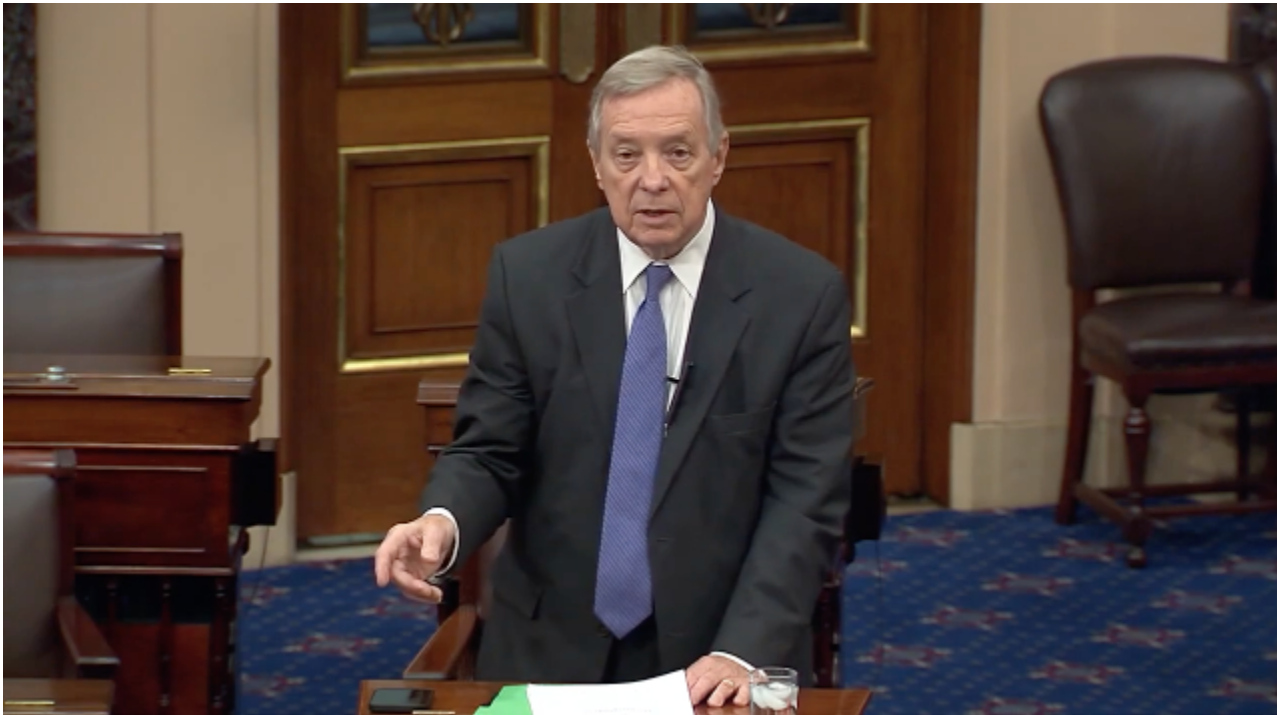


# **Durbin, Pressley Call On DOJ To Rescind Trump Administration's Federal Execution Amendments**

by Maddie Carlos

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WASHINGTON - U.S. Senate Majority Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, and U.S. Representative Ayanna Pressley (D-MA), submitted a comment letter in response to a Department of Justice (DOJ) Request for Information (RFI) regarding the regulations governing federal executions. The comment letter urges DOJ to rescind all of the Trump Administration's November 27, 2020, amendments to the manner of execution regulations. These amendments allowed former Attorney General William Barr and DOJ to bypass certain regulatory steps in ordering federal executions; expand the permissible methods of execution beyond lethal injection; and

authorize the use of state facilities and personnel in federal executions, among other changes.

Twenty-six co-sponsors of the *Federal Death Penalty Prohibition Act*, of which Durbin and Pressley are the lead sponsors, subsequently submitted a letter to Attorney General Garland endorsing the Durbin/Pressley comment letter and urging the Attorney General to rescind the Trump amendments. Full text of that letter can be found [here](#).

Both letters also urge Attorney General Garland to keep in place the current moratorium on federal executions, which began on July 1, 2021, even after the present review has ended; and ask Attorney General Garland to take the further steps of withdrawing all pending death notices, and authorizing no new death notices.

In their comment letter, Durbin and Pressley state: “We urge you to rescind all of the Department of Justice’s (DOJ) November 27, 2020 amendments to the regulations governing the manner of federal executions. We further urge you to continue the moratorium on federal executions which you put in place July 1, 2021.”

Durbin and Pressley go on to note: “The November 27, 2020 amendments were adopted in the middle of an alarming rush of executions by the previous administration. Ending a 17-year moratorium on the federal death penalty, the prior administration executed 12 men and one woman in the space of six months—exceeding the number of individuals who had been executed under the federal death penalty over the prior seven decades. The November 27, 2020 amendments—promulgated by an outgoing administration in the middle of a surge of executions—were clearly part of an effort to facilitate that surge, and as such the amendments as a whole are so irreparably tainted that they should not remain in place.”

The Durbin/Pressley letter highlights three particularly problematic amendments. The first is the addition of 28 C.F.R. 26.1(b), which states “Where applicable law conflicts with any provision of this part , the Attorney General may vary from that provision to the extent necessary to comply with the applicable law.” The second is the addition of 28 C.F.R. 26.1(c), which states that any task or duty assigned to any officer or employee of DOJ under Part 26 may be delegated by the Attorney General to any other DOJ officer or employee. The third is the repeal of former 28 C.F.R. 26.2, which required the government to submit a proposed Judgment and Order containing specified provisions. The lawmakers call on all of the November 27, 2020 amendments—including the three aforementioned ones—to be rescinded.

The letter concludes, “Last year, we commended you for your decision to impose a moratorium on federal executions while the current review of death penalty policies and procedures is pending. As your memorandum announcing the moratorium recognized,

there are serious concerns about arbitrariness in the application of the death penalty, the disparate impact of the death penalty on people of color, and the alarming number of exonerations of individuals previously sentenced to death. These concerns justified halting the use of the death penalty during the review process. They equally support halting its use permanently. In addition to rescinding the November 27, 2020 amendments, we urge you to keep in place the current moratorium on federal executions, including withdrawing all pending death notices and authorizing no new death notices. The time for this action has come.”

Durbin and Pressley previously introduced the *Federal Death Penalty Prohibition Act*, bicameral [legislation](#) to prohibit the use of the death penalty at the federal level, and require re-sentencing of those currently on death row. The legislation was [originally introduced by Durbin and Pressley in July 2019](#) following the U.S. Department of Justice’s announcement that it would resume the use of the death penalty.

The full text of the Durbin/Pressley comment letter is available [here](#).