

H.R. \_\_\_\_\_ the “COVID–19 Correctional Facility Emergency Response Act of 2020”  
Section-by-Section Explanation

SECTION. 1. SHORT TITLE. Section 1 sets forth the name of the bill as the “COVID–19 Correctional Facility Emergency Response Act of 2020.”

SEC. 2. PANDEMIC CORRECTIONAL FACILITY EMERGENCY RESPONSE. Section 2 of the bill adds the following provisions to Title I of the Omnibus Crime Control and Safe Streets Act of 1968:

“SEC. 3061 FINDINGS; PURPOSE.” This section describes the purpose of the added section, which is to authorize funds to States and units of local government that operate correctional facilities to provide testing and treatment of COVID-19 to incarcerated individuals.

The findings that relate to the Pretrial Release grant program include Congress’ conclusion that, with the increase in the use of pretrial detention, correctional facilities may increase the spread of COVID-19, and that reducing the amount of exposure detainees have to others while in pretrial detention will reduce the spread of COVID-19 in the community.

The purpose of the Pretrial Release grant program is to substantially increase the use of risk-based citation release for all individuals who do not present a public safety risk.

“SEC. 3062. IMMEDIATE RELEASE OF VULNERABLE AND LOW RISK INDIVIDUALS.” This provision authorizes a new grant program to States and units of local government that operate correctional facilities, to establish and implement policies and procedures to prevent, detect, and stop the presence and spread of COVID–19 among detainees, inmates, correctional facility staff, and visitors to the facilities.

To qualify for the new grant program, States and units of local government that operate correctional facilities must release or have a plan to release low risk inmates in order to meet 80 percent of the rated capacity of a correctional facility, within 60 days of the declaration of a national emergency issued by the President, dated March 13, 2020.

This section defines inmates who pose a low risk as those who (1) do not pose a risk of serious, imminent injury to a reasonably identifiable person; or (2) are 50 years of age or older, suffer from a serious chronic medical condition, suffer from a neurological disease that interferes with their ability to cough or breathe, are pregnant, are immunocompromised or have a weakened immune system, or have a health condition or disability that makes them vulnerable to COVID–19.

This section also sets forth the authorized uses of the Immediate Release grant program. These authorized uses fall into three categories. The first category would allow States and units of local government to award funds to test and initiate treatment for COVID–19 for all arrestees, detainees, and inmates.

The second category would provide COVID–19 tests to correctional facility staff, volunteers, visitors, attorneys, court personnel that have regular, contact with detainees and

inmates, law enforcement officers who transport detainees and inmates, and personnel outside the correctional facility who provide medical treatment to detainees and inmates.

The third category would call for the adoption of programs that facilitate the reduction in the number of arrestees, detainees, and inmates. This would authorize the funding of programs that curtail booking and in-facility processing for individuals who have committed technical parole or probation violations and provide transition and reentry support services to individuals released.

The authorized reentry uses described in third category above may include programs that increase access to and participation in reentry services; promote a reduction in recidivism rates; facilitate engagement in educational programs, job training, or employment; place reentering individuals in safe and sanitary temporary transitional housing; facilitate the enrollment of reentering individuals with a history of substance use disorder in medication-assisted treatment and a referral to overdose prevention services, mental health services, or other medical services; and facilitate family reunification or support services.

“SEC. 3063. PRETRIAL CITATION AND RELEASE.” This provision authorizes a new grant program to States and units of local government that adopt a cite-and-release process for individuals who are suspected of committing misdemeanor and felony offenses and who do not pose a risk of serious, imminent injury to a reasonably identifiable person and not fewer than two of the following types of programs:

curtailing booking and in-facility processing for individuals who have committed technical parole or probation violations;

ensuring that defense counsel is appointed at the earliest hearing that could result in pretrial detention so that low risk defendants are not unnecessarily further exposed to COVID-19;

establishing early review of charges by an experienced prosecutor, so only detainees who will be charged are detained; and

providing appropriate victims’ services supports and safety-focused residential accommodations for victims and community members who have questions or concerns about releases pursuant to the Pretrial Release program.

“SEC. 3064. REPORT.” This section requires that the Attorney General, within two years after the Pretrial Release grants are initially awarded, submit to Congress a report on the program. The report must include the number of grants made; the number of grantees; the amount of funding distributed to each grantee pursuant to this section; the location of each correctional facility where activities are carried out using grant amounts; and the number of persons who have benefitted from early release, disaggregated by type of offense, age, race, and ethnicity.

“SEC. 3065. DEFINITIONS.” For the Immediate Release and Pretrial Release programs the term “correctional facility” includes juvenile facilities. The term “COVID-19” means a disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The terms “Detainee,” “Arrestee,” and “Inmate” include juveniles.

“SEC. 3066. AUTHORIZATION OF APPROPRIATIONS.” This section authorizes \$1,000,000,000 for each of fiscal years 2021 and 2022 to carry out the Immediate Release and Pretrial Release grant programs.