

117TH CONGRESS
1ST SESSION

S. 328

To establish procedures related to the coronavirus disease 2019 (COVID–19) in correctional facilities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2021

Ms. WARREN (for herself, Mr. BOOKER, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish procedures related to the coronavirus disease 2019 (COVID–19) in correctional facilities.

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 Federal Correctional
5 Facilities COVID–19 Response Act.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CORRECTIONAL FACILITY.—The term “cor-
9 rectional facility” includes—

1 (A) Federal prisons, including all prison,
 2 correctional, and detention facilities run by the
 3 Bureau of Prisons; and

4 (B) privately owned or privately operated
 5 prison, correctional, and detention facilities con-
 6 tracted by Federal entities, including the Bu-
 7 reau of Prisons, to house Federal incarcerated
 8 persons.

9 (2) CORRECTIONAL FACILITY EMPLOYEE.—The
 10 term “correctional facility employee” means any in-
 11 dividual employed at a correctional facility housing
 12 Federal incarcerated persons, including—

13 (A) a Federal employee;

14 (B) an employee of a privately owned or
 15 privately operated prison, correctional, or deten-
 16 tion facility contracted by a Federal entity to
 17 house Federal incarcerated persons; and

18 (C) an employee of a private company con-
 19 tracted to provide goods and services at a cor-
 20 rectional facility.

21 (3) COVID-19 DIAGNOSTIC TEST.—The term
 22 “COVID-19 diagnostic test” mean a test—

23 (A) that is an in vitro diagnostic product
 24 (as defined in section 809.3 of title 21, Code of
 25 Federal Regulations, or any successor thereto)

1 for the detection of SARS-CoV-2 or the diag-
2 nosis of the virus that causes COVID-19; and

3 (B) the administration of which—

4 (i) is approved, cleared, or authorized
5 under section 510(k), 513, 515, or 564 of
6 the Federal Food, Drug, and Cosmetic Act
7 (21 U.S.C. 360(k), 360c, 360e, 360bbb-3);

8 (ii) the developer has requested, or in-
9 tends to request, emergency use authoriza-
10 tion under section 564 of the Federal
11 Food, Drug, and Cosmetic Act (21 U.S.C.
12 360bbb-3), unless and until the emergency
13 use authorization request under such sec-
14 tion 564 has been denied or the developer
15 of such test does not submit a request
16 under such section within a reasonable
17 timeframe;

18 (iii) is developed in and authorized by
19 a State that has notified the Secretary of
20 Health and Human Services of its inten-
21 tion to review tests intended to diagnose
22 COVID-19; or

23 (iv) is another test that the Secretary
24 determines appropriate in guidance.

1 (4) COVID-19 PANDEMIC.—The term
2 “COVID-19 pandemic” means the period beginning
3 on the date of enactment of this Act and ending on
4 the date that is 1 year after the date on which the
5 public health emergency declaration under section
6 319 of the Public Health Service Act (42 U.S.C.
7 247d) with respect to COVID-19 terminates.

8 (5) HIGH RISK INCARCERATED PERSON.—The
9 term “high risk incarcerated person” means an indi-
10 vidual who meets the definition of “incarcerated per-
11 son” under this section who—

12 (A) is 50 years old or older;

13 (B) has chronic kidney disease;

14 (C) has chronic obstructive pulmonary dis-
15 ease;

16 (D) is immunocompromised;

17 (E) has obesity;

18 (F) has a heart condition, such as coro-
19 nary artery disease or cardiomyopathy;

20 (G) has sickle cell disease;

21 (H) has type 1 or type 2 diabetes mellitus;

22 (I) has moderate to severe asthma;

23 (J) has cerebrovascular disease;

24 (K) has cystic fibrosis;

1 (L) has hypertension or high blood pres-
2 sure;

3 (M) has a neurological condition such as
4 dementia or Parkinson’s Disease;

5 (N) has liver disease;

6 (O) is pregnant;

7 (P) has pulmonary fibrosis;

8 (Q) has thalassemia;

9 (R) is a smoker;

10 (S) has a disability; or

11 (T) meets any other characteristic identi-
12 fied by the Centers for Disease Control and
13 Prevention as putting individuals at increased
14 risk of developing sever illness from COVID-
15 19.

16 (6) INCARCERATED PERSON.—The term “incar-
17 cerated person” means an individual involuntarily
18 confined or detained in a correctional facility.

