

**Compelled to Work, Denied Protection:
Administrative and Legislative Pathways to Reform
Massachusetts Correctional Industries**

Oumieratou Sowe

Boston University School of Law

May 6, 2026

Abstract

About five hundred inmates at Massachusetts correctional facilities work for Massachusetts Correctional Industries (MassCor), and earn daily wages as low as \$1.45, all while being subject to a regulatory regime that requires fifty percent of their wages to be set aside for their future, allows for forced labor assignments, excludes from standard labor protections, and denies workers' compensation coverage to on-the-job injuries. This Article supports the conclusion that MassCor's structure is a form of coerced labor, to which the rehabilitative rationale of the Commonwealth and the punishment exception of the Thirteenth Amendment are insufficient to justify. It is divided into two sections. Part I shows that the Massachusetts Department of Correction already has regulatory power to start the process of reforming MassCor by making changes to 103 CMR 405 and 103 CMR 455 (forced savings, compulsory assignment, wage transparency, public reporting, and injury compensation). Part II contends that administrative reform is insufficient on its own; a statutory anti-forced-labor provision, a prison minimum wage anchored to the state wage floor, workers' compensation coverage for correctional industries labor, and baseline procedural protections outside DOC's internal grievance system are necessary to provide durable protection. All of these reforms will change MassCor from a system that relies on institutional discretion to one that relies on enforceable worker rights, and will align the Commonwealth's treatment of incarcerated workers with its professed commitments to labor justice and racial equity.

Introduction

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States."¹ Courts have consistently relied on this punishment exception to reject constitutional challenges to compelled prison labor.² But the Thirteenth Amendment sets a floor, not a ceiling. States have the power to provide stronger protections than the Constitution requires. Massachusetts should make that choice.

Every weekday, incarcerated people in Massachusetts report to work. Prisoners are forced to assemble furniture, manufacture mattresses, produce optical lenses, fabricate traffic signs, sew uniforms, and process print orders. Their labor flows through a statewide procurement contract into the supply chains of state agencies, municipalities, and public institutions across the Commonwealth. The program through which this labor is organized is MassCor (or Massachusetts Correctional Industries). MassCor markets itself as a rehabilitative initiative, offering "diverse, self-sustaining programs that are beneficial to incarcerated individuals and economical for the Commonwealth."³

However, the legal and regulatory framework through which MassCor operates is not primarily organized around rehabilitation. Instead, it prioritizes efficiency and not the autonomy or best interests of incarcerated individuals. Incarcerated workers earn between \$1.45 and \$2.90 per day.⁴ Fifty percent of those wages are automatically seized as "forced earned savings."⁵ Work assignments can be compelled, and workers who resist face disciplinary consequences.⁶ Injury compensation drops to half pay after three days.⁷ And when workers are hurt on the job, they have no access to the workers' compensation system available to every other worker in a state-operated facility.⁸

¹ U.S. Const. amend. XIII, § 1.

² See *Vanskike v. Peters*, 974 F.2d 806, 809–10 (7th Cir. 1992); *Watson v. Graves*, 884 F.2d 765, 768 (5th Cir. 1989); *Ruffin v. Commonwealth*, 62 Va. 790, 796 (1871).

³ Massachusetts Correctional Industries, About MassCor

⁴ 103 Mass. Code Regs. 405.07.

⁵ *Id.*

⁶ 103 Mass. Code Regs. 455.07.

⁷ 103 Mass. Code Regs. 455.12.

⁸ Mass. Gen. Laws ch. 152, § 74

We must consider both administrative and legislative reform pathways to ensure every worker in Massachusetts isn't stripped of dignity. Despite the fact that there are constraints on agency-only reform, DOC can act through regulatory amendments and does not have to wait on legislature. Through legislative advocacy we can consider statutory protections against forced labor, a prison minimum wage, workers' compensation coverage, and baseline procedural protections.

