



DUE PROCESS

INSTITUTE

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Due Process Institute Endorses Bipartisan

“Smarter Pretrial Detention for Drug Charges Act of 2020”

Washington, D.C.—Due Process Institute endorses *The Smarter Pretrial Detention for Drug Charges Act of 2020*, introduced today by Sen. Richard Durbin (D-IL), Sen. Mike Lee (R-UT), and Sen. Chris Coons (D-DE). This Act would remove a provision in the federal bail statute (18 U.S.C. § 3142) that instructs judges to presume that federal drug defendants should be incarcerated while their criminal cases are pending.

Shana-Tara O’Toole, Founder and President of Due Process Institute, provided the following statement:

“The Smarter Pretrial Detention for Drug Charges Act is a common sense solution to overincarceration—a long-term goal of criminal justice reformers in both parties. This goal assumes even more urgency during the Covid-19 pandemic that has hit correctional facilities particularly hard.

Current law requires judges to presume pretrial incarceration for federal drug defendants who could be sentenced to more than ten years in prison if convicted, but this Act would remove that presumption and allow low-risk, nonviolent drug defendants to await trial under pre-trial supervision outside of prison walls, a safer and much cheaper alternative to pretrial detention.

Moreover, this bill is a step towards increasing racial justice given that Black, Hispanic, and Indigenous American defendants are all held in detention at far greater rates than other ethnic and racial groups.

Judges will retain the power to detain anyone they have reason to believe poses a danger to the community or is at high risk of flight, but we believe that those accused of violating federal drug laws should no longer be excluded from the benefit of the presumption of innocence until proven guilty that is the cornerstone of American justice.

We applaud Sens. Durbin, Lee, and Coons for their leadership on this important and very timely issue.”

Due Process Institute is a bipartisan nonprofit that works to honor, preserve, and restore principles of fairness in our criminal legal system.