



**RECOMMENDATIONS TO SAVE LIVES BY PROTECTING INCARCERATED  
YOUTH AND ADULTS DURING THE COVID-19 PANDEMIC**

May 29, 2020

**Ensure Safe Conditions for People Who Remain Incarcerated**

1. **Congress should ensure free and needed access to COVID-19 testing, medical care and treatment, PPE, physical distancing, and sanitation** for people who are incarcerated and reentering the community.
2. **Congress should appropriate \$200 million in funding to prevent, prepare for, and respond to coronavirus in Federal prisons**, including funding for medical testing and services, personal protective equipment, hygiene supplies and services, and sanitation services.
3. **Congress should appropriate \$100 million to prevent and mitigate the COVID-19 risks for justice-involved youth**. The \$100 million should remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, of which \$75 million shall be for programs authorized by section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974, and \$25 million for delinquency prevention, as authorized by section 504 of the Act.
4. **Congress should pass H.R. 6389, *The Martha Wright Prison Phone Justice Act*, and S.1764, *The Martha Wright-Reed Just and Reasonable Communications Act*, which would require the Federal Communications Commission to ensure reasonable charges for voice and video calls** made to and from correctional facilities.
5. **Congress should pass H.R. 5546, *The Effective Assistance of Counsel in the Digital Era Act*, which would ensure email communications between defense attorneys and their clients in BOP custody remain confidential**. Social distancing protocols put in place to combat the COVID-19 pandemic have caused jails and prisons to suspend all in-person visits, making it more difficult for incarcerated people to access slots for unmonitored phone calls with their attorneys. The current crisis makes the need for people in BOP custody to have access to confidential email communications with their attorneys even more acute.

**Reduce Incarceration Levels to End Facility Overcrowding and Limit the Spread of COVID-19**

1. **Congress should pass and fund H.R. 6414/S. 3720, the *COVID-19 Correctional Facility Emergency Response Act*, and fund it at the requested level of \$1 billion** to incentivize states and localities to adhere to CDC guidelines on physical distancing by reducing incarceration levels, including pre-trial detention, and support safe transition and reentry during the COVID-19 pandemic.
2. **Congress should pass the *Emergency Community Supervision Act***, as amended in H.R. 6800, the *Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act*, which would reduce the number of individuals in federal custody as a response to the COVID-19 pandemic. It would transition vulnerable people and those nearing the end of their sentence from incarceration to community supervision (e.g., home confinement); limit the use of pretrial detention; and modify supervised release, including to limit the use of incarceration as a sanction for a parole violation.

3. **Congress should expedite access to federal compassionate release during declared emergencies, including the COVID-19 pandemic**, by amending 18 USC 3582(c) to suspend the “exhaust or wait” period between when a person files their petition with the warden and when he or she can file a motion with the court (e.g., H.R. 6900/S. 3698, The *Emergency GRACE Act*).
4. **Congress should extend compassionate release eligibility as authorized under the First Step Act to “old law” federal prisoners**, sentenced prior to 1987, who are amongst the oldest in the federal prison system and are particularly vulnerable to COVID-19 infection because of their age and health conditions and pose little public safety risk (e.g., H.R. 6900/S. 3698, The *Emergency GRACE Act*).
5. **Congress should extend the federal Elderly Home Confinement Program to individuals 50-years-old and over who have completed at least 50% of their sentence**. Studies show that people age faster in prison due to the conditions of confinement, psychological stress, and limited medical care. Moreover, as people age and mature their risk of recidivism declines significantly.
6. **Congress should pass H.R. 1949**, to allow for the release of individuals who are serving sentences for crimes committed when they were under the age of 18 and have served 20 continuous years in confinement.
7. **Congress should provide \$20 million to support the scale-up of successful state Parenting Sentencing Alternatives (PSA) programs that have the potential to keep parents out of prison**. Funding should scale up and create Parenting Sentencing Alternative programs to reduce the prison population during the COVID-19 pandemic. Existing programs allow judges to waive a sentence for eligible people within the state’s standard sentence range and impose 12 months of community custody along with conditions for treatment and programming.
8. **Congress should eliminate the presumption of pretrial detention for drug offenses**. A defendant could still be detained if the court found he or she was a flight risk or posed a threat to public safety. Under the Bail Reform Act of 1984, there is a presumption of detention, without regard to the circumstances and background of the accused, for any drug offense that is punishable by 10 years or more (the vast majority of federal drug offenses). Rather than applying narrowly to high risk defendants, the drug presumption now applies to 93% of all drug cases.

