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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 5104

05/04/2026 Authored by Frazier
The bill was read for the first time and referred to the Committee on Workforce, Labor, and Economic Development Finance and Policy

A bill for an act

relating to corrections; modifying the definition of employee under the Minnesota Fair Labor Standards Act and whistleblower protections to explicitly include incarcerated people; modifying the Public Employee Labor Relations Act and the Occupational Safety and Health Act of 1973 to include incarcerated persons; reclassifying inmates in state correctional institutions as employees; requiring a report; amending Minnesota Statutes 2024, sections 177.23, subdivision 7; 179A.03, subdivision 14; 181.931, subdivision 2; 182.651, subdivision 9; 241.27, subdivision 1; 243.23; 243.88, subdivision 2; 363A.03, subdivision 15.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2024, section 177.23, subdivision 7, is amended to read:

Subd. 7. **Employee.** (a) "Employee" means any individual employed by an employer but does not include:

(1) two or fewer specified individuals employed at any given time in agriculture on a farming unit or operation who are paid a salary;

(2) any individual employed in agriculture on a farming unit or operation who is paid a salary greater than the individual would be paid if the individual worked 48 hours at the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

(3) an individual under 18 who is employed in agriculture on a farm to perform services other than corn detasseling or hand field work when one or both of that minor hand field worker's parents or physical custodians are also hand field workers;

(4) for purposes of section 177.24, an individual under 18 who is employed as a corn detasseler;

(5) any staff member employed on a seasonal basis by an organization for work in an organized resident or day camp operating under a permit issued under section 144.72;

(6) any individual employed in a bona fide executive, administrative, or professional capacity, or a salesperson who conducts no more than 20 percent of sales on the premises of the employer;

(7) any individual who renders service gratuitously for a nonprofit organization;

(8) any individual who serves as an elected official for a political subdivision or who serves on any governmental board, commission, committee or other similar body, or who renders service gratuitously for a political subdivision;

(9) any individual employed by a political subdivision to provide police or fire protection services or employed by an entity whose principal purpose is to provide police or fire protection services to a political subdivision;

(10) any individual employed by a political subdivision who is ineligible for membership in the Public Employees Retirement Association under section 353.01, subdivision 2b, clause (1), (2), (4), or (9), item (i);

(11) any driver employed by an employer engaged in the business of operating taxicabs;

(12) any individual engaged in babysitting as a sole practitioner;

(13) for the purpose of section 177.25, any individual employed on a seasonal basis in a carnival, circus, fair, or ski facility;

(14) any individual under 18 working less than 20 hours per workweek for a municipality as part of a recreational program;

(15) any individual employed by the state as a natural resource manager 1, 2, or 3 (conservation officer);

(16) any individual in a position for which the United States Department of Transportation has power to establish qualifications and maximum hours of service under United States Code, title 49, section 31502;

(17) any individual employed as a seafarer. The term "seafarer" means a master of a vessel or any person subject to the authority, direction, and control of the master who is exempt from federal overtime standards under United States Code, title 29, section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators, firefighters, security guards, pursers, surgeons, cooks, and stewards;

(18) any individual employed by a county in a single-family residence owned by a county home school as authorized under section 260B.060 if the residence is an extension facility of that county home school, and if the individual as part of the employment duties resides at the residence for the purpose of supervising children as defined by section 260C.007, subdivision 4; or

(19) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other members of religious orders who serve pursuant to their religious obligations in schools, hospitals, and other nonprofit institutions operated by the church or religious order.

(b) "Employee" includes an incarcerated person in any state or local correctional facility, jail, or secure treatment facility, who voluntarily or involuntarily provides labor to the state, a political subdivision, or an employer as defined under subdivision 6.

Sec. 2. Minnesota Statutes 2024, section 179A.03, subdivision 14, is amended to read:

Subd. 14. **Public employee or employee.** (a) "Public employee" or "employee" means any person appointed or employed by a public employer except:

(1) elected public officials;

(2) election officers;

(3) commissioned or enlisted personnel of the Minnesota National Guard;

(4) emergency employees who are employed for emergency work caused by natural disaster;

(5) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;

(6) employees, other than those working in a school as a paraprofessional or other noninstructional position, whose positions are temporary or seasonal in character and are not for more than 67 working days in any calendar year.;

(7) full-time students under the age of 22, enrolled in a nonprofit or public educational institution prior to being hired by the employer, excluding employment by the Board of Regents of the University of Minnesota, whose positions are temporary or seasonal in character and are not for more than 100 working days in any calendar year, and who have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;