I. Administrative Reform: What DOC Can Do Now

Massachusetts does not have to wait for the legislature to start the process of reforming MassCor. The most coercive aspects of the program are not requirements under statute, but are regulatory decisions of DOC, contained within the agency's rules, and subject to change under the existing rulemaking powers of DOC.

Massachusetts statutes give administrative agencies a wide range of power to create regulations to carry out and enforce the statutes they administer. Unless an emergency regulation is required, there is a specific provision in General Laws chapter 30A, section 3, that allows agencies to adopt, amend, or repeal regulations, with notice and public participation.⁹ In the same chapter, section 6 sets forth that regulations that have been duly promulgated by agencies are presumed to be valid unless they are inconsistent with the statute.¹⁰ Section 4 also allows any interested party (including incarcerated persons, advocacy groups, and the public) to petition an agency to begin a rulemaking process.¹¹

The courts of Massachusetts have long recognized this authority, and have given agencies a great deal of deference in interpreting and applying their enabling legislation. In *Goldberg v. Board of Health*, the Supreme Judicial Court observed that agencies are frequently charged with filling in the details of a statute that is silent or ambiguous and that regulations made by agencies are accorded controlling weight unless they are arbitrary, capricious, or plainly contrary to the statute.¹² Likewise, in *McCauley v. Superintendent, Massachusetts Correctional Institution, Norfolk*, the court restated that regulations that are issued pursuant to clear statutory authority are

⁹ Mass. Gen. Laws ch. 30A, § 3.

¹⁰ Mass. Gen. Laws ch. 30A, § 6.

¹¹ Mass. Gen. Laws ch. 30A, § 4.

¹² *Goldberg v. Bd. of Health*, 444 Mass. 627, 634 (2005).

presumed to be valid and should be consistent with the intent of the legislature as much as possible.¹³ The SJC has also determined that properly promulgated regulations have the same effect as statutes. In *Ciampi v. Commissioner of Correction*, the court held that regulations issued under the authority of statute must be given the same deference as the statute, unless they are "irreconcilable" with the statute.¹⁴ This was reiterated in *Berrios v. Department of Public Welfare*, where the court determined that regulations are presumed valid and cannot be set aside unless they "clearly" go beyond the law's authority.¹⁵ Lastly, in *Massachusetts Federation of Teachers v. Board of Education*, the court noted that agencies have a substantial amount of discretion when creating regulatory regimes within the scope of their enabling legislation, especially if the enabling legislation is broad.¹⁶

These decisions establish that DOC has the authority and the institutional capacity to make the necessary changes to MassCor's regulatory system without the need for legislation, and that reforms made through proper rulemaking will be presumed to have legal force. DOC has exercised this power in the past to make changes to correctional industries rules. The issue is not whether it can act but it definitely can. The real question is what reforms are most needed and what structural constraints make them impermanent? The five reforms below address both.

A. Reducing Forced Savings and Increasing Wages Under 103 CMR 405.07

One of the most urgent reform concerns are extremely low wages and forced savings. After half of their wages are forcibly placed into a savings accounts, incarcerated workers earn approximately between \$0.72 to \$1.45 per day.¹⁷ A top incarcerated worker in Massachusetts working for Mass Cor grosses \$7.25 in disposable income. This is insufficient to cover basic needs or phone calls. DOC should amend 103 CMR 405.07 to reduce mandatory savings from fifty percent to no more than fifteen percent of gross wages, while preserving the option for workers to elect a higher voluntary savings rate. Additionally, DOC should increase daily wages to more fairly reflect the economic value of the labor being performed.

¹³ *McCauley v. Superintendent*, Mass. Corr. Inst., Norfolk, 491 Mass. 571 (2023).

¹⁴ *Ciampi v. Comm'r of Corr.*, 452 Mass. 162 (2008).

¹⁵ *Berrios v. Dep't of Pub. Welfare*, 411 Mass. 587 (1992).

¹⁶ *Mass. Fed'n of Teachers v. Bd. of Educ.*, 436 Mass. 763 (2002).

¹⁷ 103 Mass. Code Regs. 405.07.

