To report data on COVID–19 in Federal, State, and local correctional facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 15, 2021

Ms. PRESSLEY (for herself, Ms. Garcia of Texas, Mrs. Demings, Mr. Trone, Mrs. Hayes, Ms. Speier, Mr. Espaillat, and Mr. DeSaulnier) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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 report data on COVID–19 in Federal, State, and local correctional facilities, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “COVID–19 in Corrections Data Transparency Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

(2) COVID–19 diagnostic test.—The term “COVID–19 diagnostic test” means a test—

(A) that is an in vitro diagnostic product (as defined in section 809.3 of title 21, Code of Federal Regulations, or any successor thereto) for the detection of SARS–CoV–2 or the diagnosis of the virus that causes COVID–19; and

(B) the administration of which—

(i) is approved, cleared, or authorized under section 510(k), 513, 515, or 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k), 360c, 360e, 360bbb–3);

(ii) the developer has requested, or intends to request, emergency use authorization under section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3), unless and until the emergency use authorization request under such section 564 has been denied or the developer of such test does not submit a request under such section within a reasonable timeframe;
(iii) is developed in and authorized by a State that has notified the Secretary of Health and Human Services of its intention to review tests intended to diagnose COVID–19; or

(iv) is another test that the Secretary determines appropriate in guidance.

(3) COVID–19 EMERGENCY DATA COLLECTION PERIOD.—The term “COVID–19 emergency data collection period” means the period beginning on the date of enactment of this Act and ending on the date that is 1 year after the date on which the public health emergency declaration under section 319 of the Public Health Service Act (42 U.S.C. 247d), with respect to COVID–19, terminates.

(4) STATE OR LOCAL CORRECTIONAL FACILITY.—The term “State or local correctional facility”—

(A) means a correctional facility within the jurisdiction of a State or unit of local government; and

(B) includes—

(i) a municipal, regional, or county jail;

(ii) a State prison;
(iii) a State-run boot camp prison;

(iv) a boot camp prison that is contracted out by the State;

(v) a State or local contract facility;

(vi) a juvenile detention facility;

(vii) a juvenile secure correctional facility; and

(viii) any other local or State correctional facility, including any juvenile facility.

SEC. 3. BUREAU OF PRISONS AND UNITED STATES MARSHALS SERVICE DATA COLLECTION.

(a) BUREAU OF PRISONS.—The Director of the Bureau of Prisons shall—

(1) on a daily basis during the COVID–19 emergency data collection period, make available to the public on the website of the Bureau of Prisons a report on the information described in section 6, with respect to incarcerated persons and staff; and

(2) not later than 14 days after the date on which the Director of the Centers for Disease Control and Prevention publishes the guidance required under section 5(a), but in no case later than 45 days after the date of enactment of this Act, and not less frequently than once every 7 days thereafter until
the date on which the COVID–19 emergency data
collection period ends, submit to the Director of the
Centers for Disease Control and Prevention every 7
days, a report on the information described in sec-
tion 6, with respect to incarcerated persons and
staff.
(b) United States Marshals Service.—The Di-
rector of the United States Marshals Service shall—

(1) on a daily basis during the COVID–19
emergency data collection period, make available to
the public on the website of the United States Mar-
shals Service a report on the information described
in section 6, with respect to incarcerated persons in
the custody of the United States Marshals Service,
including individuals held at or employed by a State
or local correctional facility contracted by Federal
entities; and

(2) not later than 14 days after the date on
which the Director of the Centers for Disease Con-
trol and Prevention publishes the guidance required
under section 5(a), but in no case later than 45 days
after the date of enactment of this Act, and not less
frequently than once every 7 days thereafter until
the date on which the COVID–19 emergency data
collection period ends, submit to the Director of the
Centers for Disease Control and Prevention every 7 days, a report on the information described in section 6, with respect to incarcerated persons and staff.

SEC. 4. STATE AND LOCAL CORRECTIONAL FACILITY DATA COLLECTION.

