

117TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. SCHATZ introduced the following bill; which was read twice and referred to the Committee on _____

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:

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

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

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

7 (B) includes—

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

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

15 **SEC. 3. EXPEDITED COMPASSIONATE RELEASE.**

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

22 (b) IDENTIFYING COMPASSIONATE RELEASE
23 CASES.—The Director shall—

24 (1) identify defendants who are at a higher risk
25 of death, as defined by the Centers for Disease Con-

1 trol and Prevention, from the disease or illness for
2 which the public health emergency was declared, in-
3 cluding—

4 (A) defendants over the age of 60;

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

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

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

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

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

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

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

19 (e) CONFORMING AMENDMENTS TO SECTION 3582
20 OF TITLE 18, UNITED STATES CODE.—Section
21 3582(c)(1) of title 18, United States Code, is amended—

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

1 (2) in subparagraph (A)—

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

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

12 **SEC. 4. TEMPORARY RELEASE FROM FEDERAL CUSTODY**
13 **DURING A PUBLIC HEALTH EMERGENCY.**

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

22 (b) **TEMPORARY FURLOUGH OR TRANSFER.**—

23 (1) **IN GENERAL.**—During a public health
24 emergency, a court may order that an individual in
25 the custody of the Federal Bureau of Prisons be fur-

1 loughed or transferred to home confinement to the
2 extent that the court determines such furlough or
3 transfer to be necessary for the health and safety of
4 the individual or the correctional facility in which
5 the individual is held.

6 (2) **FACTORS TO BE CONSIDERED.**—In carrying
7 out paragraph (1), the court may consider factors
8 such as—

9 (3) The court may consider factors such as—

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

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

16 (C) the safety of the community in which
17 a person will be released.

18 **SEC. 5. ALLOWING FOR MEDICAL ASSISTANCE UNDER MED-**
19 **ICAID FOR INMATES DURING 30-DAY PERIOD**
20 **PRECEDING RELEASE.**

21 The subdivision (A) following paragraph (30) of sec-
22 tion 1905(a) of the Social Security Act (42 U.S.C.
23 1396d(a)) is amended by inserting “and except during the
24 30-day period preceding the date of release of such indi-

1 vidual from such public institution” after “medical institu-
2 tion”.

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

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

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

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

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

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

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

5 (3) begin the process of testing—

6 (A) all individuals who are incarcerated or
7 detained in a Bureau of Prisons facility or a
8 contract facility; and

9 (B) all individuals who work or volunteer
10 in a Bureau of Prisons facility or contract facil-
11 ity;

12 (4) provide prompt and accurate information
13 about the number of coronavirus fatalities;

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

19 (6) provide information about visitation, com-
20 munication policies, and lockdowns; and

21 (7) give updates on healthcare services being
22 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.