HLS 24RS-1023 ORIGINAL

2024 Regular Session

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HOUSE BILL NO. 730

BY REPRESENTATIVE MENA

CORRECTIONS/PRISONERS: Creates "The Fairness and Safety Act for Louisiana Incarcerated Workers"

AN ACT

To amend and reenact R.S. 15:711 and 832(A), (B), (C)(introductory paragraph) and (2), 2 3 (D), (E), (G), and (H) and to enact Part I-F of Chapter 7 of Title 15 of the Louisiana 4 Revised Statutes of 1950, to be comprised of R.S. 15:748 through 748.4, and R.S. 5 15:832(I), relative to prisoners; to provide for legislative intent; to create the Incarcerated Individuals Workplace Safety Act; to provide for definitions; to provide 6 7 for minimum safety requirements for certain workers and work environments; to 8 provide for the establishment of a committee; to provide for duties of the committee; 9 to provide for duties of the Department of Public Safety and Corrections; to provide 10 relative to the assessment of wages; to provide for an effective date; and to provide 11 for related matters. 12 Be it enacted by the Legislature of Louisiana: 13 Section 1. R.S. 15:711 and 832(A), (B), (C)(introductory paragraph) and (2), (D), 14 (E), (G), and (H) are hereby amended and reenacted and Part I-F of Chapter 7 of Title 15 of 15 the Louisiana Revised Statutes of 1950, comprised of R.S. 15:748 through 748.4, and R.S. 16 15:832(I) are hereby enacted to read as follows: 17 §711. Work release program 18 A. In accordance with the provisions of the Incarcerated Individuals 19 Workplace Safety Act as provided in R.S. 15:748 et seq., it is the intent of the legislature to reduce the deductions made by work release programs from the 20

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<u>earnings of incarcerated persons</u>, thereby promoting greater equity and rehabilitation within the correctional system.

<u>B.</u> The sheriff of each parish, and in Orleans Parish, the criminal sheriff, is hereby authorized to establish and administer a work release program for immates incarcerated individuals of any jail or prison under his jurisdiction. In the event that the immate incarcerated individual is confined to a parish correctional facility not operated by the sheriff, then the superintendent of the correctional facility is hereby authorized to establish and administer a work release program for immates incarcerated individuals of the correctional facility under his jurisdiction, and where the word sheriff is used herein it shall also mean superintendent of the correctional facility wherein the immate incarcerated individual is confined.

B. C. Each sheriff shall establish written rules for the administration of the work release program and shall determine those inmates incarcerated individuals who may participate in the release program, except that no inmate incarcerated individual may participate in the program if his sentence so stipulates. Inmates Incarcerated individuals sentenced to the Department of Public Safety and Corrections who are in the custody of the sheriff shall not be eligible for work release unless such inmates incarcerated individuals are in compliance with standards for work release within the department and written approval of the secretary of the department is obtained. If any inmate incarcerated individual violates the conditions prescribed by the sheriff, his work release privileges may be withdrawn. Failure to report to or return from the planned employment shall be considered an escape under the provisions of R.S. 14:110. The sheriff may approve as work release privileges, placement in universities, colleges, technical, vocational or trade schools or in sheltered workshops or supported employment providers as defined in R.S. 39:1604.4, or in training programs designed to improve the skills and abilities of the inmate incarcerated individual.

1	C.D. Every inmate incarcerated individual with work release privileges shall
2	be liable for the cost of his room, board, clothing and other necessary expenses
3	incident to his employment or placement.
4	D. E. The wages of any inmate incarcerated individual so employed shall be
5	collected by the sheriff or by his designated agent, and the sheriff shall deposit the
6	same in a public banking institution and keep a ledger showing the financial status
7	of each inmate incarcerated individual on the program.
8	E. F. The wages of any such inmate incarcerated individual shall be
9	disbursed by the sheriff for the following purposes and in the order stated:
10	(1) The board of the inmate incarcerated individual including food, clothing,
11	medical, and dental expenses, which shall not exceed one-third of the gross pay of
12	the incarcerated individual.
13	(2) Necessary travel expense to and from work and other incidental expenses
14	of the incarcerated individual.
15	(3) Support of the inmate's incarcerated individual's dependents, if any.
16	(4) Payment, either in full or ratably of the inmate's incarcerated individual's
17	obligations acknowledged by him in writing, or which have been reduced to
18	judgment.
19	(5) The balance if any, to the inmate incarcerated individual upon his
20	discharge.
21	F. G. The wages of an inmate incarcerated individual so employed shall be
22	not less than the customary wages for an employee performing similar services.
23	G. H.(1) Any inmate incarcerated individual who has been convicted of
24	forcible or second degree rape (R.S. 14:42.1), aggravated arson (R.S. 14:51), armed
25	robbery (R.S. 14:64), attempted murder (R.S. 14:27 and 29), attempted armed
26	robbery (R.S. 14:27 and 64), and persons sentenced as habitual offenders under R.S.
27	15:529.1 shall be eligible to participate in a work release program during the last six
28	months of their terms. Notwithstanding the provisions of this Section and unless the
29	inmate incarcerated individual is eligible at an earlier date, those inmates