19 (7) SIGNS AND SYMPTOMS OF COVID-19.—The
20 term “signs and symptoms of COVID-19” means
21 fever or chills, cough, shortness of breath or dif-
22 ficulty breathing, fatigue, muscle or body aches,
23 headache, new loss of taste or smell, sore throat,
24 congestion or runny nose, nausea or vomiting, diar-
25 rhea, and any other medical condition or reaction

1 identified by the Centers for Disease Control and
2 Prevention as being a physical reaction to the con-
3 traction of the severe acute respiratory syndrome
4 coronavirus 2 (SARS-CoV-2).

5 **SEC. 3. MANDATED COVID-19 TESTING AND VACCINATION**
6 **AT CORRECTIONAL FACILITIES.**

7 (a) TESTING OF INCARCERATED PERSONS.—

8 (1) IN GENERAL.—Each correctional facility
9 shall—

10 (A) not later than 15 days after the date
11 of enactment of this Act—

12 (i) provide each incarcerated person in
13 the facility with the option to take a
14 COVID-19 diagnostic test, regardless of
15 whether the incarcerated person exhibits
16 symptoms of COVID-19, at no cost to the
17 incarcerated person;

18 (ii) provide each incarcerated person
19 with the results of the diagnostic test, re-
20 gardless of the results, including an inter-
21 pretation of what the test results mean in
22 the incarcerated person's preferred lan-
23 guage;

24 (iii) provide each incarcerated person
25 who tests positive for COVID-19 with nec-

1 necessary medical care (as outlined in the Na-
2 tional Institutes of Health COVID-19
3 Treatment Guidelines), including COVID-
4 19 tests to monitor recovery if indicated by
5 the Centers for Disease Control and Pre-
6 vention, and housing in a medical isolation
7 unit under the care of medical profes-
8 sionals, at no cost to the incarcerated per-
9 son;

10 (iv) place each asymptomatic incarcer-
11 ated person who is exposed to a positive
12 case in quarantine until testing is com-
13 pleted consistent with Centers for Disease
14 Control and Prevention guidance; and

15 (v) place each symptomatic incarcer-
16 ated person into medical isolation while
17 awaiting test results; and

18 (B) during the period beginning not later
19 than 45 days after the date of enactment of
20 this Act and ending on the last day of the
21 COVID-19 pandemic—

22 (i) conduct weekly COVID-19 diag-
23 nostic testing of incarcerated persons in
24 the facility in accordance with the guide-
25 lines developed under section 6, regardless

1 of whether such incarcerated persons ex-
2 hibit symptoms of COVID–19, at no cost
3 to incarcerated persons;

4 (ii) conduct COVID–19 diagnostic
5 testing for any incarcerated person with
6 COVID–19 symptoms, or for any incarcer-
7 ated person who is a close contact of a
8 known COVID–19 case, in accordance with
9 the guidelines developed under section 6;

10 (iii) provide each incarcerated person
11 with the results of the diagnostic tests, re-
12 gardless of the results, including an inter-
13 pretation of what the test results mean in
14 the incarcerated person’s preferred lan-
15 guage;

16 (iv) provide each incarcerated person
17 who tests positive for COVID–19 with nec-
18 essary medical care (as outlined in the Na-
19 tional Institutes of Health COVID–19
20 Treatment Guidelines), including COVID–
21 19 tests to monitor recovery if indicated by
22 the Centers for Disease Control and Pre-
23 vention, and housing in a medical isolation
24 unit under the care of medical profes-
25 sionals, at no cost to the incarcerated per-

1 son, in accordance with the guidelines de-
2 veloped under section 6;

3 (v) quarantine each incarcerated per-
4 son exposed to a positive COVID-19 case
5 in accordance with the guidelines developed
6 under section 6; and

7 (vi) establish a procedure through
8 which incarcerated people can opt out of
9 COVID-19 testing, in accordance with the
10 guidelines developed under section 6.

11 (2) NEW ENTRANTS.—During the period begin-
12 ning not later than 45 days after the date of enact-
13 ment of this Act and ending on the last day of the
14 COVID-19 pandemic, each correctional facility
15 shall—

16 (A) provide each incarcerated person newly
17 admitted or transferred to the facility with an
18 optional COVID-19 diagnostic test within 24
19 hours of entering the facility, regardless of
20 whether the incarcerated person exhibits symp-
21 toms of COVID-19, at no cost to the incarcer-
22 ated person; and

23 (B) immediately quarantine each incarcer-
24 ated person newly admitted or transferred to
25 the facility within 24 hours of entering the fa-

1 cility, consistent with Centers for Disease Con-
2 trol and Prevention guidance, until the incar-
3 cerated person has been confirmed to be nega-
4 tive for COVID-19, in accordance with the
5 guidelines developed under section 6.

