

118TH CONGRESS  
1ST SESSION

# S. 518

To enhance coverage and oversight of occupational safety and health standards in correctional facilities, 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 enhance coverage and oversight of occupational safety and health standards in correctional facilities, 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 “Correctional Facilities  
5 Occupational Safety and Health Act of 2023”.

6 **SEC. 2. COVERAGE OF INCARCERATED WORKERS UNDER**  
7 **THE OCCUPATIONAL SAFETY AND HEALTH**  
8 **ACT OF 1970.**

9 (a) DEFINITION OF CORRECTIONAL FACILITY.—Sec-  
10 tion 3 of the Occupational Safety and Health Act of 1970

1 (29 U.S.C. 652) is amended by adding at the end the fol-  
2 lowing:

3 “(15) The term ‘correctional facility’ has the  
4 meaning given the term in section 901(a) Omnibus  
5 Crime Control and Safe Streets Act of 1968 (34  
6 U.S.C. 10251(a)).”.

7 (b) STATE PLANS.—Section 18 of the Occupational  
8 Safety and Health Act of 1970 (29 U.S.C. 667) is amend-  
9 ed—

10 (1) in subsection (c)—

11 (A) in paragraph (6), by striking “political  
12 subdivisions,” and inserting “political subdivi-  
13 sions and to all incarcerated workers,”; and

14 (B) in paragraph (7)—

15 (i) by striking “(7) requires” and in-  
16 sserting “(7)(A) requires”; and

17 (ii) by adding at the end the fol-  
18 lowing:

19 “(B) requires the State to ensure that any pub-  
20 lic agency of the State (or of a political subdivision  
21 of the State) operating a correctional facility or con-  
22 tracting with a private entity to operate such a facil-  
23 ity, shall, not later than 2 years after the date of en-  
24 actment of the Correctional Facilities Occupational  
25 Safety and Health Act of 2023, and every year

1 thereafter, submit to the Attorney General and Con-  
 2 gress a report on—

3 “(i) the workplace safety and health condi-  
 4 tions at each such facility, and

5 “(ii) any potential noncompliance of each  
 6 such facility with the safety and health stand-  
 7 ards under the State plan, and”; and

8 (2) by adding at the end the following:

9 “(i) DEFINITION OF INCARCERATED WORKER.—In  
 10 this section, the term ‘incarcerated worker’ means an indi-  
 11 vidual, incarcerated or detained in a correctional facility  
 12 operated by a public agency of a State or political subdivi-  
 13 sion of a State (or by a private entity through a contract  
 14 with a State or political subdivision of a State), who per-  
 15 forms work offered or required by or through the correc-  
 16 tional facility, including work associated with prison work  
 17 programs, work release programs, State prison industries,  
 18 public works programs, restitution centers, correctional fa-  
 19 cility operations and maintenance, and private entities.”.

20 (c) FEDERAL PRISONS.—Section 19 of the Occupa-  
 21 tional Safety and Health Act of 1970 (29 U.S.C. 668)  
 22 is amended by adding at the end the following:

23 “(e) BUREAU OF PRISONS.—

24 “(1) IN GENERAL.—The Director of the Bureau  
 25 of Prisons shall—

1           “(A) ensure that the occupational safety  
2           and health program established and maintained  
3           by the Director under subsection (a) shall apply  
4           with respect to incarcerated workers in the  
5           same manner as the program applies to employ-  
6           ees of the Bureau of Prisons; and

7           “(B) agree to submit, not later than 2  
8           years after the date of enactment of the Correc-  
9           tional Facilities Occupational Safety and  
10          Health Act of 2023, and every year thereafter,  
11          to the Attorney General and Congress, a report  
12          on—

13                 “(i) the workplace safety and health  
14                 conditions at any correctional facility oper-  
15                 ated by the Bureau of Prisons or a private  
16                 entity contracting with Bureau of Prisons;

17                 “(ii) any injury or death of any em-  
18                 ployee or incarcerated worker while per-  
19                 forming labor with respect to such facility;  
20                 and

21                 “(iii) any potential noncompliance of  
22                 any such facility of such occupational safe-  
23                 ty and health program.

24           “(2) DEFINITION OF INCARCERATED WORK-  
25          ER.—In this section, the term ‘incarcerated worker’

1 means an individual, incarcerated or detained in a  
 2 correctional facility operated by the Bureau of Pris-  
 3 ons (or by a private entity through a contract with  
 4 the Bureau of Prisons), who performs work offered  
 5 or required by or through the correctional facility,  
 6 including work associated with prison work pro-  
 7 grams, work release programs, the UNICOR pro-  
 8 gram, public works programs, restitution centers,  
 9 correctional facility operations and maintenance, and  
 10 private entities.”.

