



**PREPARE**  
PREpare for PARole and REentry

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### **SBO071 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act) - Support if Amended**

The CARES Act began releasing low risk Federal incarcerated individuals on home detention in 2020 in response to the COVID pandemic. The 3 year data is spectacular, and is contained in the attached June 2023 policy brief. **This information was unavailable last legislative session**, but is incredibly relevant to SBO071. Of particular interest is the new charge recidivism rate of 0.17%. From a CARES Act population of 13,204 people, which is nearly as many people as the entire Maryland prison population, only 22 people committed new offenses, most of which were minor. (see page 4) This incredible success cut the financial cost of incarceration in half (see page 6) while contributing less crime to the community than an equal cohort of randomly selected individuals. It also allowed these low risk incarcerated individuals to return to their home, where they could obtain employment, pay taxes, reunify with family, and contribute socially and financially, offsetting the cost of their monitoring even more with secondary contributions.

The CARES Act data is relevant because the women considered in SBO071 are all on pre-release status, the lowest security status available only to those with less than 36 months to serve. They would have been incarcerated for less than 40 weeks considering that they are pregnant or immediately postpartum. That means the crime they have been convicted of would almost universally be a non-violent crime that carries a short sentence. Institutional infractions would raise their security levels, so they have all exhibited good behavior. They are a comparable population to the one successfully reintegrated through the CARES Act, and the lower-cost, higher-benefit solution of home detention should be implemented instead.

Instead of utilizing this now-proven GPS technology, SBO071 instead seeks to incarcerate the infant with their mothers in centralized prison housing in the Baltimore area away from the families, including the father of the child. Maryland law gives an equal presumption of custody to both parents and reviews that presumption only through the lens of the child's best interest, but SBO071 does something different. It includes no mechanism by which the father is identified, notified or given the opportunity to object. There is no requirement to obtain his consent. The wording of 3-903 (A) betrays its intent by referring to the "father or secondary caretaker" -

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assigning a lower, secondary status to the father solely on the basis of gender. It then assigns custody to the mother, while providing only a toothless provision that provides the father with “liberal visitation” assuming he can travel to Baltimore and the institution is compliant and sufficiently staffed. It strips the father of his right to participate in important parenting and medical decisions, attend pediatrician appointments, take paternity leave and bond with his child, and to be present for his child’s first year milestones. It remains silent on whether or not he is still responsible for child support, with all the collateral consequences of nonpayment, while his infant is incarcerated - and if he is liable, whether the mother, who is also not financially contributing, should have to pay child support to the state as well.

SB0071 is not even good for the women without consideration of the child. While it is true that about 38% of incarcerated individuals returned to Baltimore City in 2023, that means that 62% did not. Forcing all incarcerated women to participate in Baltimore reentry programming does not make sense on any level because the 62% of women returning elsewhere will not have jobs or service providers when they are released and go home. They will have to endure the frustration of rebuilding their lives twice. CARES Act style home detention is the better option for the majority of women returning in Maryland. Under SB0071, an infant must now endure these disruptions alongside the mother. Knowing the negative consequences of Adverse Childhood Experiences, it seems that this kind of harm should be prevented, not encouraged.

In my experience as a parole advocate and reentry coach, I recognize the importance of family reunification in successful reentry. While I take note of the research that shows lower recidivism among women utilizing prison nurseries in other states, it is important to recognize that there are many interventions that can lower recidivism and studies also recognize the risks and difficulties of raising an infant inside a prison. In the past there may have been an argument for a risk/benefit analysis, however today technological advances have outstripped the need for prison nurseries. Using the CARES Act as a model, Maryland can save money by using GPS technology, help incarcerated mothers rebuild their lives at home, and promote family unification. It is my hope that SB0071 can be amended to remove the use of a single physical location and replace it with GPS monitoring, however if that is not possible, I urge an unfavorable report.

SENATOR CORY A. BOOKER

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CARES Act  
Home Confinement  
*Three Years Later*

June 2023

# OVERVIEW

“All you heard was just coughing all night, all night”—that is how Ron Shehee, an incarcerated individual at USP Lompoc, described the environment at the federal facility in California in the early days of the COVID-19 pandemic. Shehee’s account was not an isolated incident. As the coronavirus swept across the nation, America’s jails and prison were particularly hard-hit, primarily due to the inherent difficulty in practicing social distancing. As months passed, the number of confirmed Covid-19 cases in prisons grew, leading to unprecedented lockdowns, widespread illnesses, and tragically, fatalities.