6 (b) TESTING OF CORRECTIONAL FACILITY EMPLOY-
7 EES.—

8 (1) IN GENERAL.—Each correctional facility
9 shall—

10 (A) not later than 15 days after the date
11 of enactment of this Act—

12 (i) provide each correctional facility
13 employee with a required COVID-19 diag-
14 nostic test, regardless of the whether the
15 employee exhibits symptoms of COVID-19,
16 at no cost to the employee; and

17 (ii) provide each correctional facility
18 employee who tests positive for COVID-19
19 with unlimited paid administrative leave
20 for the purpose of recovering from
21 COVID-19, and no cost COVID-19 diag-
22 nostic testing for the purpose of moni-
23 toring recovery if indicated by the Centers
24 for Disease Control and Prevention, until

1 the employee tests negative for COVID-19;
2 and

3 (B) during the period beginning not later
4 than 45 days after the date of enactment of
5 this Act and ending on the last day of the
6 COVID-19 pandemic—

7 (i) conduct required weekly COVID-
8 19 diagnostic testing of each correctional
9 facility employee in the facility, in accord-
10 ance with the guidelines developed under
11 section 6, regardless of whether the em-
12 ployee exhibits symptoms of COVID-19, at
13 no cost to the employee;

14 (ii) provide each correctional facility
15 employee who tests positive for COVID-19
16 with unlimited paid leave for the purpose
17 of recovering from COVID-19, and no cost
18 COVID-19 diagnostic testing for the pur-
19 pose of monitoring recovery if indicated by
20 the Centers for Disease Control and Pre-
21 vention, until the employee tests negative
22 for COVID-19; and

23 (iii) provide each correctional facility
24 employee who is exposed to a positive
25 COVID-19 case with guaranteed paid

1 leave to quarantine, consistent with Cen-
2 ters for Disease Control and Prevention
3 guidance, or until the employee has been
4 confirmed to be negative for COVID–19.

5 (c) VACCINATION OF INCARCERATED PERSONS.—

6 Each correctional facility shall—

7 (1) not later than 45 days after the date of en-
8 actment of this Act—

9 (A) begin providing each incarcerated per-
10 son in the facility with the option to take a
11 COVID–19 vaccine; and

12 (B) begin providing each incarcerated per-
13 son in the facility with information, offered in
14 the incarcerated persons’ preferred language, on
15 the type of COVID–19 vaccine offered, possible
16 side effects of the COVID–19 vaccine, and edu-
17 cational materials on the benefits of COVID–19
18 and other vaccinations.

19 (d) VACCINATION OF CORRECTIONAL FACILITY EM-
20 PLOYEES.—Each correctional facility shall—

21 (1) not later than 45 days after the date of en-
22 actment of this Act—

23 (A) begin providing each correctional facil-
24 ity employee with the option to take a COVID–
25 19 vaccine; and

1 (B) begin providing each correctional facil-
2 ity employee with information on the type of
3 COVID–19 vaccine offered, possible side effects
4 of the COVID–19 vaccine, and educational ma-
5 terials on the benefits of COVID–19 and other
6 vaccinations.

7 (e) PRIVACY.—Any data collected, stored, received, or
8 published under this section shall—

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

12 (2) be deidentified or anonymized in a manner
13 that protects the identity of all individuals whose in-
14 formation is included in the data;

15 (3) comply with privacy protections provided
16 under the regulations promulgated under section
17 264(c) of the Health Insurance Portability and Ac-
18 countability Act of 1996 (42 U.S.C. 1320d–2 note);
19 and

20 (4) be limited in use for the purpose of public
21 health and be protected from all other internal use
22 by any entity that collects, stores, or receives the
23 data, including use of the data in determinations of
24 eligibility (or continued eligibility) in health plans,
25 and from any other inappropriate uses.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
 2 authorized to be appropriated to relevant medical and pub-
 3 lic officials such sums as are necessary to procure and ad-
 4 minister the COVID–19 diagnostic tests and provide the
 5 medical care required in this section.

