# 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:**

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

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

3. Notwithstanding any other provision of law, an incarcerated individual may be permitted to leave the institution under guard to voluntarily perform work for a nonprofit organization. **An incarcerated individual who volunteers to perform work for a nonprofit organization shall be paid a minimum wage of five dollars per hour. The department is authorized to charge the nonprofit organization a reasonable hourly rate for meals and housing of any volunteering prisoners, if applicable.** 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 any private shareholder or individual.

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

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

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

**7. An incarcerated individual shall be paid a minimum wage of five 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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§ 5. Section 178 of the correction law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

§ 178. Participation in work release and other community activities. Nothing contained in this article shall be construed or applied so as to prohibit private employment of incarcerated individuals in the community under a work release program, or a residential treatment facility program formulated pursuant to any provision of this chapter. **An incarcerated individual participating in a work release program or a residential treatment facility program shall be paid a minimum wage of five dollars per hour.**

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

**3. An incarcerated individual who performs work as it is related to the manufacturing and preparing of any article or material at the direction of the department shall be paid a minimum wage of five dollars per hour.**

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

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

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

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

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

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

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

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

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

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

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