

# HOUSE BILL REPORT

## HB 1024

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**As Reported by House Committee On:**

Community Safety, Justice, & Reentry  
Appropriations

**Title:** An act relating to labor and income of incarcerated persons.

**Brief Description:** Concerning labor and income of incarcerated persons.

**Sponsors:** Representatives Simmons, Reed, Berry, Ryu, Goodman, Bateman, Ramel, Peterson, Street, Doglio, Macri, Reeves, Wylie, Alvarado, Thai, Santos, Ormsby and Fosse.

**Brief History:**

**Committee Activity:**

Community Safety, Justice, & Reentry: 1/10/23, 1/19/23 [DP];  
Appropriations: 1/30/23, 2/13/23 [DPS].

**Brief Summary of Substitute Bill**

- Provides that the wage or gratuity paid to an incarcerated person participating in certain Correctional Industries work programs must be no less than \$1.50 an hour.
- Provides that the limit on amounts paid to an incarcerated person participating in Class III work programs must be no less than \$200 a month.
- Modifies the maximum deductions that various entities may impose on an incarcerated person's income for specified purposes.
- Requires the Department of Corrections (DOC) to submit a report related to debt incurred by incarcerated persons for the cost of items and services while incarcerated.
- Repeals provisions authorizing the DOC to operate a Work Ethic Program.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

**Majority Report:** Do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Ramos.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Graham.

**Staff:** Corey Patton (786-7388).

### **Background:**

The Department of Corrections (DOC) operates a comprehensive work program for incarcerated persons through the Correctional Industries (CI) program. Correctional Industries develops and implements programs that offer employment, work experience, and training to incarcerated persons. Correctional Industries employs approximately 2,200 incarcerated persons across the following five classes of industries:

- Class I industries, or "free venture industries," include both employer model and customer model industries. Employer model Class I industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC to produce goods and services for sale to both the public and private sector. The DOC is responsible for supplying security and custody services to these industries without charge. Customer model Class I industries are operated and managed by the DOC to produce and provide Washington businesses with products or services currently available only from out-of-state or foreign suppliers. Under both models, Class I workers are paid according to the prevailing wage for comparable work in that locality as determined by the Director of CI (Director) or, if the Director is unable to make a determination, at least the federal minimum wage, which is \$7.25 an hour as of January 6, 2023.
- Class II industries, or "tax reduction industries," are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Products and services generated by Class II industries may generally only be sold to public agencies and nonprofit organizations. Class II workers are compensated based on a gratuity scale approved by the Director which must not exceed the wage paid for work of a similar nature in the locality where the industry is located.
- Class III industries, or "institutional support industries," are operated by the DOC and are designed to give incarcerated persons basic work training and experience and to offset public support costs. Except for those in a training program, Class III workers are compensated based on a gratuity scale adopted by the Secretary of the DOC.
- Class IV industries, or "community work industries," are operated by the DOC and provide services at reduced cost to public agencies, persons who are poor or infirm, and nonprofit organizations in the local community. Local government agencies utilizing this service must pay the worker's wage and provide work supervision

services without charge. Class IV workers are paid a gratuity not to exceed the wage paid for comparable work in that locality.

- Class V programs, or "community service programs," are court ordered community work performed without financial compensation.

An incarcerated person who receives a wage or gratuity from working in a prison industry is subject to various deductions from the person's gross income depending on the industry classification, including deductions for the Crime Victims' Compensation Account, the incarcerated person's personal savings account, the cost of incarceration, legal financial obligations, payment of any civil judgment for Assault against a correctional officer or DOC employee, and child support payments. The actual amount to be deducted for those reasons from an incarcerated person's income may be determined by various entities, such as the sentencing court, the DOC, and the Department of Social and Health Services (DSHS), subject to specific statutory limits on such deductions. The following maximum deductions from an incarcerated person's gross income are authorized depending on the incarcerated person's income source and industry classification:

	<b>Class I</b>	<b>Class II</b>	<b>Class III</b>	<b>Class IV</b>	<b>Other Income Sources</b>
<b>Crime Victims' Compensation Account</b>	5 percent	5 percent	5 percent	Not prescribed in statute	5 percent
<b>Personal Savings Account</b>	10 percent	10 percent	Not prescribed in statute	Not prescribed in statute	10 percent
<b>Cost of Incarceration</b>	20 percent	15 percent	Not prescribed in statute	5 percent	20 percent
<b>Legal Financial Obligations</b>	20 percent	20 percent	Not prescribed in statute	Not prescribed in statute	20 percent
<b>Payment of any Civil Judgment for Assault</b>	20 percent	15 percent	15 percent	15 percent	20 percent
<b>Child Support</b>	Varies (Determined by DSHS)	15 percent	15 percent	15 percent	20 percent