6 **SEC. 4. COVID–19 DATA COLLECTION AT CORRECTIONAL**
 7 **FACILITIES.**

8 (a) DATA COLLECTION.—During the period begin-
 9 ning not later than 45 days after the date of enactment
 10 of this Act and ending on the last day of the COVID–
 11 19 pandemic, each correctional facility shall submit weekly
 12 reports to the Department of Justice, the Centers for Dis-
 13 ease Control and Prevention, and the public health author-
 14 ity of the State in which the facility is located on the fol-
 15 lowing:

16 (1) TESTING NUMBERS.—COVID–19 diagnostic
 17 testing, including cumulative and new (since the pre-
 18 vious report) counts of—

19 (A) the number of incarcerated persons
 20 tested for COVID–19, disaggregated by routine
 21 weekly testing, symptomatic testing, close con-
 22 tact testing, recovery monitoring testing, and
 23 new entrant testing;

24 (B) the number of correctional facility em-
 25 ployees tested for COVID–19, disaggregated by

1 routine weekly testing, symptomatic testing,
2 close contact testing, and recovery monitoring
3 testing; and

4 (C) the COVID–19 diagnostic test devel-
5 oper, test name, and type of test (molecular,
6 antigen, or other) 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 active cases
12 of COVID–19 among incarcerated persons,
13 disaggregated by routine weekly testing, symp-
14 tomatic testing, close contact testing, recovery
15 monitoring testing, and new entrant testing;

16 (B) the number of confirmed negative
17 cases of COVID–19 among incarcerated per-
18 sons, disaggregated by routine weekly testing,
19 symptomatic testing, close contact testing, re-
20 covery monitoring testing, and new entrant
21 testing;

22 (C) the number of confirmed active cases
23 of COVID–19 among correctional facility em-
24 ployees, disaggregated by routine weekly test-

1 ing, symptomatic testing, close contact testing,
2 and recovery monitoring testing;

3 (D) the number of confirmed negative
4 cases of COVID–19 among correctional facility
5 employees, disaggregated by routine weekly
6 testing, symptomatic testing, close contact test-
7 ing, and recovery monitoring testing;

8 (E) the number of tests pending results,
9 disaggregated by incarcerated persons and cor-
10 rectional facility employees;

11 (F) the average time between testing an
12 incarcerated person for COVID–19 and receiv-
13 ing the results of the test; and

14 (G) the average time between testing a
15 correctional facility employee for COVID–19
16 and receiving the results of the test.

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

20 (A) the number of incarcerated persons
21 hospitalized for a case of COVID–19;

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

1 (C) the number of incarcerated persons
2 currently in quarantine or medical isolation for
3 COVID–19, respectively;

4 (D) the number of incarcerated persons
5 who have completed quarantine or been released
6 from medical isolation, respectively;

7 (E) the number of incarcerated persons
8 who have died from a confirmed or suspected
9 case of COVID–19;

10 (F) the number of correctional facility em-
11 ployees hospitalized for a case of COVID–19;

12 (G) the number of correctional facility em-
13 ployees who have recovered from COVID–19;
14 and

15 (H) the number of correctional facility em-
16 ployees who have died from a case of COVID–
17 19.

18 (4) RELEASE OF INCARCERATED PERSONS.—
19 Data related to the release of incarcerated persons,
20 including individuals released to home confinement
21 and pursuant to compassionate release, as a result
22 of the COVID–19 public health emergency.

23 (5) DAILY POPULATION.—Average daily popu-
24 lation, disaggregated by incarcerated persons and
25 correctional facility employees.

1 (6) VACCINATIONS.—Data related to distribu-
2 tion of the COVID–19 vaccine, including—

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

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

13 (C) the total number and percentage of in-
14 carcerated persons who—

15 (i) have been offered a COVID–19
16 vaccine;

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

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

1 (iv) declined the COVID–19 vaccine;

2 and

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

5 (I) not received the COVID–19
6 vaccine;

7 (II) accepted the COVID–19 vac-
8 cine; and

9 (III) declined the COVID–19
10 vaccine;

11 (D) the total number and percentage of
12 correctional facility staff who—

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

15 (ii) have received a first dose of the
16 COVID–19 vaccine in 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; and

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

1 (E) in the case of incarcerated persons and
2 correctional facility staff described in subpara-
3 graph (C)(iv) or (D)(iv), respectively, the 3
4 most common reasons given for declining the
5 COVID–19 vaccine.

6 (b) DISAGGREGATION OF DATA.—The data described
7 in this section shall be disaggregated by sex, sexual ori-
8 entation, gender identity, age, race, ethnicity, disability,
9 and geography (including county and State).

10 (c) PUBLIC REPORTING.—The Secretary of Health
11 and Human Services, acting through the Director of the
12 Centers for Disease Control and Prevention, shall make
13 publicly available on the internet the most recent and his-
14 toric information reported weekly under subsection (a) in
15 a machine-readable format.

