

# HAS PRISON LABOR CROSSED THE LINE INTO MODERN-DAY SLAVERY?

RECENT LAWSUITS AND STATE CONSTITUTIONAL CHANGES HIGHLIGHT DEBATE OVER THE 13TH AMENDMENT'S EXCEPTION FOR PRISON LABOR



BY MARGARET LAVENDER

The United States prison system is arguably one of the country's cheapest sources of labor. Most Americans will agree that prisons can—and should—require inmates to work as part of the punishment for their crime, especially when such labor is explicitly allowed by the [13th Amendment of the U.S. Constitution](#).

But [according to the ACLU](#), when this cheap, captive labor catches the attention of those companies who want to keep their operating costs down, the U.S. criminal justice system runs the risk of extending prison sentences without cause, encouraging

dangerous working conditions, and punishing prisoners beyond their sentences especially if they refuse to work, as found in the 2025 case *Mortis v. Polis*.<sup>5</sup> This is in addition to antitrust and labor\* issues that arise from prison laborers being denied the classification of employees.

Has the U.S. prison system crossed the line from warranted labor into modern-day slavery? Or is it simply part of an inmate's punishment as allowed by the 13th Amendment?

The 13th Amendment abolished slavery and involuntary servitude, but it includes the clause "except as punishment for a crime." That clause is at the center of the prison labor debate. The American Civil Liberties Union (ACLU) reported in 2022 that about two-thirds of inmates were employed and 80 percent of those jobs were in the prisons themselves and included day-to-day operations like janitorial, laundry, food prep, and grounds maintenance. Wages in these



positions are often below minimum standards and are typically garnished for things like room and board, victim restitution, and court costs. This type of labor and wage payment is most closely associated with the 13th Amendment's clause "as punishment for a crime," despite its lack of labor protections, and tends to be more accepted by the public as part of an offender's sentence.

The rub occurs when this work is extended beyond prison walls. According to the Corporate Accountability Lab (2022), a growing number of inmates now work outside the prison system in a questionable U.S. labor system that borders on modern-day slavery and may go well beyond what



was intended by the 13th Amendment. For example, that beef you eat at McDonald's? A prisoner may have helped raise the livestock for less than a few dollars per hour. And the eggs you buy at Walmart? An inmate working on an egg farm may have helped get it there at an hourly wage less than the change in your pocket.

In Alabama more than 500 businesses are reported to utilize the cheap labor of prisoners. Tanisha Mink Aggarwal (2023) noted that national estimates for the annual value of prison and jail industrial output reach around \$2 billion. Despite this, the average wage for incarcerated individuals working in state-owned industries is between \$0.33 and \$1.41 per hour, if they are paid at all. Prison

laborers also clean up after natural disasters, serve as firefighters, and work in highly toxic or dangerous environments that are often overlooked and unregulated.

Critics argue that this labor system creates dangerous incentives to keep people incarcerated longer. In *Council v. Ivey*,<sup>1</sup> an ongoing lawsuit brought in the Middle District of Alabama, current prisoner Robert Council alleges that Alabama's detention facilities coerce labor through threats to survival and safety. "Each corporation, each fast food company, anybody who participates and has their hand in the cookie jar with Alabama Department of Corrections, is guilty of slavery," said Council as reported from Justice Catalyst Law. The suit describes clear



connections between a prisoner’s safety, custody status, and willingness to perform work. Prisoners who do not comply with the work they are assigned face discipline and punishment, including the possibility of increased incarceration time.<sup>2</sup> The suit further alleges that threats of transfers to more dangerous facilities are used to coerce labor, and that only by performing unpaid work can individuals advance to lower-security facilities.<sup>3</sup> It also claims that changes made by Alabama Governor Kay Ivey in 2019 restricted parole releases, leading to heightened risk of death and violence in an already overcrowded and dangerous prison system.<sup>4</sup>

This is not unique to Alabama. Since 2016, many states have begun addressing this clause. In November 2025, Adam A. Davidson of the University of Chicago shared that, “eleven states have voted on implementing complete bans on slavery and involuntary servitude in their constitutions. Nine have ratified amendments banning slavery and involuntary servitude with no exceptions, while two have declined.” Alabama is one of the states that has ratified the exception clause in its own constitution.

Colorado courts have recently addressed unacceptable forms of coercion and punishment for work refusal. In *Mortis v. Polis*,<sup>5</sup> the district court found that Colorado is violating incarcerated people’s rights by punishing them for refusing to work.

In March, Bryce Covert highlighted that this ruling builds on the state’s abolition of the “except as punishment” clause, determining that policies which compel and coerce work from incarcerated people constitute servitude. There is no question that the prison

workforce supports the U.S. economy, helps offset the cost of incarceration, and can aid in rehabilitation by teaching valuable skills and disciplines. However, when labor is forced under threat of punishment, harsher conditions, or extended incarceration, the line between legitimate punishment, rehabilitation, and modern-day slavery remains blurred.

### What You Can Do

Advocates such as U.S. Senator Jeff Merkley argue it is time to seriously reimagine the 13th Amendment’s exception clause. Several states, including Colorado, Nebraska, Utah, Alabama, Oregon, Tennessee, Vermont, and Nevada, have already removed the exception through voter-approved amendments. If the clause is still included locally, contact state legislators to learn more about potential reforms.

For additional information, visit the organizations below, all of whom are actively working on prison labor issues through litigation and advocacy:

- American Civil Liberties Union (ACLU): <https://www.aclu.org/>
- Justice Catalyst Law: <https://www.justicecatalyst.org/>
- Towards Justice: <https://towardsjustice.org/>
- Southern Poverty Law Center (SPLC): <https://www.splcenter.org/>
- Center for Constitutional Rights: <https://ccrjustice.org/>

### ENDNOTES

1. *Council v. Ivey*, 771 F. Supp. 3d 1208, 1221-23 (M.D. Ala. 2025).  
 2. *First Amended Complaint at 231, Council v. Ivey*, 771 F. Supp. 3d 1208 (M.D. Ala. 2025) (No. 2:23-CV-712-CLM).  
 3. *First Amended Complaint at 233, Council v. Ivey*, 771 F. Supp. 3d 1208 (M.D. Ala. 2025) (No. 2:23-CV-712-CLM).  
 4. *First Amended Complaint at 251, Council v. Ivey*, 771 F. Supp. 3d 1208 (M.D. Ala. 2025) (No. 2:23-CV-712-CLM).  
 5. *Mortis v. Polis*, No. 2022CV30421, *Findings of Fact and Conclusions of Law* (Colo. Dist. Ct. Feb. 13, 2026).

\* Denotes links requiring a subscription