

## **The Mandatory Prison Work and Drug Testing Act of 2003**

### **Federal CURE's Position Paper on S672**

Federal CURE opposes any legislation that increases the work hours of inmates in the Federal prison system. We believe that this legislation is not only misguided, but creates a hardship on inmates forced to work what we consider to be excessive hours as well as inconsistent with how the federal government deals with all employees under federal labor laws. We also believe that any legislation involving work hours must also address the issue of fair wages paid to inmates. Increasing the number of hours, in our opinion, is wrong for several reasons:

1. Payments to inmates are currently not only inadequate, but punitive. Fifty-five percent (55%) of the 167,000+ federal inmates are paid twelve cents (12¢) per hour. Five percent of the inmates are paid forty cents (40¢) per hour. All inmates entering the federal prison system are paid \$5.25 per month.
2. Wages paid to inmates are now well below federal minimum wage requirements and provide a generous subsidy to employers who use inmates as basically “slave labor.” This is true at the local, state and federal level.
3. To increase the number of work hours only widens the disparity between similar jobs being performed in the private sector jobs and in a sense creates a form of “forced prison labor” which is ironically contrary to existing agreements between the US and China. This country has derided similar systems in Russia and China for many years.
4. Inmates have no choice in either the types of jobs, or the wage rates, let alone the hours required by the system. But, because jobs are at a premium, inmates take them at any cost. Many inmates’ families are at or below the poverty level and unable to provide financial support to their loved ones, so work is an important element of incarceration and rehabilitation. As such it should be a growth experience in addition to being a source of personal income.
5. If it is determined that legislation is desirable in order to increase work hours, the Congress should take this opportunity to not only rectify the wage disparity, but to review the standard work week. We consider 50 hours per week to be excessive simply because inmates have no choice and they are not being paid adequate wages to begin with. In reviewing this condition, it is our considered opinion that the Federal government should pay inmates the standard, federally required minimum wage and if the standard workweek is increased to 50 hours, some form of overtime, or incentive pay should be provided.

Other reasons for paying the Minimum Wage to Inmates in the Federal Penal System include:

1. Inmates, although deprived of most of their civil and constitutional rights should not be used to achieve the objectives of private or public corporations or the government without some form of fair and direct recompense. Employers benefit from the use of prison labor and it is used to enhance their bottom line. And, although we have no objections to companies making a profit, we do object to inmates being treated as a) a competitive advantage; and b) a way to enhance the profit making capabilities of those companies participating in the prison/industry programs.
  - a. This “sweat equity” concept is foreign to the objectives that the federal government has tried to instill in the labor laws of this country, and in order to be consistent, the federal government should extend these same benefits to inmates.
2. Private sector employers are getting free labor.
3. The current Federal Prison Industry’s program should be abolished and replaced with community based employment in order to create skills training programs, wages and income for personal use or as an assist to families in need.
4. Not all companies or industries are conducive, physically, or otherwise, to inmate work programs. However, more programs should be created and participation would increase if employers were subsidized.
5. Unions are generally opposed to the use of prison labor because it competes with union jobs. (See S346 for example) If wages were increased in the federal system, the opposition by unions might decrease. However, as it stands, unions object to the use of “free labor.”
6. Providing income to inmates also helps the penal system in that inmates have funds to use for their own personal needs which to some degree relieve the system from providing financial support for basic items.
7. Income earned by inmates might also provide some financial support to families many of whom are currently receiving support from states and the federal government in the form of welfare, food stamps, housing, etc. Although the income earned will not be significant and large enough to make a overall difference, increasing the number of participating inmates will most certain help.
8. Inmates in the federal system are required to pay co-payments of \$2.00 for medical care. In order to avoid co-payments, inmates with limited or no income except from families and friends, avoid medical assistance in order to use their limited funds for personal items. Thus, in avoiding medical care, they often spread infectious diseases among other inmates. Hepatitis is one good example. The end result is increased healthcare costs for the Federal Bureau of Prisons.

If legislation to improve wages and increase hours is proposed some additional, important considerations should be made. Some of them are:

1. In addition to changes in wage rates and work hours, the government should reinstate Pell Grants and/or other educational funding. This funding for inmates incarcerated in the federal prison system must include vocational skills training, college courses and degree programs. GED training is important, but educational support should go beyond the high school level for these reasons:
  - a. Releasing inmates with few job skills is not only bad social policy, it assures that most inmates are relegated to menial, dead-end jobs, increases despair and generates insufficient income to support themselves and their families.
  - b. Using an ROI (return on investment) approach to this problem, the government should focus on investing in programs that pay dividends like education. The returns on such investments will yield benefits that are socially, politically and economically beneficial to the individual, their families and society.
  - c. The cost of maintaining one inmate in our penal system ranges from \$20-25,000 per year. It therefore behooves us to seek alternatives to prison; but if incarcerated, we must, 1) provide rehabilitation and skills training that provides some measure of assurance that inmates do not return to prison; and 2) transform exconvicts into taxpaying citizens and contributors again to society.
2. A cap should be placed on offsets or deductions made from inmate wages. Although we would recommend no deductions, a maximum of twenty five (25%) percent would be acceptable if employment is at minimum wage. Money due under the Inmate Financial Responsibility Program for court fines and restitution shall be paid out of the 25% withheld from the inmate's wages. All deductions taken from inmate's income should be used for educational programming and not be used for administrative or general expenses to maintain the penal system.

In summary, the Congress should take a "systems approach" to this program by not dealing with issues that are only pieces of a much bigger societal puzzle. Simply changing work hours without taking a broader view of appropriate wages and fair treatment, the creation of more prison employment partnerships, with or without subsidies, the use of prison labor, the benefits to the employers, the government and society as a whole, and the continued promulgation of a permanent under-class of American citizens, does not solve the problem of prison labor. As such, we recommend the following:

1. Keep hourly work schedules to a maximum of 40 hours per week, and pay

consistent with existing labor laws. In essence, treat inmate labor no differently than other workers in this country - no free labor.

2. Encourage the use of prison labor in all federal prisons where possible, in concert with local/state and federal government supervision and employers both domestic and international in order to create more jobs and educational training opportunities.
3. Include in any proposed legislation funding for Department of Education programs that provide Pell Grants, or other funding and/or scholarships for inmate education that includes apprenticeships in skilled trades, college courses and degree programs.

Investing in rehabilitation, instead of punishment, will result in job creation, job and skills training, and advanced education, and in our opinion paying minimum wages for prison labor is a just and fair way to assist inmates in providing for their personal needs and their families, therefore, increasing the odds that the inmate will be able to successfully achieve transition back into society.

Federal CURE

Prepared by Ronald C. Pilenzo, S.P.H.R., R.O.D.C., Hobe Sound, FL in conjunction with Karen S. Bond, J.D., Executive Director, Federal CURE