On March 27, 2020, President Trump signed the CARES Act, which expanded the amount of time individuals could be placed in home confinement during the “covered emergency period” that began on March 13. This marked the official inception of CARES Act home confinement, which would effectively serve as a large-scale experiment to test the feasibility of the expanded use of noncustodial sentences.

## Eligibility Factors for CARES Act Home Confinement

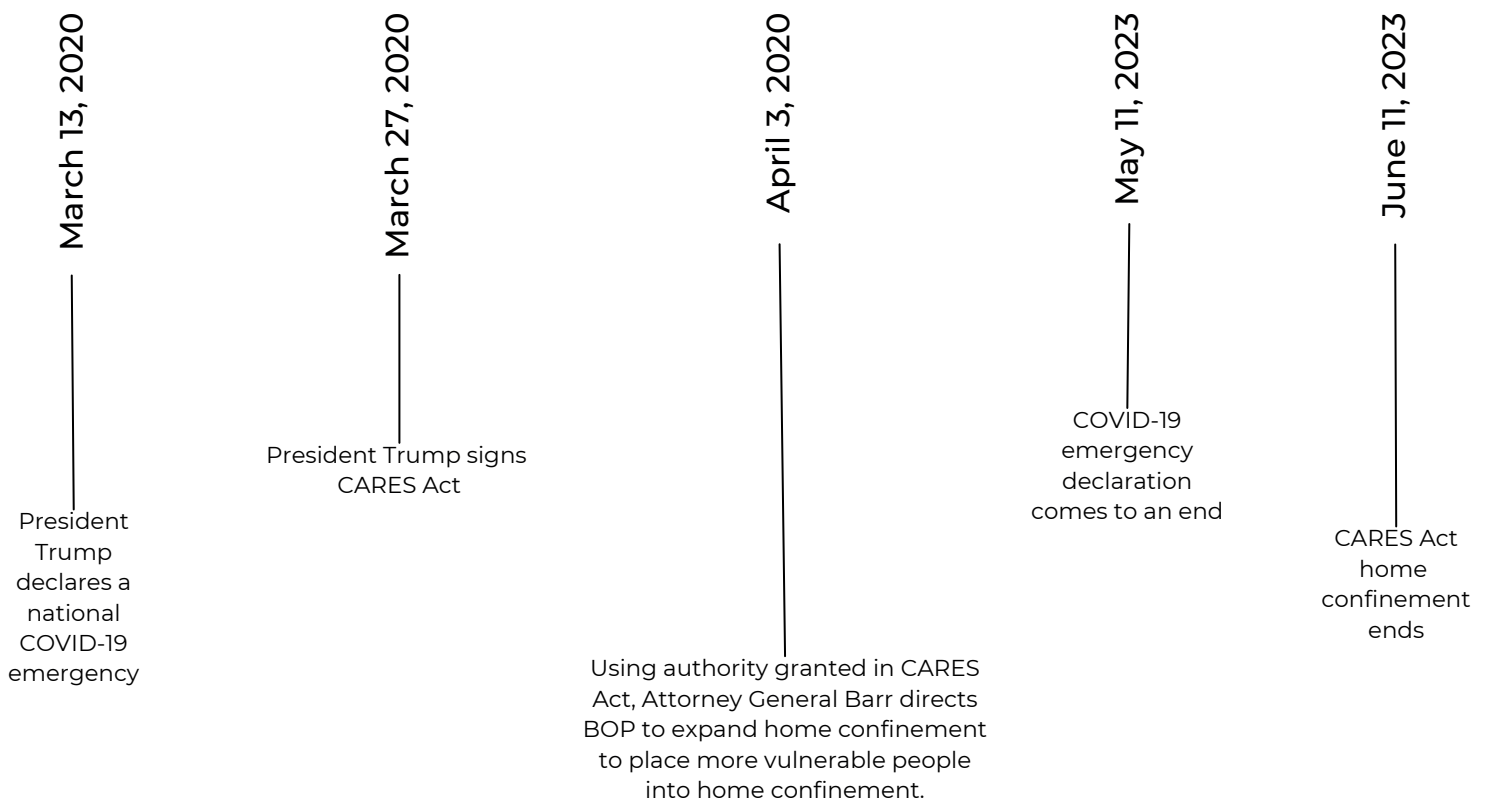
- Medically vulnerable
- No violent, sexual or terrorism-related convictions
- Completion of substantial amount of custodial sentence
- No violence or gang involvement and no disciplinary infractions within the past 12 months
- Viable release plan
- Minimum (later amended to low) PATTERN risk score
- Low or minimum security facility placement

