

118TH CONGRESS  
1ST SESSION

# S. 517

To prevent discrimination and retaliation against incarcerated workers, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

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

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## 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 **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.

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