(a) State and Local Reports.—

(1) In general.—Not later than 14 days after the date on which the Director of the Centers for Disease Control and Prevention publishes the guidance required under section 5(a), but in no case later than 45 days after the date of enactment of this Act, and not less frequently than once every 7 days thereafter until the date on which the COVID–19 emergency data collection period ends—

(A) the head of each State department of corrections and the head of each State juvenile justice agency shall make available to the public on the website of the department, and submit to the public health authority of the State, the data described in section 6, with respect to incarcerated persons and staff; and

(B) the head of each State or local correctional facility shall submit to the public health authority of the State or unit of local govern-
ment, as the case may be, the data described in section 6, with respect to incarcerated persons and staff.

(2) Submission of information to the CDC.—Not later than 24 hours after a State or local public health authority receives data under paragraph (1), the head of the State or local public health authority shall submit the data to the Director of the Centers for Disease Control and Prevention.

(3) Byrne grant amounts.—

(A) In general.—If a State or jurisdiction within a State fails to comply with the requirements under paragraphs (1) and (2) in a fiscal year, the amount the State would otherwise be awarded in the following fiscal year under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.) shall be reduced by 10 percent.

(B) Report on compliance to DOJ.—For purposes of carrying out this paragraph, the Director of the Centers for Disease Control and Prevention shall, not later than 30 days after the date on which the Director first re-
receives data from a State or local public health
authority and once every 30 days thereafter,
submit to the Attorney General a report detail-
ing which States, if any, are not in compliance
with this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is
authorized to be appropriated to the Director of the Cen-
ters for Disease Control and Prevention such sums as are
necessary to carry out this section.

SEC. 5. CDC REPORTS.

(a) GUIDANCE.—Not later than 30 days after the
date of enactment of this Act, the Director of the Centers
for Disease Control and Prevention shall issue guidance
for Federal, State, and local correctional facilities on—

(1) the categories of data required to be re-
ported under this Act; and

(2) how the Director will determine whether a
State is in compliance with this Act.

(b) PUBLICATION ON WEBSITE.—Not later than 7
days after data is reported to the Centers for Disease Con-
trol and Prevention under section 3 or 4, the Director of
the Centers for Disease Control and Prevention shall make
the data available to the public on the website of the Cen-
ters for Disease Control and Prevention, including all data
reported by the Bureau of Prisons, the United States Marshals Service, and State and local correctional facilities.

(c) REPORTS TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, and every 30 days thereafter until the date on which the COVID–19 emergency data collection period ends, the Director of the Centers for Disease Control and Prevention shall compile and submit to Congress, including the Committees on the Judiciary and Health, Education, Labor, and Pensions of the Senate and the Committees on the Judiciary and Energy and Commerce of the House of Representatives, a report on the information submitted by the Bureau of Prisons, the United States Marshals Service, and the head of each State department of corrections under sections 3 and 4, respectively.

SEC. 6. COVID–19 DATA.

(a) IN GENERAL.—The data described in this section is the following data for each Federal, State, or local correctional facility within a State:

(1) TEST NUMBERS.—COVID–19 diagnostic testing, including cumulative and new (since the previous report) counts of—

(A) the number of incarcerated persons tested for COVID–19, disaggregated by first-time COVID–19 diagnostic tests and retests;
(B) the number of correctional facility staff tested for COVID–19, disaggregated by first-time COVID–19 diagnostic tests and retests; and

(C) the COVID–19 diagnostic test developer and test name for each COVID–19 diagnostic test conducted.

(2) Test results.—COVID–19 diagnostic testing outcomes, including cumulative and new (since the previous report) counts of—

(A) the number of confirmed positive tests of COVID–19 among incarcerated persons, disaggregated by first-time COVID–19 diagnostic tests and retests;

(B) the number of confirmed negative tests of COVID–19 among incarcerated persons, disaggregated by first-time COVID–19 diagnostic tests and retests;

(C) the number of confirmed positive tests of COVID–19 among correctional facility staff, disaggregated by first-time COVID–19 diagnostic tests and retests;

(D) the number of confirmed negative tests of COVID–19 among correctional facility staff,
disaggregated by first-time COVID–19 diagnostic tests and retests;

(E) the number of COVID–19 diagnostic tests pending results, disaggregated by incarcerated persons and correctional facility staff;

(F) the average time between testing an incarcerated person for COVID–19 and receiving the results of the COVID–19 diagnostic test; and

(G) the average time between testing a correctional facility employee for COVID–19 and receiving the results of the COVID–19 diagnostic test.