On April 3, 2020, Attorney General Barr directed the Bureau of Prisons (BOP) to expand inmate eligibility for home confinement due to emergency conditions impacting the prisons. The Bureau implemented the criteria outlined by Attorney General Barr to expand the eligible population. These stringent criteria restricted release to medically vulnerable individuals who had no history of violence, terrorism, or sexual offending; a clean disciplinary record for the preceding 12 months and no history of violence or gang involvement whatsoever while in prison; a viable release plan; a minimum (later amended to low) risk score on the BOP’s risk-assessment tool; and who had served a substantial portion of their prison sentence in custody and had been placed in a low or minimum security facility. Since March 26, 2020, the BOP has successfully placed 13,204 individuals in home confinement under the CARES Act authority, with 3,627 inmates remaining in the CARES Act home confinement program as of May 27, 2023.

The CARES Act home confinement program has proven to be a successful, evidence-based, and cost-saving approach to safely reintegrate people into society without compromising public safety. The data collected over the past one to three years demonstrates its effectiveness. This program has not only saved taxpayers millions of dollars but has also alleviated the burden on correctional officers and prison staff. Moreover, it has enabled the reunification of thousands of families, empowered individuals serving sentences to actively pursue employment and education, and facilitated their meaningful contributions to our economy and community. Congress should closely examine the success of the CARES Act home confinement program and consider it as a potential guiding framework for future initiatives that prioritize public safety and effectively promote rehabilitation.

The evidence is clear: CARES Act home confinement has been a resounding success in safely reintegrating individuals into the community without compromising public safety.

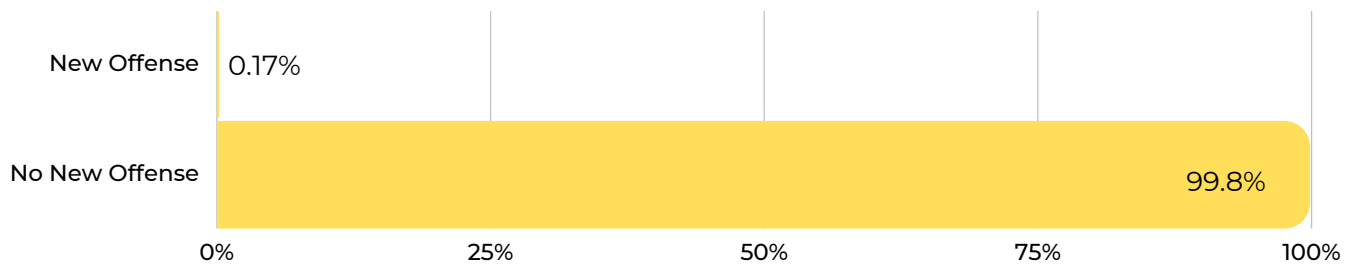
## TIMELINE



# MEASURING PROGRESS: RECIDIVISM RATES

Among the 13,204 individuals serving their sentence on home confinement since March 2020, only 22 individuals (0.17%) have been rearrested for a new offense. Most of those 22 new offenses were for drug-related or other minor crimes

