

November 13, 2023



The Honorable Chuck Schumer  
Senate Majority Leader  
S-230, The Capitol  
Washington, DC 20515

The Honorable Mitch McConnell  
Senate Minority Leader  
317 Russell Senate Office Building  
Washington, DC 20510

Dear Majority Leader Schumer and Minority Leader McConnell,

On behalf of The Leadership Conference on Civil and Human Rights and the undersigned organizations, we write to express our strong opposition to S.J. Res. 47, the resolution to disapprove of the Department of Justice rule relating to home confinement under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and to urge the Senate to reject this resolution.<sup>1</sup>

As you know, the CARES Act granted the Bureau of Prisons (BOP) the authority to place individuals in its custody on home confinement due to the COVID-19 emergency.<sup>2</sup> The impetus for this provision was to protect BOP staff and those incarcerated in federal facilities—as of July 3, 2023, 317 incarcerated individuals and 7 BOP staff members had died due to COVID-19.<sup>3</sup> In fact, the death rate in prisons run by BOP was 50 percent higher in 2020 than in the five preceding years.<sup>4</sup> Without the CARES Act provision, these numbers could have been much higher. The Bureau used strict criteria to determine whom to place on home confinement: individuals in low or minimum-security facilities, who had not been convicted of violent, sex, or terrorism-related offenses, and were deemed by the Bureau to be low risk. Many of those selected were at higher risk for serious COVID-19 complications. Between March 2020 and June 2023, more than 13,000 individuals were placed into home confinement under the CARES Act, and as of August, more than 3,000 remained on home confinement. In April 2023, BOP released a final rule confirming that those still on CARES Act home confinement after the end of the COVID-19 national emergency would be able to remain rather than being forced to return to federal prison.

This program has been extraordinarily successful.<sup>5</sup> Thousands of people were able to reunite with their families and friends and re-establish themselves in their communities, planning for the next steps in their lives. As of May 27, 2023, out of the more than 13,000 individuals on home confinement under this

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<sup>1</sup> **The Leadership Conference will score the Senate’s vote in its Voting Record for the 118<sup>th</sup> Congress.**

<sup>2</sup> Pub.L. No. 116-136.

<sup>3</sup> “National COVID-19 Statistics.” *The COVID Prison Project*. July 3, 2023.  
<https://covidprisonproject.com/data/national-overview/>.

<sup>4</sup> Anderson, Meg, & Jingnan, Huo. “As COVID spread in federal prisons, many at-risk inmates tried and failed to get out.” *NPR*. March 27, 2022. <http://www.npr.org/2022/03/07/1083983516/as-covid-spread-in-federal-prisons-many-at-risk-inmates-tried-and-failed-to-get->

<sup>5</sup> See “CARES Act Home Confinement Three Years Later.” *Office of Sen. Cory Booker*. June 2023.  
[https://www.booker.senate.gov/imo/media/doc/cares\\_act\\_home\\_confinement\\_policy\\_brief1.pdf](https://www.booker.senate.gov/imo/media/doc/cares_act_home_confinement_policy_brief1.pdf).

program, only 22 people had committed new crimes, a rate of 0.17 percent.<sup>6</sup> The program has also saved taxpayers millions of dollars and eased the burden on BOP staff during the COVID-19 crisis.<sup>7</sup>

S.J. Res. 47 would erase all of this progress. Overturning this rule could send more than 3,000 individuals back into BOP custody. Many of those on home confinement have been home for more than three years and have started new chapters in their lives, reconnecting with family, starting jobs or education, and becoming integral members of their communities. This resolution seeks to wreak havoc on these lives. Additionally, as you well know, BOP has been wracked by misconduct, abuse, understaffing, and declining conditions.<sup>8</sup> The Bureau is not equipped to handle a sudden surge in the prison population. Finally, there is simply no public safety rationale for overturning this rule and sending these people back to prison. Disrupting their reentry could, in fact, increase the chances of recidivism when released from BOP custody and supervision.

S.J. Res. 47 is not rooted in any rational or evidence-based policy argument. For this reason, we ask you to vote NO on this resolution. Thank you for your time and attention to this matter. If you have any questions, please feel free to contact Chloé White, senior policy counsel, justice, The Leadership Conference on Civil and Human Rights, at [white@civilrights.org](mailto:white@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights  
Advancement Project  
American Civil Liberties Union  
Autistic Self Advocacy Network  
Bend the Arc: Jewish Action  
Brennan Center for Justice at NYU School of Law  
Disability Rights Education & Defense Fund  
Dream.org  
Drug Policy Alliance  
Japanese American Citizens League (JACL)  
National Council of Formerly Incarcerated Women and Girls  
National Disability Rights Network  
National Homelessness Law Center  
SPLC Action Fund

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<sup>6</sup> *Ibid*, p. 4.

<sup>7</sup> CARES Act Home Confinement Three Years Later.” *Office of Sen. Cory Booker*. June 2023. P. 6.  
[https://www.booker.senate.gov/imo/media/doc/cares\\_act\\_home\\_confinement\\_policy\\_brief1.pdf](https://www.booker.senate.gov/imo/media/doc/cares_act_home_confinement_policy_brief1.pdf).

<sup>8</sup> See, e.g., Daniels, Cheyanne M. “Sexual abuse rampant in federal prisons, bipartisan investigation finds.” *The Hill*. Dec. 13, 2022. <https://thehill.com/homenews/house/3773579-sexual-abuse-rampant-in-federal-prisons-bipartisan-investigation-finds/>; Thrush, Glenn. “Short on Staff, Prisons Enlist Teacher and Case Managers as Guards.” *The New York Times*. May 1, 2023. <https://www.nytimes.com/2023/05/01/us/politics/prison-guards-teachers-staff.html>.

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The Sentencing Project  
Tzedek Association  
Union for Reform Judaism