(8) employees providing services for not more than two consecutive quarters to the Board of Trustees of the Minnesota State Colleges and Universities under the terms of a professional or technical services contract as defined in section 16C.08, subdivision 1;

(9) employees of charitable hospitals as defined by section 179.35, subdivision 3, except that employees of charitable hospitals as defined by section 179.35, subdivision 3, are public employees for purposes of sections 179A.051, 179A.052, and 179A.13;

(10) full-time undergraduate students employed by the school, excluding employment by the Board of Regents of the University of Minnesota, which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;

(11) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;

(12) with respect to court employees:

(i) personal secretaries to judges;

(ii) law clerks;

(iii) managerial employees;

(iv) confidential employees; and

(v) supervisory employees; or

(13) with respect to employees of Hennepin Healthcare System, Inc., managerial, supervisory, and confidential employees.

(b) The following individuals are public employees regardless of the exclusions of paragraph (a), clauses (5) to (8) and (10):

(1) an employee hired by a school district or the Board of Trustees of the Minnesota State Colleges and Universities except at the university established in the Twin Cities metropolitan area under section 136F.10 or for community services or community education instruction offered on a noncredit basis: (i) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (ii) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons;

(2) an employee hired for a position under paragraph (a), clause (6), if that same position has already been filled under paragraph (a), clause (6), in the same calendar year and the

cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position;

(3) an early childhood family education teacher employed by a school district;

(4) an individual hired by the Board of Trustees of the Minnesota State Colleges and Universities or the University of Minnesota as the instructor of record to teach (i) one class for more than three credits in a fiscal year, or (ii) two or more credit-bearing classes in a fiscal year; ~~and~~

(5) an individual who: (i) is paid by the Board of Regents of the University of Minnesota for work performed at the direction of the university or any of its employees or contractors; and (ii) is enrolled in three or more university credit-bearing classes or one semester as a full-time student or postdoctoral fellow during the fiscal year in which the work is performed. For purposes of this section, work paid by the university includes but is not limited to work that is required as a condition of receiving a stipend or tuition benefit, whether or not the individual also receives educational benefit from performing that work. Individuals who perform supervisory functions in regard to any individuals who are employees under this clause are not considered supervisory employees for the purpose of section 179A.06, subdivision 2.~~;~~ and

(6) an incarcerated person in a state or local correctional facility, jail, or secure treatment facility who voluntarily or involuntarily provides labor to any public employer.

Sec. 3. Minnesota Statutes 2024, section 181.931, subdivision 2, is amended to read:

Subd. 2. **Employee.** "Employee" means a person who performs services for hire in Minnesota for an employer. Employee does not include an independent contractor, but does include an incarcerated person in any state or local correctional facility, jail, or secure treatment facility, who voluntarily or involuntarily provides labor to an employer.

Sec. 4. Minnesota Statutes 2024, section 182.651, subdivision 9, is amended to read:

Subd. 9. **Employee.** "Employee" means any person suffered or permitted to work by an employer, including any person acting directly or indirectly in the interest of or as a representative of, an employer, and shall include state, county, town, city, school district, or governmental subdivision. Employee also includes any incarcerated person in a state

correctional facility, jail, or secure treatment facility who voluntarily or involuntarily provides labor to any employer.

Sec. 5. Minnesota Statutes 2024, section 241.27, subdivision 1, is amended to read:

Subdivision 1. **Establishment of Minnesota correctional industries; MINNCOR industries.** For the purpose of providing adequate, regular and suitable employment, educational training, and to aid the inmates of state correctional facilities, the commissioner of corrections may establish, equip, maintain and operate at any correctional facility under the commissioner's control such industrial and commercial activities as may be deemed necessary and suitable to the profitable employment, educational training and development of proper work habits of the inmates of state correctional facilities. The industrial and commercial activities authorized by this section are designated MINNCOR industries and shall be for the primary purpose of sustaining and ensuring MINNCOR industries' self-sufficiency, providing educational training, meaningful employment and the teaching of proper work habits to the inmates of correctional facilities under the control of the commissioner of corrections, and not solely as competitive business ventures. The net profits from these activities shall be used for the benefit of the inmates as it relates to education, self-sufficiency skills, and transition services and not to fund non-inmate-related activities or mandates. Prior to the establishment of any industrial and commercial activity, the commissioner of corrections may consult with representatives of business, industry, organized labor, the state Department of Education, the state Apprenticeship Council, the state Department of Labor and Industry, the Department of Employment and Economic Development, the Department of Administration, and such other persons and bodies as the commissioner may feel are qualified to determine the quantity and nature of the goods, wares, merchandise and services to be made or provided, and the types of processes to be used in their manufacture, processing, repair, and production consistent with the greatest opportunity for the reform and educational training of the inmates, and with the best interests of the state, business, industry and labor.

