

117TH CONGRESS  
1ST SESSION

# H. R. 1072

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

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## 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

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## 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 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 in Correc-  
5       tions Data Transparency Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) COVID-19.—The term “COVID-19” means  
2           Coronavirus Disease 2019.

3           (2) COVID-19 DIAGNOSTIC TEST.—The term  
4           “COVID-19 diagnostic test” means a test—

5                   (A) that is an in vitro diagnostic product  
6                   (as defined in section 809.3 of title 21, Code of  
7                   Federal Regulations, or any successor thereto)  
8                   for the detection of SARS-CoV-2 or the diag-  
9                   nosis of the virus that causes COVID-19; and

10                   (B) the administration of which—

11                           (i) is approved, cleared, or authorized  
12                           under section 510(k), 513, 515, or 564 of  
13                           the Federal Food, Drug, and Cosmetic Act  
14                           (21 U.S.C. 360(k), 360c, 360e, 360bbb-3);

15                           (ii) the developer has requested, or in-  
16                           tends to request, emergency use authoriza-  
17                           tion under section 564 of the Federal  
18                           Food, Drug, and Cosmetic Act (21 U.S.C.  
19                           360bbb-3), unless and until the emergency  
20                           use authorization request under such sec-  
21                           tion 564 has been denied or the developer  
22                           of such test does not submit a request  
23                           under such section within a reasonable  
24                           timeframe;

1 (iii) is developed in and authorized by  
2 a State that has notified the Secretary of  
3 Health and Human Services of its inten-  
4 tion to review tests intended to diagnose  
5 COVID–19; or

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

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

16 (4) STATE OR LOCAL CORRECTIONAL FACIL-  
17 ITY.—The term “State or local correctional facil-  
18 ity”—

19 (A) means a correctional facility within the  
20 jurisdiction of a State or unit of local govern-  
21 ment; and

22 (B) includes—

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

25 (ii) a State prison;

- 1 (iii) a State-run boot camp prison;  
2 (iv) a boot camp prison that is con-  
3 tracted out by the State;  
4 (v) a State or local contract facility;  
5 (vi) a juvenile detention facility;  
6 (vii) a juvenile secure correctional fa-  
7 cility; and  
8 (viii) any other local or State correc-  
9 tional facility, including any juvenile facil-  
10 ity.

11 **SEC. 3. BUREAU OF PRISONS AND UNITED STATES MAR-**  
12 **SHALS SERVICE DATA COLLECTION.**

13 (a) BUREAU OF PRISONS.—The Director of the Bu-  
14 reau of Prisons shall—

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

20 (2) not later than 14 days after the date on  
21 which the Director of the Centers for Disease Con-  
22 trol and Prevention publishes the guidance required  
23 under section 5(a), but in no case later than 45 days  
24 after the date of enactment of this Act, and not less  
25 frequently than once every 7 days thereafter until

1 the date on which the COVID–19 emergency data  
2 collection period ends, submit to the Director of the  
3 Centers for Disease Control and Prevention every 7  
4 days, a report on the information described in sec-  
5 tion 6, with respect to incarcerated persons and  
6 staff.

7 (b) UNITED STATES MARSHALS SERVICE.—The Di-  
8 rector of the United States Marshals Service shall—

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

18 (2) not later than 14 days after the date on  
19 which the Director of the Centers for Disease Con-  
20 trol and Prevention publishes the guidance required  
21 under section 5(a), but in no case later than 45 days  
22 after the date of enactment of this Act, and not less  
23 frequently than once every 7 days thereafter until  
24 the date on which the COVID–19 emergency data  
25 collection period ends, submit to the Director of the

1 Centers for Disease Control and Prevention every 7  
2 days, a report on the information described in sec-  
3 tion 6, with respect to incarcerated persons and  
4 staff.

5 **SEC. 4. STATE AND LOCAL CORRECTIONAL FACILITY DATA**  
6 **COLLECTION.**

7 (a) STATE AND LOCAL REPORTS.—

8 (1) IN GENERAL.—Not later than 14 days after  
9 the date on which the Director of the Centers for  
10 Disease Control and Prevention publishes the guid-  
11 ance required under section 5(a), but in no case  
12 later than 45 days after the date of enactment of  
13 this Act, and not less frequently than once every 7  
14 days thereafter until the date on which the COVID–  
15 19 emergency data collection period ends—

16 (A) the head of each State department of  
17 corrections and the head of each State juvenile  
18 justice agency shall make available to the public  
19 on the website of the department, and submit  
20 to the public health authority of the State, the  
21 data described in section 6, with respect to in-  
22 carcerated persons and staff; and

23 (B) the head of each State or local correc-  
24 tional facility shall submit to the public health  
25 authority of the State or unit of local govern-

1           ment, as the case may be, the data described in  
2           section 6, with respect to incarcerated persons  
3           and staff.

