

117TH CONGRESS
1ST SESSION

H. R. 3963

To expand compassionate release authority and elderly home confinement access for offenders with heightened coronavirus risk.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2021

Ms. DEAN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and the Budget, 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 expand compassionate release authority and elderly home confinement access for offenders with heightened coronavirus risk.

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 “Emergency Grants of
5 Release And Compassion Effectively Act of 2021” or the
6 “Emergency GRACE Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) DIRECTOR.—The term “Director” means
2 the Director of the Bureau of Prisons.

3 (2) PUBLIC HEALTH EMERGENCY.—The term
4 “public health emergency”—

5 (A) means a public health emergency de-
6 clared by the Secretary of Health and Human
7 Services under section 319 of the Public Health
8 Service Act (42 U.S.C. 247d); and

9 (B) includes—

10 (i) a public health emergency declared
11 by the Governor of a State or territory in
12 which a Bureau of Prisons facility is lo-
13 cated; and

14 (ii) the public health emergency de-
15 clared on January 31, 2020, in response to
16 COVID–19.

17 **SEC. 3. EXPEDITED COMPASSIONATE RELEASE.**

18 (a) AUTHORITY.—For purposes of a motion filed
19 under section 3582(c)(1) of title 18, United States Code,
20 during any period for which a public health emergency is
21 in effect, the requirement to exhaust all administrative
22 rights or the 30-day waiting period described in section
23 3582(c)(1) of title 18, United States Code, shall not apply.

24 (b) IDENTIFYING COMPASSIONATE RELEASE
25 CASES.—The Director shall—

1 (1) identify defendants who are at a higher risk
2 of death, as defined by the Centers for Disease Con-
3 trol and Prevention, from the disease or illness for
4 which the public health emergency was declared, in-
5 cluding—

6 (A) defendants over the age of 60;

7 (B) defendants with a terminal illness, as
8 defined in section 3582(d)(1) of title 18, United
9 States Code; and

10 (C) defendants with autoimmune disorders
11 or serious medical conditions, including heart
12 disease, diabetes, HIV, chronic or acute res-
13 piratory disease, or cancer;

14 (2) upon a written request by a defendant for
15 the medical records of the defendant, or in the case
16 of the defendant’s attorney, a request for the med-
17 ical records of the defendant that declares under the
18 penalty of perjury that the records are being sought
19 in connection with a motion under subsection (a),
20 promptly release all medical records from the year
21 preceding the request to the parties specified in the
22 request, including the court, the defendant, and any
23 individual acting on the defendant’s behalf;

1 (3) ensure that there are adequate numbers of
2 Bureau of Prison employees to carry out paragraph
3 (1); and

4 (4) provide guidance to Bureau of Prison em-
5 ployees consistent with public health and safety rec-
6 ommendations to prevent the spread of the disease
7 or illness for which the public health emergency was
8 declared.

9 (c) PRESUMPTION.—In a motion filed under sub-
10 section (a) there shall be a presumption of sentence reduc-
11 tion for a defendant at a higher risk of death from the
12 disease or illness for which the public health emergency
13 was declared, including a defendant with autoimmune dis-
14 orders or serious medical conditions, including heart dis-
15 ease, diabetes, HIV, chronic or acute respiratory disease,
16 or cancer.

17 (d) LEGAL REPRESENTATION.—The court may ap-
18 point a Federal public defender or community defender,
19 or other counsel qualified to be appointed under section
20 3006A of title 18, United States Code, to assist a defend-
21 ant seeking relief under this section.

22 (e) CONFORMING AMENDMENTS TO SECTION 3582
23 OF TITLE 18, UNITED STATES CODE.—Section
24 3582(c)(1) of title 18, United States Code, is amended—

1 (1) in the matter preceding subparagraph (A),
2 by inserting “, including a case involving an offense
3 committed on or before November 1, 1987” after
4 “case”; and

5 (2) in subparagraph (A)—

6 (A) in the matter preceding clause (i), by
7 striking “or the lapse of 30 days from the re-
8 ceipt of such a request by the warden of the de-
9 fendant’s facility” and inserting “, or upon the
10 lapse of 30 days from date on which the defend-
11 ant submits a request for a reduction in sen-
12 tence to the warden of the facility in which the
13 defendant is imprisoned”; and

14 (B) in clause (ii), by striking “70 years of
15 age” and inserting “60 years of age”.

16 **SEC. 4. TEMPORARY RELEASE FROM FEDERAL CUSTODY**
17 **DURING A PUBLIC HEALTH EMERGENCY.**

18 (a) TEMPORARY RELEASE FROM CUSTODY OF THE
19 UNITED STATES MARSHALS.—During a public health
20 emergency, a court may order that an individual in the
21 custody of United States Marshals Service, or another
22 Federal agency, be transferred to home confinement to the
23 extent that the court determines such release to be nec-
24 essary for the health and safety of the individual or the
25 detention facility in which the individual would be placed.

1 (b) TEMPORARY FURLOUGH OR TRANSFER.—

2 (1) IN GENERAL.—During a public health
3 emergency, a court may order that an individual in
4 the custody of the Federal Bureau of Prisons be fur-
5 loughed or transferred to home confinement to the
6 extent that the court determines such furlough or
7 transfer to be necessary for the health and safety of
8 the individual or the correctional facility in which
9 the individual is held.