The commissioner of corrections shall, at all times in the conduct of any industrial or commercial activity authorized by this section, utilize inmate labor to the greatest extent feasible, provided~~, however,~~ that inmates are paid as close as reasonably possible to prevailing wages for work of a similar nature performed by employees with similar skills in the region of the state in which the work is being performed, but in no case shall an inmate be paid less than the state minimum hourly wages set forth in section 177.24. The commissioner may employ all administrative, supervisory and other skilled workers necessary to the proper

instruction of the inmates and the profitable and efficient operation of the industrial and commercial activities authorized by this section.

Additionally, the commissioner of corrections may authorize the director of any correctional facility under the commissioner's control to accept work projects from outside sources ~~for processing, fabrication or repair~~, including projects that can be completed remotely, provided that inmates receive no less than state minimum hourly wages as set forth in section 177.24. Preference shall be given to the performance of such work projects for state departments and agencies.

Sec. 6. Minnesota Statutes 2024, section 243.23, is amended to read:

243.23 COMPENSATION PAID TO INMATES.

Subdivision 1. **Compensation.** Notwithstanding any law to the contrary, the commissioner of corrections ~~may~~ shall provide for the payment to inmates of correctional facilities ~~under the commissioner's management and control any pecuniary compensation the commissioner deems proper, the amount~~ all hourly wages earned of which the regular hourly wage rate of compensation ~~to depend~~ may be determined based upon the quality and character of the work performed ~~as determined by the commissioner of corrections and the chief executive officer~~. The regular hourly wage rate must be no less than the minimum hourly wage rates set forth in section 177.24. The commissioner shall seek to provide employment for all inmates who seek to be employed, maximizing MINNCOR employment to reduce cost to taxpayers, but shall not punish, directly or indirectly, inmates for not working. Inmates who because of illness or physical disability cannot work ~~may~~ shall be paid a minimal amount per day as determined by the commissioner. These earnings shall be paid out of the fund provided for the carrying on of the work in which the inmate is engaged when employed on state account, or from the current expense fund of the facility as the commissioner of corrections determines.

Subd. 2. **Inmate payment of board and room.** The commissioner may promulgate rules requiring the inmates of adult correctional facilities under the commissioner's control to pay all or a part of the cost of their board, room, clothing, medical, dental and other correctional services. These costs ~~are payable from~~ must not exceed five percent of any earnings of the inmate, including earnings from private industry established at state correctional facilities pursuant to section 243.88. All sums of money received pursuant to the payments made for correctional services as authorized in this subdivision are available for use by the commissioner during the current and subsequent fiscal year, and are

appropriated to the commissioner of corrections for the purposes of the fund from which the earnings were paid.

Subd. 3. **Exceptions.** Notwithstanding sections 241.26, subdivision 5, and 243.24, subdivision 1, and other applicable state or federal statutes, the commissioner may make deductions from funds earned under subdivision 1, or other funds in an inmate account, and section 243.88, subdivision 2. The commissioner shall make deductions for the following expenses in the following order of priority and in the specified proportions:

(1) the first 50 percent of gross wages are for:

(i) gate money as provided for in section 243.24;

(ii) a personal savings account in a bank or personal savings account provided by the commissioner for the sole benefit of the inmate; and

~~(1)~~ (iii) federal and state taxes owed on all gross wages;

(2) the next 25 percent of gross wages are for:

~~(2)~~ (i) repayment of advances;

~~(3) gate money as provided in section 243.24;~~

(ii) room and board or other costs of confinement, not to exceed five percent of the incarcerated person's gross wages; and

~~(4)~~ (iii) support of families and dependent relatives of the respective inmates, including living expenses for the incarcerated person; and

(3) the remaining 25 percent of gross wages are for:

~~(5)~~ (i) payment of court-ordered restitution;

~~(6) room and board or other costs of confinement;~~

~~(7)~~ (ii) medical expenses incurred under section 243.212;

~~(8)~~ (iii) payment of fees and costs in a civil action commenced by an inmate;

~~(9)~~ (iv) payment of fines, surcharges, or other fees assessed or ordered by a court;

~~(10)~~ (v) contribution to the Crime Victims Reparations Board created under section 611A.55, provided that the contribution shall not be more than 20 percent of an inmate's gross wages;

~~(11)~~ (vi) the payment of restitution to the commissioner ordered by prison disciplinary hearing officers for damage to property caused by an inmate's conduct;

~~(12)~~ (vii) restitution to staff ordered by a prison disciplinary hearing officer for damage to property caused by an inmate's conduct;

~~(13)~~ (viii) restitution to another inmate ordered by a prison disciplinary hearing officer for personal injury to another caused by an inmate's conduct; and

~~(14)~~ (ix) discharge of any legal obligations arising out of litigation under this subdivision.

