



CARES Act: What Does the COVID-19 Relief Bill Do to Protect Incarcerated People?

Congress is expected to pass the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) to provide emergency assistance to people affected by the coronavirus outbreak.

The bill has a few sections that are intended to protect people under Federal Bureau of Prisons (BOP) custody and their loved ones. Members of Congress will continue to consider and fight for additional protections not included in the CARES Act, which we hope to see in upcoming bills.

Expanded Home Confinement

- The BOP Director has power to lengthen the maximum amount of time that a person may be placed in home confinement during the pandemic, meaning they can be transferred to home confinement earlier in their sentence
 - Previous law only allowed someone to be in home confinement for the shorter of 10% of a person's term of imprisonment or 6 months, but under the CARES Act the Director can increase that time period to whatever he determines appropriate.
 - Can be done if the U.S. Attorney General finds that emergency conditions will “materially affect the functioning” of the BOP
- In addition, a March 26 memorandum from Attorney General William Barr directs authorities to begin identifying more individuals for transfer to home confinement
 - **Who qualifies?** Based the memorandum from Attorney General Barr, the BOP should prioritize granting home confinement to individuals based on each person's:
 - Age and medical vulnerability to COVID-19: the Centers for Disease Control and Prevention have said that people over age 60 and with serious medical conditions like diabetes, heart disease, and autoimmune disorders are most vulnerable to COVID-19
 - Facility security level: priority should be given to people in low and minimum security facilities
 - Conduct in prison: priority will NOT be given to people who have engaged in violent or gang-related activity in prison or have a rules infraction committed in the last year
 - PATTERN risk assessment score: priority should be given to people with a minimum risk classification
 - Re-entry plan: priority should be given to those who can show that they are less likely to contract COVID-19 outside of prison than inside prison
 - Crime of conviction: those with sexual offense convictions are excluded, and other serious convictions would weigh against home confinement



- **What is required before transfer?** The memorandum also identifies some additional procedure that authorities should use before transfer to home confinement:
 - The BOP Medical Director, or a designee, must also assess the risks of coronavirus at the person’s facility and at the person’s home before transfer can occur
 - BOP is to grant home confinement only when it determines that transfer to home confinement is not likely to increase the person’s risk of contracting coronavirus
 - Any person released to home confinement must first undergo a 14-day quarantine period to make sure he or she does not have COVID-19

BOP Healthcare Equipment

- Directs the Secretary of Health and Human Services to “appropriately consider” the distribution of personal protective equipment and coronavirus test kits to the BOP for use of prisoners and staff
- Provides \$100 million to the federal prison system to prevent, prepare for, and respond to the coronavirus outbreak

Free Video and Telephone Visitation

- Directs the Director of the BOP to create rules that allow people to conduct visitation through video teleconferencing and over telephone free of charge during the pandemic
- Can be done if the U.S. Attorney General finds that emergency conditions will “materially affect the functioning” of the BOP

Video Court Hearings

- Permits district court judges to authorize the use of video or telephone conferences for a number of criminal proceedings
- Authorizes video or telephone conferences only when the defendant consents, after consultation with their counsel
- Can be done if the Judicial Conference of the United States finds that emergency conditions will “materially affect the functioning” of Federal Courts in general or a specific court