

**OFFICE OF POLICY AND LEGAL ANALYSIS
BILL ANALYSIS**

TO: Members, Joint Standing Committee on Criminal Justice and Public Safety

FROM: Jane Orbeton, Legislative Analyst

DATE: 2021

LD: 419 An Act Regarding Participation in Public Works Projects by Pretrial Inmates

Summary

This bill allows inmates in a jail who are pretrial or pre-sentence to participate in public works projects in the community.

Testimony

1. Representative Costain sponsored the bill and spoke in support. Rep Costain suggested amending the bill to change “guard” to “correctional officer.” Sheriff Troy Morton, Penobscot County, spoke in support for the Maine Sheriffs Association, explaining that 30-A MRSA §1606 allows sentenced jail inmates to work outside the jail and to earn time off their sentences. Stephen Gordon, Cumberland County Board of Commissioners, submitted testimony from the Maine County Commissioners Association in support. Walter McKee submitted testimony in support from the Maine Association of Criminal Defense Lawyers.
2. Michael Kebede spoke neither for nor against and submitted testimony for the ACLU of Maine. Mr. Kebede stressed the importance of clarifying that participation is voluntary for the inmate.
3. Andrea Mancuso submitted testimony neither for not against for the Maine Coalition to End Domestic Violence. Ms. Mancuso stressed the importance of victim notification and noted the lack of criteria regarding inmate participation.

Possible Amendments

1. Representative Costain is presenting the proposed committee amendment printed below. The amendment separates the voluntary work participation for sentenced inmates, under which inmates can work in the community, and voluntary work participation for pretrial and pre-sentence inmates under which inmates may work within the jail. .

Sponsor: Rep Costain

Drafter: JO

Date: February 26, 2021

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Proposed Committee Amendment from Representative Costain

Amend the bill by deleting the title and inserting a new title to read: 'An Act Regarding Voluntary Participation in Work Projects by Inmates Who Are Pretrial, Presentence and Sentenced.'

Amend the bill by striking everything after the enacting clause and before the summary and by inserting the following:

Sec. 1. 30-A MRSA §1606 is amended to read:

§1606. Prisoner voluntary participation in public works projects and in work projects within the jails

1. ~~Participation~~ Voluntary participation in public works projects authorized. The sheriff in charge of a county jail, or the sheriff of a county that shares a regional jail with other counties, may permit certain inmates of that jail who have been sentenced to volunteer to participate in public works-related projects or in the improvement of property owned by charitable organizations in that county or another county. A project or improvement must be supervised by the sheriff of the county in which the project or improvement is being conducted. The sheriff may request payment from charitable organizations for the transportation of the prisoners and for the transportation and per diem compensation for any ~~guards~~ corrections officers who accompany the prisoners. For the purposes of this section, "charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State that is exempt from federal income taxation under the United States Internal Revenue Code of 1986, Section 501(a), because the nonprofit organization is described in the United States Internal Revenue Code of 1986, Section 501(c)(3).

1-A. Court approval. (Repealed)

1-B. Voluntary participation in work projects within the jails. The sheriff in charge of a county jail, or the sheriff of a county that shares a regional jail with other counties, may permit certain inmates of that jail who are detained at the jail pretrial or pre-sentence to volunteer to participate in work projects within the jail.

2. Sentence prorated. Inmates participating in a public works-related project or an improvement of property owned by a charitable organization under ~~this section~~ subsection 1 may have their sentences to the jail prorated at the rate of up to one day removed from the sentences for every 16 hours of participation in the project, except that inmates committed to the custody of the sheriff for nonpayment of fines under Title 17-A, section 1711 must have their sentences prorated at the rate that is applicable to the individual inmate pursuant to Title 17-A, section 1711, subsection 4, paragraph A, subparagraph (1).

3. Participation not deemed employment. ~~Participation in this type of~~ Voluntary participation in a work project under subsections 1 or 1-B may not be deemed employment under section 1605, subsections 3 to 8.

SUMMARY

This amendment replaces the bill and provides a new title, 'An Act Regarding Voluntary Participation in Work Projects by Inmates Who Are Pretrial, Presentence and Sentenced.' The bill clarifies that participation in work projects within and outside the jails by inmates of the jails is voluntary. The bill authorizes participation in work projects within the jail by inmates who are pretrial and pre-sentence.