

# STATE OF NEW YORK

4510

2023-2024 Regular Sessions

## IN ASSEMBLY

February 16, 2023

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Correction

AN ACT to amend the correction law and the state finance law, in relation to the Incarcerated Individuals Responsibility and Fair Wages Act

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

1 Section 1. This act shall be known and may be cited as the "Incarcerated  
2 ated Individuals Responsibility and Fair Wages Act".

3 § 2. Subdivision 3 of section 170 of the correction law, as amended by  
4 chapter 322 of the laws of 2021, is amended to read as follows:

5 3. Notwithstanding any other provision of law, an incarcerated indi-  
6 vidual may be permitted to leave the institution under guard to volun-  
7 tarily perform work for a nonprofit organization. An incarcerated indi-  
8 vidual who volunteers to perform work for a nonprofit organization shall  
9 be paid a minimum wage of five dollars per hour. The department is  
10 authorized to charge the nonprofit organization a reasonable hourly rate  
11 for meals and housing of any volunteering prisoners, if applicable. As  
12 used in this section, the term "nonprofit organization" means an organ-  
13 ization operated exclusively for religious, charitable, or educational  
14 purposes, no part of the net earnings of which inures to the benefit of  
15 any private shareholder or individual.

16 § 3. Section 171 of the correction law is amended by adding a new  
17 subdivision 3 to read as follows:

18 3. An incarcerated individual shall be paid a minimum wage of five  
19 dollars per hour for any labor performed.

20 § 4. Subdivision 7 of section 177 of the correction law, as renumbered  
21 by chapter 256 of the laws of 2010, is renumbered subdivision 8 and a  
22 new subdivision 7 is added to read as follows:

23 7. An incarcerated individual shall be paid a minimum wage of five  
24 dollars per hour for any labor performed.

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

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1 § 5. Section 178 of the correction law, as amended by chapter 322 of  
2 the laws of 2021, is amended to read as follows:

3 § 178. Participation in work release and other community activities.  
4 Nothing contained in this article shall be construed or applied so as to  
5 prohibit private employment of incarcerated individuals in the community  
6 under a work release program, or a residential treatment facility  
7 program formulated pursuant to any provision of this chapter. An incar-  
8 cerated individual participating in a work release program or a residen-  
9 tial treatment facility program shall be paid a minimum wage of five  
10 dollars per hour.

11 § 6. Section 184 of the correction law is amended by adding a new  
12 subdivision 3 to read as follows:

13 3. An incarcerated individual who performs work as it is related to  
14 the manufacturing and preparing of any article or material at the direc-  
15 tion of the department shall be paid a minimum wage of five dollars per  
16 hour.

17 § 7. Section 186 of the correction law is amended by adding a new  
18 subdivision 5 to read as follows:

19 5. An incarcerated individual who performs any service or manufactures  
20 any article or material shall be paid a minimum wage of five dollars per  
21 hour.

22 § 8. Section 187 of the correction law is amended by adding two new  
23 subdivisions 5 and 6 to read as follows:

24 5. Any compensation paid to an incarcerated individual under this  
25 article shall be in an amount greater than or equal to five dollars an  
26 hour for work performed or work for which a wage is paid including, but  
27 not limited to, any task assigned to an incarcerated individual for  
28 which a wage would have been due except for his or her status as an  
29 incarcerated individual.

30 6. Up to forty percent of any hourly compensation paid to an incarcer-  
31 ated individual may be deposited into the prison incarcerated individual  
32 fund established under section ninety-nine-qq of the state finance law.

33 § 9. The state finance law is amended by adding a new section 99-qq to  
34 read as follows:

35 § 99-qq. Prison incarcerated individual fund. 1. There is hereby  
36 established in the joint custody of the state comptroller and the  
37 department of corrections and community supervision a special fund to be  
38 known as the "prison incarcerated individual fund".

39 2. The prison incarcerated individual fund shall consist of monetary  
40 grants, gifts or bequests received by the state for the purposes of the  
41 fund, and all other moneys credited or transferred thereto from any  
42 other fund or source. Moneys of such fund shall be expended only for  
43 supporting prison incarcerated individuals' families with expenses  
44 including, but not limited to, daycare, child support, rent and medical  
45 expenses. The amount of moneys a prison incarcerated individual's family  
46 receives for such expenses shall be greater than or equal to the amount  
47 of money contributed to the fund from such prison incarcerated individ-  
48 ual's compensation under subdivision six of section one hundred eighty-  
49 seven of the correction law. Nothing in this section shall prevent the  
50 state from soliciting and receiving grants, gifts or bequests for the  
51 purposes of such fund and depositing them into the fund according to  
52 law.

53 3. Moneys in such fund shall be kept separate from and shall not be  
54 commingled with any other moneys in the custody of the comptroller or  
55 the department of corrections and community supervision. Any moneys of  
56 the fund not required for immediate use may, at the discretion of the

1 comptroller, in consultation with the department of corrections and  
2 community supervision, be invested by the comptroller in obligations of  
3 the United States or the state, or in obligations the principal and  
4 interest on which are guaranteed by the United States or by the state.  
5 Any income earned by the investment of such moneys shall be added to and  
6 become a part of, and shall be used for the purposes of such fund.

7 § 10. This act shall take effect on the one hundred eightieth day  
8 after it shall have become a law.