## Recidivism Rate for Individuals on CARES Act Home Confinement

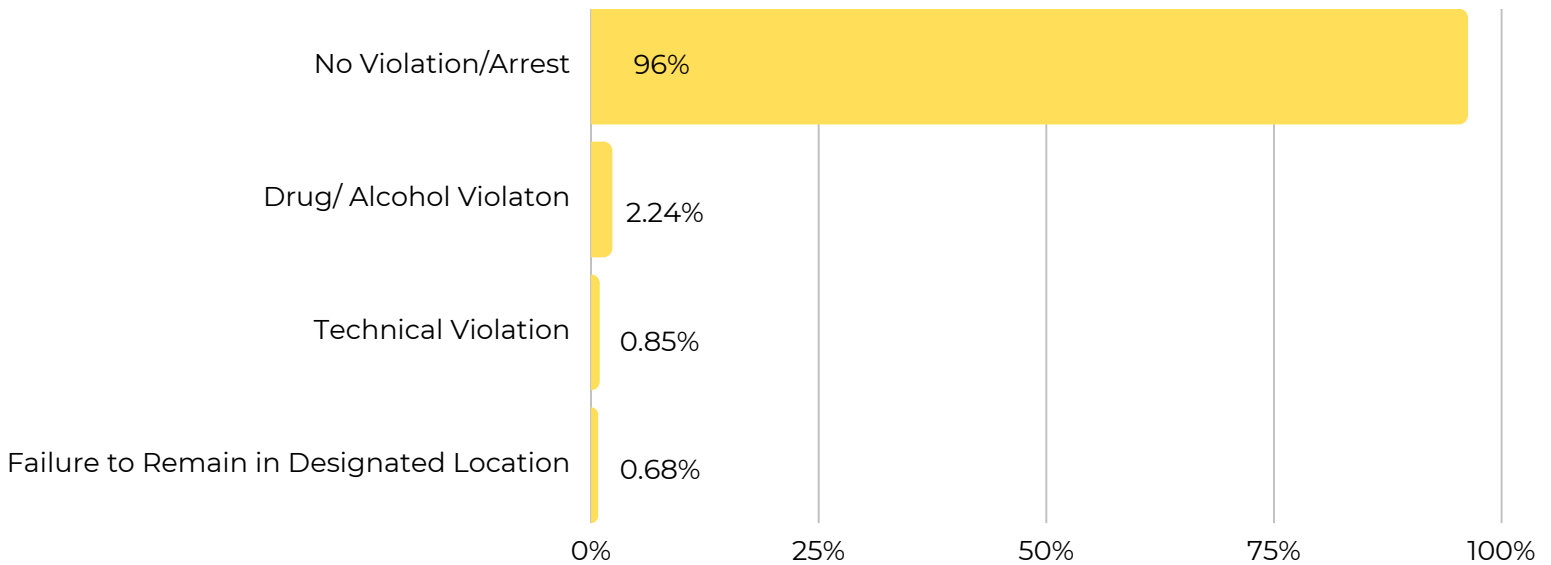


Source: Bureau of Prisons (as of May 27, 2023)

# MEASURING PROGRESS: COMPLIANCE

Among 13,204 individuals placed in home confinement under the CARES Act since March 2020, 12,683 (96%) complied fully with their confinement terms without any violations or new arrest. Of the 521 individuals who were returned to custody, 499 were removed from home confinement for a violation. These violations include 296 for drug or alcohol abuse, 113 for technical issues (e.g., missed appointments or check-in calls), and 90 cases of failure to stay at the designated location. According to the BOP, the 499 count could potentially decrease, as it is possible that upon investigation, the individuals may be found not guilty of the violation, thereby reducing the overall count.