16 (d) COVID–19 SYMPTOM TRACKING AND MEDICAL
17 RECORD RETENTION.—During the period beginning not
18 later than 45 days after the date of enactment of this Act
19 and ending on the last day of the COVID–19 pandemic,
20 each correctional facility shall systemically track and
21 record of the signs and symptoms of COVID–19 among
22 incarcerated persons and correctional center employees.
23 As part of the tracking system, correctional facilities
24 shall—

1 (1) document and retain a record of each re-
2 quest from incarcerated persons for medical care, in-
3 cluding medical care for the signs and symptoms of
4 COVID-19;

5 (2) conduct weekly screenings, in conjunction
6 with the testing requirements described in section 3,
7 of incarcerated persons for signs and symptoms of
8 COVID-19 and maintain records of the results of
9 such screenings for each incarcerated person; and

10 (3) present for review, as requested at any time
11 by the Secretary of Health and Human Services or
12 the Attorney General, records collected under para-
13 graphs (1) and (2).

14 (e) INCARCERATED PERSONS DATA.—The data de-
15 scribed in this section with respect to incarcerated persons
16 who are serving a term of imprisonment and who are in-
17 fected with COVID-19 shall include, to the extent prac-
18 ticable, the term of imprisonment imposed on the incarcer-
19 ated persons, the time served, and the release date.

20 (f) PRIVACY.—Any data collected, stored, received, or
21 published under this section shall—

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

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

4 (3) comply with privacy protections provided
5 under the regulations promulgated under section
6 264(c) of the Health Insurance Portability and Ac-
7 countability Act of 1996 (42 U.S.C. 1320d–2 note);
8 and

9 (4) be limited in use for the purpose of public
10 health and be protected from all other internal use
11 by any entity that collects, stores, or receives the
12 data, including use of such data in determinations of
13 eligibility (or continued eligibility) in health plans,
14 and from any other inappropriate uses.

15 (g) **AUTHORIZATION OF APPROPRIATIONS.**—There is
16 authorized to be appropriated to the Centers for Disease
17 Control and Prevention such sums as are necessary to
18 publicize the data as described in this section.

19 **SEC. 5. CENTERS FOR DISEASE CONTROL AND INVESTIGA-**
20 **TION DEPLOYMENT.**

21 (a) **IN GENERAL.**—Correctional facilities shall report
22 to the Centers for Disease Control and Prevention in-
23 stances when 3 or more incarcerated persons or correc-
24 tional facility employees present new COVID–19 cases

1 within 72 hours of each other, within 24 hours of identi-
2 fying the third case.

3 (b) DEPLOYMENT OF STAFF.—In such instances, the
4 Centers for Disease Control and Prevention shall deploy
5 staff with experience in preventing the spread of infectious
6 diseases in congregate settings to the facility for the pur-
7 pose of mitigating and preventing the spread of COVID-
8 19 at the facility.

9 **SEC. 6. UPDATED BUREAU OF PRISONS GUIDELINES ON**
10 **HANDLING COVID-19 IN CORRECTIONAL FA-**
11 **CILITIES.**

12 (a) UPDATED COVID-19 GUIDELINES.—Not later
13 than 30 days after the date of enactment of this Act, the
14 Department of Justice, acting through the Bureau of Pris-
15 ons and in consultation with the Centers for Disease Con-
16 trol and Prevention, shall release updated guidelines on
17 the management of COVID-19 in correctional facilities.

18 (b) EXPERT CONSULTATION.—

19 (1) IN GENERAL.—In developing the guidelines
20 described in subsection (a), the Department of Jus-
21 tice shall consult with no fewer than 10 experts in
22 public health and correctional facility management,
23 which shall include—

24 (A) academics with medical and public
25 health expertise;

- 1 (B) advocates for imprisoned populations;
2 (C) public health officials;
3 (D) tribal leaders or their representatives;
4 and
5 (E) labor representatives of correctional fa-
6 cility employees.

7 (2) PUBLICLY AVAILABLE.—Recommendations
8 from and correspondence with individuals described
9 in paragraph (1) shall be made publicly available.