4           (2) SUBMISSION OF INFORMATION TO THE  
5           CDC.—Not later than 24 hours after a State or local  
6           public health authority receives data under para-  
7           graph (1), the head of the State or local public  
8           health authority shall submit the data to the Direc-  
9           tor of the Centers for Disease Control and Preven-  
10          tion.

11          (3) BYRNE GRANT AMOUNTS.—

12           (A) IN GENERAL.—If a State or jurisdic-  
13           tion within a State fails to comply with the re-  
14           quirements under paragraphs (1) and (2) in a  
15           fiscal year, the amount the State would other-  
16           wise be awarded in the following fiscal year  
17           under subpart 1 of part E of title I of the Om-  
18           nibus Crime Control and Safe Streets Act of  
19           1968 (34 U.S.C. 10151 et seq.) shall be re-  
20           duced by 10 percent.

21           (B) REPORT ON COMPLIANCE TO DOJ.—  
22           For purposes of carrying out this paragraph,  
23           the Director of the Centers for Disease Control  
24           and Prevention shall, not later than 30 days  
25           after the date on which the Director first re-

1 ceives data from a State or local public health  
2 authority and once every 30 days thereafter,  
3 submit to the Attorney General a report detail-  
4 ing which States, if any, are not in compliance  
5 with this Act.

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

10 **SEC. 5. CDC REPORTS.**

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

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

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

19 (b) PUBLICATION ON WEBSITE.—Not later than 7  
20 days after data is reported to the Centers for Disease Con-  
21 trol and Prevention under section 3 or 4, the Director of  
22 the Centers for Disease Control and Prevention shall make  
23 the data available to the public on the website of the Cen-  
24 ters for Disease Control and Prevention, including all data



1 reported by the Bureau of Prisons, the United States Mar-  
2 shals Service, and State and local correctional facilities.

3 (c) REPORTS TO CONGRESS.—Not later than 60 days  
4 after the date of enactment of this Act, and every 30 days  
5 thereafter until the date on which the COVID–19 emer-  
6 gency data collection period ends, the Director of the Cen-  
7 ters for Disease Control and Prevention shall compile and  
8 submit to Congress, including the Committees on the Ju-  
9 diciary and Health, Education, Labor, and Pensions of the  
10 Senate and the Committees on the Judiciary and Energy  
11 and Commerce of the House of Representatives, a report  
12 on the information submitted by the Bureau of Prisons,  
13 the United States Marshals Service, and the head of each  
14 State department of corrections under sections 3 and 4,  
15 respectively.

16 **SEC. 6. COVID–19 DATA.**

17 (a) IN GENERAL.—The data described in this section  
18 is the following data for each Federal, State, or local cor-  
19 rectional facility within a State:

20 (1) TEST NUMBERS.—COVID–19 diagnostic  
21 testing, including cumulative and new (since the pre-  
22 vious report) counts of—

23 (A) the number of incarcerated persons  
24 tested for COVID–19, disaggregated by first-  
25 time COVID–19 diagnostic tests and retests;

1 (B) the number of correctional facility  
2 staff tested for COVID–19, disaggregated by  
3 first-time COVID–19 diagnostic tests and  
4 retests; and

5 (C) the COVID–19 diagnostic test devel-  
6 oper and test name for each COVID–19 diag-  
7 nostic test conducted.

8 (2) TEST RESULTS.—COVID–19 diagnostic  
9 testing outcomes, including cumulative and new  
10 (since the previous report) counts of—

11 (A) the number of confirmed positive tests  
12 of COVID–19 among incarcerated persons,  
13 disaggregated by first-time COVID–19 diag-  
14 nostic tests and retests;

15 (B) the number of confirmed negative tests  
16 of COVID–19 among incarcerated persons,  
17 disaggregated by first-time COVID–19 diag-  
18 nostic tests and retests;

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

23 (D) the number of confirmed negative tests  
24 of COVID–19 among correctional facility staff,

1 disaggregated by first-time COVID–19 diag-  
2 nostic tests and retests;

3 (E) the number of COVID–19 diagnostic  
4 tests pending results, disaggregated by incarcer-  
5 ated persons and correctional facility staff;

6 (F) the average time between testing an  
7 incarcerated person for COVID–19 and receiv-  
8 ing the results of the COVID–19 diagnostic  
9 test; and

10 (G) the average time between testing a  
11 correctional facility employee for COVID–19  
12 and receiving the results of the COVID–19 di-  
13 agnostic test.

