
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: SB 1371 **Hearing Date:** April 26, 2022
Author: Bradford
Version: March 16, 2022
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Incarcerated persons: wages*

HISTORY

Source: Anti-Recidivism Coalition
Young Women's Freedom Center

Prior Legislation: SCR 69 (Bradford)

Support: California Attorneys for Criminal Justice; California Public Defenders Association; Essie Justice Group; Microsoft Corporation

Opposition: None known

PURPOSE

The purpose of this bill is to require the California Department of Corrections and Rehabilitation (CDCR) to adopt a 5-year implementation schedule to increase the wages of individuals incarcerated in the state's prisons.

Existing law provides that neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. (U.S. Con., amend. XIII.)

Existing law prohibits slavery, and provides that involuntary servitude is prohibited except to punish crime. (Cal. Const., art. 1, §6.)

Existing law provides that CDCR shall require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections. (Pen. Code, § 2700.)

This bill requires the Secretary of CDCR to adopt a five-year implementation schedule to increase the compensation for incarcerated persons engaged in work programs under the jurisdiction of the department.

This bill requires that the increase in compensation allow an incarcerated individual to do all of the following:

- Afford quarterly packages.
- To spend the maximum monthly canteen draw.
- Maintain family connections, including, but not limited to, the ability to purchase envelopes, stamps, writing paper and writing instruments, and the ability to afford phone calls.
- Purchase educational materials.

COMMENTS

1. Need For This Bill

According to the author:

Penal Code 2700 states that the California Department of Corrections and Rehabilitation (CDCR) “shall require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the director of Corrections.” In addition, both the U.S. Constitution and the California Constitution allow for that compulsory labor to be unpaid. Specifically, the 13th amendment of the U.S. Constitution outlawed slavery and involuntary servitude except as a punishment for crime where the party has been duly convicted. Finally, Article 1, Section 6 of the California Constitution outlaws slavery and involuntary servitude but allows involuntary servitude to punish crime.

SB 1371 would require the Secretary of the Department of Corrections and Rehabilitation to adopt a five-year implementation schedule to increase the compensation for incarcerated persons engaged in work programs under the jurisdiction of the department. The bill would specify that the increase in compensation is required to adequately allow an incarcerated person to afford quarterly packages, spend the maximum monthly canteen draw, purchase educational materials, and maintain family connections.

2. Requirement to Work

Penal Code section 2700 provides that CDCR “require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations [of the department].” (*See also* Cal. Code Regs., tit. 15, § 3040, subd. (a).) Additionally, both the state and federal Constitutions allow for unpaid compulsory labor. (U.S. Con., amend. XIII, Cal. Const., art. 1, §6.) Incarcerated individuals cannot refuse a job assignment and may be disciplined for refusing or failing to show up to work. Refusal to work can also lead to reduced privileges, including limitations on visits, phone calls, canteen purchases, and yard, entertainment and recreation access. (<https://www.cdcr.ca.gov/ombuds/ombuds/entering-a-prison-faqs/>) Notably, incarcerated individuals may be assigned to a job in lieu of enrollment and participation in rehabilitative programs without the individual’s consent. (Cal. Code Regs., tit. 15, § 3040, subd. (g).)

3. Prison Wages

Generally

According to a memo prepared by the Senate Office of Research, approximately 58,000 incarcerated individuals are assigned to jobs in the state's prisons. Each employed incarcerated person works an average of 6.5 hours/day and 32 hours/week in a variety of jobs, including food service, clerical work, maintenance and custodial work, and construction, among others. Existing law specifies that pay rates at each prison for paid assignments should reflect the level of skill and productivity required, and will be set with the assistance of the Institutional Inmate Pay Committee. (Cal. Code Regs., tit. 15, § 3041.2, subd. (a)(1)(2).) Current pay rates for most jobs are as follows:

Skill Level	Hourly (Min/Max)	Monthly (Min/Max)
Level 1 (Lead Person)	\$0.32-\$0.37	\$48-\$56
Level 2 (Special Skill)	\$0.19-\$0.32	\$29-\$48
Level 3 (Technician)	\$0.15-\$0.24	\$23-\$36
Level 4 (Semi-Skilled)	\$0.11-\$0.18	\$17-\$27
Level 5 (Laborer)	\$0.08-\$0.13	\$12-\$20

Fire Camps

Incarcerated individuals housed at one of the state's conservation/fire camps are subject to a different pay scale with a pay rate of \$1.45 to \$3.90 per day based on skill level and position. When working as emergency firefighters during a wildfire, that pay is increased to \$1 per hour.

CalPIA

Individuals working for the California Prison Industry Authority (CalPIA) are also subject to a different pay scale. CalPIA is a self-supporting state entity that was established to operate industrial, agricultural, and service enterprises employing incarcerated individuals in CDCR facilities to provide products and services needed by the state or other public entity or public use. Penal Code section 2801 provides that CalPIA is required to create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure incarcerated individuals employed by CalPIA have the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills. CalPIA manages over 100 manufacturing, service, and consumable operations, including optical labs, carpentry and custodial services, production of license plates, among others. Approximately 7,000 incarcerated individuals work for CalPIA's operations.