10 (c) CONTENTS.—The guidelines described in sub-
11 section (a) shall, at a minimum, include—

12 (1) requirements that correctional facilities con-
13 duct voluntary COVID–19 diagnostic tests on, and
14 quarantine consistent with Centers for Disease Con-
15 trol and Prevention guidance all new incarcerated
16 persons who enter the facility during the COVID–19
17 pandemic, including incarcerated persons being held
18 at the facility while in transit between other facili-
19 ties;

20 (2) guidance on how facilities should conduct
21 weekly testing of incarcerated persons and correc-
22 tional facility employees, including guidance on how
23 to conduct pooled sample testing in lieu of individual
24 testing, if appropriate, and guidance on how to iden-
25 tify the appropriate type of diagnostic test to use,

1 consistent with the most up-to-date public health in-
2 formation and guidance on preventing the spread of
3 COVID–19;

4 (3) guidance on how correctional facilities
5 should handle incarcerated persons who refuse to re-
6 ceive COVID–19 tests, such as through imple-
7 menting time-based or symptom-based isolation and
8 quarantine strategies;

9 (4) requirements that correctional facilities,
10 once a single case of COVID–19 is detected within
11 the facility, screen every incarcerated person and
12 correctional facility employee for signs and symp-
13 toms of COVID–19 within 24 hours;

14 (5) guidance for correctional facilities on max-
15 imum occupational capacity, social distancing best
16 practices, and how to reduce the incarcerated person
17 population within the facility, including updated
18 guidance on the proactive release of incarcerated
19 persons, with special consideration given to high-risk
20 incarcerated persons;

21 (6) guidance for correctional facilities on how to
22 establish and implement cohorting strategies to min-
23 imize the spread of COVID–19 in facilities, with
24 special consideration given to the cohorting of high-
25 risk incarcerated persons;

1 (7) guidance for correctional facilities on how to
2 establish and implement contact tracing efforts to
3 identify, track, and prevent the spread of COVID–
4 19 among the contacts of incarcerated persons and
5 correctional facility employees who test positive for
6 COVID–19;

7 (8) guidance for correctional facilities on how
8 to—

9 (A) humanely and effectively quarantine
10 incarcerated persons exposed to COVID–19 and
11 humanely and effectively medically isolate and
12 provide medical care to incarcerated persons
13 who contract COVID–19, including a prohibi-
14 tion on the use of punitive solitary confinement
15 and other punitive measures as a means of
16 treating and medically isolating incarcerated
17 persons, with special consideration given to the
18 quarantining and medical isolation and treat-
19 ment of high-risk incarcerated persons;

20 (B) authorize the provision of materials,
21 such as books, television shows, magazines, and
22 movies to, increase recreation hours for, and ex-
23 pand programming and phone and email com-
24 munication privileges for incarcerated persons
25 in medical isolation to minimize the similarity

1 of punitive solitary confinement and other puni-
2 tive measures with medical quarantine; and

3 (C) confirm that incarcerated persons and
4 correctional facility employees who have con-
5 tracted COVID–19 have recovered for the pur-
6 pose of releasing them from medical isolation;

7 (9) guidance for correctional facilities on the
8 proper cleaning and disinfecting of the facility to
9 prevent the spread of COVID–19;

10 (10) guidance for correctional facilities on prop-
11 er ventilation and air filtration strategies to prevent
12 the spread of COVID–19;

13 (11) guidance on the proper daily, weekly, and
14 monthly allowance for incarcerated persons of per-
15 sonal protective equipment and face coverings, hand
16 sanitizer, soap, cleaning items, and other materials
17 that could reduce the spread of COVID–19 in facili-
18 ties, which shall be provided to incarcerated persons
19 at no cost, including information on how to update
20 existing guidelines within facilities on the limitation
21 of incarcerated persons’ access to such materials;

22 (12) guidance for correctional facilities on how
23 to educate incarcerated persons, and the medical fa-
24 cilities treating those incarcerated persons for
25 COVID–19, on the healthcare rights of the incarcer-

1 ated persons under Federal and State law and the
2 minimum ethical standards of care, including the
3 use of medical isolation that does not include soli-
4 tary confinement;

5 (13) recommendations for correctional facilities
6 on how to increase communication between incarcer-
7 ated persons and friends and family outside of the
8 facility during the COVID–19 pandemic, including
9 guidance on how to suspend fees for phone calls and
10 electronic communications and expand visitation (in-
11 cluding virtual visitation) options;

12 (14) requirements that correctional facilities
13 communicate, not less frequently than biweekly, and
14 in such a manner that permits for feedback from in-
15 carcerated persons, to incarcerated persons the steps
16 being taken to address the COVID–19 pandemic in
17 the facility;

18 (15) guidance for correctional facilities on how
19 to connect incarcerated persons released from con-
20 finement as a result of the COVID–19 pandemic
21 with post-release resources, such as health insur-
22 ance, primary care providers, other health profes-
23 sionals, and quarantine facilities, with sensitivity to
24 the immigration status of incarcerated persons; and

1 (16) guidance for correctional facilities on how
2 to equitably distribute COVID–19 vaccinations to in-
3 carcerated persons and correctional facility staff,
4 with the goal of maximizing COVID–19 safety with-
5 in correctional facilities and reducing health dispari-
6 ties among correctional facility populations.