(3) Case outcomes.—COVID–19 case outcomes, including cumulative and new (since the previous report) counts of—

(A) the number of incarcerated persons hospitalized with COVID–19;

(B) the number of incarcerated persons who have recovered from COVID–19;

(C) the number of incarcerated persons currently in quarantine or medical isolation for exposure to or infection with COVID–19;
(D) the number of incarcerated persons who have completed quarantine or been released from medical isolation;

(E) the number of incarcerated persons who have died from a case of COVID–19;

(F) the number of correctional facility staff hospitalized with COVID–19;

(G) the number of correctional facility staff who have recovered from COVID–19; and

(H) the number of correctional facility staff who have died from a case of COVID–19.

(4) Release of Incarcerated Persons.—In the case of incarcerated persons, data related to the release of such incarcerated persons, including individuals released to home confinement and pursuant to compassionate release, as a result of the COVID–19 public health emergency.

(5) Daily Population.—Average daily population, the number of individuals who were newly admitted to the facility, and the number of individuals who were released from the facility for the week preceding the COVID–19 emergency data collection period and for all weeks during this period.

(6) Vaccinations.—Data related to distribution of the COVID–19 vaccine, including—
(A) the policies of the facility relating to the distribution of the COVID–19 vaccination to incarcerated persons and correctional facility staff, including how the facility is prioritizing distribution, both among correctional facility staff and incarcerated persons, and any changes or updates made to the policies;

(B) the total number of COVID–19 vaccine doses that the facility has received up to the date of the report;

(C) the total number and percentage of incarcerated persons who—

(i) have been offered a COVID–19 vaccine;

(ii) have received a first dose of the COVID–19 vaccine up to the date of the report;

(iii) are fully vaccinated, either because the person received a second dose of the COVID–19 vaccine or because the COVID–19 vaccine the person received required only 1 dose;

(iv) declined the COVID–19 vaccine; and
(v) are housed in a skilled nursing level housing unit or hospice and have—

(I) not received the COVID–19 vaccine;

(II) accepted the COVID–19 vaccine; and

(III) decline the COVID–19 vaccine;

(D) the total number and percentage of correctional facility staff—

(i) have been offered a COVID–19 vaccine;

(ii) have received a first dose of the COVID–19 vaccine in up to the date of the report;

(iii) are fully vaccinated, either because the person received a second dose of the COVID–19 vaccine or because the COVID–19 vaccine the person received required only 1 dose; and

(iv) declined the COVID–19 vaccine;

and

(E) in the case of incarcerated persons and correctional facility staff described in subparagraph (C)(iv) or (D)(iv), respectively, the 3
most common reasons given for declining the COVID–19 vaccine.

(b) **Disaggregation of Data.**—The data described in this section shall be disaggregated by sex (including sexual orientation and gender identity), age, race, ethnicity, disability, and geography (including county and State).

c) **Incarcerated Persons Data.**—The data described in this section with respect to incarcerated persons who are serving a term of imprisonment and who are infected with COVID–19 shall include, to the extent practicable, the term of imprisonment imposed on such incarcerated persons and the time served on such term of imprisonment.

**SEC. 7. Privacy Protections.**

Any data collected, stored, received, or published under this Act shall—

1. be so collected, stored, received, or published in a manner that protects the privacy of individuals whose information is included in such data;

2. be de-identified or anonymized in a manner that protects the identity of all individuals whose information is included in such data;

3. comply with privacy protections provided under the regulations promulgated under section 264(e) of the Health Insurance Portability and Aca-
countability Act of 1996 (42 U.S.C. 1320d–2 note); and

(4) be limited in use for the purpose of public health and be protected from all other internal use by any entity that collects, stores, or receives the data, including use of such data in determinations of eligibility (or continued eligibility) in health plans, and from any other inappropriate uses.