14 (3) CASE OUTCOMES.—COVID–19 case out-  
15 comes, including cumulative and new (since the pre-  
16 vious report) counts of—

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

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

21 (C) the number of incarcerated persons  
22 currently in quarantine or medical isolation for  
23 exposure to or infection with COVID–19;

1 (D) the number of incarcerated persons  
2 who have completed quarantine or been released  
3 from medical isolation;

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

6 (F) the number of correctional facility  
7 staff hospitalized with COVID-19;

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

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

12 (4) RELEASE OF INCARCERATED PERSONS.—In  
13 the case of incarcerated persons, data related to the  
14 release of such incarcerated persons, including indi-  
15 viduals released to home confinement and pursuant  
16 to compassionate release, as a result of the COVID-  
17 19 public health emergency.

18 (5) DAILY POPULATION.—Average daily popu-  
19 lation, the number of individuals who were newly ad-  
20 mitted to the facility, and the number of individuals  
21 who were released from the facility for the week pre-  
22 ceding the COVID-19 emergency data collection pe-  
23 riod and for all weeks during this period.

24 (6) VACCINATIONS.—Data related to distribu-  
25 tion of the COVID-19 vaccine, including—

1 (A) the policies of the facility relating to  
2 the distribution of the COVID–19 vaccination  
3 to incarcerated persons and correctional facility  
4 staff, including how the facility is prioritizing  
5 distribution, both among correctional facility  
6 staff and incarcerated persons, and any changes  
7 or updates made to the policies;

8 (B) the total number of COVID–19 vac-  
9 cine doses that the facility has received up to  
10 the date of the report;

11 (C) the total number and percentage of in-  
12 carcerated persons who—

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

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

18 (iii) are fully vaccinated, either be-  
19 cause the person received a second dose of  
20 the COVID–19 vaccine or because the  
21 COVID–19 vaccine the person received re-  
22 quired only 1 dose;

23 (iv) declined the COVID–19 vaccine;  
24 and

1 (v) are housed in a skilled nursing  
2 level housing unit or hospice and have—

3 (I) not received the COVID–19  
4 vaccine;

5 (II) accepted the COVID–19 vac-  
6 cine; and

7 (III) decline the COVID–19 vac-  
8 cine;

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

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

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

16 (iii) are fully vaccinated, either be-  
17 cause the person received a second dose of  
18 the COVID–19 vaccine or because the  
19 COVID–19 vaccine the person received re-  
20 quired only 1 dose; and

21 (iv) declined the COVID–19 vaccine;  
22 and

23 (E) in the case of incarcerated persons and  
24 correctional facility staff described in subpara-  
25 graph (C)(iv) or (D)(iv), respectively, the 3

1           most common reasons given for declining the  
2           COVID–19 vaccine.

3           (b) DISAGGREGATION OF DATA.—The data described  
4 in this section shall be disaggregated by sex (including sex-  
5 ual orientation and gender identity), age, race, ethnicity,  
6 disability, and geography (including county and State).

7           (c) INCARCERATED PERSONS DATA.—The data de-  
8 scribed in this section with respect to incarcerated persons  
9 who are serving a term of imprisonment and who are in-  
10 fected with COVID–19 shall include, to the extent prac-  
11 ticable, the term of imprisonment imposed on such incar-  
12 cerated persons and the time served on such term of im-  
13 prisonment.

14 **SEC. 7. PRIVACY PROTECTIONS.**

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

17           (1) be so collected, stored, received, or pub-  
18 lished in a manner that protects the privacy of indi-  
19 viduals whose information is included in such data;

20           (2) be de-identified or anonymized in a manner  
21 that protects the identity of all individuals whose in-  
22 formation is included in such data;

23           (3) comply with privacy protections provided  
24 under the regulations promulgated under section  
25 264(c) of the Health Insurance Portability and Ac-

1       countability Act of 1996 (42 U.S.C. 1320d–2 note);  
2       and

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

○