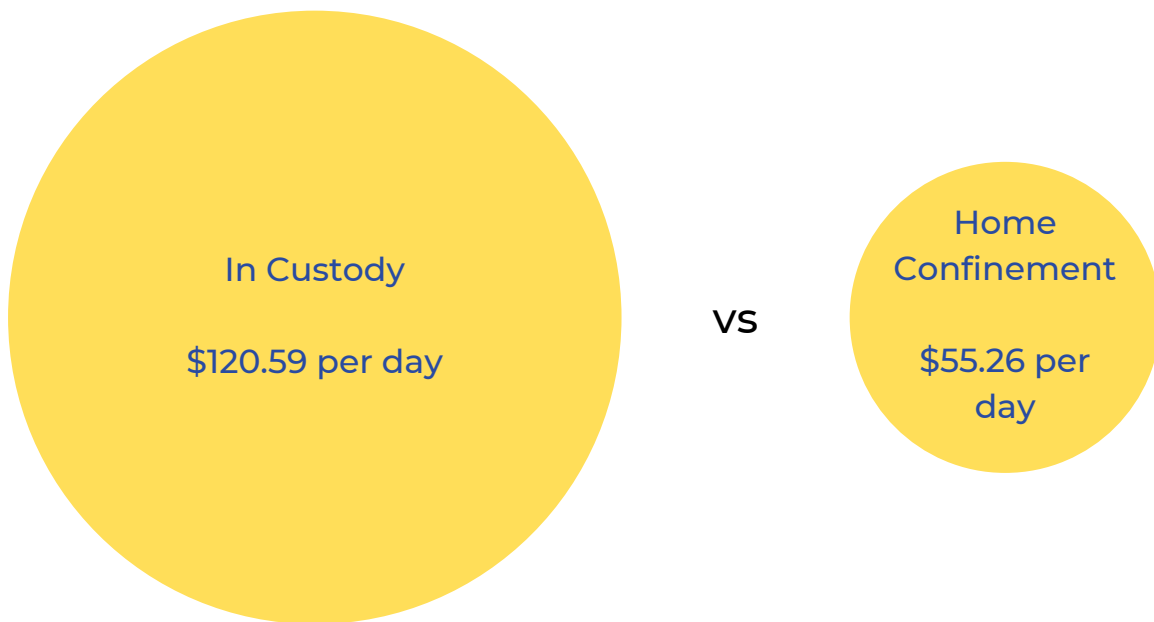
## Compliance with terms of CARES Act Home Confinement



Source: Bureau of Prisons (as of May 27, 2023)

# MEASURING PROGRESS: SAVINGS

In FY 2020, the cost of incarcerating someone in a federal facility was \$120.50 per day, while home confinement averaged \$55.26 per day—less than half the cost. The federal government saves millions of dollars when placing people in home confinement as opposed to holding them in custody.



Source: Department of Justice, Bureau of Prisons



# KEY TAKEAWAYS

- In March 2020, President Trump signed the CARES Act, permitting the DOJ to expand the length of time a person can be placed on prerelease home confinement during the “covered emergency period” to mitigate COVID-19 risks in federal prisons. Since then, the BOP has transferred 13,204 individuals to serve their sentences on home confinement under the CARES Act, with 3,627 individuals currently remaining in the program.
- Eligibility for home confinement under the CARES Act is narrowly defined and targeted. CARES Act home confinement was restricted to medically vulnerable individuals who had no history of violence, terrorism, or sexual offending; a clean disciplinary record for the preceding 12 months and no history of violence or gang involvement whatsoever while in prison; a viable release plan; a minimum (later amended to low) risk score on the BOP’s risk-assessment tool; and who had served a substantial portion of their prison sentence in custody and had been placed in a low or minimum security facility.

## Success Stories: Wendy Lankton

“I’m not sure if I am the first to start [my JD] while still in BOP custody, but I’m fairly certain I will be one of the extremely few, if not the only, to graduate with a JD while still in BOP custody. I am aware I will need to convince the character and fitness committee of the state bar association of my rehabilitation and reformation when I apply after graduation. I am beyond excited to spend the rest of my life proving that to the whole world, let alone the bar.”

-Wendy Lankton, Buffalo, NY

- Home confinement does not constitute early release; individuals on home confinement are still serving their sentences. Individuals on CARES Act home confinement are still under the custody and control of the Bureau of Prisons. Home confinement involves stringent conditions, including curfews, approved work assignments, ankle monitoring, random drug and alcohol tests, and restricted movements outside the home without permission. Violations of these conditions can result in returning to prison. After completing a federal prison sentence in home confinement, most people will still have to serve additional years on supervised release—where they likewise have to comply with strict court-ordered conditions and face the prospect of reincarceration if they violate.

- **Three years since its enactment, CARES Act home confinement has been a resounding success.** It has alleviated a strain on federal prison staff, saved taxpayers millions, reunified families, and successfully reintegrated thousands of formerly incarcerated individuals back into society—all without compromising public safety.
- **CARES Act home confinement posed minimal to no risk to public safety.** Of the 13,204 individuals placed on CARES Act home confinement since March 2020, only 22 people—less than 1%—have been charged with a new criminal offense. Most of those 22 new offenses were for drug-related or other minor crimes.
- **Placing individuals in home confinement instead of custody in a prison facility can save taxpayers millions.** In FY 2020, the cost of incarcerating someone in a federal facility was \$120.50 per day, while home confinement averaged \$55.26 per day—less than half the cost.