Both of these changes fall within the Commissioner's existing regulatory authority under G.L. c. 127, § 48A.

Proposed Regulatory Language:

No more than fifteen percent of wages earned through institutional or correctional industries labor shall be automatically classified as savings funds unless the incarcerated worker voluntarily elects a higher percentage in writing. The Department shall provide written notice of all wage rates, deduction schedules, and procedures for accessing earned funds at the time of assignment and upon any change to applicable rates.

B. Narrowing Compulsory Assignments Under 103 CMR 455.07

MassCor's voluntariness issue is codified in the Massachusetts Code of Regulations. 103 CMR 455.07 instructs superintendents and industries supervisors to develop assignment methods that include "[c]ompulsory job assignments within the limits of the industries programs' needs."¹⁸ DOC should amend 103 CMR 455.07 to remove this provision and should also prohibit retaliation or any other adverse action taken against workers who decline correctional industries assignments.

The Thirteenth Amendment's punishment exception permits compelled prison labor, but Massachusetts is not required to stay at this constitutional floor.¹⁹ MassCor suggests that rehabilitation and reentry preparation is one of their goals. Compulsion is direct tension with that stated goal. Someone who can't refuse an assignment is someone who can't be said to be developing a voluntary work ethic. Compulsion also undermines a claim of meaningful marketable skills.

Proposed Regulatory Language:

Participation in correctional industries shall not be compelled solely to satisfy production needs. No incarcerated person shall be subjected to disciplinary action, housing reclassification, denial of required programming, or reduction in earned good time attributable solely to declining a correctional industries assignment.

¹⁸ 103 Mass. Code Regs. 455.07.

¹⁹ See *Vanskike v. Peters*, 974 F.2d 806, 809–10 (7th Cir. 1992); U.S. Const. amend. XIII, § 1.

C. Requiring Wage and Deduction Notices

Accountability requires transparency. 103 CMR 405.7 allows annual financial reporting to incarcerated workers on request. However, it doesn't require contemporaneous written notice of wage rates, deductions, not any procedure due contesting errors. DOC can remedy this gap by mandating written wage and deduction notices delivered at the time of an assignment and when there are any changes.²⁰

Proposed Regulatory Language:

Before beginning any institutional or correctional industries assignment, each worker shall receive written notice of their applicable wage rate, deductions, savings classification, injury compensation rules, and procedures for contesting wage or deduction errors. Notice shall be provided in plain language and, where practicable, in the worker's primary language.

D. Mandating Annual Transparency Reporting

The rehabilitative rationale of MassCor is an empirical claim: the program will prepare incarcerated people to reenter their communities. This claim should be verified.

Noah Zatz's account of prison labor exposes the instability at the center of that claim: incarcerated labor is treated as productive work when the state needs goods and services, but as nonmarket activity when workers seek the protections ordinarily attached to employment.²¹ Comprehensive public reporting would compel the state to compensate that asymmetry by showing, with data, whether MassCor is creating reentry value or is providing, by data, primarily low-cost goods to public agencies.

DOC must develop an annual Correctional Industries Report with disaggregated information on the demographics of workers, wages paid, hours worked, deductions made, injuries reported, grievances filed, credentials earned and employment outcomes achieved by workers upon release where available. The Captive Labor report of ACLU has reported the systematic lack of such a kind of accountability data in state correctional industries programs across the country. This lack of transparency insulates programs against scrutiny.

Proposed Regulatory Language:

²⁰ 103 Mass. Code Regs. 405.07 (providing that a generated report "shall be distributed annually, and may be distributed upon request no more than once per month").

²¹ Noah D. Zatz, Working at the Boundaries of Markets: Prison Labor and the Economic Dimension of Employment Relationships, 61 Vand. L. Rev. 857, 861-64 (2008).

The Department shall publish an annual Correctional Industries Report identifying the number of participating workers by facility, race, gender, age, and job assignment; total hours worked; wages earned; deductions imposed; work-related injuries reported; grievances filed; credentials earned; revenue generated; and post-release employment outcomes where available. The Report shall be published no later than March 1 of each calendar year and made publicly accessible on the Department's website.