7 **SEC. 7. REPORT TO CONGRESS.**

8 Not later than 60 days after the date of enactment
9 of this Act, the Attorney General shall submit to Congress
10 a report on prevention, mitigation, and control activities
11 relating to the spread of COVID–19 in prisons conducted
12 by the Department of Justice and the Bureau of Prisons,
13 disaggregated by facility when applicable, that includes in-
14 formation on—

15 (1) efforts of correctional facilities to comply
16 with the Interim Guidance on Management of
17 Coronavirus Disease 2019 (COVID–19) in Correc-
18 tional and Detention Facilities issued by the Centers
19 for Disease Control and Prevention (referred to in
20 this section as the “Interim Guidelines”), includ-
21 ing—

22 (A) information on steps that have been
23 and continue to be taken with respect to oper-
24 ational preparedness, including—

1 (i) with respect to communication and
2 coordination—

3 (I) developing information shar-
4 ing systems with partners;

5 (II) reviewing and revising for
6 COVID-19 existing influenza, all-haz-
7 ards, and disaster plans;

8 (III) coordinating with local law
9 enforcement and court officials as
10 necessary; and

11 (IV) encouraging all persons in
12 the facility, including through posting
13 signs, to take action to protect them-
14 selves from COVID-19;

15 (ii) with respect to personnel prac-
16 tices—

17 (I) reviewing sick leave policies of
18 each employer that operates within
19 the facility;

20 (II) identifying duties that can be
21 performed remotely;

22 (III) planning for staff absences;

23 (IV) offering revised duties to
24 staff at increased risk for severe ill-
25 ness from COVID-19;

1 (V) making plans to change staff
2 duty assignments to prevent unneces-
3 sary movement between housing units
4 during a COVID–19 outbreak;

5 (VI) offering the seasonal influ-
6 enza vaccines to all incarcerated per-
7 sons and correctional facility staff;
8 and

9 (VII) offering and administering
10 COVID-19 vaccines to all incarcerated
11 persons and correctional facility staff;
12 and

13 (iii) with respect to operations, sup-
14 plies, and personal protective equipment
15 (referred to in this clause as “PPE”) prep-
16 arations—

17 (I) ensuring that sufficient stocks
18 of hygiene supplies, cleaning supplies,
19 PPE, and medical supplies (consistent
20 with the healthcare capabilities of the
21 facility) are on hand and available,
22 and having a plan in place to restock
23 as needed;

1 (II) making contingency plans for
2 possible PPE shortages during the
3 COVID–19 pandemic;

4 (III) relaxing restrictions on al-
5 lowing alcohol-based hand sanitizer;

6 (IV) providing a no-cost supply
7 of soap to incarcerated persons suffi-
8 cient to allow frequent hand washing;

9 (V) establishing a respiratory
10 protection program, if not already in
11 place;

12 (VI) ensuring that correctional
13 facility staff and incarcerated persons
14 are trained to correctly don, doff, and
15 dispose of PPE that they will need to
16 use within the scope of their respon-
17 sibilities; and

18 (VII) setting up designated PPE
19 donning and doffing areas outside all
20 spaces where PPE will be used;

21 (B) information on steps that have been
22 and continue to be taken with respect to pre-
23 vention, including—

24 (i) to prevent COVID–19 cases among
25 incarcerated persons—

1 (I) implementing social distanc-
2 ing strategies to increase the physical
3 space between incarcerated persons,
4 which, to the extent practicable, shall
5 be 6 feet between all individuals, re-
6 gardless of symptoms;

7 (II) minimizing the mixing of in-
8 dividuals from different housing units;
9 and

10 (III) providing up-to-date infor-
11 mation about COVID-19 to incarcer-
12 ated persons;

13 (ii) to prevent COVID-19 cases
14 among correctional facility staff—

15 (I) reminding staff to stay at
16 home if they are sick;

17 (II) performing verbal screening
18 and temperature checks for all staff
19 daily upon entry; and

20 (III) providing up-to-date infor-
21 mation about COVID-19 to staff, in-
22 cluding information about sick leave
23 policies; and

