

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.

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## 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

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## 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)—

1 (i) by inserting “including offenses  
2 under the laws of the District of Colum-  
3 bia,” after “offense or offenses,”; and

4 (ii) by striking “2/3 of the term of im-  
5 prisonment to which the offender was sen-  
6 tenced” and inserting “1/2 of the term of  
7 imprisonment reduced by any credit to-  
8 ward the service of the offender’s sentence  
9 awarded under section 3624(b) of title 18,  
10 United States Code”; and

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

14 **SEC. 4. COMPASSIONATE RELEASE TECHNICAL CORREC-**  
15 **TION.**

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

18 (1) in subsection (c)(1)—

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

24 (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(e)(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(e)(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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