E. Strengthening Injury Compensation Under 103 CMR 455.12

According to 103 CMR 455.12, the amount of work-related injury pay is reduced to half the normal rate after the first three working days (lost workdays) are reached, and overtime is not included in the calculation of the regular rate.²² This is applicable to employees who are also not afforded protection by the normal workers compensation scheme under G.L. c. 152, 74 - and is therefore only left at the hands of the internal regime at DOC. DOC should revise 103 CMR 455.12 to offer full regular compensation on all medically confirmed work-related injury absences, and eliminate the three-day cliff.

Proposed Regulatory Language:

Any time lost by a medically verified work related injury shall be paid at full regular rate of worker during the period of medically determined absence. The Department will keep written records of all work-related injuries and will provide aggregate injury data in the annual Correctional Industries Report.

F. The Limits of Administrative Reform

Administrative reform is the fastest available starting point. It is not the final answer. DOC is limited to what it can achieve through regulatory action alone, by three structural limits.²³

First, administrative reform is reversible. The rules adopted during the tenure of one Commissioner are subject to limitation or rescission by the succeeding Commissioner by the same routine. The ability of incarcerated workers to bring legal action to challenge regulatory rollback is limited, and the internal grievance procedure that is the primary dispute procedure in place is controlled by the institution against which the grievance is directed.

²² 103 Mass. Code Regs. 455.12.

²³ These limits apply generally to agency self-regulation in contexts where the agency has a financial stake in the regulated activity. *See* Jennifer Turner et al., *Captive Labor: Exploitation of Incarcerated Workers* 58–62 (ACLU & Univ. of Chi. L. Sch. Glob. Hum. Rts. Clinic 2022).

Second, there is an institutional conflict of interest between DOC. The very agency that adopts and enforces these reforms, is also the one that benefits by institutional cost savings and procurement benefits under the current low-wage labor structure. Requesting DOC to limit its own powers is a structurally weaker assurance than having an outside body enforce the same.

Third, the reforms most important, namely the binding statutory floor wage, coverage of workers to the workers compensation and whistleblower protection, which are enforceable in court, need legislative authority that DOC lacks. The structural issue with the regulation of prison labor, as noted by various legal scholars, is that the very institution whose role is to protect the workers is one that benefits off their labor.²⁴ Harm can be minimized in that structure through administrative reform. It is not able to modify the structure itself. Therefore, there must also be legislative action.

II. Legislative Reform: Making Protection Durable

Administrative reform can begin the transformation of Massachusetts Cor. It cannot complete it. It should also be reinforced through statute. Statutory protections are harder to reverse, create enforceable rights, and shifts accountability from the discretion of a single agency. Massachusetts should pursue four legislative reforms: (1) a statutory prohibition on forced labor in correctional institutions, modeled on New York's No Slavery in New York Act; (2) a prison minimum wage tied to the state's existing wage floor; (3) expansion of workers' compensation coverage for work-related injuries sustained in correctional industries; and (4) a suite of baseline labor protections (including wage-deduction limits, occupational safety requirements, and whistleblower protections) that apply to incarcerated workers in state-authorized programs.²⁵

A Massachusetts Anti-Forced-Labor (or No Slavery) Statute

The most fundamental legislative reform that Massachusetts can implement is a statutory prohibition of forced labor in state prisons. The Thirteenth Amendment stipulates that slavery

²⁴ See Tiffany Yang, *Public Profiteering of Prison Labor*, 101 N.C. L. Rev. 313, 340–45 (2023); see also Noah D. Zatz, *Working at the Boundaries of Markets: Prison Labor and the Economic Dimension of Employment Relationships*, 61 Vand. L. Rev. 857, 861-64 (2008).

²⁵ Each reform reflects a distinct but related insight about the inadequacy of the current framework. Together, they address the four dimensions of MassCor's coercive structure: compulsion, compensation, injury liability, and procedural accountability.

and involuntary servitude are prohibited, except as punishment for a duly convicted crime.²⁶ Courts have always construed this penalty exception to allow forced prison labor.

