



MECHANISMS FOR ADVANCING HEALTH EQUITY

Fact Sheet

Prison Procurement Laws in the Southeast

Introduction


Incarcerated workers across the U.S. provide valuable goods and services, producing items used in state and local government agencies and engaging in work like road repair, firefighting, and post-disaster clean-up. They generate more than \$2 billion a year in goods and \$9 billion a year in services, but are not covered by typical workplace protections, like minimum wage and workplace safety laws.¹ It is important for states to strike a balance between the requirements for prison labor and protecting the health and well-being of incarcerated people. This Fact Sheet summarizes prison procurement laws in states in the Network's Southeastern Region, prompted by a question from the state of Virginia.

More than 85 years ago, Virginia began operating Virginia Correctional Enterprises (VCE)². This is a work program at the Virginia Department of Corrections that is completely self-sufficient, meaning they receive no public funds for their operation.³ This is in part because of a law⁴ requiring State offices, agencies, departments, and institutions funded in whole or in part by the treasury to purchase goods, such as furniture, clothing and uniform items, printing services, document conversion, and other things all produced and manufactured by VCE in their own facilities⁵. The law provides an exception to this purchase requirement⁶, but requires written consent of the Chief Executive Officer of the VCE and is only possible in any case where (i) the article produced by the VCE does not meet the requirements of the department, (ii) the article can be obtained for a lesser price from a private seller, or (iii) there is an insufficient supply for the agency's requisition request. Is this unique to Virginia, or do other states in the Southeast have similar laws?

Review of State Laws

Alabama

Since 1976, Section 14-7-13⁷ of the Code of Alabama of 1975 has required that all offices, departments, institutions, and agencies of the state that are supported in whole or in part by the state to purchase from the Board of Corrections any



required articles or products that are produced with the use of prison labor. Section 14-7-14⁸ does provide exceptions to this requirement, but only when the articles or products are produced in work shops or home industries developed, supervised, or maintained by the adult blind department of the Alabama Institute for Deaf and Blind OR the articles or products produced under the supervision of the Board of Corrections do not meet the requirements of the office, department, institution, or agency or when the requisitions made cannot be complied with.

Arkansas

Section 12-30-204(a)(1)⁹ of the Arkansas Code Annotated provides that all offices, departments, divisions, institutions, and agencies that are supported in whole or in part by the state, as well as all political subdivisions, *may* purchase goods produced using inmate labor at their discretion, but does not require it.

Florida

Florida has created a nonprofit corporation to lease and manage the correctional work programs of the Department of Corrections.¹⁰ Under Florida Statutes Section 946.515(1)¹¹, goods manufactured by inmates may be purchased by any person or entity if not prohibited by federal law. Under Section 946.515(2)¹², comparable products or services cannot be purchased by state agencies, departments, offices, or institutions from private sellers if it is certified from the corporation that the products are manufactured by, or the services are provided by inmates and the product or service meets the standards required by the agency.

Georgia


Section 42-5-60(b)¹³ of the Official Code of Georgia Annotated prohibits the purchase of inmate-produced goods by any private person, firm, association, or corporation, with exceptions for private colleges and universities, private contractors for use in publicly funded projects, and privately owned correctional facilities housing inmates from the State of Georgia. This section does not prohibit sales to state or local government, public authorities, or political subdivisions of the state.

Louisiana

Section 15:1157.A.(1)¹⁴ of the Louisiana Revised Statutes requires that state agencies purchase goods and services from prison enterprises or products from a Private Sector/Prison Industry Enhancement Program, if available and if the prices are less than the prices of central purchasing. There is an exception for state agencies that operate a state prison.¹⁵ Those facilities may purchase goods and services from vendors located in the parish in which the prison facility is located, if the prices are lower than those from central purchasing or prison enterprises and the vendor meets the requirements of the Hudson Initiative¹⁶, an initiative to facilitate the growth and stability of Louisiana's economy by fostering public contracts with Louisiana's small entrepreneurship, or the Veteran Initiative.¹⁷

Mississippi

Section 47-5-307(1)¹⁸ of the Mississippi Code Annotated allows for the purchase of articles or products by state commissions, departments, institutions, or other state agencies made using inmate labor but does not require it. All



purchases by the state must be made through the State Fiscal Management Board, while political subdivision may purchase directly from the State Department of Corrections.

North Carolina

Section 148-132¹⁹ of the North Carolina General Statutes differs from other states in that it allows for the sale of products produced by inmate labor to certain agencies rather than specifically allowing for the purchase. The Division of Correction Enterprises of the Department of Adult Correction is empowered to sell to any public agency or institution of the state; any county, city, or town in the state; any federal, state, or local public agency or institution in any state; any entity with 501(c)(3) tax-exempt status; any current employee or retiree of the State, the North Carolina National Guard, or local government; and private contractors when the work will be used to perform work for a public agency.