1	incarcerated individuals who have served a minimum of fifteen years in the custody
2	of the department or the sheriff for those crimes enumerated in this Section, shall be
3	eligible to participate in a work release program during the last twelve months of
4	their term.
5	(2) Any inmate incarcerated individual convicted of producing,
6	manufacturing, distributing, or dispensing, or possession with intent to produce,
7	manufacture, distribute, or dispense a controlled dangerous substance classified in
8	R.S. 40:964 shall be eligible to participate in the work release program if the inmate
9	incarcerated individual is otherwise in compliance with the standards for work
10	release.
11	H. I. No inmate incarcerated individual employed in the work release
12	program shall be employed in a position which would necessitate his departure from
13	the state except for those inmates incarcerated individuals assigned to work release
14	programs who are employed in industries off the coast of Louisiana.
15	* * *
16	PART I-F. THE INCARCERATED INDIVIDUALS WORKPLACE SAFETY ACT
17	§748. Short title
18	This Part shall be known as "The Incarcerated Individuals Workplace Safety
19	Act".
20	§748.1. Definitions
21	For the purposes of this Part, the following terms shall have the following
22	meanings:
23	(1) "Incarcerated individual" means any person serving a hard labor sentence
24	within any state-operated correctional facility, detention center, transitional work
	program, or parish jail in Louisiana.
25	<del></del>
<ul><li>25</li><li>26</li></ul>	(2) "Transitional work program" means any program under R.S. 15:711 that
26	(2) "Transitional work program" means any program under R.S. 15:711 that

1	(3) "Worker protections" means any mandatory safety training, industry
2	approved equipment, and personal protective equipment particular to specific jobs.
3	§748.2. Incarcerated worker protection measures
4	A. Each incarcerated worker and work environment that employs an
5	incarcerated worker shall adhere to the provisions of R.S. 15:832(A) and meet the
6	minimum safety requirements established by the Occupational Safety and Health
7	Administration, hereinafter referred to as "OSHA".
8	B. Mandatory safety training shall be provided to every incarcerated worker
9	and shall address potential occupational hazards and the correct use of safety
10	equipment prior to the beginning of employment.
11	C. The department shall supply necessary protective equipment and gear,
12	tailored to the requirements of the job, to each incarcerated worker at no personal
13	expense.
14	D. Each work environment that employs an incarcerated worker shall be
15	subject to periodic inspections by OSHA.
16	§748.3. Fair wages and worker protection
17	A. The department shall establish a Fair Wages Advisory Committee
18	consisting of five people, one of each appointed by the following:
19	(1) The secretary of the Department of Public Safety and Corrections.
20	(2) The executive director of the Louisiana Sheriffs' Association.
21	(3) The dean of the LSU Law Center.
22	(4) The secretary of the Louisiana Workforce Commission.
23	(5) The secretary of the Louisiana Economic Development.
24	B. The committee shall consider factors such as the type of work performed,
25	industry standards, and the local labor market when determining fair wages.
26	C. The committee shall consider the fundamental fairness of allowing an
27	incarcerated worker to forego his wages in lieu of credit towards good time parole
28	supervision on his sentence and make recommendations accordingly.