In *Ruffin v. Commonwealth*, the Virginia Supreme Court of Appeals characterized an incarcerated person as "a slave of the State," language that, though later disavowed in its most extreme applications, reflected the dominant judicial view that conviction extinguished ordinary civil rights, including the right to refuse labor. Federal courts have maintained that framework.²⁷ In the case of *Vanskike v. Peters*, the Seventh Circuit ruled that the punishment exception of the Thirteenth Amendment allowed states to impose the condition that prisoners work as part of their sentence under this exception, and the Fair Labor Standards Act did not apply to prison labor under this exception.²⁸

What is critical though is that the Thirteenth Amendment establishes a constitutional floor which is not a ceiling. States do not have to enjoy the maximum extent of the exception of punishments. They can, as a state law, decide to forbid forced labour even in the situations when the federal Constitution does not forbid it.²⁹ The statute that should be adopted by the state of Massachusetts includes three fundamental provisions: a ban on conditioning the participation in work programs on the threat of disciplinary action or deprivation of basic needs; a broad definition of what constitutes adverse action, including housing downgrades, loss of privileges, disciplinary segregation, and denial of programming; and a private right of action, to be enforced in Superior Court.

Proposed Statutory Language:

No individual under the custody of the Department of Correction shall be coerced to engage in correctional industry or institutional work assignments by the threat of adverse action. Adverse action includes but is not limited to disciplinary segregation, housing reclassification, denial of required programming, loss of family contact privileges, and any loss of earned good time that can be attributed to refusal to provide an assignment in a correctional industry. Any individual who suffers adverse action in contravention of this section is allowed to initiate a civil action in the Superior Court, and shall also be entitled to injunctive relief, and in the event of a showing of willful violation, compensatory damages.

²⁶ U.S. Const. amend. XIII, § 1.

²⁷ 62 Va. 790, 796 (1871).

²⁸ 974 F.2d 806, 809–10 (7th Cir. 1992).

²⁹ See Ryanne Bamieh, *The New Abolition: The Legal Consequences of Ending All Slavery and Involuntary Servitude*, 59 Harv. C.R.-C.L. L. Rev. 245, 261–67 (2024).

Professor Michele Goodwin's analysis of the Thirteenth Amendment in its contemporary application is instructive here. Goodwin contends that the punishment exception has in practice always been racialized and cannot be adjudged as such.³⁰ This point is reinforced by a recent analysis of state-level abolition efforts by Ryanne Bamieh, who demonstrated that state constitutional and statutory reforms can sensibly limit the punishment exception even in the face of a federal court refusing to do so.³¹ Applied to Massachusetts, where Black people are incarcerated at 7.3 times the rate of white people, a statutory anti-forced-labor provision is not merely a labor reform, it is a racial justice intervention.³²

B. A Prison Minimum Wage

The second piece of legislation Massachusetts should enact is a minimum wage for prisoners. Workers who participate in institutional assignments receive from \$1.45 to \$2.90 a day, and, before a fifty percent forced-savings rate, a full week's gross wages range from \$7.25 to \$14.50. At the highest end of the spectrum, this translates to roughly \$7.25 of disposable income per week, which could be just a phone call and a bar of soap.³³

New York's legislative experience is a useful benchmark. The Prison Wage Act (S439-B, 2025) would mandate that workers behind bars in New York be paid at least half the state's minimum wage for any work assignment performed.³⁴ A previous bill, Prison Minimum Wage Act (S2345, 2023–24 session), would have established a minimum wage of \$3.00 an hour, but would have automatically increased as the minimum wage in the state increased.³⁵ Although it is not binding, the NYC Council's Resolution 0336-2024 officially requested the city's Department of Correction to pay minimum wage of at least \$15 an hour to people who are incarcerated.³⁶

Proposed Statutory Language:

³⁰ Michele Goodwin, *The Thirteenth Amendment: Modern Slavery, Capitalism, and Mass Incarceration*, 104 *Cornell L. Rev.* 899, 933 (2019).