Oklahoma


Section 57-549.1²⁰ of the Oklahoma Statutes authorizes the Department of Corrections to establish industries and agricultural programs that use the services of prisoners in the creation of articles or products that may be needed by any office, department, institution, or agency supported in whole or in part by the state and its political subdivisions. Section 57-549.2²¹ requires that all offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions that are supported in whole or in part by the state purchase articles and services from the Department of Corrections if they are the lowest and best bid and may not purchase these articles from any other source unless certain exceptions are met. One exception is if the article or product is also available for purchase from a severely handicapped person or a qualified nonprofit agency for the severely handicapped at a comparable price, the article or product must be purchased from the person or nonprofit agency instead. There is also an exception to the purchase requirement where the article or product does not meet the reasonable requirements of the office, department, institution, or agency.

South Carolina

Section 24-3-330²² of the South Carolina Code of Laws Unannotated requires that all offices, departments, institutions, and agencies supported in whole or in part by the state purchase articles or products from the Department of Corrections made with inmate labor. Political subdivisions may purchase these articles or products. The only exception to this requirement is found in Section 24-3-340²³, which states that the purchase is not required where the purchase price of the article or product is “no higher than” any other producer or supplier. The state also requires the preparation of catalogues containing all articles and products manufactured or produced under the State Department of Corrections²⁴ and requires that these articles and services are devoted first to fulfilling the needs of offices, departments, institutions, and agencies of the State and second to political subdivisions of the state.²⁵

Tennessee

Section 41-22-119²⁶ of the Tennessee Code Annotated requires all departments, institutions, agencies, and political subdivisions that are supported in whole or in part by the state to purchase from the Tennessee Rehabilitative Initiative in Correction board any required articles that are produced, assembled, warehoused, or manufactured using the labor of



inmates, provided that the articles are certified as being of satisfactory quality, reasonable in price, and available. Under Section 41-22-120²⁷, there is an exception to this requirement where the articles do not meet the reasonable requirements of the department, institution, agency, or political subdivision. Like South Carolina, Tennessee also requires the annual production of a catalogue of products.²⁸

Lessons Learned

Of the Southeastern states reviewed, all have some version of prison labor dedicated to the production of goods and services for use or purchase throughout the state. A report from the Pew Trust²⁹ notes that 800,000 prisoners in the United States hold some sort of job while incarcerated, with little to no say in what sort of work they do. The incarcerated also face punishment if they refuse to work and are paid pennies per hour, with the average wage for incarcerated workers ranging from 13 to 52 cents per hour. While activists argue that working while incarcerated should be voluntary, or at least pay higher wages, lawmakers insist that this type of work is appropriate.

A 2001 audit of Virginia Correctional Enterprises³⁰ found that state agencies counted for 98 percent of sales. In May 2002, the VCE employed 4.7 percent of inmates in Virginia state correctional institutions. Nationwide, only about 6.5 percent of incarcerated workers work in programs that produce articles or products for state agencies, offices, and departments as described above. However, as noted in the introduction, the value of the articles and products produced by these programs totaled \$2 billion in 2021. Incarcerated workers' labor is saving the state millions if not billions of dollars a year, while the workers make a pittance and their health and well-being is at risk. It is likely these required purchase laws are contributing to the prison labor issue.

“Incarceration is a primary source of poor health for individuals, families, communities, and our nation as a whole.”³¹ These effects are not only seen in the incarcerated individuals themselves, but in their families and communities. According to a report by the Aspen Health Strategy Group, Americans who have a family member who has been incarcerated have a life expectancy that is two years less than those who have not had an incarcerated family member.³² When compared to the general population, those who have a history of incarceration have a higher incidence of mental and physical health disorders, including hypertension, asthma, cancer, arthritis, and infectious diseases.³³ This leads to health disparities between racial and ethnic groups as studies have shown that the imprisonment rate for persons of color is much greater than the imprisonment rate for white adults.³⁴ Understanding the root causes of mass incarceration and the worse health outcomes in those who are incarcerated can help develop policies that will begin to address these health inequities.

Prison Procurement Laws in the Southeast by State

This table includes states in the Network’s Southeastern Region and provides an overview of whether the state requires, allows, or prohibits the sale or purchase of goods produced by or manufactured by incarcerated persons.

