

Written Testimony
In Support of House Bill 102
Correctional Services – Inmates – Labor, Job Training, and Educational Courses

Dear Delegate Hill,

I commend you and your staff for taking on a long-standing moral issue regarding indentured servitude. House Bill 102 will finally close the loophole to unfair labor practices within the prison industry. It will put an end to "modern day slavery," which disproportionately effects minorities, particularly African American males who are incarcerated five times higher than any other demographic in Maryland. Below I highlight several reasons why your colleagues should support this bill. I also call out and refute the many arguments echoed by those stakeholders that will not favor this commonsense policy and show that their baseline arguments have no ethical or moral merit.

Background

Prisoner wages nationwide run on average from 14 cents to 63 cents an hour for institutional jobs. Hourly rates in state-owned entities operating within prisons, like MCE, spanned from 33 cents to \$1.41, according to (Prison Policy Initiative, 2020). According to position and skill level, wages for prisoners at the DOC vary from \$0.90 to \$2.75 per day. MCE's 1,500 prisoner laborers receive between 17 cents and \$1.16 an hour.

- HB102 will help Maryland's working class in many ways. With the recent passage of the \$15 minimum wage in Maryland, manufacturing and other labor industry jobs could find a loophole by expanding prison labor to escape paying minimum wage to Maryland workers.
- HB102 would close such a loophole. Prisoners' current earnings are not enough to cover the court fees and fines, restitution, child support; thus, families rely on State benefits to make up for the lack of a parent who is incarcerated and not earning enough to support the household. HB102 would allow these kinds of fees to be paid directly, which would decrease the demand and dependence on State budgets for families receiving support benefits. Moreover, victims would recoup the restitution costs in a more realistic timeframe with an increase in prisoner wage.

These two points alone are enough to support HB102, which will have a positive impact on helping inmates further their education and learn more marketable skills to help them obtain employment upon release.

Opponents will argue that:

1. Paying minimum wage for prisoner work is unaffordable, even if substantial user fees, such as room and board charges, were imposed on the inmates. This argument is false. The most recent report published by DOC on prisoner labor noted that Maryland spent more than \$5 million a year to pay for DOC prisoner labor. Wages for MCE workers add another \$2.68 million. However, the program brought in \$52 million last year from selling products ranging from furniture and flags to stationery and license plates. These profits are nearly fifty times what was spent on labor costs and demonstrates that the State could increase the wage cost.
2. Prison systems officials consistently identified large-scale cutbacks in inmate labor as a likely and, in their view, dangerous consequence of having to pay minimum wages. They believed that less inmate work would mean more idle time and increased potential for violence and misconduct. This argument is false. HB102 would require that education and vocational programs be offered to every inmate, thus cutting back on idle time and ensuring that inmates are receiving vocation rehabilitation, which will have a significantly positive impact on public safety and recidivism outcomes upon release.
3. Finally, prison officials have noted other potentially adverse consequences for prison operations, such as routine maintenance being performed less frequently. However, saving money is not a moral justification for the devaluation of human labor. It is time for incarcerated workers to be treated fairly under the law. This could positively result in the prison industries opening up more contractual opportunities to small, women, and minority-owned businesses, thus improving Maryland's middle class, or more program and apprenticeship opportunities for nonprofit or small businesses that employ returning citizens—allowing the creation of more jobs.
4. The Fair Labor Standards Act (FLSA) does not extend minimum wage protections to prisoners. This argument is false. The FLSA, as written, suggests that Congress intended to include prisoners within its scope because Congress never added prisoners to the list of those considered exempt from employee status. Congress had the opportunity to exempt prisoners when drafting the statute, as it made exemptions for other actors, but Congress chose not to do this for prisoners. Thus, the FLSA can be interpreted to extend protection to incarcerated workers meaning they should be perceived as employees and entitled to minimum wage.

5. The 13th Amendment allows involuntary servitude. While this is true, it is coined as the "slavery loophole" and will always justify prisoners' low wages. The courts have opined that incarcerated workers will never receive just treatment if they can legally be treated as "involuntary servants" or if their labor can be taken advantage of for free. To fairly compensate incarcerated workers, the legislatures must pass policies on the local, State, and federal levels to end the 13th Amendment's "slavery loophole."

In closing, it is demeaning to exert power over vulnerable human beings by making them work for little to no wages while arguing that paying prisoners low wages help them re-enter society. In reality, those who take advantage of cheap labor, such as states and federal governments and businesses, are the ones genuinely seeing any benefits. Thus, because these stakeholders have more to gain, their arguments have no ethical or moral merit.

I urge your colleague to vote "yay" for HB102.

Respectfully,

Crystal R. Francis, Ph.D.
Baltimore County Resident
Legislative District 6