STATE OF NEW YORK

416

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to inmate labor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 170 of the correction law, as added by chapter 256 of the laws of 2010, is amended and three new subdivisions 4, 5 and 6 are added to read as follows:

3. Notwithstanding any other provision of law, an inmate may be permitted to leave the institution under guard to voluntarily perform work for a nonprofit organization. As used in this section, the term "nonprofit organization" means an organization operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of the state of New York, the government of the United States or to any state of the United States, or political subdivision thereof, any public corporation or eleemosynary association or corporation funded in whole or in part by any federal, state or local funds or any private shareholder or individual.

4. (a) No inmate shall be compelled to provide labor against his or her will by actual force, threats of force, threats of punishment, threats of legal coercion or by any scheme, plan or pattern intended to cause the inmate to believe that, if the inmate did not provide such labor, that inmate or another person would suffer physical, emotional or mental harm.

(b) For the purposes of this subdivision, the failure to pay, or underpayment of, all wages due for work performed shall also constitute force.

5. Any inmate alleging a violation of subdivision four of this section against any state or local correctional facility in the state shall have

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD02712-01-1

a cause of action in the court of appropriate jurisdiction for damages and injunctive relief and such other remedies as may be appropriate.

6. (a) Any inmate alleging a violation of subdivision four of this section against any officer or employee of any state or local correctional facility in the state shall within ten years after the acts alleged to have violated this subdivision have a cause of action for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate together with all reasonable attorney's fees and costs.

(b) The immunity granted pursuant to subdivision one of section twenty-four of this chapter shall not extend to actions brought pursuant to subdivision four of this section, and any action commenced under subdivision four may be brought in any court of competent jurisdiction, including the supreme court.

(c) A violation of any of the foregoing provisions shall constitute sufficient cause for the removal of such employee by the duly constituted authority having jurisdiction.

§ 2. Subdivision 1 of section 171 of the correction law, as amended by section 24 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. [~~The commissioner and the superintendents and officials of all penitentiaries in the state may cause inmates in the state correctional facilities and such penitentiaries who are physically capable thereof to be employed for not to exceed eight hours of each day other than Sundays and public holidays. Notwithstanding any other provision of this section, however, the commissioner and superintendents of state correctional facilities may employ inmates on a volunteer basis on Sundays and public holidays in specialized areas of the facility, including kitchen areas, vehicular garages, rubbish pickup and grounds maintenance, providing, however, that inmates so employed shall be allowed an alternative free day within the normal work week.~~] All persons incarcerated in any state or local correctional facility in the state who request employment shall be afforded an equal opportunity to be employed, and the commissioner, the superintendents and officials of all penitentiaries must make all efforts to ensure that job assignments are distributed equitably such that, to the extent practicable, work is provided to all who request employment.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.