

118TH CONGRESS
1ST SESSION

S. _____

A bill to prevent discrimination and retaliation against incarcerated workers,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

A bill to prevent discrimination and retaliation against
incarcerated workers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combating Workplace
5 Discrimination in Correctional Facilities Act of 2023”.

6 **SEC. 2. ELIMINATION OF REQUIRED PARTICIPATION IN**
7 **THE INMATE WORK PROGRAM.**

8 (a) UNITED STATES CODE.—Section 4001(b) of title
9 18, United States Code, is amended by adding at the end
10 the following:

1 “(3) The Attorney General may not require inmates
2 to participate in a work program.”.

3 (b) CODE OF FEDERAL REGULATIONS.—The Attor-
4 ney General shall amend sections 545.20 and 545.23 of
5 title 28, Code of Federal Regulations, and any other regu-
6 lations necessary, to comply with the amendment made in
7 paragraph (1).

8 **SEC. 3. ELIMINATION OF ADMINISTRATIVE EXHAUSTION**
9 **REQUIREMENT.**

10 (a) IN GENERAL.—Section 7(a) of the Civil Rights
11 of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is
12 amended to read as follows:

13 “(a) ADMINISTRATIVE EXHAUSTION NOT RE-
14 QUIRED.—A prisoner confined in any jail, prison, or other
15 correctional facility may bring an action with respect to
16 prison conditions under section 1979 of the Revised Stat-
17 utes of the United States (42 U.S.C. 1983) or another
18 Federal law without regard to whether the prisoner has
19 exhausted the administrative remedies that are avail-
20 able.”.

21 (b) APPLICABILITY.—The amendment made by sub-
22 section (a) shall apply with respect to any action that is
23 filed on or after the date of enactment of this Act.

1 **SEC. 4. LIMITATIONS ON RETALIATION AND DISCIPLINE**
2 **FOR REFUSAL TO WORK.**

3 (a) PROHIBITION OF RETALIATION FOR REFUSAL TO
4 WORK.—Section 6 of the Civil Rights of Institutionalized
5 Persons Act (42 U.S.C. 1997d) is amended—

6 (1) by striking “No person” and inserting “(a)
7 REPORTING VIOLATIONS.—No person”; and

8 (2) by adding at the end:

9 “(b) REFUSAL TO WORK.—No prisoner (as defined
10 in section 7) shall be subjected to retaliation in any man-
11 ner for refusal to work.”.

12 (b) LIMITATION ON DISCIPLINE.—

13 (1) UNITED STATES CODE.—Section 4042 of
14 title 18, United States Code, is amended—

15 (A) by redesignating subsection (d) as sub-
16 section (e); and

17 (B) by inserting after subsection (c) the
18 following:

19 “(d) LIMITATION ON DISCIPLINE.—The Director of
20 the Bureau of Prisons may not discipline a prisoner for
21 refusing to work.”.

22 (2) CODE OF FEDERAL REGULATIONS.—The
23 Attorney General shall amend sections 541.3 and
24 545.24(c) of title 28, Code of Federal Regulations,
25 and any other regulations necessary, to comply with
26 the amendment made in paragraph (1).

1 **SEC. 5. NONDISCRIMINATION IN EMPLOYMENT AND PUB-**
2 **LIC SERVICES.**

3 (a) CIVIL RIGHTS ACT OF 1964.—

4 (1) IN GENERAL.—Section 701 of the Civil
5 Rights Act of 1964 (42 U.S.C. 2000e) is amended—

6 (A) in subsection (b), by inserting “(in-
7 cluding an entity that operates, directly or by
8 contract, a correctional facility, with respect to
9 employment of persons including incarcerated
10 workers)” after “industry affecting commerce”;

11 (B) in subsection (f), by inserting “(includ-
12 ing an incarcerated worker)” after “an indi-
13 vidual” the first place it appears; and

14 (C) by adding at the end the following:

15 “(o) The term ‘correctional facility’ means a jail,
16 prison, or other detention facility used to house people who
17 have been arrested, detained, held, or convicted by a crimi-
18 nal justice agency or a court.

19 “(p) In subsections (b) and (f), the term ‘employ’ has
20 the meaning given the term in section 3 of the Fair Labor
21 Standards Act of 1938 (29 U.S.C. 203).

22 “(q) The term ‘incarcerated worker’ means an indi-
23 vidual, incarcerated or detained in a correctional facility
24 operated by a public agency or by a private entity through
25 a contract with a public agency, who performs labor of-
26 fered or required by or through the correctional facility,

1 including labor associated with prison work programs,
2 work release programs, the UNICOR program, State pris-
3 on industries, public works programs, restitution centers,
4 and correctional facility operations and maintenance.”.

5 (2) EXCEPTION.—Section 703(a)(2) of the Civil
6 Rights Act of 1964 (42 U.S.C. 2000e–2(a)(2)) is
7 amended by inserting “, except that a correctional
8 facility may segregate incarcerated workers into sep-
9 arate facilities by sex if necessary to maintain pri-
10 vacy or institutional order” before the period.

11 (3) CONFORMING AMENDMENT.—Section
12 717(a) of the Civil Rights Act of 1964 (42 U.S.C.
13 2000e–16(a)) is amended by adding at the end the
14 following: “This section shall not apply to a Federal
15 department, agency, or unit that operates, directly
16 or by contract, a correctional facility, with respect to
17 employment of persons including incarcerated work-
18 ers.”.

19 (b) AMERICANS WITH DISABILITIES ACT OF 1990;
20 REHABILITATION ACT OF 1973.—

21 (1) IN GENERAL.—Each agency that operates a
22 correctional facility (directly or by contract with a
23 private entity) shall—

24 (A) provide to each incarcerated worker
25 notice of the worker’s rights under the Ameri-

1 cans with Disabilities Act of 1990 (42 U.S.C.
2 12101 et seq.) and section 504 of the Rehabili-
3 tation Act of 1973 (29 U.S.C. 794), with re-
4 spect to the correctional facilities that the agen-
5 cy operates;

6 (B) implement policies and training to en-
7 sure compliance with the Americans with Dis-
8 abilities Act of 1990 and section 504 of the Re-
9 habilitation Act of 1973, with respect to those
10 facilities;

11 (C) annually prepare a report that con-
12 tains an evaluation of the agency's compliance
13 with the Americans with Disabilities Act of
14 1990 and section 504 of the Rehabilitation Act
15 of 1973, with respect to those facilities; and

16 (D) submit the report described in sub-
17 paragraph (C) to the Attorney General, who
18 shall make the report publicly available on the
19 website of the Department of Justice.

20 (2) NONCOMPLIANCE.—The Attorney General
21 shall determine, and implement, appropriate rem-
22 edies for the failure of an agency covered by para-
23 graph (1) to submit a report required by paragraph
24 (1).

1 (3) DEFINITIONS.—In this section, the terms
2 “correctional facility” and “incarcerated worker”
3 have the meanings given the terms in section 701 of
4 the Civil Rights Act of 1964 (42 U.S.C. 2000e), as
5 amended by this Act.