24 (iii) to prevent COVID-19 cases
25 among visitors—

- 1 (I) communicating with potential
2 visitors to discourage contact visits;
- 3 (II) conducting verbal screenings
4 and temperature checks for visitors,
5 and requiring face coverings; and
- 6 (III) promoting non-contact visits
7 and providing access to free virtual
8 visitation options;
- 9 (C) information on steps that have been
10 and continue to be taken with respect to
11 COVID–19 case management, including—
- 12 (i) with respect to infection control,
13 ensuring proper infection control protocols
14 are in place;
- 15 (ii) with respect to medical isolation—
- 16 (I) placing incarcerated individ-
17 uals with confirmed or suspected
18 cases of COVID–19 in medical isola-
19 tion;
- 20 (II) ensuring that medical isola-
21 tion for COVID–19 is distinct from
22 punitive solitary confinement;
- 23 (III) keeping to an absolute min-
24 imum the movement outside the med-
25 ical isolation space of incarcerated in-

1 individuals with confirmed or suspected
2 cases of COVID–19; and

3 (IV) safely cohorting, if nec-
4 essary, COVID–19-infected incarcer-
5 ated individuals; and

6 (iii) with respect to provision of
7 care—

8 (I) ensuring that incarcerated
9 persons receive medical evaluation and
10 treatment at the first signs of
11 COVID–19 symptoms, including in
12 cases where a facility is not able to
13 provide such evaluation and treatment
14 onsite;

15 (II) providing incarcerated indi-
16 viduals with onsite healthcare; and

17 (III) providing incarcerated indi-
18 viduals with healthcare services in the
19 community, as necessary; and

20 (D) all other aspects of the Interim Guid-
21 ance;

22 (2) the process for determining which incarcer-
23 ated persons qualify for home confinement, including
24 listing every factor that is taken into consideration,

1 and how the factors are weighed to determine quali-
2 fication, including—

3 (A) how many incarcerated persons have
4 been reviewed for home confinement;

5 (B) how many incarcerated persons have
6 qualified for and have been moved into home
7 confinement, and the average length of time be-
8 tween review, approval, and transfer;

9 (C) how the prior convictions of an incar-
10 cerated person are used to determine who quali-
11 fies for home confinement, including whether
12 certain convictions are weighed more heavily
13 than others, and whether a prior conviction re-
14 gardless of severity automatically bars an incar-
15 cerated person from qualifying for home con-
16 finement; and

17 (D) demographic data of the incarcerated
18 persons who are considered for home confine-
19 ment and of the incarcerated persons who are
20 ultimately chosen for home confinement, disag-
21 gregated by age, race, gender, ethnicity, level of
22 offense, how much time remains on their sen-
23 tence, and whether the individual is high risk
24 for COVID-19;

1 (3) the process for determining which incarcerated
2 ated persons qualify for compassionate release, in-
3 cluding listing every factor that is taken into consid-
4 eration, and how the factors are weighed to deter-
5 mine qualification, including—

6 (A) how many incarcerated persons have
7 been reviewed for compassionate release;

8 (B) how many incarcerated persons have
9 qualified for compassionate release, disaggre-
10 gated by compassionate releases approved by
11 the Bureau of Prisons and compassionate re-
12 leases granted by courts, and the average
13 length of time between review, approval, and re-
14 lease;

15 (C) how the prior convictions of an incar-
16 cerated person are used to determine who quali-
17 fies for compassionate release, including wheth-
18 er certain convictions are weighed more heavily
19 than others, and whether a prior conviction re-
20 gardless of severity automatically bars an incar-
21 cerated person from qualifying for compas-
22 sionate release; and

23 (D) demographic data of the incarcerated
24 persons who are considered for compassionate
25 release and of the incarcerated persons who are

1 ultimately chosen for compassionate release,
2 disaggregated by age, race, gender, ethnicity,
3 level of offense, and how much time remains on
4 their sentence;

5 (4) the process of providing information to fam-
6 ilies and emergency contacts of incarcerated persons
7 who have tested positive for COVID-19, including
8 how long it takes on average for families and emer-
9 gency contacts to be notified after initial diagnosis,
10 and how often facilities follow up with families and
11 emergency contacts to update them on the health
12 condition of the incarcerated person;

13 (5) resource limitations, if any, that have inhib-
14 ited the ability of the Department of Justice and
15 Bureau of Prisons to fully implement the Centers
16 for Disease Control and Prevention's Interim Guide-
17 lines; and

18 (6) what actions are being taken to modernize
19 the electronic health records systems of the Bureau
20 of Prisons.

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