Penal Code section 2811 prohibits CalPIA compensation from exceeding half of the minimum wage. CalPIA currently has a five-level pay scale with the lowest paid scale ranging from \$0.35-\$0.45 per hour and the highest scale ranging from \$0.80 to \$1 per hour.

Joint Venture Program

The Joint Venture Program was established via Proposition 139 in 1990 which allowed state prison and county jail officials to contract with public entities, businesses, and others to provide the labor of incarcerated workers. Wages are required to be comparable to the wages of non-

incarcerated individuals doing similar work. These wages are subject to the following deductions which cannot in the aggregate exceed 80 percent of gross wages: federal, state, and local taxes, reasonable charges for room and board, court or victim restitution, and allocations for family support. (Pen. Code, § 2717.8.)

The following distributions are made from an incarcerated individual's net wages:

- 20% is sent to CDCR as a reimbursement for room and board
- 20% is used to pay restitution fines or paid directly to local crime victims' programs
- 20% is sent directly to the incarcerated individual's family for support or used to pay court ordered wage garnishments (i.e., child support)
- 20% is deposited in a mandatory savings account which is available to the person upon their release
- 20% is placed in the person's trust account at the institution for personal use (<https://jointventureprogram.calpia.ca.gov/workers-wages/>)

According to a memo prepared by the Senate Office of Research, 23 incarcerated individuals are currently employed through this program with wages ranging from \$14 to \$15.42 per hour.

4. Debt Burdens

Penal Code section 1202.4 requires that the court impose a restitution fine in every case where a person is convicted of a crime. For felony convictions, the court is required to impose of fine between \$300 and \$10,000. (Pen. Code, § 1202.4, subd. (b).) The court is required to impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so. (Pen. Code, § 1202.4, subd. (c).) Current law specified that a defendant's inability to pay is not be considered a compelling and extraordinary reason not to impose a restitution fine. (*Id.*) Penal Code section 1202.4 additionally requires that the court order restitution to be paid directly to the victim where the victim has incurred an economic loss. The amount of restitution to be paid to the victim is determined based on the amount of loss claimed by the victim and may include reimbursement for full or partial payment for the value of stolen or damages property, medical expenses, mental health counseling expenses, lost wages or profits, among other things. (Pen. Code, § 1202.4, subd. (f).) It is unclear how many individuals who are currently incarcerated in the state's prisons have unpaid restitution, but advocates have shared that it is very common for individuals who are released from prison to have unpaid restitution.

Another type of debt that is commonly held by incarcerated individuals is debt related to unpaid family support orders such as child support. Notably, the state charges 10 percent interest annually on unpaid child support.

5. Trust Accounts

CDCR uses an Inmate Trust Accounting System to establish a trust account for all incarcerated individuals. The account holds money deposited by family members and loved ones as well as wages earned through employment. The funds in this account may be used to purchase items from the canteen, pay for phone calls and other electronic and video communication, or to make other special purchases permitted by the department. CDCR's Office of Victim Services deducts 50 percent of every deposit made into a trust account for restitution payments.

6. Cost of Goods and Services in Prison

In general, the cost of goods from the canteen and services, such as communication services, are higher than the rate charged outside of the prison setting. Although incarcerated individuals are issued a set number of items of clothing, undergarments, and shoes as well as some hygiene and grooming products, any additional items have to be paid for by the incarcerated person. While CDCR provides three daily meals, incarcerated individuals often supplement this with their own purchases from the canteen or through quarterly packages. In terms of communication services, CDCR contracts with Global Tel*Link to provide services for phone calls, video calls, e-mails, and other communication services.

7. Effect of This Bill

This bill requires the Secretary of CDCR to adopt a five-year implementation schedule to increase the compensation for incarcerated persons engaged in work programs under the jurisdiction of the department. This bill also requires that the increase in compensation allow an incarcerated individual to do all of the following:

- Afford quarterly packages.
- To spend the maximum monthly canteen draw.
- Maintain family connections, including, but not limited to, the ability to purchase envelopes, stamps, writing paper and writing instruments, and the ability to afford phone calls.
- Purchase educational materials.

CDCR regulations specify weight limits but not a dollar amount limit for quarterly packages although access does vary by privilege group. The maximum monthly canteen draw varies by privilege group but regulations set the maximum monthly canteen draw at \$240. The amount an individual spends on writing materials or communication services is dependent on how often these good or services are used. The current cost for an incarcerated person to send or receive an e-mail is \$0.05, to make a phone call within the state is \$0.02 per minute, and to make a video call is \$0.20 per minute. CDCR indicates that educational materials are provided for institution-run programs, but individuals may wish to purchase additional materials and may need to purchase materials for courses they take outside of those run by the prison.

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