1	D. Fair wages shall be reviewed and adjusted on a regular basis to ensure
2	that the wages remain fair and equitable.
3	§748.4. Duties of the department
4	The department shall do all of the following:
5	(1) Promulgate rules and regulations necessary to effectuate this Part.
6	(2) Establish mechanisms for monitoring and enforcing compliance with fair
7	wage requirements.
8	(3) Ensure that all correctional facilities, detention centers, and parish jails
9	housing incarcerated individuals serving hard labor sentences within the state comply
10	with the provisions of this Part.
11	(4) Produce an annual report detailing the fair wages provided to
12	incarcerated individuals.
13	(5) Make the annual report provided in Paragraph (4) of this Section
14	available to the public, including the state legislature, through its website and other
15	available means of publication.
16	* * *
17	§832. Work by inmates incarcerated individuals; allowance
18	A. The department shall provide employment opportunities and vocational
19	training for all inmates incarcerated individuals, regardless of gender, consistent with
20	available resources, physical custody, and appropriate classification criteria. Insofar
21	as is possible, the equipment used in such programs, the conditions of employment,
22	the management practices, and the general operating procedures thereof shall
23	approximate those of private industry. The provisions of Part IX of Chapter 2 of
24	Title 51 of the Louisiana Revised Statutes of 1950 with respect to prison-made goods
25	shall be applicable to goods made, manufactured, or produced by the inmates
26	incarcerated individuals of all institutions and facilities, under the jurisdiction of the
27	department.
28	B. Inmates may be compensated, within the limits in grades fixed by the
29	secretary of the department, for work performed, including institutional maintenance

and attendance at training programs. The inmate An incarcerated individual shall be entitled to receive fair wages for his labor, which shall be paid to him in accordance with the rules and regulations established by the department. The incarcerated individual shall contribute to the support of his dependents who may be receiving public assistance during the period of commitment if funds available to him are adequate for such purpose.

C. The department may enter into contractual agreements for the use of immate incarcerated individual labor by any department, board, commission, or agency of this state responsible for the conservation of natural resources or the construction and maintenance of public works, subject to the following restrictions:

\* \* \*

- (2) No immate incarcerated individual shall be assigned to maintenance work at public facilities outside the department in accordance with this Section when such work requires housing the inmate incarcerated individual in a parish prison or other local housing facility and the immate incarcerated individual has been convicted of first or second degree murder, attempted first or second degree murder, aggravated or first degree rape, attempted aggravated or first degree rape, forcible or second degree rape, aggravated kidnapping, aggravated arson, armed robbery, attempted armed robbery, or the immate incarcerated individual has been sentenced as an habitual offender under R.S. 15:529.1, except during the last six months of his term.
- D. When inmates are an incarcerated individual is assigned to maintenance work at public facilities outside the department, the contracting authority shall agree:
  - (1) To accept the physical custody of the inmate incarcerated individual.
- (2) To physically house the <u>inmate incarcerated individual</u> in the parish jail or prison at all times and to allow the <u>inmate incarcerated individual</u> to leave the parish jail or prison, or other housing facility, only to perform work to which he has been assigned.

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2	individual any pass, furlough, or emergency leave, said notification to include the
3	reasons for the release and the duration thereof.
4	(4) To permit the inmate incarcerated individual to engage only in work
5	designed to conserve natural resources, maintain or improve public property or to
6	assist with the daily functioning of the jail, prison, or courthouse and to prohibit the
7	inmate incarcerated individual from engaging in any work for a private individual
8	or business entity whether said inmate incarcerated individual is paid or not.
9	(5) To refer to the department for processing and approval in accordance
10	with department regulations for the inmate incarcerated individual to be transferred
11	to a work release type program.
12	(6) To notify the department promptly of any escape, new offense, or
13	conviction involving the inmate incarcerated individual, or of any unusual
14	occurrence involving the inmate incarcerated individual.
15	(7) To maintain custody of the inmate incarcerated individual until he is
16	ordered released from custody or returned by the department; and to provide
17	transportation of the inmate incarcerated individual to and from any state
18	correctional institution as may be required.
19	E. The department shall agree to compute the inmate's incarcerated
20	<u>individual's</u> sentence and notify the sheriff when the <u>inmate</u> <u>incarcerated individual</u>
21	becomes eligible for parole or final discharge.
22	* * *
23	G. Further, the department shall not assign an inmate incarcerated individual
24	on maintenance to the custody of any sheriff except the sheriff of the parish where
25	the inmate incarcerated individual is domiciled or sentenced, unless specifically
26	authorized by the secretary.
27	H. The department shall reimburse the sheriff, for keeping and feeding any
28	inmate incarcerated individual assigned to his custody, in accordance with the
29	amount set by R.S. 15:824(B).

(3) To notify the department prior to granting the incarcerated

1 I. The provisions of this Section shall not be construed to limit the 2 applicability of R.S. 38:2212 to any work undertaken pursuant to this Section. 3 Section 2. The provisions of this Act shall be cited and referred to as "The Fairness 4 and Safety for Louisiana Incarcerated Workers Act". 5 Section 3. The Department of Public Safety and Corrections shall implement the 6 provisions relative to worker protections and fair wages for incarcerated workers within six 7 months of the effective date of this Act. 8 Section 4. This Act shall become effective upon signature by the governor or, if not 9 signed by the governor, upon expiration of the time for bills to become law without signature 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become 12 effective on the day following such approval.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 730 Original

2024 Regular Session

Mena

Abstract: Creates "The Fairness and Safety for Louisiana Incarcerated Workers Act".