The DOC must utilize a system that links an incarcerated person's behavior and participation in available education and work programs with the receipt or denial of earned early release days and other privileges. Eligible incarcerated persons who refuse to participate in available education or work programs available at no charge to the incarcerated individuals may lose additional privileges and incentives as established by the DOC. For example, an incarcerated person may not receive earned early release days during any time in which the person refuses to participate in an available work program the person has been placed in.

The DOC operates a Work Ethic Program, which is a structured alternative to traditional incarceration that requires participants to complete a comprehensive array of job and vocational experiences, character building work ethic training, life management skills development, substance abuse rehabilitation, counseling, and education.

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**Summary of Bill:**

Participation in CI work programs is made voluntary, except that a court may order a defendant to perform community restitution. The DOC may not issue infractions or engage in punitive actions against any incarcerated person who refuses to participate in work programs. Incarcerated persons working in Class I, II, III, or IV industries must be paid a wage or gratuity no less than the state minimum wage. Provisions authorizing courts and the DOC to impose and collect the cost of incarceration from defendants and incarcerated persons are eliminated. Instead, the DOC may deduct up to 10 percent from an incarcerated person's income for debts owed to the DOC. The maximum authorized deductions from an incarcerated person's gross income depending on the incarcerated person's income source and industry classification are adjusted to the following percentages:

	<b>Class I</b>	<b>Class II</b>	<b>Class III</b>	<b>Class IV</b>	<b>Other Income Sources</b>
<b>Crime Victims' Compensation Account</b>	10 percent	10 percent	10 percent	10 percent	10 percent
<b>Personal Savings Account</b>	50 percent	50 percent	50 percent	50 percent	50 percent
<b>Legal Financial Obligations</b>	10 percent	10 percent	10 percent	10 percent	10 percent
<b>Payment of</b>	10 percent	10 percent	10 percent	10 percent	10 percent

<b>any Civil Judgment for Assault</b>					
<b>Child Support</b>	Varies (Determined by DSHS)	20 percent	20 percent	20 percent	20 percent

By October 1, 2023, the DOC must submit a report to the Governor and the Legislature containing the following information:

- itemized costs of items and services charged to incarcerated persons under specific statutory authority and DOC policy;
- the average debts owed by incarcerated persons to the DOC for such items and services;
- the average percentage paid by an average incarcerated person to the DOC for such items and services prior to release from confinement;
- the average debts owed by incarcerated persons to the DOC for such items and services upon release from confinement; and
- the total amount of debt owed by all persons, regardless of incarceration status, to the DOC for such items and services.

Provisions authorizing the DOC to operate a Work Ethic Program are repealed.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 5, 2023.

**Effective Date:** The bill contains multiple effective dates. Please see the bill.

**Staff Summary of Public Testimony:**

(In support) Incarcerated persons are given infractions, confined to their cells, and lose privileges for refusing to work. Exclusions and loopholes cut incarcerated persons, many of whom are people of color, out of basic protections. Those who do work are given grueling hours and receive subminimum wages for strenuous tasks. Less than half of the money earned is left after deductions. This means that workers can't afford basic resources and personal hygiene items because prices in the commissary continue to increase while wages remain the same. For example, it takes three hours of labor to pay for the cost of a phone call, leaving family members to shoulder the financial burden. Children in these families are especially impacted in a negative way. This bill will allow incarcerated persons to provide financially to their families while in custody, enabling incarcerated persons to maintain contact with their children and cultivate stronger relationships. A nest egg or some sort of stability will help facilitate successful reentry, reduce recidivism, and lead to

better repayment of legal financial obligations and other debts.

It is important to support the pursuit of academic and vocational credentials through educational programs. These programs provide a high return on investment as an educational resource, and help to close the equity gap in graduation demographics. An incarcerated person's participation in educational programs can also impact the welfare of other inmates. Incarcerated tutors shatter stereotypes and embody trust and confidence in ways that traditional staff cannot. However, educational programs should also help students earn specific credentials and certifications that will be useful for obtaining post-release employment.

Furniture on the University of Washington campus was purchased from the CI program, which some students have found to be exploitative.

(Opposed) None.