10 (2) FACTORS TO BE CONSIDERED.—In carrying
11 out paragraph (1), the court may consider factors
12 such as—

13 (A) whether an individual filed a motion
14 for a reduction of sentence under section 3(a);

15 (B) the risk to the health and safety of the
16 facility in which the individual is held, including
17 an outbreak of a highly contagious virus or dis-
18 ease; and

19 (C) the safety of the community in which
20 a person will be released.

21 **SEC. 5. ALLOWING FOR MEDICAL ASSISTANCE UNDER MED-**
22 **ICAID FOR INMATES DURING 30-DAY PERIOD**
23 **PRECEDING RELEASE.**

24 The subdivision (A) following paragraph (30) of sec-
25 tion 1905(a) of the Social Security Act (42 U.S.C.

1 1396d(a)) is amended by inserting “and except during the
 2 30-day period preceding the date of release of such indi-
 3 vidual from such public institution” after “medical institu-
 4 tion”.

5 **SEC. 6. STOPPING THE SPREAD OF CORONAVIRUS IN FED-**
 6 **ERAL PRISONS.**

7 (a) **REQUIRED ACTION TO STOP THE SPREAD OF**
 8 **CORONAVIRUS.**—The Director shall require that all Bu-
 9 reau of Prisons facilities, including all contract facilities,
 10 follow the Centers for Disease Control recommended pro-
 11 cedures for limiting the spread of the coronavirus, includ-
 12 ing robust and ongoing testing, providing adequate soap,
 13 medical care, comprehensive sanitation and cleaning of fa-
 14 cilities, personal protective equipment, and other safety
 15 measures provided free of charge to—

16 (1) individuals who are incarcerated or detained
 17 in a Bureau of Prisons facility, including all contract
 18 facilities; and

19 (2) individuals who work or volunteer in a Bu-
 20 reau of Prisons facility, including all contract facili-
 21 ties.

22 (b) **PLANS AND PROCEDURES.**—Not later than 7
 23 days after the date of enactment of this Act, the Director
 24 shall—

1 (1) release information about plans and proce-
2 dures to address the coronavirus within Bureau of
3 Prisons facilities, including all contract facilities;

4 (2) update the number of coronavirus cases
5 that exist in Bureau of Prisons facilities, including
6 all contract facilities, and provide daily updates of
7 the number;

8 (3) begin the process of testing—

9 (A) all individuals who are incarcerated or
10 detained in a Bureau of Prisons facility or a
11 contract facility; and

12 (B) all individuals who work or volunteer
13 in a Bureau of Prisons facility or contract facil-
14 ity;

15 (4) provide prompt and accurate information
16 about the number of coronavirus fatalities;

17 (5) inform attorneys, families, and friends of in-
18 mates in custody when individuals are potentially ex-
19 posed to or test positive with coronavirus and con-
20 tinue to provide timely, up-to-date information about
21 the health of loved ones;

22 (6) provide information about visitation, com-
23 munication policies, and lockdowns; and

24 (7) give updates on healthcare services being
25 provided.

1 **SEC. 7. EMERGENCY APPROPRIATIONS FOR STATE SEN-**
2 **TENCING REDUCTIONS ON THE BASIS OF AGE**
3 **OR MEDICAL CONDITION.**

4 There are hereby appropriated, out of amounts in the
5 Treasury not otherwise appropriated, for additional
6 amounts for the Department of Justice for “State and
7 Local Law Enforcement Assistance”, \$50,000,000 for fis-
8 cal years 2021 and 2022, to remain available until ex-
9 pended, to prevent, prepare for, and respond to the
10 coronavirus, domestically or internationally, to be awarded
11 pursuant to the formula allocation (adjusted in proportion
12 to the relative amounts statutorily designated therefor)
13 that was used in fiscal year 2020 for the Edward Byrne
14 Memorial Justice Assistance Grant program as authorized
15 by subpart 1 of part E of title I of the Omnibus Crime
16 Control and Safe Streets Acts of 1968 (“1968 Act”): *Pro-*
17 *vided*, That the amounts awarded to State Administering
18 Agencies shall be awarded to the corrections departments
19 or agency of each State and territory of the United States
20 for the purpose of identifying State inmates who are at
21 a higher risk of death from the disease or illness for which
22 the public health emergency was declared, as defined by
23 the Centers for Disease Control and Prevention, including
24 inmates over the age of 60, inmates with a terminal ill-
25 ness, and inmates with autoimmune disorders or serious
26 medical conditions, including heart disease, diabetes, HIV,

1 chronic or acute respiratory disease, or cancer, and for
2 the purpose of testing inmates for the coronavirus, and
3 assisting such inmates in the preparation, drafting, and
4 submission of requests for compassionate release, medical
5 or elderly parole, or other sentence reductions on the basis
6 of age or medical condition pursuant to relevant State law:
7 *Provided further*, That the allocation provisions under sub-
8 sections (a) through (e) of section 505 and the special
9 rules for Puerto Rico under section 505(g) and section
10 1001(c) of the 1968 Act, shall not apply to the amount
11 provided under this section: *Provided further*, That awards
12 hereunder, shall not be subject to restrictions or special
13 conditions that are the same as (or substantially similar
14 to) those, imposed on awards under such subpart in fiscal
15 year 2018, that forbid interference with Federal law en-
16 forcement: *Provided further*, That such amount is des-
17 ignated by the Congress as being for an emergency re-
18 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-
19 anced Budget and Emergency Deficit Control Act of 1985.

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