³¹ Bamieh, *supra* note 29, at 249–50, 273–81.

³² Prison Policy Initiative, *Massachusetts Profile* (2025), <https://www.prisonpolicy.org/profiles/MA.html>

³³ 103 Mass. Code Regs. 405.07.

³⁴ S439-B, 2025–2026 Leg. Sess. (N.Y. 2025).

³⁵ S2345, 2023–2024 Leg. Sess. (N.Y. 2023).

³⁶ N.Y.C. Council Res. 0336-2024 (2024).

No person confined in a correctional institution or in a state correctional industries program for labor shall be paid less than one-half of state minimum wage as defined by G.L. c. 151, § 1. Compensation shall be calculated on an hourly basis, and no deduction shall reduce an incarcerated worker's net earnings below twenty-five percent of the applicable minimum wage floor. Compensation shall be increased to reflect changes in the state minimum wage rate annually by the Department of Correction.

In general, the cost of minimum wage for prisoners is the most often cited objection to minimum wage proposals. This worry needs to be addressed straight away. The State Use Law allows MassCor to sell to state agencies as a statewide contract, MASSCORINDUSTRIES001. Today's MassCor product pricing is a form of subsidy from incarcerated workers. Noah Zatz has pointed out that prison labor is in a limbo, considered work when the state needs it made, and not work when the workers need it to be.³⁷ Imposing a statutory minimum wage would also compel the Commonwealth to be transparent about the costs of the procurement, and to stop subsidizing it through poverty wages.

C. Workers' Compensation Coverage for Correctional Industries Labor

The Massachusetts statute leaves incarcerated workers outside of the usual workers' compensation statute. General Laws chapter 152, section 74 exempts those who perform labor authorized under the prison-labor statute (G.L. c. 127) from the workers' compensation protections for public employees. In their place, 103 CMR 455.12 provides only a partial substitute: full pay for the first three days of a work-related injury, followed by fifty percent of regular pay thereafter, excluding overtime.³⁸

The regime is an anomaly of the law which is hard to defend on any principled basis. MassCor workers make products at competitive prices for the state agencies. In their jobs they use machinery, work with materials and do industrial work that would receive full workers compensation coverage in the outside world. Those workers, when injured, are entitled to nothing more than half their already paltry daily wage after seventy-two hours, which is the Commonwealth's cap on its liability.

The exclusion in G.L. c. 152, § 74 should be modified and replaced by a specific injury compensation standard for correctional industries work. The extension of G.L. c. 152 to incarcerated workers would introduce administrative issues – and while they may be significant,

³⁷ Zatz, *supra* note 21, at 861.

³⁸ Mass. Gen. Laws ch. 152, § 74; 103 Mass. Code Regs. 455.12.

they will not be addressed by excluding incarcerated workers, but by a legislative solution that addresses those issues.

Proposed Statutory Language — Work Injury Compensation:

Notwithstanding the provisions of G.L. c. 152, § 74, any person who is under the supervision of the Department of Correction and sustains an injury on the job while assigned to a correctional industries or institutional work program shall be considered to be on such assignment or work program, and shall be entitled to the compensation provided for all medically verified work-related injuries to a person employed by the Department of Correction at said assignment or work program at the worker's full regular rate of compensation. The Department shall develop a procedure for the reporting, recording and adjudication of claims for work-related injuries, and provide an internal appeals procedure. Aggregate injury data will be reported yearly in the Correctional Industries Report.

D. Baseline Labor Protections: Deductions, Safety, and Whistleblower Rights

The three reforms outlined above tackle the most extreme structural problems in MassCor's labor system. A fourth category concerns the procedural supports needed to give those substantive protections their bite.³⁹

Wage-deduction limits are particularly urgent. The 103 CMR 405.07 requires 50 percent of all institutional wages to be deposited into a forced savings account, and an additional amount be deducted for room, board and program costs. Legislature should establish a maximum deduction rate of no more than fifteen percent of gross wages for required savings, and make deductions that would cause net weekly wages to fall below an amount providing for basic commissary access illegal.