(Other) Wages and gratuities are important and complex with far reaching impacts. Currently, there are no Class I industries. Class II industries must be self-sustaining financially, so if gratuities increase then those costs must be passed along to purchasers. Class III industries are an essential part of prison operations, and Class III workers are paid a gratuity that generally has a limit of \$55 a month. Class IV workers are paid a prevailing wage. Increasing wages across the board will create a cost that must be passed along to agencies and cities, which impacts their budgets and operations. The solution offered to compensate workers must be as equitable as possible.

**Persons Testifying:** (In support) Representative Tarra Simmons, prime sponsor; Cher Scarlett; Anthony Covert; Jim Chambers; David Trieweiler, Washington Association of Criminal Defense Lawyers and Washington Defender Association; Alex Davidson, The Associated Students of the University of Washington; Pat Seibert-Love, Washington State Board for Community and Technical Colleges; Geoffrey Thomas, City of Monroe; Kelly Olson, Civil Survival Project; Lauren Zavrel, Clark College and Larch Corrections Center; Hannah Woerner, Columbia Legal Services; and Samuel Martin, Washington for Black Lives.

(Other) Danielle Armbruster and Eric Jackson, Department of Corrections.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Davis, Fitzgibbon, Hansen, Lekanoff, Pollet, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Connors, Couture, Dye, Harris, Rude, Sandlin, Schmick and Steele.

**Staff:** Yvonne Walker (786-7841).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Community Safety, Justice, & Reentry:**

The substitute bill:

- eliminates the provision requiring an incarcerated person participating in a Correctional Industries work program to be paid no less than the state minimum wage, and instead provides that an incarcerated person participating in a Class II or III work program must be paid no less than \$1.50 an hour;
- provides that the monthly maximum limit on amounts paid to an incarcerated person participating in a Class III work program must be no less than \$200;
- specifies that Class III and IV work programs are industries, rather than correctional industries, operated and reviewed by the DOC;
- eliminates the provision in the underlying bill authorizing the DOC to deduct up to 10 percent from an incarcerated person's income for debts owed to the DOC, and instead restores the court's and the DOC's authority under current law to impose and collect the cost of incarceration from a defendant or incarcerated person;
- provides that, subject to certain exceptions, an incarcerated person's income is subject to the following modified maximum deductions: (a) 5 percent, rather than 10 percent, for the Crime Victims' Compensation Account; (b) 10 percent, rather than 50 percent, for a personal savings account; (c) 5 percent, rather than nothing, for the cost of incarceration; (d) 20 percent, rather than 10 percent, for payment of legal financial obligations; and (e) 20 percent, rather than 10 percent, for payment of applicable civil judgments;
- restores the provision in current law that requires the DOC to link earned early release days and other privileges to an incarcerated person's behavior and participation in available work programs;
- provides that the DOC's report related to debt incurred by incarcerated persons must include specific information related to fees for sending money to incarcerated persons; and
- adds a null and void clause, making the act null and void if specific funding for the purpose of the act, referencing the act by bill or chapter number, is not provided by June 30, 2023 in the omnibus appropriations act.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 10, 2023.

**Effective Date of Substitute Bill:** The bill contains multiple effective dates. Please see the bill. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony:**

(In support) Some people feel the DOC's forced labor practices, by way of infractions and low wages, are immoral. In addition, conversations relating to the labor and income of incarcerated individuals often excludes the cost to the families. Most people forget that there are the costs tied to phone time, toiletries, coffee, snacks, gas, and overnight stays due to the long drives for families visiting loved ones that are incarcerated.

There are some incarcerated individuals that only make up to \$1.70 per hour or \$55 per month. Furthermore, during the pandemic, many individuals were not able to work at all due to COVID-19 restrictions. Now that work has resumed, the COVID-19 pandemic has led to increased prices for toiletries and other commissary items. It is hard to support oneself and pay for phone calls. The goal is to help people to be successful upon reentry. This bill is about helping people to increase their pay so that the loophole in the Thirteenth Amendment around the abolishment of slavery is closed except for punishment of a crime. This will help people pay for victim restitution and the children who are reliant on their incarcerated parent. If minimum wage was provided to correctional industry workers, they would be in a better position to prepare for a better opportunity for a life, pay off legal financial obligations, and any other debts they have incurred.

(Opposed) None.

**Persons Testifying:** Representative Tarra Simmons, prime sponsor; Micaela Romero; and Deepa Sivarajan.

**Persons Signed In To Testify But Not Testifying:** None.