The commissioner may authorize the payment of court-ordered restitution from an inmate's wages when the restitution was ordered by the court as a sanction for the conviction of an offense which is not the offense of commitment, including offenses which occurred prior to the offense for which the inmate was committed to the commissioner. An inmate of an adult correctional facility under the control of the commissioner is subject to actions for the enforcement of support obligations and reimbursement of any public assistance rendered the dependent family and relatives. The commissioner may conditionally release an inmate who is a party to an action under this subdivision and provide for the inmate's detention in a local detention facility convenient to the place of the hearing when the inmate is not engaged in preparation and defense.

Sec. 7. Minnesota Statutes 2024, section 243.88, subdivision 2, is amended to read:

Subd. 2. **Private industry employment.** Any corporation operating a factory or other business or commercial enterprise under this section as well as authorized businesses, nonprofits, and cooperatives created by inmates under rules established by the commissioner may employ selected inmates of the correctional institution upon whose grounds it operates and persons conditionally released subject to the provisions of section 241.26. Persons conditionally released as provided in this subdivision shall be deemed to be parolees within the purview of United States Code, title 49, section 60.

Except as prohibited by applicable provisions of the United States Code, inmates of state correctional institutions may be employed in the manufacture and processing of goods, wares and merchandise for introduction into interstate commerce, provided that they are paid no less than the prevailing minimum wages for work of a similar nature performed by employees with similar skills in the locality in which the work is being performed. Authorized deductions for the costs of confinement combined with any fees for essential correctional services shall not exceed five percent of gross wages.

Under rules prescribed by the commissioner of corrections a portion of the wages of each inmate employed ~~as authorized by this subdivision, in an amount to be determined by the commissioner,~~ that is equal to the amount provided for this purpose under section 243.23

shall be set aside and kept by the chief executive officer of the facility in the public welfare fund of the state or in a private bank account for the benefit of the inmate and for the purpose of assisting the inmate when leaving the facility on conditional release or by final discharge. Any portion remaining undisbursed at the time of the inmate's final discharge shall be given to the inmate upon final discharge.

Sec. 8. Minnesota Statutes 2024, section 363A.03, subdivision 15, is amended to read:

Subd. 15. **Employee.** "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state. Employee also includes any incarcerated person located in a state or local correctional facility, jail, or secure treatment facility, who voluntarily or involuntarily provides labor to the state, a department of the state, a political subdivision of the state, or an employer as defined in subdivision 16.

Sec. 9. **TASK FORCE.**

Subdivision 1. **Establishment; membership.** (a) The governor must establish an end of slavery implementation task force to guide and oversee implementation of, and compliance with, this act.

(b) The task force consists of the following members appointed by the governor:

(1) two members representing statewide and local businesses and chambers of commerce;

(2) a representative of the Minnesota Council of Nonprofits;

(3) a representative of a statewide or regional Minnesota cooperative;

(4) a representative of Minnesota's state and private colleges and universities;

(5) a representative from the Department of Education;

(6) five formerly incarcerated persons, nominated by those currently or formerly incarcerated, with significant lived experience from each Minnesota correctional facility;

(7) two representatives of unions that represent state correctional officers;

(8) two representatives from statewide economic development agencies, including the Department of Employment and Economic Development;

(9) a representative from Minnesota's philanthropic community;

(10) two members from Minnesota's sovereign Tribal Nations; and

(11) at least two representatives from MINNCOR, selected after consultation with the commissioner of corrections and the ombudsperson for corrections, who will serve as nonvoting members on the task force.

(c) Members of the task force and sub-task forces serve without compensation, except the chair, vice-chair, and members who are formerly incarcerated persons.

(d) Task force and sub-task force members who are employed by the Department of Corrections (DOC) are entitled either to receive union time for their participation or participate as part of their employment per the terms of their contracts.

(e) Members of the task force serve at the pleasure of the governor or until the task force expires. Vacancies shall be filled by the governor consistent with the qualifications of the vacating member required by this subdivision.

Subd. 2. **Officers; meetings.** (a) The governor shall appoint a chair and vice-chair and the task force may elect other officers as necessary.