There is a second area in which statutory protection is required: Occupational safety. Legislature should also broaden occupational safety provisions on machine guarding, ventilation, PPE and incident reporting to correctional industries facilities and have them monitored by the Department of Labor Standards, not DOC. But, external monitoring must be in place only because DOC has a vested interest in reducing reported injuries and maximizing production.

³⁹ The characterization of these as "baseline" protections is deliberate. They represent the floor below which no state-operated labor program should fall regardless of the custodial status of its workers.

The third component are whistleblower protections. The workers who are locked up are especially susceptible to retaliation for reporting safety violations, wage differences or abusive labor conditions. The ACLU report *Captive Labor* outlines the variety of disciplinary measures that correctional staff can employ, including housing reassignment, loss of privileges, disciplinary segregation, and denial of programming, and the almost complete lack of any enforcement of measures to prevent such uses.⁴⁰

Proposed Statutory Language — Whistleblower Protection:

No person in custody shall be the object of adverse action by the Department of Correction or any employee of the Department of Correction as a result of reporting in good faith a violation of any provision of this Act, of any requirement for occupational safety or of any requirement governing the labor of persons employed in correctional industries. A complaint may be filed with the Office of the Inspector General by any person that has been subjected to adverse action for violation of this section and the Office of the Inspector General shall conduct an investigation and, where it finds a violation, shall recommend corrective action to the Commissioner.

E. The Relationship Between Administrative and Legislative Reform

DOC can and should now begin to make improvements in MassCor through regulation (before the legislature can act) because incarcerated workers will be hurt by the current regulatory scheme. Even if these regulatory changes are well-intentioned, they still have significant structural flaws without the legislature taking decisive action to codify and embed them in the law.

Regulatory reform leaves a mark. By amending 103 CMR 405.07 and 103 CMR 455.07, DOC makes it known, by its own action, that these are feasible to implement. It is useful when the Legislature is deciding whether statutory protections are feasible. Advocates and lawmakers can cite DOC's own experience in regulating WIYICs to see for themselves that wage requirements, voluntariness safeguards, and transparency requirements do not make correctional industries unworkable or compromise institutional security.

The legislature already has the power to discuss this issue as reflected by Representative Cabral's House Bill 1597, which is a restriction on the use of prison labor outside the

⁴⁰ Turner et al., *supra* note 23, at 45–52.

Commonwealth. H.B. 1597 is not a wage restriction, not a voluntary restriction, not an injury compensation restriction – it's a geographic and use-based restriction.⁴¹ Its introduction, however, is an indication that the General Court is ready to take action with respect to the labor system in MassCor. My proposals build on that progression: moving from limiting where prison labor is used, to broadly regulating how it is compensated, protected, and limited.

Conclusion

Massachusetts does not need new legal authority to begin treating incarcerated workers with dignity. It needs the willingness to use the authority it already has. DOC can begin with its own rulemaking, which would diminish forced savings, scale back on the compulsion, and impose transparency, and the legislature can act in statute and make those protections permanent. Both tracks are not legally involved. Both are simply a matter of political will to govern prison labor like Massachusetts governs the rest of its labor force in the Commonwealth.

That will is not a neutral ask. Economic benefits from correctional industries accrue mostly to state agencies and public purchasers; the employees who produce them earn pennies on the dollar, with no option to refuse, no insurance when sick or injured, and have no complaint if they are fired for raising their voice. Reform is not simply a labor policy question. It is a question about whether Massachusetts is willing to extend to its most legally vulnerable workers the same basic protections it has already extended to domestic workers, agricultural workers, and independent contractors. A Commonwealth that claims to value dignity in labor cannot continue to depend on a system that denies dignity to the workers it keeps behind prison walls.

⁴¹ H.B. 1597, 193d Gen. Ct. (Mass. 2023) (sponsored by Representative Cabral).