### **Support Safe and Effective Reentry to the Community**

1. **Congress should pass H.R. 6414/S. 3720, the COVID-19 Correctional Facility Emergency Response Act, and appropriate \$1 billion to incentivize states and localities to release individuals from incarceration and to support safe transition and reentry to the community during the pandemic**. Funds would support critical reentry services, such as access to housing/shelter, food/nutrition, medical and behavioral health care (including overdose prevention and harm reduction services), workforce development, and other supportive services to ensure the safety of individuals and the community upon release.
2. **Congress should provide funding to ensure that individuals released from custody have access to safe, affordable, and accessible housing including:**
  - a. **\$10 billion** in Emergency Rental Assistance vouchers (as described in Sec. 110302 of the *HEROES Act*) to help provide access to safe, stable housing for individuals upon reentry.
  - b. **\$11.5 billion** in McKinney-Vento Emergency Solutions Grants (ESG) to ensure that formerly incarcerated people can access shelter and housing during the epidemic through short-term rental assistance, rapid rehousing, and housing counseling.

- c. **\$100 billion** in emergency rental assistance, distributed through HUD's Homeless Assistance Grants program. This flexible funding could help formerly incarcerated people cover security and utility deposits and provide short- and medium-term rental assistance for people recently released.
3. **Congress should pass H.R. 1329, The Medicaid Reentry Act, to permit states to start Medicaid benefits for eligible individuals 30 days prior to release from custody** to provide more effective COVID-19 care, including appropriate medical supplies, treatment, coordination, and transition to community-based care upon reentry, as well as require a report to Congress on the "inmate exclusion" in Medicaid that prevents coverage for people who are incarcerated.
4. **Congress should repeal or waive current federal prohibitions and oppose additional or new prohibitions that prevent individuals with criminal records from receiving federal benefits and supports.** Federal programs, including SNAP, TANF, housing assistance, and SBA Paycheck Protection and EIDL programs refuse or reduce access to benefits for individuals with certain records. In addition, some states institute onerous work-requirements to receive benefits. Congress should prevent such bars to federal benefits and resources during the COVID-19 pandemic.
5. **Congress should ensure access to COVID-19 federal cash assistance and unemployment assistance to individuals or their families (in case of youth) impacted by the justice system.** These funds are intended to help with lost wages, access to food, housing, and other basic needs. Relief funds should not be automatically seized or reduced to pay owed child support or other debts.
6. **Congress should provide \$250 million for the DOJ/OJP Second Chance Act Program** that would support expanded access to urgently needed reentry programming.
7. **Congress should improve employment outcomes by expanding existing federal education and workforce development programs that serve individuals with criminal records, including:**
  - a. **\$650 million** through the Workforce Innovation and Opportunity Act (WIOA) program:
    - i. **\$350 million** for reentry and workforce development services through the Reentry Employment Opportunities (REO) program
    - ii. **\$200 million** for Title 1 Employment and Training Activities to support workforce training providers serving individuals impacted by the criminal justice system
    - iii. **\$100 million** for correctional education through the Adult Education and Family Literacy Act program
  - b. **\$44 billion** for a national transitional jobs program funded through the Dislocated Worker Assistance National Reserve with a dedicated percentage of these jobs for youth and adults impacted by the justice system. Subsidized employment and "earn-as-you-learn" models are time-limited, wage-paying jobs that combine real work, skills development, and supportive services that help participants transition successfully into the labor market.

*The Justice Roundtable is a broad-based coalition of more than 100 organizations working to reform federal criminal justice laws and policies. Founded in 2002, the Roundtable's mission is to bring value to the Justice Movement by coordinating the federal legislative and advocacy efforts of the Washington criminal justice advocacy community.*