



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

Hon. Mitch McConnell
United States Senate
317 Russell Office Building
Washington, D.C. 20510

Hon. Richard J. Durbin
United States Senate
711 Hart Office Building
Washington, D.C. 20510

Hon. Charles E. Schumer
United States Senate
322 Hart Office Building
Washington, D.C. 20510

Hon. Brian Schatz
United States Senate
722 Hart Office Building
Washington, D.C. 20510

August 7, 2020

RE: Law Enforcement Leaders Support for Emergency GRACE Act of 2020 (S. 3698)

Dear Majority Leader McConnell, Minority Leader Schumer, Senator Schatz, and Senator Durbin:

As a national coalition of current and former police chiefs, sheriffs, head prosecutors, and correctional directors, we urge you to prioritize and immediately pass Senate Bill S. 3698, the Emergency GRACE Act of 2020, or include the bill's key provisions, discussed below, in the next coronavirus relief package. The Senate returned this July at a critical moment in our nation's history. While the country responds to civil uprisings and calls for ambitious reforms to policing and law enforcement practices, the novel coronavirus continues to threaten the lives of thousands of Americans behind bars.

The Emergency GRACE Act would provide specific relief for those incarcerated federally, as well as state funding to respond to the coronavirus. With over 2.2 million people behind bars, living in congregate prison settings that severely heighten the risk of infection as the pandemic continues to rapidly spread, the next COVID package should include legislative directives and funding to help those incarcerated at both the federal and state levels.¹

There are nearly 160,000 individuals behind bars in federal prisons, of whom nearly 20 percent are aged 51 and older.² As of today, there have been more than 11,213 documented cases of COVID-19 in federal prisons, and despite efforts by the federal Bureau of Prisons (BOP), only approximately five percent of the federal incarcerated population has been released.³ As the nation continues to battle the pandemic, it is imperative that federal compassionate releases are safely expedited.⁴

Holding vulnerable, often elderly offenders in federal prisons during the COVID-19 pandemic does little to promote public safety or health. Prisons and jails have quickly proved to be significant transmission vectors for the pandemic, with the vast majority of the largest COVID-19 outbreaks in



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the United States having originated in a jail or prison.⁵ Moreover, a recent study shows that people in prison are 550 percent more likely to contract COVID-19 and 300 percent more likely to die from the disease if they contract it.⁶

To help stem the spread, the Emergency GRACE Act addresses the urgent need for BOP facilities to follow CDC recommendations to limit transmission of the coronavirus. Specifically, the bill directs the BOP Director to implement all procedures recommended by the CDC, including “robust and ongoing testing, providing adequate soap, medical care, comprehensive sanitation and cleaning of facilities, personal protective equipment, and other safety measures” in BOP facilities, and ensuring that these protections are readily available to anyone incarcerated, working, or volunteering at these facilities.

But relief is also needed for the people behind bars in state and local jurisdictions. With nearly 1.3 million people in state prisons, at least 75,426 people have tested positive for COVID-19 as of August 4.⁷ The Emergency GRACE Act would appropriate \$50 million of otherwise unappropriated funds for fiscal year 2020 to the Department of Justice’s State & Local Law Enforcement Assistance fund to assist correctional departments and agencies in providing more robust coronavirus relief. The funding would be awarded to correctional departments and agencies so they may test those in prison for the coronavirus; identify high-risk people incarcerated in state prison; and assist such individuals in the preparation of requests for compassionate release, medical or elderly parole, and other sentence reductions on the basis of age or medical condition. Additionally, the bill would allow incarcerated people to access Medicaid in the 30 days leading up to release, which will help ensure that they can access health care upon their release.

Further delays to adequate protections for vulnerable incarcerated people will exacerbate the severe risks these susceptible individuals face behind bars, while also endangering the broader prison population, correctional officers, and the communities surrounding these facilities.⁸ For all of these reasons, we urge the Senate to pass the bipartisan Emergency GRACE Act promptly or to include the relief afforded by the bill in the next COVID stimulus package.

Respectfully yours,

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¹ Lauren-Brooke Eisen, *Covid-19 Continues Its Toll on Jails and Prisons*, Brennan Center for Justice, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/covid-19-continues-its-toll-jails-and-prisons>.

² Federal Bureau of Prisons, “BOP Statistics: Average Inmate Age,” accessed August 6, 2020, https://www.bop.gov/about/statistics/statistics_inmate_age.jsp.

³ *Ibid*; Federal Bureau of Prisons, “COVID-19 Coronavirus,” accessed August 6, 2020, <https://www.bop.gov/coronavirus/>; Federal Bureau of Prisons, “Population Statistics,” accessed August 6, 2020, https://www.bop.gov/about/statistics/population_statistics.jsp; Federal Bureau of Prisons, “Frequently Asked Questions regarding potential inmate home confinement in response to the COVID-19 pandemic,” accessed August 6, 2020, <https://www.bop.gov/coronavirus/faq.jsp> (indicating that 7,378 people in federal prison had been released on home confinement as of August 6, 2020).

⁴ If enacted, the Emergency GRACE Act would waive the administrative exhaustion requirement for people in federal custody who are seeking compassionate release under 18 U.S.C. § 3582. Another proposal is to modify that requirement, as proposed in the COVID-19 Safer Detention Act, S. 4034. In the next coronavirus relief package, we urge Congress to eliminate or modify the administrative exhaustion requirement of § 3582 in light of the novel coronavirus. The current timeline, including the time for the BOP to evaluate a request and the time for appeals, is up to 135 days — which is far too long given the rapid spread of COVID-19.

⁵ “Coronavirus in the U.S.: Latest Map and Case Count,” *New York Times*, accessed August 6, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html#clusters>.

⁶ Brendan Saloner, Kalind Parish, and Julie A. Ward, “COVID-19 Cases and Deaths in Federal and State Prisons,” *Journal of the American Medical Association* (2020), <https://jamanetwork.com/journals/jama/fullarticle/2768249>.

⁷ Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2020*, Prison Policy Initiative, 2020, <https://www.prisonpolicy.org/reports/pie2020.html>; *A State-by-State Look at Coronavirus in Prisons*, The Marshall Project, accessed August 7, 2020, <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

⁸ Lauren-Brooke Eisen, *How Coronavirus Could Affect U.S. Jails and Prisons*, Brennan Center for Justice, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/how-coronavirus-could-affect-us-jails-and-prisons>.