

117TH CONGRESS
1ST SESSION

S. 312

To expand eligibility for and provide judicial review for the Elderly Home Detention Pilot Program, provide for compassionate release based on COVID–19 vulnerability, shorten the waiting period for judicial review during the COVID–19 pandemic, and make other technical corrections.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2021

Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. WHITEHOUSE, Mr. TILLIS, Mr. COONS, Mr. CRAMER, Mr. BOOKER, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To expand eligibility for and provide judicial review for the Elderly Home Detention Pilot Program, provide for compassionate release based on COVID–19 vulnerability, shorten the waiting period for judicial review during the COVID–19 pandemic, and make other technical corrections.

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 “COVID–19 Safer De-
5 tention Act of 2021”.

1 **SEC. 2. DEFINITION OF COVERED EMERGENCY PERIOD.**

2 Section 12003(a)(2) of the CARES Act (18 U.S.C.
3 3621 note) is amended—

4 (1) by striking “ending on the date” and insert-
5 ing the following: “ending on the later of—

6 “(A) the date”;

7 (2) in subparagraph (A), as so designated, by
8 striking the “and” at the end and inserting “or”;
9 and

10 (3) by adding at the end the following:

11 “(B) the date that is 30 days after the
12 date on which the Bureau of Prisons ceases
13 modified operations in response to COVID-19;
14 and”.

15 **SEC. 3. HOME DETENTION FOR CERTAIN ELDERLY NON-**
16 **VIOLENT OFFENDERS.**

17 Section 231(g) of the Second Chance Act of 2007 (34
18 U.S.C. 60541(g)) is amended—

19 (1) in paragraph (1), by adding at the end the
20 following:

21 “(D) JUDICIAL REVIEW.—

22 “(i) IN GENERAL.—Upon motion of a
23 defendant, on or after the date described
24 in clause (ii), a court may reduce an im-
25 posed term of imprisonment of the defend-
26 ant and substitute a term of supervised re-

1 lease with the condition of home detention
2 for the unserved portion of the original
3 term of imprisonment, after considering
4 the factors set forth in section 3553(a) of
5 title 18, United States Code, if the court
6 finds the defendant is an eligible elderly of-
7 fender or eligible terminally ill offender.

8 “(ii) DATE DESCRIBED.—The date de-
9 scribed in this clause is the earlier of—

10 “(I) the date on which the de-
11 fendant fully exhausts all administra-
12 tive rights to appeal a failure of the
13 Bureau of Prisons to place the de-
14 fendant on home detention; or

15 “(II) the expiration of the 30-day
16 period beginning on the date on which
17 the defendant submits to the warden
18 of the facility in which the defendant
19 is imprisoned a request for placement
20 of the defendant on home detention,
21 regardless of the status of the re-
22 quest.”; and

23 (2) in paragraph (5)—

24 (A) in subparagraph (A)(ii)—

(i) by inserting “including offenses under the laws of the District of Columbia,” after “offense or offenses,”; and

(ii) by striking “2/3 of the term of imprisonment to which the offender was sentenced” and inserting “1/2 of the term of imprisonment reduced by any credit toward the service of the offender’s sentence awarded under section 3624(b) of title 18, United States Code”; and

(B) in subparagraph (D)(i), by inserting “, including offenses under the laws of the District of Columbia,” after “offense or offenses,”.

SEC. 4. COMPASSIONATE RELEASE TECHNICAL CORRECTION.

Section 3582 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after “case” the following: “, including, notwithstanding any other provision of law, any case involving an offense committed before November 1, 1987”; and

(B) in subparagraph (A)—

1 (i) by inserting “, on or after the date
2 described in subsection (d)” after “upon
3 motion of a defendant”; and

4 (ii) by striking “after the defendant
5 has fully exhausted all administrative
6 rights to appeal a failure of the Bureau of
7 Prisons to bring a motion on the defend-
8 ant’s behalf or the lapse of 30 days from
9 the receipt of such a request by the warden
10 of the defendant’s facility, whichever is
11 earlier,”;

12 (2) by redesignating subsections (d) and (e) as
13 subsections (e) and (f), respectively; and

14 (3) by inserting after subsection (c) the fol-
15 lowing:

16 “(d) DATE DESCRIBED.—For purposes of subsection
17 (c)(1)(A), the date described in this subsection is the ear-
18 lier of—

19 “(1) the date on which the defendant fully ex-
20 hausts all administrative rights to appeal a failure of
21 the Bureau of Prisons to bring a motion on the de-
22 fendant’s behalf; or

23 “(2) the expiration of the 30-day period begin-
24 ning on the date on which the defendant submits a
25 request for a reduction in sentence to the warden of

1 the facility in which the defendant is imprisoned, re-
 2 gardless of the status of the request.”.

3 **SEC. 5. TEMPORARY SHORTENING OF ADMINISTRATIVE EX-**
 4 **HAUSTION.**

5 Section 12003 of the CARES Act (18 U.S.C. 3621
 6 note) is amended by adding at the end the following:

7 “(e) COMPASSIONATE RELEASE.—For purposes of a
 8 motion filed under section 3582(c)(1) of title 18, United
 9 States Code, during the covered emergency period—

10 “(1) the 30-day waiting period requirement in
 11 section 3582(d)(2) shall be reduced to not more
 12 than 10 days; and

13 “(2) in the case of a defendant who is, accord-
 14 ing to guidance from the Centers for Disease Con-
 15 trol and Prevention, considered to be at a higher
 16 risk for severe illness from COVID–19, including be-
 17 cause the defendant is 60 years of age or older or
 18 has an underlying medical condition, such risk shall
 19 be considered to be an extraordinary and compelling
 20 reason under subparagraph (A)(i) of such section
 21 3582(c)(1).

22 “(f) NONVIOLENT ELDERLY OFFENDERS.—For the
 23 purpose of a motion filed under subparagraph (D) of sec-
 24 tion 231(g)(1) of the Second Chance Act of 2007 (34
 25 U.S.C. 60541(g)(1)), during the covered emergency pe-

- 1 riod, the 30-day waiting period requirement clause (ii)(II)
- 2 of such subparagraph (D) shall be reduced to 10 days.”.

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