cartels in Mexico to make and disguise as legitimate pills.

The stigma that comes with addiction, the lack of addiction specialists and services and financial barriers [are among the reasons](#) most people with opioid use disorder are not in treatment. Those issues add to the already hard task of [convincing people with an addiction to seek treatment](#).

American Society of Addiction Medicine President Brian Hurley thinks Congress should permit access to methadone, which like buprenorphine is used to help people achieve and maintain recovery, by allowing pharmacies to dispense it. That, he said, would mark “bolder change in light of the worst overdose crisis in American history.”

Currently, methadone is strictly controlled by the DEA and only available at specialized clinics because it, too, is an addictive opioid that can cause fatal overdoses.

[Some lawmakers are on board](#), but some [physicians licensed to prescribe it are opposed](#), warning it could lead to more deaths from methadone overdose.

That’s a shame, public health advocates said. In their view, Congress should take some risks, considering the magnitude of the crisis.

“Simply reauthorizing it with some tweaks around the edges is not going to change the system and it’s not going to change the trajectory that we’re on,” Jones said.

Megan Messerly contributed to this report.