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AB-1144 Prisons: elderly employment. (2025-2026)

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AMENDED IN ASSEMBLY APRIL 10, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1144

Introduced by Assembly Member McKinnor

February 20, 2025

An act to amend Sections 2700 and 4017 of the Penal-~~Code~~ *Code*, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1144, as amended, McKinnor. Prisons: elderly employment.

The California Constitution prohibits involuntary servitude, but exempts from this provision any servitude that is a punishment for a crime. Existing law requires the Department of Corrections and Rehabilitation (CDCR) to require each able-bodied inmate, including a condemned inmate, to work as prescribed by CDCR regulations. Existing CDCR regulations require each inmate to participate in 8 hours per day of programming, including labor, education, counseling, physical fitness, and other programs, 5 days per week.

Existing law also authorizes a board of supervisors or city council, through an order, to require all persons confined in a county or city jail, industrial farm, or road camp, as specified, to perform labor on the public works or ways in the county or city, respectively, and to engage in the prevention and suppression of forest, brush, and grass fires upon lands within the county or city, respectively.

Notwithstanding any other law, the California Constitution, as amended by Proposition 57 at the November 8, 2016, statewide general election, grants CDCR the authority to award credits earned for good behavior and approved rehabilitative or educational achievements.

This bill would authorize inmates 55 years of age or older, *or inmates with mental or physical disabilities, as defined*, except those sentenced to death, in state prison or county jail to elect whether to continue to work, reduce the number of hours worked, or retire. The bill would prohibit CDCR from punishing the inmate, in specified ways including a change or reduction in privilege group assignment, based on their election.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2700 of the Penal Code is amended to read:

2700. (a) (1) The Department of Corrections and Rehabilitation shall require of every able-bodied prisoner under 55 years of age *or any prisoner who does not have a mental or physical disability who is* imprisoned in any state prison as many hours of faithful labor in each day and every day during their term of imprisonment as shall be prescribed by the rules and regulations of the Secretary of the Department of Corrections and Rehabilitation.

(2) Prisoners 55 years of age and older *or prisoners with mental or physical disabilities* shall elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire.

(b) Whenever by any statute a price is required to be fixed for any services to be performed in connection with the work program of the Department of Corrections, the compensation paid to prisoners shall be included as an item of cost in fixing the final statutory price.

(c) Prisoners not engaged in work programs under the jurisdiction of the Prison Industry Authority, but who are engaged in productive labor outside of those programs may be compensated in like manner. The compensation of prisoners, including those 55 years of age and older *or prisoners with mental and physical disabilities* and who have opted for part-time work, shall be paid either out of funds appropriated by the Legislature for that purpose or out of other funds available to the Department of Corrections and Rehabilitation for expenditure, as the Director of Finance may direct.

(d) When a prisoner escapes, the secretary shall determine what portion of their earnings shall be forfeited and that forfeiture shall be deposited in the State Treasury in a fund known as the Inmate Welfare Fund of the Department of Corrections and Rehabilitation.

(e) The department shall not punish a prisoner who refuses to work pursuant to subdivision (a). For the purposes of this subdivision, punishment includes, but is not limited to:

- (1) Disciplinary writeup.
- (2) Change in security level.
- (3) Involuntary transfer to a different correctional institution.
- (4) Transfer to a special housing unit or administrative segregation.
- (5) Change or reduction in privilege group assignment.
- (6) Limiting participation in voluntary programming.

(f) For the purposes of this section, the following terms have the following meanings:

(1) "Mental disability" has the same meaning as in Section 12926 of the Government Code.

(2) "Physical disability" has the same meaning as in Section 12926 of the Government Code.

SEC. 2. Section 4017 of the Penal Code is amended to read:

4017. (a) (1) All persons under 55 years of age who are confined in the county jail, industrial farm, road camp, or city jail under a final judgment of imprisonment rendered in a criminal action or ~~proceeding~~ *proceeding*, and all persons under 55 years of age *or persons who do not have a mental or physical disability*, who are confined in the county jail, industrial farm, road camp, or city jail as a condition of probation after suspension of imposition of a sentence or suspension of execution of ~~sentence~~ *sentence*, may be required by an order of the board of supervisors or city council to perform labor on the public works or ways in the county or city, respectively, and to engage in the prevention and suppression of forest, brush and grass fires upon lands within the county or city, respectively, or upon lands in adjacent counties where the suppression of fires would afford fire protection to lands within the county.

(2) A person 55 years of age or older *or a person who has a mental or physical disability* shall elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire.

(b) Whenever any person so in custody shall suffer injuries or death while working in the prevention or suppression of forest, brush, or grass fires they shall be considered to be an employee of the county or city, respectively, for the purposes of compensation under the provisions of the Labor Code regarding workmen's compensation and that work shall be performed

under the direct supervision of a local, state or federal employee whose duties include fire prevention and suppression work. A regularly employed member of an organized fire department shall not be required to directly supervise more than 20 persons so in custody.

(c) As used in this section, "labor on the public works" includes clerical and menial labor in the county jail, industrial farm, camps maintained for the labor of persons upon the ways in the county, or city jail.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Mental disability" has the same meaning as in Section 12926 of the Government Code.

(2) "Physical disability" has the same meaning as in Section 12926 of the Government Code.