Last reviewed March 2023

State	Citation	Requires	Allows	Prohibits	Exceptions/Notes
AL	ALA. CODE § 14-7-13 (2023).	X			Articles or products are produced in work shops or home industries developed, supervised, or maintained by the adult blind department of the Alabama Institute for Deaf and Blind OR the articles do not meet the requirements of the office, department, institution, or agency OR the requisitions made cannot be complied with.
AR	ARK. CODE ANN. § 12-30-204 (2023).		X		
FL	FLA. STAT. § 946.502 (2023).	X			The products do not meet the standards required by the agency.
GA	GA. CODE ANN. § 42-5-60 (2023).		X		Private persons are prohibited from purchasing goods produced with inmate labor, but state agencies and organizations are not.
LA	LA. STAT. ANN. § 15:1157 (2023).	X			Can purchase goods produced in the same parish if the price is lower than that in central purchasing, or it was produced by a business that meets the standards of the Hudson Initiative or the Veterans Initiative.
MS	MISS. CODE ANN. § 47-5-307 (2023).		X		
NC	N.C. GEN. STAT. § 148-132 (2023).		X		Allows for the sale instead of allowing for the purchase.



OK	OKLA. STAT. tit. 57, § 549.1 (2023).	X			The product is also available for purchase from the severely handicapped and is at a comparable price or the product does not meet the standards of the agency.
SC	S.C. CODE ANN. § 24-3-330 (2023).	X			The purchase price from a private seller is no higher than the price of the goods made with inmate labor.
TN	TENN. CODE ANN. § 42-22-119 (2023).	X			The articles do not meet the reasonable requirements of the state agency.
VA	VA. CODE ANN. § 53.1-47(2023).	X			The articles do not meet the reasonable requirements of the department, institution, or agency; an identical article can be obtained at a lesser cost from the private sector; or there is an insufficient supply to meet the requisition.

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SUPPORTERS



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¹ Captive Labor: Exploitation of Incarcerated Workers, American Civil Liberties Union and the University of Chicago Law School, Global Human Rights Clinic (2022), <https://www.aclu.org/report/captive-labor-exploitation-incarcerated-workers>.

² About the VCE, Virginia Correctional Enterprises (March 31, 2023), <https://www.govce.net/about-vce>.

³ Benjamin Jarvela, Virginia Correctional Enterprises Delivers Amazing Results for Virginia (May 12, 2022), <https://vadoc.virginia.gov/news-press-releases/2022/virginia-correctional-enterprises-delivers-amazing-results-for-virginia/>.

⁴ VA. CODE ANN. § 53.1-47 (2023).

⁵ Benjamin Jarvela, Virginia Correctional Enterprises Delivers Amazing Results for Virginia (May 12, 2022), <https://vadoc.virginia.gov/news-press-releases/2022/virginia-correctional-enterprises-delivers-amazing-results-for-virginia/>.

⁶ VA. CODE ANN. § 53.1-48 (2023).

⁷ ALA. CODE § 14-7-13 (2023).

⁸ ALA. CODE § 14-7-14 (2023).

⁹ ARK. CODE ANN. § 12-30-204 (2023).

¹⁰ FLA. STAT. § 946.502 (2023).

¹¹ FLA. STAT. § 946.515 (2023).

¹² *Id.*

¹³ GA. CODE ANN. § 42-5-60 (2023).

¹⁴ LA. STAT. ANN. § 15:1157 (2023).

¹⁵ LA. STAT. ANN. § 15:1157(A) (2023).

¹⁶ LA. STAT. ANN. § 39:2001 (2023).

¹⁷ LA. STAT. ANN. § 39:2171 (2023).

¹⁸ MISS. CODE ANN. § 47-5-307 (2023).

¹⁹ N.C. GEN. STAT. § 148-132 (2023).

²⁰ OKLA. STAT. tit. 57, § 549.1 (2023).

²¹ *Id.*

²² S.C. CODE ANN. § 24-3-330 (2023).

²³ S.C. CODE ANN. § 24-3-340 (2023).

²⁴ S.C. CODE ANN. § 24-3-360 (2023).

²⁵ S.C. CODE ANN. § 24-3-370 (2023).

²⁶ TENN. CODE ANN. § 42-22-119 (2023).

²⁷ TENN. CODE ANN. § 42-22-120 (2023).

²⁸ TENN. CODE ANN. § 42-22-122 (2023).

²⁹ Marsha Mercer, Advocates Seek to Make Prison Work Voluntary, Pew Trusts (2022), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/09/07/advocates-seek-to-make-prison-work-voluntary>.

³⁰ 2001 Audit of Virginia Correctional Enterprises, Virginia Correctional Enterprises (2001).

³¹ Kathleen Sebelius and William Frist, Reducing the Health Harms of Incarceration, Aspen Health Strategy Group, (2022), <https://www.aspeninstitute.org/wp-content/uploads/2022/04/Incarceration-and-Health-TXT-FINAL.pdf>.

³² Kathleen Sebelius and William Frist, Reducing the Health Harms of Incarceration, Aspen Health Strategy Group, (2022) <https://www.aspeninstitute.org/wp-content/uploads/2022/04/Incarceration-and-Health-TXT-FINAL.pdf>.

³³ Incarceration, Healthy People 2030 (2022), <https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/incarceration>.

³⁴ Incarceration, Healthy People 2030 (2022), <https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/incarceration>.