(b) The commissioner of corrections shall convene the first meeting of the task force no later than September 1, 2026, and shall provide meeting space and administrative assistance as necessary for the task force to conduct its work.

(c) The task force shall meet at least monthly or upon the call of its chair. The task force shall meet frequently enough to accomplish the duties identified in this section. Meetings of the task force are open to the public and subject to Minnesota Statutes, chapter 13D.

Subd. 3. **Duties.** The task force is responsible for working with the commissioner of corrections to ensure that implementation of this act results in:

(1) a sufficient number of jobs for incarcerated persons, benchmarked as equal to, or greater than, current incarcerated person assignments;

(2) at least 75 percent of incarcerated person job hours being funded by non-DOC employers;

(3) part-time employment and self-employment opportunities for incarcerated persons;

(4) adoption of policies that:

(i) allow for safe, effective, and efficient use of incarcerated person labor for employers; and

(ii) maximize humane, fair, and rehabilitative outcomes for incarcerated persons during and after incarceration;

(5) implementation timelines that prioritize the interests of incarcerated persons, their families, and victims; and

(6) success pipelines and partnerships for each facility, based on recommendations from the sub-task forces created in subdivision 4, which are supported, improved upon, and approved by the task force.

Subd. 4. **Sub-task forces; membership; duties.** (a) The task force will oversee two geographic sub-task forces each of which is charged with finding jobs and identifying and creating the necessary infrastructure for success of this act in their regions of the state.

(b) The greater metro sub-task force's area of responsibility includes the correctional facilities in the cities of Faribault, Lino Lakes, Oak Park, Stillwater, and Shakopee. The northern sub-task force's area of responsibility includes the correctional facilities in the cities of Moose Lake, Willow River, Togo, Rush City, St. Cloud, and Red Wing.

(c) Each sub-task force shall be comprised of the following members appointed by the task force chair:

(1) a currently incarcerated person from each correctional facility in the sub-task force's region, nominated and elected by their peers;

(2) a formerly incarcerated person from each correctional facility in the sub-task force's region, nominated by currently incarcerated persons in each facility;

(3) two members of either local chambers of commerce or businesses local to one or more of the correctional institutions in the sub-task force's region who possess extensive knowledge of local industry and markets and who have well-established relationships with local business owners and leaders;

(4) two members of city, county, or municipal governments within the sub-task force's region with extensive knowledge of local industry and markets and who have well-established relationships with local business owners and leaders;

(5) a staff member from each correctional facility in the sub-task force's region who is a member of a union;

(6) a representative of local colleges and universities;

(7) a representative of local faith communities with a documented interest in increasing community participation in the success of incarcerated and formerly incarcerated persons; and

(8) nonvoting members representing each facility in the sub-task force's region, MINNCOR, ombudsperson for corrections, and correctional facility staff who oversee inmate employment, and other interested stakeholders, to be appointed at the discretion of the sub-task force.

(d) The task force chair shall convene the first meeting of each sub-task force no later than October 1, 2026. The commissioner of corrections shall provide meeting space and administrative assistance as necessary for the sub-task forces to conduct their work.

(e) Each sub-task force shall elect a chair and vice-chair and may elect other officers as necessary.

(f) Each sub-task force shall meet at least monthly or upon the call of its chair. Each sub-task force shall meet frequently enough to accomplish the duties identified in this subdivision. Meetings of each sub-task force are open to the public and subject to Minnesota Statutes, chapter 13D.

(g) Members of the sub-task forces serve at the pleasure of the task force or until the task force expires. Vacancies shall be filled by the task force chair consistent with the qualifications of the vacating member required by this subdivision.

Subd. 5. **Report.** (a) On or before February 1, 2027, and each year thereafter, the task force and the commissioner of corrections shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over corrections on the work of the task force and sub-task forces. The report shall, at a minimum, include an assessment of the progress of pre-implementation, full-implementation, and post-implementation of this act. The required assessment must include details on:

(1) implementation progress, implementation successes, and barriers to implementation that were overcome;

(2) unresolved barriers to implementation;

(3) internal controversies of which there is not agreement;

(4) government and private funds allocated to implementation of the act; and

(5) changes in recidivism outcomes attributed to this act and any estimated savings that flow from the act.

(b) The task force's reports must track outcomes by race, gender, and geography.

(c) The task force's final report must include recommendations for continued oversight needed to ensure the successful maintenance and advancement of the policies included in this act.

Subd. 6. **Expiration.** The task force and sub-task forces expire on July 1, 2029.