<u>Present law</u> (R.S. 15:711) provides for the work release program for inmates who are housed in a parish jail or prison.

<u>Proposed law</u> amends <u>present law</u> to provide that in accordance with <u>proposed law</u>, it is the intent of the legislature to reduce the deductions made by work release programs from the earnings of incarcerated persons, thereby promoting greater equity and rehabilitation within the correctional system.

<u>Proposed law</u> retains <u>present law</u> in general, but renames a term <u>from</u> "inmate" <u>to</u> "incarcerated individual".

<u>Present law</u> provides that wages of any inmate shall be disbursed by the sheriff for a variety of purposes, with one of these purposes being the board of the inmate inclusive of food, clothing, medical, and dental expenses.

<u>Proposed law</u> amends <u>present law</u> to provide that these expenses shall not exceed 1/3 of the gross pay of the incarcerated individual.

Proposed law shall be known as "The Incarcerated Individuals Workplace Safety Act".

<u>Proposed law</u> defines the terms "incarcerated individual", "transitional work program", and "worker protections".

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<u>Proposed law</u> provides that each incarcerated worker and work environment that employs an incarcerated worker shall adhere to the provisions of <u>present law</u> (R.S. 15:832(A)) and meet the minimum safety requirements established by the Occupational Safety and Health Administration ("OSHA").

<u>Proposed law</u> provides that mandatory safety training shall be provided to every incarcerated worker and shall address potential occupational hazards and the correct use of safety equipment prior to the beginning of employment.

<u>Proposed law</u> provides that the DPS&C shall supply necessary protective equipment and gear, tailored to the requirements of the job, to each incarcerated worker at no personal expense.

<u>Proposed law</u> provides that each work environment that employs an incarcerated worker shall be subject to periodic inspections by OSHA.

<u>Proposed law</u> provides that the DPS&C shall establish a Fair Wages Advisory Committee consisting of five people, one of each appointed by the following:

- (1) The secretary of the DPS&C.
- (2) The executive director of the La. Sheriffs' Association.
- (3) The dean of the LSU Law Center.
- (4) The secretary of the La. Workforce Commission.
- (5) The secretary of the La. Economic Development.

<u>Proposed law</u> provides that the committee shall consider factors such as the type of work performed, industry standards, and the local labor market when determining fair wages as well as the fundamental fairness of allowing an incarcerated worker to forego his wages in lieu of credit towards good time parole supervision on his sentence, and make recommendations accordingly.

<u>Proposed law</u> provides that fair wages shall be reviewed and adjusted on a regular basis to ensure that the wages remain fair and equitable.

Proposed law provides that the DPS&C shall do all of the following:

- (1) Promulgate rules and regulations necessary to effectuate proposed law.
- (2) Establish mechanisms for monitoring and enforcing compliance with fair wage requirements.
- (3) Ensure that all correctional facilities, detention centers, and parish jails housing incarcerated individuals serving hard labor sentences within the state comply with the provisions of <u>proposed law</u>.
- (4) Produce an annual report detailing the fair wages provided to incarcerated individuals.
- (5) Make the annual report provided in <u>proposed law</u> available to the public, including the state legislature, through its website and other available means of publication.

<u>Present law</u> (R.S. 15:832) provides for employment opportunities and vocational training for all inmates under the custody of the DPS&C.

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<u>Present law</u> provides that inmates may be compensated, within the limits in grades fixed by the secretary of the department, for work performed, including institutional maintenance and attendance at training programs.

<u>Proposed law</u> removes this provision and provides that an incarcerated individual shall be entitled to receive fair wages for his labor, which shall be paid to him in accordance with the rules and regulations established by the DPS&C.

<u>Proposed law</u> retains <u>present law</u> in general, but renames a term <u>from</u> "inmate" <u>to</u> "incarcerated individual".

<u>Proposed law</u> shall be cited and referred to as "The Fairness and Safety for Louisiana Incarcerated Workers Act".

<u>Proposed law</u> provides that the DPS&C shall implement the provisions relative to worker protections and fair wages for incarcerated workers within six months of the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 15:711 and 832(A), (B), (C)(intro. para.) and (2), (D), (E), (G), and (H); Adds R.S. 15:748-748.4 and 832(I))