11 **SEC. 3. INCENTIVES FOR STATES TO ENACT PROTECTIONS**  
 12 **FOR INCARCERATED WORKERS.**

13 Title I of the Omnibus Crime Control and Safe  
 14 Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amend-  
 15 ed—

16 (1) in section 501 (34 U.S.C. 10152), by add-  
 17 ing at the end the following:

18 “(i) ANNUAL REPORT ON WORKPLACE SAFETY AND  
 19 HEALTH CONDITIONS.—Not later than 2 years after the  
 20 date of enactment of the Correctional Facilities Occupa-  
 21 tional Safety and Health Act of 2023 and annually there-  
 22 after, any State or unit of local government that receives  
 23 a grant under this section and operates a correctional fa-  
 24 cility or contracts with a private entity to operate a correc-

1 tional facility shall submit to the Attorney General and  
2 Congress a report on—

3 “(1) the workplace safety and health conditions  
4 at each such correctional facility;

5 “(2) any injury or death of any employee or in-  
6 carcerated worker while performing work with re-  
7 spect to any such correctional facility; and

8 “(3) any potential noncompliance of any such  
9 correctional facility with the occupational safety and  
10 health standards that apply to the correctional facil-  
11 ity.”;

12 (2) in section 502 (34 U.S.C. 10153)—

13 (A) by striking “(A) **In general**” and in-  
14 serting “**(a) In general**”; and

15 (B) in subsection (a), by adding at the end  
16 the following:

17 “(7) A certification, to be verified by the Attor-  
18 ney General, in consultation with the Assistant Sec-  
19 retary of Labor for Occupational Safety and Health,  
20 that—

21 “(A) the State or unit of local govern-  
22 ment—

23 “(i) has provided workplace safety  
24 and health protections for incarcerated  
25 workers in correctional facilities, either by

1 legislative or executive action, that are at  
2 least as effective in providing safe and  
3 healthful employment and places of em-  
4 ployment for incarcerated workers as the  
5 comprehensive occupational safety and  
6 health programs established by States  
7 under section 18 of the Occupational Safe-  
8 ty and Health Act of 1970 (29 U.S.C.  
9 667); or

10 “(ii) not later than the last day of the  
11 fiscal year following the fiscal year to  
12 which the application relates, will have pro-  
13 vided the protections described in clause  
14 (i), with the limitation that a certification  
15 under this clause may only be submitted  
16 one time; and

17 “(B) an appropriate State or local agency  
18 monitors and enforces or will monitor or en-  
19 force, as applicable, the safety and health pro-  
20 tections described in subparagraph (A)(i).”;

21 (3) in section 506 (34 U.S.C. 10157), by add-  
22 ing at the end the following:

23 “(c) Of the total amount made available to carry out  
24 this subpart for a fiscal year, the Attorney General, in con-  
25 sultation with the Assistant Secretary of Labor for Occu-

1 pational Safety and Health, shall reserve not less than  
2 \$20,000,000 for use by States and units of local govern-  
3 ment to establish and implement workplace safety and  
4 health protections for incarcerated workers in correctional  
5 facilities.”; and

6 (4) in section 901(a) (34 U.S.C. 10251(a))—

7 (A) in paragraph (27), by striking “and”  
8 at the end;

9 (B) in paragraph (28), by striking the pe-  
10 riod at the end and adding “; and”; and

11 (C) by inserting after paragraph (28) the  
12 following:

13 “(29) the term ‘incarcerated worker’ means an  
14 individual, incarcerated or detained in a correctional  
15 facility operated by a State or a political subdivision  
16 of a State (or by a private entity through a contract  
17 with a State or political subdivision of a State), who  
18 performs work offered or required by or through the  
19 correctional facility, including work associated with  
20 prison work programs, work release programs, State  
21 prison industries, public works programs, restitution  
22 centers, correctional facility operations and mainte-  
23 nance, and private entities.”.



1 **SEC. 4. GRANTS TO ASSIST STATES IN COVERING INCAR-**  
2 **CERATED WORKERS.**

3 (a) **IN GENERAL.**—The Secretary of Labor shall es-  
4 tablish a grant program to award a grant to each State  
5 that submits an application satisfying the requirements  
6 under subsection (b) to assist the State in amending the  
7 occupational safety and health laws of the State to cover  
8 incarcerated workers and to enforce those laws as appro-  
9 priate through inspections, investigations, citations, pen-  
10 alties, and other enforcement mechanisms.

11 (b) **APPLICATIONS.**—A State seeking a grant under  
12 this section shall submit an application to the Secretary  
13 at such time, in such manner, and containing such infor-  
14 mation as the Secretary may reasonably require.

15 (c) **DEFINITION OF INCARCERATED WORKER.**—In  
16 this section, the term “incarcerated worker” has the  
17 meaning given such term in section 18(i) of the Occupa-  
18 tional Safety and Health Act of 1970 (29 U.S.C. 667(i)).

19 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
20 authorized to be appropriated to carry out this section  
21 \$20,000,000 for each of fiscal years 2024 through 2029,  
22 to remain available until expended.

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