### Success Stories: Brian D'Antonio

"I was sentenced to 97 months in federal prison and had served 32 months in prison when CAHC was enacted in 2020. I have been home now for 3 years and 2 months. It has been a miracle for me to have been able to come home in 2020. I was able to be involved and help raise my 2 young children, who are now 16 and 12."

-Brian D'Antonio, Los Angeles, CA

- **Beyond the numbers are the stories of individuals who have successfully integrated into society through the CARES Act.** These individuals have rebuilt their lives, reconnected with their families, contributed to our economy, and have become productive members of their communities.
- **Congress should closely examine the success of the CARES Act home confinement program and consider it as a potential guiding framework for future initiatives that prioritize public safety and effectively promote rehabilitation.** The CARES Act effectively gave rise to a large-scale pilot program to test whether carefully vetted individuals can safely and successfully serve part of their sentence at home. The data confirm this and show the added benefit of expediting reintegration into society.

# HOME CONFINEMENT FAQs

## What is home confinement?

Home confinement is a process by which the Bureau of Prisons can allow a person to serve some remaining portion of their sentence – as the term suggests – at home. Home confinement is frequently confused with early release, whereby an individual can have their sentence shortened for good behavior. To the contrary, people placed on home confinement are closely supervised and subject to strict rules, often wearing an electronic monitoring device or GPS. They are also under supervision of the Bureau of Prisons and subject to BOP disciplinary procedures. Their sentences are in no way shortened by being placed on home confinement. While still serving a sentence, home confinement allows individuals to reunite with their friends and family, work, go to school, take care of their children or elderly family, and begin the process of successful reintegration into society once they've served their sentence.

### Success Stories: James Catledge

"I am so thankful for CARES Act Home Confinement, and the thousands of men and woman who were saved from COVID-19 and the opportunity to show our families, community, and government, that there are a high percentage of us who are truly reformed and can serve their time in a community environment, being productive citizens, reducing the burden on taxpayers and the social services needed to support so many families."

-James Catledge, Las Vegas, NV

## What are the benefits of home confinement?

Home confinement allows individuals to reunite with their friends and families, work, go to school, and begin the process of successful reintegration into society. This lessens the demands on the federal prison system, which is grappling with overcrowding and understaffing. These conditions create significant health and safety risks for the Bureau of Prisons employees and the individuals held in its facilities. There are also significant savings to taxpayers when people are placed on home confinement.

## What are the savings to taxpayers?

The federal government saves millions of dollars when placing people in home confinement as opposed to holding them in custody. In Fiscal Year ("FY") 2019, the cost of incarceration fee ("COIF") for a Federal inmate in a Federal facility was \$107.85 per day; in FY 2020, it was \$120.59 per day. In contrast, according to the Bureau, an inmate in home confinement costs an average of \$55.26 per day—less than half the cost of an inmate in secure custody in FY 2020.

## What did we learn from the CARES Act home confinement experiment?

Under BOP's CARES Act policy, 13,204 were released and the data show that allowing those individuals to serve part of their sentence in home confinement did not pose a danger to society. Recidivism rates among people placed on home confinement were astonishingly low, and people placed on home confinement have been able to contribute to society, contribute to their families, and strengthen prosocial family and community ties that help further reduce the risk of recidivism. In essence, the CARES Act resulted in a large pilot program to assess whether expanded home confinement yielded social, economic, and public-safety benefits—and the result of this pilot program has been a resounding success, demonstrating that expanded home confinement can be a viable alternative to traditional incarceration for certain individuals in federal custody without comprising public safety.

### Success Stories: Won Lee

In May 2021, I came home under the Care Act Home Confinement program ("CAHC"). A month later, I was diagnosed with cancer, Non-Hodgkins Lymphoma. I was extremely fortunate that I was at home with my parents when this happened, which allowed me not only to get emotional support but also to get significantly better medical care than inside of prison.

-Won Lee, Henderson, NV

### Success Stories: Craig Cesal

"My first joy was to reunite with my now-33 year old daughter, who was 13 when I was imprisoned. I met the wives and husbands of my nieces and nephews for the first time, as well as their children. But most amazing, was that I was moved in with my 83-year old mother, who now lived alone, and due to macular degeneration, she was losing her sight.

-Craig Cesal, Lombard, IL

